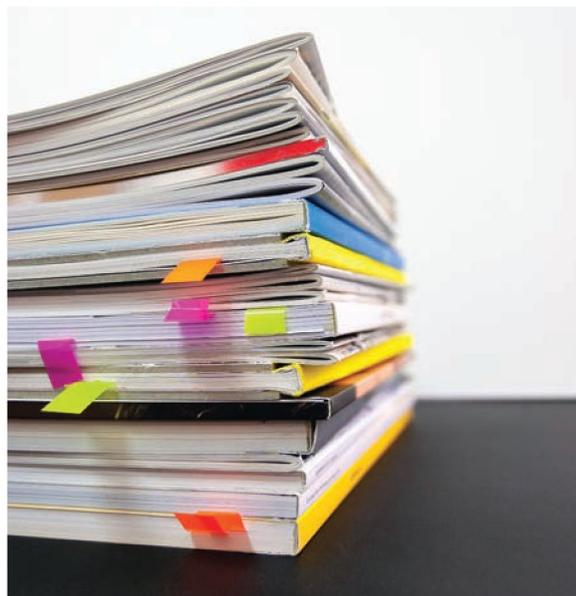


# Please can you sign this **Letter of Reliance?** *Things to consider before you do*

Joe Abrams MCIfA (1829), Director of Abrams Archaeology

*Archaeological reports are, very often, submitted as part of a planning application for land. Credit: Photo by Bernd Klutsch on Unsplash*



Archaeological reports are, very often, submitted as part of a planning application for land. In some cases, the client for whom they were produced subsequently sells the land on. This can mean that archaeological reports are subsequently relied upon by an organisation that was not that client. Assurances may be sought as to their reliability, so that it may be demonstrated that land has been subject to appropriate tests prior to sale. Archaeologists are amongst a range of professional services relied upon in this way.

In short, a Letter of Reliance is a letter from one party to another allowing them to rely on the contents of a report. As professionals, we may feel intuitively that any new party can rely upon our work. The reports will normally become part of the Historic Environment Record and be available to the public. Surely, anyone interested in that piece of land could rely upon our report/s?

## Risks to consider

The following is not an exhaustive list, more a way of encouraging the reader to consider how a Letter of Reliance (LoR) could be problematic in certain circumstances. Principle 1, Rule 1.2 of the *Code of conduct* requires that 'A member shall present archaeology and its results in a responsible manner and shall avoid and discourage exaggerated, misleading or unwarranted statements about archaeological matters.' Therefore, we are obliged

to take care in the signing of such letters for this and other reasons.

- **Who are the beneficiaries?** We should not be signing a letter that does not make this obvious – the beneficiary needs to be clearly stated.
- **What services are being described?** An accurate listing of report details (title, version number, etc) can help ensure that this is clear.
- **What need is there for reliance?** This purpose (eg land sale) should be clearly stated within the letter so we can consider if the reports are appropriate.
- **What limitations may there be on the timeliness of our report?** For example, for how long is a desk-based assessment valid?
- **What are the required levels of Professional Indemnity Insurance?** This relates to the value, which is frequently requested in such a letter, and also the length of time for which that level of insurance may be held. A further factor is the aggregate financial limits – how many claims can potentially be made against a policy?

These are among the key factors to be checked:

**Setting expectations appropriately for a report** – As with any human communication, within such a letter there is scope for misunderstanding and for referring to a report in relation to an outcome it was not designed to achieve. If a desk-based assessment was supplied, its potential to inform is very different from that of a trial trenching evaluation report. Any report should answer specific questions as set out in a brief or research design and may not answer the questions a new party might wish to ask, and so should not be relied upon if required for an altered purpose. Likewise, a written scheme of investigation describing a scope of future work is very different to the report upon that work. The types of data these documents hold and the uses to which they can be put in terms of risk reduction are also different. All may have been competently produced, but are the land agents, sellers and purchasers – who may be unfamiliar with the terminology of our sector – referring to these in the appropriate context? Archaeologists should ensure that a LoR is correctly recording the type of document being referred to.

**Errors of fact** – Sometimes linked to the above, human error must be checked for and corrected. The version



*Time pressure can often be a factor when being asked to sign a Letter of Reliance Credit. Photo by Towfiq barbhuiya on Unsplash*

number, title and date of a report must be accurate. If the wrong version is relied upon or referred to, then the letter is not reliable.

**Insurance** – The level of indemnity (eg £5 million) must be checked against the level of indemnity the company has. The length of time for which insurance must be held should also be checked. A period of 12 years is often referred to as this is a conventional period of time during which litigation can be brought on land deals. Can your organisation commit to do these things?

**Procedures**

The assessment, checking, completion, signing and issuing of a LoR is a process that would benefit from an internal procedure. A set of recognised steps will help reduce potential problems. These procedures should consider: Who can sign? Who can complete the details in a letter? Who should return the letter to the client? There can be sound reasons for a client-facing member of the team taking receipt of and returning the letter, further building on a commercial relationship. There are also compelling reasons why a company director or other responsible person checks the content of and signs the letter.

The accessibility and familiarity of such guidance within our teams is key, especially amongst those staff with commercial/sales positions, such as project managers and senior consultants.

**Joe Abrams**

Joe Abrams (MCIFA) is a director of Abrams Archaeology, formed in April 2020. He is on the Advisory Council of CIFA. Joe has worked in the commercial archaeological sector for over 20 years and held senior posts in several archaeological consultancies and contracting companies. He takes an active interest in the understanding and application of professional ethics within our sector.



*Clients may subsequently sell on land. Credit: Alex Llewellyn*

**Behaviours to reduce risk**

To amplify the effectiveness of such systems, organisations need their teams to develop an understanding of the underlying reasons for them. An appreciation of why some behaviours are likely to reduce or increase risk is useful.

**Time** – It is relatively common to find we are being asked to sign a LoR after a project has completed. Typically, a land sale is being negotiated and an agent has been tasked with rapidly gathering these LoR from various environmental consultants. That agent may not have legal training. Deadlines for return of the LoR can be demanding. However, time is needed to understand, check and potentially seek external advice and then issue the LoR. The pressure of an external deadline can take on additional, self-imposed urgency. Many involved in sales will recognise the scenario and we must implement systems to ensure robust checks take place and the reasoning is communicated externally.

**Recognising our limitations and seeking support** – Understanding our own competence and that within our organisation is important when checking and signing a LoR. Where something is unfamiliar, we should recognise the need to seek advice before signing a document we do not fully understand the implications of signing up to. We may need training from, and on occasion direct advice, from our insurance broker or legal advisor.

