

WEDNESDAY 22ND FEBRUARY 2023, 11AM**#AGSLOSSPREVENTION**

The AGS Loss Prevention Working Group (LPWG) has produced a plethora of guidance over many years, which used to be included in a document called the 'toolkit'. This has since moved on to an online resource of Loss Prevention Guidance, published on the AGS website.

However, some of the guidance refers to legal cases and legislation which have the potential to become outdated or have been updated respectively. The LPWG therefore commissioned a legal review of this guidance in 2022 to check it is up to date. This review has been carried out by Dominic Ruck-Keen of 1 Crown Office Row.

This free webinar, chaired by Jo Strange, will look at some of the key Loss Prevention Guidance, which is recommended reading for all geo-professionals and anyone making commercial decisions. The event will also reiterate some key learning points and identify where significant updates have been made and the implications of those.

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**PROGRAMME**

- 11:00: Jo Strange, Technical Director at CGL**
Opening Introduction
- 11:05: Dr Russell Jones, Commercial Director at WSP UK**
Indemnity Issues
- 11:15: Hugh Mallett, Technical Director at Buro Happold**
Reliance on Third Party Reports
- 11:30: Neil Parry, Director at Geotechnical Engineering**
Professional Indemnity Insurance – Negotiating a Hard Market
- 11:45: Antonio Rotolo, Regional Counsel at AECOM Europe**
Limit on Liability Clauses
- 12:00: Q&A**
- 12:15: Jo Strange, Technical Director at CGL**
Closing Address
- 12:00: Ends**

SPEAKERS AND PRESENTATIONS

**JO STRANGE,
WEBINAR CHAIR**
Technical Director at CGL

Jo is a chartered civil engineer and environmentalist with over 30 years of experience in civil and environmental engineering. She is involved in the planning, management, design, specification, implementation and interpretation of site investigations/assessments and remediation for a wide variety of 'brown field' projects, including risk assessment and negotiating with and for Regulators and managing the commercial elements of projects.



DR RUSSELL JONES
Commercial Director
at WSP UK

Dr Jones is a Commercial Director with responsibility for WSP UK's Earth & Environment and Planning disciplines. He joined the company in 2022, having spent the previous 29 years with Golder as a Senior Partner and statutory Director of the UK and Ireland companies. He is a chartered civil engineer, geotechnical specialist and a Fellow of ICE, the Chartered Institute of Arbitrators and the Geological Society of London.

**PRESENTATION:
INDEMNITY ISSUES**

Loss Prevention Alert 30 was published in January 2005 and described the issues with indemnities in commercial contracts that were of concern to AGS members. Since its publication, clients continue to request indemnities in both contractor and consultant contracts, and the AGS Loss Prevention Working Group considered it appropriate to remind AGS members of the difficulties that can arise when agreeing to indemnities.

Indemnities are perceived by

clients to provide quicker, easier and fuller recovery than other claims. While this may provide benefits to the indemnified party, there are drawbacks for the indemnifying party. The presentation will describe these drawbacks and provide an insight into successfully negotiating indemnities to provide an equitable position for the contracting parties.

HUGH MALLET

Technical Director at
Buro Happold
Hugh is a Chartered
Geologist and
registered SiLC with

45 years professional experience including 30 years on contaminated land and Brownfield redevelopment. He is a Technical Director at Buro Happold with a long involvement in the AGS having chaired the Contaminated Land and Loss Prevention Group and the Executive.

**PRESENTATION: RELIANCE
ON THIRD PARTY REPORTS**

This presentation considers the potential liabilities associated when you use or rely upon information provided by a third party's report. The issues arising under three scenarios are described and ways to mitigate the potential risks are proposed.



NEIL PARRY
Director at Geotechnical
Engineering

Neil is a past Chair of Ground Forum and the AGS, and former leader of the AGS Contaminated Land Working Group. He is a Chartered Civil Engineer with over 35 years of experience, as a structural, geotechnical and geoenvironmental engineer working for both consultants and contractors in the UK and overseas. He is a member of ICE and a registered SiLC.

**PRESENTATION: PROFESSIONAL
INDEMNITY INSURANCE –
NEGOTIATING A HARD MARKET**

The Professional Indemnity (PI) Insurance market can be a particularly difficult one to negotiate, with the Indemnity Limit, business type and policy coverage having a significant effect on the availability and cost of coverage. Consultants and contractors are required to maintain significant levels of PI insurance, often up to 12 years after their involvement in a project comes to an end. The presentation covers the current market conditions that affect PI premiums, why there is a "hard market" and issues that a consultant or contractor undertaking professional services should consider when procuring PI insurance.

ANTONIO ROTOLO

Regional Counsel at AECOM Europe
Antonio is senior counsel for AECOM's Environment, Water & Energy



business for the region of Europe. He has over 20 years' experience as a public procurement and construction law

solicitor in both the public and private sectors within the UK and abroad, and has an engineering degree.

**PRESENTATION: LIMIT
ON LIABILITY CLAUSES**

A lot of effort is often placed in negotiating an aggregate limit on liability clause in a B2B contract. It is an effective risk mitigation tool as it caps one's liability to the specified amount where otherwise the exposure could be unlimited. Limit on liability clauses come in many "shapes and sizes". An increasingly adopted approach is to mirror the aggregation provisions of the professional indemnity insurance clauses. This presentation is about how certain we can be about the cap these clauses purport to offer.