

CIARAN FAHY  
CONSULTING ENGINEER 

Preparation of Expert Evidence  
by  
Engineers

An Ríocht Region  
Engineers Ireland  
23 November 2011

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OVERVIEW

- Communication skills essential for professional engineers.
- Both verbal and written skills required.
- These general skills must be developed and worked on.
- Will deal with one aspect – presentation of written and oral evidence.
- Will deal with structure and formalities.
- Will deal with writing style and presentation.

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Expert Evidence

- Evidence of fact and of opinion.
- Opinion evidence given by expert to assist court/tribunal.
- Can be on causation, liability or quantum.
- Expert owes duty to client and also tribunal. Second duty overrides the first.
- May be sole expert, tribunal appointed expert or party appointed experts.
- Opinion normally set out in written report.
- Very little formality demanded by Irish Courts. Tends to be different elsewhere.

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## Oral Evidence

- Normally under oath or affirmation.
- Direct evidence followed by cross examination.
- In arbitration and some courts written report serves as direct evidence.
- Unlike a witness of fact an expert is expected to give an opinion.
- Listen carefully to each question and then answer what asked before expanding if necessary.
- Be open and direct but stick to the brief.
- Do not stonewall or prevaricate.
- Be courteous and respectful but not obsequious.

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## Expert Reports

- What is the purpose?
- Who is it for?
- What is it based on?
- How is it set out?

Generally:

- Tell the reader what you are going to say.
- Say it.
- Tell the reader what you said.

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## Standard All Purpose Layout

Title page

Contents page

1. Summary
2. Introduction
3. The Facts. As presented to or gathered by you. Assessment of facts.
4. The Parameters e.g. The law, financial/organisational constraints
5. Analysis/Assessment. Consideration of the parameters as applied to the facts.
6. Conclusions
7. Recommendations

Appendices

Also : Foreword, Preface, Acknowledgements  
References, Bibliography, Glossary, Index.

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### General Incident Layout

<b>1.0 Job Details</b> Job : Client : Client Ref : Our Ref :	<b>4.0 Visit Details</b> Date : Time : Carried out by : Photographs : Map/Sketch : Persons Met :
<b>2.0 Plaintiff Details</b> Name : Address : Age/DOB : Occupation :	<b>5.0 Accident Details</b> Date : Time : Location : Witnesses : Injuries : Description :
<b>3.0 Defendant Details</b> Name : Address : Description :	<b>6.0 Discussion</b>  <b>7.0 Conclusions</b>

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### RTA Layout

<b>1.0 Job Details</b> Job : Client : Client Ref : Our Ref :	<b>3.0 Visit Details</b> Date : Time : Carried out by : Persons Met : Map/Sketch : Photographs :
<b>2.0 Accident Details</b> Date : Time : Location : Witnesses : Vehicle(s) : Description :	<b>4.0 Observations</b> Road surface : Lighting : Visibility : Road Signs : Traffic Lights : Speed Limit : Weather : General :

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### Alternative Layouts

- **Letter Format**
  - Straightforward Narrative.
  - Suitable for document review or report with no inspection.
  - Unsuitable where report longer than about five pages.
- **Judgement Format**
  - Narrative with numbered paragraphs and occasional headings.
  - Generally used by judges.
  - Suitable for up to about 20 pages.

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**Layout Practice**

- Use a simple hierarchical section numbering system. Try to avoid more than one level of subdivision ie 4.2 but not 4.2.3 etc.
- The sentence is the basis for all writing. Use grammatically correct sentences.
- The paragraph is the building block of the report. Group thoughts logically into paragraphs.
- Use adequate margins particularly on the left-hand side.
- Do not cram information on to the page. Use adequate white space.
- Number the pages.
- Be consistent throughout.

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**Writing Stages**

- Pre-Write.
- Draft Main Body and Appendices.
- Draft Conclusions, Recommendations, Introduction and Summary.
- Check and Amend.
- Polish.
- Proof Read and Issue.

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**Aims**

- Deal comprehensively and authoritatively with matters referred.
- Produce a report which can be rapidly and easily read and understood by intended audience.
  
- These objectives are not mutually exclusive but take work to achieve.
- Generally an Engineers Expert Report should set out the facts and give an opinion on responsibility ie causality and liability but not quantum.

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### Comprehensive/Authoritative

- Deal with all aspects within your terms of reference.
- Do not deal with extraneous matters.
- Express yourself positively and directly.
- Do not hide behind indirect or unclear language.

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### Style 1

- Style is personal. Develop your own.
- Write for the reader not for yourself.
- Plain Business English. Not literature.
- Never *"This is a complex report because of a complex subject"*.
- Differentiate between important facts/issues and mere detail.
- Move from the factual to opinion.

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### Style 2

- Choice of words. Buy and use a dictionary and a thesaurus.
- Accuracy.
- Objectivity.
- Conciseness. Try to use sentences with < 20 words on average.
- Clarity and Consistency.
- Simplicity. Write to express, not to impress.

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### Style 3

- Use Plain English. Be precise.
- Strip out unnecessary words and phrases.
- Try to be gender neutral.
- Avoid the use of foreign words and expressions.
- Deal with legal issues as necessary and within the limits of your expertise.
- Do not write as a lawyer.

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### Appendices

- Use for material which the reader needs to know or to refer to on an occasional basis.
- The material should be in the main body of the report if essential for easy assimilation.
- Use also for material which needs to be presented in original format.
- Do not pad the report with unnecessary appendices.
- Most reports will have photographs appended.
- Use general photographs to give overall impression before moving on to detail.

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### Checking/Amending/Polishing

- Take as much time as available.
- Concentrate on most sensitive/important sections.
- Do not rewrite as a matter of course.
- Try to get a colleague to proof read.

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- Oxford A-Z of Grammar & Punctuation, John Seely, (2<sup>nd</sup> edition, 2009)

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