

2020 Magistrate's Manual

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Mock Trial Magistrate's Manual

1. Mock Trial Rules

Mobile phones, laptops and/or tablets are not to be used by students under any circumstance during a trial.

Any disputes between participants, which are unable to be resolved, will be determined by the Law Society. This decision will be final.

The Law Society's Mock Law Programs are intended for skill development in verbal presentation and knowledge of the law. Students are relatively new to the judicial process, and Magistrates should be aware of this at all times and ensure they offer helpful advice and feedback throughout and after the trial. Remember, "integrity is the key to understanding legal practice. Law's empire is defined by attitude, not territory or power or process" (Ronald Dworkin, 1986).

2. Competition Structure

The Defence and Prosecution scripts for each round will be sent to all confirmed magistrates by the Mock Trial Coordinator. These scripts are not password protected for efficiency and so it is paramount that they are not passed on to either school, who will have access to their assigned scripts and should not ask magistrates for access.

The competition consists of 10 rounds. The first round is non-scoring; the next three are scored and held in a Round Robin. The final six rounds are conducted on a knock-out basis.

Each round must be completed by the date nominated by the Law Society and results received at the Law Society on or before that date. Extensions of time will only be granted in extenuating circumstances. Magistrates should sign the scoresheet at the end of the trial, and the winning school will then submit it to the Law Society.

Each trial should take no more than three hours, and ideally less than that.

3. Trial Organisation

The host school (plaintiff/prosecution) is responsible for organising the venue and coordinating with the Magistrate.

Schools must be flexible as to trial dates and times to accommodate Magistrates busy schedules and flexibility is the key in identifying convenient trial times.

4. Conduct of The Hearing

Both teams are limited to the script. No exhibits or extra case-law is allowed. This allows a 'level playing field' between schools with or without legal resources.

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4.1. Opening arguments

Before any evidence is taken each first barrister will make an opening address to provide the Magistrate with a general idea of the case.

This is established by identifying the issues between the parties (by reference to the charge sheet in criminal cases or the pleadings in civil cases). In the opening address it is usual to present the matters to be proved and how they are going to be proved by briefly summarising the nature and extent of the evidence to be called.

The address should refer to any important facts and relevant background information that will assist the Magistrate to understand the evidence as it is presented. The opening address should not include reference to any case law precedents, and marks may be deducted if caselaw is quoted in the Opening Address.

4.2. Objections

Make a note on your script of areas that should be objected to. This will help you in scoring appropriate Cross-examination if a side makes or fails to make, an objection. The areas are:

- Hearsay
- Relevance
- Form (not in first person)
- Opinion
- Bad Character
- Direct Speech
- Diversion from Script
- Leading Question
- Double Questions
- Failure to comply with the rule in *Browne v Dunn*
- Harassment of the witness

Once an objection has been made, and points awarded, if the objection is made correctly, the remainder of the evidence upon which the party relies is allowed to continue to completion.

Under the rule of *Browne v Dunn* it should be disallowed. The rule in *Browne v Dunn* requires that unless prior notice has been given as to the intention of the cross-examiner to rely on evidence which is contradictory to that given by the witness being cross-examined, the cross-examiner must first put to the witness the nature of the contradictory evidence.

Barristers may make an objection if the opposing barrister is harassing or arguing with the witness. This usually occurs during cross-examination. Only the barrister responsible for examining-in-chief or cross-examining the witness may object to questions put to the witness or evidence given by the witness.

- When a side makes an objection:
 - Ask the student to say why they are objecting
 - Then ask the opponent to respond.

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the objection or over-rule it.

- Give a short reason for your decision. The longer the students argue the point, the longer the trial will run.

○ Either uphold

4.3. Decisions

This is two-fold:

- Who won the legal case and why?
- Who won the mock trial and why?

You will have tallied up your points sheet and given it to the teachers to confirm your additions/decision on points.

While you are waiting, give a short judgement on who won the legal case. It only needs to be long enough to explain why you found the Prosecution/Plaintiff case or the Defence case was successful.

When the teachers/coaches give the sheets, the Magistrate will announce who has won the Mock Trial.

5. Roles and Responsibilities

5.1 Magistrates

Take the time to review the Mock Trial Manual and familiarise yourself with the rules before each mock trial. Also take the time to review the case material. Only refer to the materials provided by the Law Society. Where possible, Magistrates are encouraged to conduct the trial in the final week of the allocated time.

Magistrates are reminded that Mock Trials are intended to be educational and to provide positive feedback.

5.2. Scoring

At the conclusion of the trial, teachers from both teams must check and initial the additions of the Magistrate. Any discrepancy must be brought to the attention of the Magistrate immediately. If the Magistrate agrees to amend the score sheet it must be done before the Mock Trial decision is delivered.

Once the decision is delivered, there will not be any opportunity for any school team to object to alter the scoresheet. The decision of the Magistrate is final and no correspondence will be entered into.

It is suggested that you score conservatively, reserving scores of 7 or above for performance at a higher than average level. The scale for the awarding of points is set out in the scoresheet below:

Not Effective		Fair		Good		Very Good		Excellent	
1	2	3	4	5	6	7	8	9	10

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Points will be deducted if a:

- Witness adds, deletes or changes material in the witness statement;
- Team/barrister goes beyond the time limits;
- Team member is prompted by another person;
- Team member argues with the Magistrate; and
- Teacher/coach/parent offers assistance at any time during the trial or while preparing for the closing address.

It is the responsibility of the winning team to return *the front page* of the score sheet by email to the Law by the given date.

No draws are allowed – Magistrates must use the “Team” box to give an extra point.

5.3. Schools

Prior to commencement of the trial, teachers have the opportunity to raise any issues.

Teams must not access the witness statements of the opposing team prior to the trial. This action may lead to disqualification.

Once the trial has commenced, students may not be assisted other than by the instructing solicitor and the other barrister. This includes verbal and non-verbal prompting. When preparing the closing address, there must be no assistance from coaches, teachers, any other team member or members of the audience. The only people allowed at the bar table are the solicitor and the two barristers.

Disputes or arguments with Magistrates are not permitted at any time.

5.4. Scripts

No amendments to any material can be made by either side, unless instructed by the Law Society.

Teams which excel in arguing the law, examining the witnesses competently, and who present a very persuasive case, may appear unequal. However, the team that wins the case is not necessarily the winner of the Mock Trial.

It is important to remind the Magistrates Clerk to clearly indicate when Barristers go over the allotted timings. This is to ensure that trials do not exceed three hours.

The law to be applied in the Mock Trial is included within the script. The aim is to give the participants experience in the operation of the justice system, not to provide technical training in law.

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It is important to note that our script writers use past cases or legislation in which to base the Mock Trial; discrepancies with past and current legislation have no impact on the Mock Trials.

If schools or volunteers find an inconsistency within the script, please contact the Law Society.