



**Response Data - Creating a Road Collision Investigation Branch**

**December 2021**

# Creating a Road Collision Investigation Branch

## You

Q1. Supply (used for contact purposes only) your:

**name?** Lucie Clinch

**email address?** lclinch@stewartslaw.com

Q2. Are you responding:

on behalf of an organisation?

## Organisation details

Q3. What is your organisation name?

Forum of Complex Injury Solicitors (FOCIS)

Q4. What is the purpose of your organisation?

Legal - The Forum of Complex Injury Solicitors (FOCIS) are a group of pre-eminent solicitors who specialise in acting for seriously injured people in personal injury and clinical negligence claims

Q5. What is the size of your organisation?

Up to 250 employees

Q6. If a RCIB was established, do you think it would need access to data held by your organisation to investigate causes of road collisions?

No

## Organisation details

Q8. Do you think your organisation would need to spend time familiarising itself with working with an RCIB, should a branch be established?

Yes

## Staff working with RCIB

Q9. What number of staff within your organisation would need to spend time familiarising themselves with an RCIB, should a branch be established?

20-25

Q10. How much time, in minutes, do you estimate it would take your organisation to familiarise itself with an RCIB?

1 hour training session plus materials

## Road Collision Investigation Branch (RCIB) proposals

Q11. To what extent do you agree or disagree with the creation of a new independent body, the Road Collision Investigation Branch (RCIB), to coordinate the investigation of road traffic collisions?

Agree

## Road Collision Investigation Branch (RCIB) proposals

Q15. To what extent do you agree or disagree with the three suggested responsibilities?

Agree

### Why?

It is reasonable to introduce an RCIB as an independent body with the responsibilities listed. A RCIB would be a useful body, particularly in order to review, assess and analyse incidents involving new and emerging vehicles and vehicle technology (smart motorways, automated, micromobility vehicles and e-scooters) and make recommendations for change to relevant manufacturers and stakeholders. A simple and transparent process for reporting potential incidents for investigation to the RCIB must be established.

## Other responsibilities

Q17. Are there any other responsibilities that you believe an RCIB should have?

Yes

## Different responsibilities

Q18. What other responsibilities?

The RCIB should be able to compel relevant bodies to enforce its recommendations stemming from its investigations, particularly where there is a theme of accidents occurring in a certain area, or particular risks to vulnerable parties or vulnerable road users.

The RCIB should hold an over-arching responsibility to investigate all accidents involving new technology and any related contributory factors or themes, if public confidence is to be maintained.

## Road Collision Investigation Branch (RCIB) powers

Q20. To what extent do you agree or disagree with the proposal that the RCIB should have the stated investigative powers?

Neither agree nor disagree

## Investigative criteria

Q24. In your view how important is it that an RCIB base investigation criteria on the:

	Very important	Important	Neither important nor unimportant	Unimportant	Very unimportant
scale?	X				
risk of harm?	X				
emerging risks?	X				

### Why?

All of the above are 'very important' as they will all ultimately influence the future improvement of road safety. We do not consider any of the above criteria to be less important than another. We echo Stewarts' response in relation to vulnerable road users, automated vehicles and emerging technology.

## Impact on people

Q27. What impact, if any, do you think an RCIB would have on victims of road collisions and their families? Respond with as much detail as possible.

It is vital that victims are not exposed to further delays by way of involvement of the RCIB and that the RCIB keep victims and families apprised of any progress of an investigation, as well as the outcome of that investigation and any related recommendations.

We suggest that claimants are informed when an investigation is underway and that the investigation should not cause the claimant further delay, in relation to access to compensation and rehabilitation funding/ interim payments.

An injured claimant should be afforded representation at any meeting with the RCIB investigator, analogous to the arrangements for vulnerable witnesses within the court system.

## Other comments on the RCIB

Q28. Supply any other comments on the potential creation of an RCIB you wish to make.

We consider that the creation of the RCIB is well intended in terms of its remit and aims to improve road safety. It is accepted that currently the range of data sources as to road collisions do not readily ensure analysis as to the causes of accidents, or any themes in relation to accidents or injuries. Whilst we appreciate that it will not be within the RCIB remit to apportion blame or liability, it is important that any investigations where one or more individuals has been seriously injured, including fatally, that any report should be made available to the victims and their families as soon as it is reasonably possible.

FOCIS refers to its response in relation to the first Automated Vehicles Law Commission Consultation, it is imperative that any new investigation unit be funded appropriately and appropriately staffed and central co-ordination of investigations alongside police and/or Highways authorities will be important.

We echo Stewarts response that the remit of the RCIB must be clear and transparent and communicated to various other parties, including police. The police would often be first on the scene and should have a recognisable and effective process by which they report incidents to the RCIB for potential investigation. It is anticipated that the RCIB would deal with a large volume of accidents, much more than the AAIB, and therefore must be staffed by people with appropriate expertise in a variety of collision related fields, to include automated vehicle technology. A sufficient number of suitably qualified investigators must be available to reach an accident scene, or at least give real time remote direction to those at the scene.

The parameters of any investigation must be set out clearly before the RCIB is set up. A set of standards as to what types of accident should be investigated and related complexity factors should be defined as a priority. The RCIB remit should include reference to all accidents involving fatalities 'and/or life threatening injuries', which will give certainty to the kinds of accident in which the RCIB may be engaged, and increase public confidence in the branch.

If a recommendation for change is made by the RCIB and they are aware of injuries/fatalities occurring and any such recommendation, should be reported back to those victims.

Like those from the AAIB, the final reports of the RCIB should be admissible in evidence in civil proceedings (Rogers v Hoyle [2014] EWCA Civ 257)

## Final comments

Q29. Any other comments?

Q15 did not have an explanation box so we provide the below in support of our answer on investigative powers:

The RCIB could implement measures to ensure transparency of investigations, together with any recommendations made.

Co-operation with police and other bodies is essential, but the accident victim and families should continue to be involved in the investigation process as far as possible. In order to encourage public confidence, an initial report should be made available within 28 days of the accident, and the final report as soon as possible thereafter. In most accident we would hope that final report would be delivered within 3-6 months and, in more complex accidents, within no more than 12 months. Any RCIB investigation might delay an injured victims claim to compensation or civil liability may remain unresolved pending the outcome of the investigation, so it is crucial the reports are made available as soon as possible.

We agree that the RCIB should have the power and remit to make safety recommendations, and those recommendations should be communicated to injured victims and their families.