



The Law Society  
OF NEW SOUTH WALES

# 2026 Mock Trial Competition Manual

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# 1. Competition overview

Running since 1981, the Mock Trial Competition is the Law Society's flagship initiative for high school students. The program aims to introduce students to the NSW judicial system by providing practical experience in the running of a court case in a true-to-life adversarial setting. Students learn advocacy, debating and problem-solving skills.

## 1.1. Eligibility and competition entry

The competition is open to students in years 10 and 11. Each school may enter one team of six students who play the roles of barristers, solicitors, court officers, magistrate's clerks and witnesses.

Participation is limited to 100 schools each year.

All participating schools must review and agree to the competition Terms and Conditions (Annexure B) and complete the registration form by the designated deadline.

## 1.2. Structure and procedure

The competition consists of eight rounds:

1. Round one
2. Round two
3. Round three
4. Elimination round one
5. Elimination round two
6. Quarter Final
7. Semi Final
8. Grand Final

The Competition timetable is available on the [Mock Trial webpage](#) and in Annexure C.

The first three rounds are held on a round robin basis. Following the end of round three, total scores are calculated, and the top-scoring 32 schools will continue to the elimination rounds, which proceed on a knockout basis.

Rounds will alternate between criminal and civil matters with schools having the opportunity to act as the Prosecution/Plaintiff and Defence. On the first day of the round, schools will be provided with their designated script, opposition school allocation, and Magistrate allocation. Scripts and school allocations will also be password-protected and uploaded to the [Mock Trial webpage](#).

Magistrates are volunteer members of the profession who will preside over and score each trial. Schools are not permitted to substitute a magistrate of their own choice for the allocated Magistrate without first seeking approval from the Law Society.

**Trials should last between two and three hours, and no more than three hours in total. It is the responsibility of the schools to organise a suitable date and time for their trial in consultation with their opposition and volunteer Magistrate. It is recommended that these conversations take place early in the round to allow for ample scheduling time. Schools are expected to be as accommodating as possible with their**

## **opposition and Magistrate, and to maintain respectful and clear communication throughout the competition.**

While efforts may be made to pair schools with other schools within their region, to ensure fairness and variety throughout the rounds, schools may be allocated to schools and magistrates from outside their region. Schools may conduct their trials in person or online. The Magistrate may also choose to appear in person or virtually.

Where trials are conducted virtually, teams may either appear via one stream from the same location, or through individual streams. All pre-trial notes should be emailed to the Magistrate *before* the trial, and opposing witness statements should be made available to the opposing team by using the 'upload file' function on the videoconferencing software or emails to the other team before the trial commences.

The Law Society will not engage in dialogue between schools that are unable to agree on a trial date. If schools, or schools and their Magistrate, are unable to determine a suitable trial date, the following options are available:

- In the event that a suitable time cannot be organised with the allocated Magistrate, representatives from each school may agree to preside jointly over the trial; or
- Both schools may proceed with a bye, receiving 2 points each, and 0 for and against scores. More information about scoring is detailed below.

Any team that cannot complete a round by the due date will forfeit the round. No points will be awarded for a forfeit. If a school must forfeit a round, it must contact the Law Society, its opposition school, and its allocated Magistrate as soon as possible.

If a school forfeits a second time, the team will be disqualified. Students on this team will not receive Mock Trial Certificates.

### **1.3. Materials**

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

On occasion, a script may appear to advantage one team over the other. This is not an overall disadvantage to the other team as it provides scope to identify ways of overcoming the apparent problems in the team's case. Further, the team that succeeds in the case may not win the trial.

The law to be applied in the trial is included within the script. **The teams are not permitted to refer to, or to rely on, any legislation or cases which are not referred to in the script.** The aim is to give students experience with the operation of the justice system, not to provide technical legal training.

The first page of the score sheet, with the name of the competing schools and participating students, should be emailed to the Magistrate before the commencement of the trial.

## 2. Team roles

The Prosecution/Plaintiff team will consist of:

- First Barrister
- Second Barrister
- Instructing Solicitor
- First witness
- Second witness
- Magistrate's Clerk

The Defence team will consist of:

- First Barrister
- Second Barrister
- Instructing Solicitor
- First witness
- Second witness
- Court Officer

### 2.1. Barrister

The first Barrister for each team will announce their appearance, give the opening address, and then conduct the examination-in-chief of the first witness. The first Barrister for the opposing team will then cross-examine the first witness.

Similarly, the second Barrister will examine the second witness, with the opposing second Barrister conducting a cross-examination.

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. However, in the usual course, if an objection is allowed (upheld), the evidence would not be admitted.

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 the examination-in-chief or cross-examination may object to questions put to or evidence given by the witness.

The Magistrate will assess the Barristers' performance on many aspects of their role, including:

- Clear and concise introduction to the case, including overview of the charge(s)/claim and the evidence to be given;
- Clarity of expression and voice, poise, confidence;
- Proper introduction of evidence;
- Questioning in accordance with rules of evidence during 'examination-in-chief';
- Cross-examination directed at relevant parts of evidence in chief and about relevant points of own case;
- Avoidance of unnecessary repetition of evidence in chief;
- Courteous and respectful questioning of the witnesses;
- Appropriate objections/making considered responses to objections;
- Summarising evidence and facts accurately in the closing address;
- Making appropriate submissions on issues of law in the closing address; and
- Persuasion.

## 2.2. Solicitor

The Solicitor coordinates the preparation of the case and assists the Barristers during the hearing and in preparing their closing address.

The Solicitor's pre-trial notes are to be a maximum of two single-sided A4 pages, no smaller than size 11 font. Notes that exceed this size will be penalised.

In the Solicitor's Notes, the Solicitor will succeed in demonstrating the depth and extent of their preparation by identifying the:

- Key facts;
- Charge(s) or civil claim;
- Relevant issues;
- Areas for cross-examination;
- Possible objections and responses (in brief); and
- Relevant legal principles.

The Solicitor should assist the Barristers during the trial by recording the evidence and highlighting important matters to be covered in cross-examination and the closing address.

Solicitors are judged on:

- The quality of the pre-trial notes; and
- Their active participation in the proceedings.

The Solicitor's notes must be prepared by the students.

## 2.3. Witness

A witness must appear in the order in which they appear in the script. They may act in character, but must stay in their usual school attire.

Three copies of each witness's statement should be prepared and made available to the opposing side, so that each team has a copy during the trial.

The witness gives sworn evidence for the parties to the action (Prosecution/Plaintiff or Defence). The role of the witness is to give evidence relevant to the matter about what they have seen or heard.

The witness statements are included amongst the material prepared by the Law Society and must be adhered to strictly. No deletions are allowed from the trial materials. Further, no additional materials, outside of the script provided, are to be used, e.g. maps, diagrams, plans, or exhibits etc.

During examination-in-chief, the witness must strictly adhere to their statements. However, during cross-examination, scope is given for the witness to expand upon the script.

The witnesses give all the evidence which is used in the trial and their accurate recall is important.

During examination-in-chief, the witness gives his or her evidence orally.

All witnesses, except for the Defendant in a criminal trial, must remain outside the courtroom until they are called to give evidence. Once the witness has given their evidence, they must not talk to or approach a witness who has not yet given evidence. After having given their evidence, the witnesses may remain in the courtroom in the visitors' gallery.

The assessment of the performance of the witness is based on the following:

- accuracy and completeness of the recital of evidence;
- presentation; clarity of expression, voice, poise; and
- ability to cope with cross-examination.

## **2.4. Magistrate's Clerk**

The Magistrate's Clerk is responsible for:

- Calling the case;
- Keeping the time sheet and noting the time when each cross-examination and examination-in-chief commenced, ended and its duration. The timesheet should be emailed or handed in as required to the Magistrate at the conclusion of the closing addresses;
- Indicating to the Magistrate when the time limits have been reached - a bell or similar should be used;
- Keeping the list of objections made by each Barrister and noting the objection, the nature of the objection and the Magistrate's ruling. The objection sheet should also be emailed or handed in as required to the Magistrate at the conclusion of the closing addresses; and
- Exchange of the statements as each witness is called by the Court Officer.

The Clerk is judged according to his/her performance of these duties.

## **2.5. Court Officer**

This role involves:

- Opening the Court;
- Closing the Court;
- Maintaining order in the Court;
- Calling the witness/s. The Court Officer must follow the order of witnesses as they appear in the script. There is no choice in the order of the witnesses; and
- Swearing the witness.

The Court Officer is judged according to their performance of these duties.

The Court Officer should not keep a timesheet or list of objections. These tasks are performed by the Magistrate's Clerk.

# 3. Scoring

## 3.1. Mock Trial scoring

The judging of each Mock Trial is two-fold. A decision is made on:

1. the outcome of the case itself and the reasons for the decision. This is generally quite brief, entailing a summary of the key facts, evidence and issues in dispute, and the basis upon which the Magistrate ultimately decided the case; and
2. the overall winner based on the scores allocated to the teams throughout the trial.

If teachers have any concerns that arise during the trial, they must raise them before the Magistrate delivers judgment and announces the final scores. Once the decision is delivered, there will be no opportunity for either team to raise issues or seek correction of errors or omissions in the score sheet. The decision of the Magistrate is final, and no correspondence will be entered into by the Law Society.

**Magistrates are encouraged to score conservatively, reserving scores of 7 or above for performance at an above-average level.** The scale for the awarding of points is set out below:

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

Points will be deducted if:

- A witness adds, deletes or changes material in the witness statement;
- Any student goes beyond the time limit;
- Students are prompted by another person;
- Students argue with the Magistrate;
- A teacher/coach/parent offers assistance at any time during the trial or while preparing for the closing address;
- Teacher/coach/parent interrupts or otherwise disrupts the Mock Trial. Interruptions are not permitted unless a participant falls ill or there is an emergency such as a fire, natural disaster or major criminal incident; and
- Teacher or coach challenges or disputes the scores (apart from seeking a correction to any obvious errors or omissions).

The Magistrate is required to email the completed and signed score sheet to the schools and the Law Society at the conclusion of the trial.

A copy of the scoresheet is available on the [Mock Trial webpage](#).

## 3.2. Competition scoring

During the Round Robin, teams will be awarded the following scores:

- 3 points for a win
- 1 point for a loss
- 2 points for a bye
- 0 points for a forfeit (if not disqualified)

Draws are not permitted. Magistrates are required to use the “Team” box to give an extra whole point. Half-points are not allowed.

In addition, both teams will have an overall score, which is the sum of their awarded points. The difference between this and their opposition's score will form each school's 'for/against' score for the round.

When a school is allocated a bye, 2 points will be allocated and 0 awarded for the 'for/against' score.

When a school forfeits it will receive 0 points and no 'for/against' score. The opposing team will be given 3 points for a win and 0 points for their 'for/against' score.

After the Round Robin, schools move forward in the competition on a knock-out basis.

Only the 32 highest-scoring teams will progress after Round 3. In the event that the 32<sup>nd</sup> and 33<sup>rd</sup> schools end the Round Robin with the same overall scores, only one team may progress. This is determined by how many trials the schools have completed and won. If the schools completed and won the same number of trials, the school with the highest winning margin averaged across their scores in the Round Robin will progress. Forfeits will not be treated as a 'completed' trial.

# 4. Rules of evidence and grounds for objection

## 4.1. Relevance

Only relevant evidence is admissible. "Relevant" means the evidence proves or tends to prove a fact that is in dispute. For example, in a case involving a collision of two motor vehicles, the speed at which the vehicles were travelling would probably be relevant, but what the drivers ate for breakfast would be irrelevant.

All irrelevant material is inadmissible.

The mere fact that evidence is relevant does not make it automatically admissible. The application of the other rules of evidence may result in the evidence being ruled inadmissible.

## 4.2. Opinion

This rule concerns conclusions or views formed by witnesses based on facts they have observed. Opinions may not be given in evidence. For example, the observation by a witness that another person was red in the face and shaking his fists would be admissible, but the conclusion or opinion that the person was very upset or was angry with him would not be admissible.

Where an objection is based on opinion, the witness may give evidence about the facts that lead to the opinion if the witness is qualified to give the evidence.

## 4.3. Hearsay

Hearsay evidence is indirect evidence and generally inadmissible. Hearsay refers to evidence about what a witness heard someone else say. An example of hearsay evidence is: "I heard Mrs. Hall say, 'I saw Jo Burns driving the car.'" This helps to illustrate the three reasons for the hearsay rule:

- Hearsay is not the best evidence – Mrs. Hall should give her own account to the court on oath upon which she can then be cross-examined.
- It is "second-hand" evidence which may have changed in the re-telling; and
- Hearsay evidence is easy to concoct and very difficult to disprove.

## 4.4. Bad Character

Evidence of a bad character by a Defendant may not be led by the Prosecution/Plaintiff. Evidence of good character may be led by either party, but only if it is relevant. If the Defendant raises his/her good character, or attacks the character of a Prosecution/Plaintiff witness, the Prosecution/Plaintiff may cross-examine the Defendant on his/her bad character.

## 4.5. Direct Speech

Conversation should be recounted as it occurred in direct speech and should not be summarised by the witness. For example: Brian said to me, "Could you please drive? I think I have had too much to drink". This is the correct way to give this evidence. It is not correct to give the evidence as: "Brian asked me to drive because he had had too much to drink".

Where an objection is based on indirect speech, the witness may convert the evidence to direct speech, but only after the objection is made. However, once the objection has been made and ruled upon, it is not necessary to convert indirect speech to direct speech in a mock trial.

## **4.6. Leading questions**

A leading question is one in which the form of the question suggests the answer. Foreexample: “Was the car blue?”.

Leading questions are only objectionable in the examination-in-chief. They are permissible in cross-examination.

## **4.7. Double questions**

Double or multiple questions are objectionable because they cannot necessarily be answered with a single answer. For example: The answer to the first part of the question might be ‘yes’, while the answer to the second part of the question might be ‘no’.

## **4.8. Failure to comply with the rule in *Browne v Dunn***

The rule in *Browne v Dunn* requires that, unless prior notice has been given of the cross-examiner’s intention to rely on evidence contradictory to that given by the witness being cross-examined, the cross-examiner must first put the nature of the contradictory evidence to the witness. This gives the witness the opportunity to agree or disagree with the evidence.

## **4.9. Harassment of the witness**

Barristers may make an objection if the opposing Barrister is harassing or arguing with a witness. This usually occurs during cross-examination.

## **4.10. Diversion from Script**

Barristers may object if witnesses omit key information from their witness statements. This can occur during examination-in chief and cross-examination.

## 5. General precedents

The following extracts of precedents and those provided in the case materials for each trial may be used. Only these extracts may be used in mock trials.

Browne v Dunn (1894) 6 R 67 is the leading case on cross-examination and the requirement to give witnesses an opportunity to respond to an allegation made against them.

Lord Chancellor Herschell said at pages 70 – 71.

*I cannot help saying that it seems to be absolutely essential to the proper conduct of a case, where it is intended to suggest that a witness is not speaking the truth on a particular point, to direct his attention to the fact by some questions put in cross-examination showing that imputation is intended to be made, and not to take his evidence and pass it by as a matter altogether unchallenged. And then, where it is impossible for him to explain, as perhaps he might have been able to do if such questions had been put to him, the circumstances which it is suggested indicate that the story he tells ought not be believed, to argue that he is a witness unworthy of credit. My Lords, I have always understood that if you intend to impeach a witness you are bound, whilst he is in the box, to give him an opportunity of making an explanation which is open to him; and, as it seems to be, that is not only a rule of professional practice in the conduct of a case, but it is essential to fair play and fair dealing with witnesses.*

In applying the rule in Browne v Dunn, the following extract may be used: Allied Pastoral Holding Pty Ltd v Commissioner of Taxation (1983) 1NSWLR 1.

Hunt J said at page 16.

*It has in my experience always been a rule of professional practice that, unless notice has already clearly been given of the cross-examiner's intention to rely upon such matters, it is necessary to put to an opponent's witness in cross-examination the nature of the case upon which it is proposed to rely in contradiction of his evidence, particularly where that case relies upon inferences to be drawn from other evidence in the proceedings. Such a rule of practice is necessary both to give the witness the opportunity to deal with that other evidence, or the inferences to be drawn from it, and to allow the other party the opportunity to call evidence either to corroborate that explanation or to contradict the inference sought to be drawn. That rule of practice follows from what I have always believed to be rules of conduct which are essential to fair play at the trial and which are generally regarded as being established by the decision of the House of Lords in Browne v Dunn (1894) 6 R 67.*

On the issue of the failure of a party in civil proceedings to call witnesses whose evidence is relevant or to produce material documents, the following extract may be used: Allied Pastoral Holding Pty Ltd v Commissioner of Taxation (1983) 1 NSWLR 1.

Hunt J said at page 13:

*The inference available from such failure (where that failure is unexplained) is... that the evidence of such witnesses or the contents of such documents would not have helped that party's case: Jones v Dunkel (1959) 101 CLR 298 at page 321. That unexplained failure may also be taken into account in determining whether the tribunal of fact should draw any other inference which is otherwise open upon the evidence and which may have been contradicted by that witness or document; *ibid*, at pp 308, 312, 319. In either case, the result of such*

*unexplained failure may well be fatal to that party's case. Particularly might this be so where ...the facts are usually peculiarly within the knowledge of that party. But the tribunal of fact is not bound to draw either inference.*

On the issue of the burden of proof in criminal cases, the following extract may be used: Woolmington v Director of Public Prosecutions (1935) AC 462.

Lord Chancellor Sankey said at page 481:

*Throughout the web of English criminal law one golden thread is always to be seen, that is the duty of the prosecution to prove the prisoner's guilt, subject to what I have already said as to the defence of insanity and subject also to any statutory exception. If, at the end of and on the whole of the case there is reasonable doubt, created by the evidence given by either the prosecution or the prisoner, as to whether the prisoner killed the deceased with malicious intention, the prosecution has not made out the case and the prisoner is entitled to an acquittal. No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained.*

# 6. Guidance

## 6.1. Opening Address

Before any evidence is given, each first Barrister will make an opening address to provide the Magistrate with a general overview of the case.

The opening address is designed to identify 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 set out 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 references to any case law precedents, and a lower score will be awarded if case law is quoted.

## 6.2. Examination-in-Chief

The first step in the taking of evidence is called examination-in-chief. This is often quite challenging.

The purpose is to get the witness to tell their story. This is done by seeking to elicit all the evidence the witness can provide about what occurred, without suggesting to the witness what to say. One way to get the witness to tell their story without leading them, is to start your questions with words such as 'who', 'what', 'when', 'where' and 'how'.

Leading questions may be asked about matters that are not in dispute. For example, in a collision case, the time and place of the collision may not be in dispute. Such preliminary leading questions enable the witness to be taken quickly to the real matters in dispute.

## 6.3. Cross-examination

After the examination-in-chief, the opposition Barrister then conducts the cross-examination.

The aim of the cross-examination is to test the accuracy of the evidence given by the witness or establish facts which support the cross-examiner's client's case. The Barrister can also test the credibility of the witness, that is, whether they should be believed. Testing credibility covers every aspect. In cross-examination, leading questions may, and in fact should, be asked.

To be a successful cross-examiner, the Barrister must have an objective. They must know why particular questions are to be asked. Merely going on a 'fishing expedition' is time-wasting and damaging to your case.

In seeking to disprove the other party's case, the cross-examiner usually attacks two aspects of a witness's evidence:

- The competence of the witness to give the evidence, or the quality of such evidence. For example:
  - Lack of perception to be able to give evidence of what was seen, such as the capacity or opportunity to see;
  - Lack of accurate recall – due to the witness being affected by alcohol or drugs and therefore unable to think clearly; and
  - Lack of narrative ability – due to belonging to a culturally and linguistically diverse group.
- The credibility of the witness, because of:
- Bias, interest, prejudice – for example, the witness being a close friend of either party;

- Prior convictions, moral character – the witness having a reputation for lying or a number of convictions for dishonesty; and
- Prior inconsistent statements, such as evidence given in a written statement that is different from the evidence now given at the trial.

It is not easy to get a witness to admit they are exaggerating, lying or could not see a certain event or to undermine the value of their evidence.

An example of how to do this can be seen in a 'driving in a dangerous manner' case. The witness gave evidence that the driver was driving very fast - about 100km per hour. By asking a series of questions about weather conditions, volume of traffic on the road, lack of curves in the road, presence of stop signs, etc., the effect of the evidence of speeding might be minimised. This is because driving at 100km per hour at 3.00pm near a school is very different from driving at 100km per hour at 3.00am on a freeway.

In cross-examination, the Barrister should avoid:

- Quarrelling with the witness or bullying the witness to admit that they are wrong;
- Asking the witness multiple questions at the same time, without allowing the witness to answer each question individually; and
- Repeating the same question

Points will be deducted in a Mock Trial if a Barrister is discourteous or disrespectful to a witness.

## 6.4. Closing Address

The purpose of a closing address is to summarise your case, highlight the evidence that supports your case, and make submissions on the principles of law that are relevant to the case.

A systematic way to do this is:

- Identify the relevant issues - a Prosecutor/Plaintiff will limit the issues to the bare minimum to be proven and then show how the evidence brought before the Court proves their case. A Defendant's Barrister might take the opposite position and create as many issues as possible, thereby casting doubt on whether the Plaintiff or the Prosecution has proven their case.
- Make submissions on the relevant law - highlight prior decisions that support your case, and show how prior decisions apply to the proven facts of your case. If appropriate, try to distinguish any decisions that may appear to support your opponent's case, given the facts of your matter.

It is not necessary to give case citations unless the Magistrate requests you to do so.

If there is conflicting evidence on a particular point from both sides which cannot be reconciled, the Barrister must persuade the Magistrate as to why their witness/es should be believed in preference to the witness/s of the other party.

## 6.5. The art of persuasion

Persuasion in a court or tribunal depends on good communication. If you want to communicate effectively, you have to be able to convince a person to listen to you. Remember that first impressions are valuable, so start confidently, make sure your voice is well modulated and able to be heard, and do not speak too quickly. Try to maintain good eye contact with the Magistrate when addressing.

It is important to:

- Make succinct arguments or submissions;
- Keep closely to what you are trying to prove or disprove;

- Do not repeat yourself so that you become boring;
- Do not argue with a witness; and
- Try not to develop irritating habits, e.g.: Saying, 'I see' every time a witness answers a question, or saying 'I put it to you' or repeatedly seeking permission to confer with your colleagues during the course of your examination-in-chief or cross-examination.

Show courtesy and respect to the Magistrate, witnesses and the lawyers on the other side.

## 6.6. Proving your case

Giving careful and close attention to the elements of an offence or claim in your opening and closing addresses will significantly improve their quality.

The strength of the evidence to prove or disprove a case is called 'the burden of proof'. In a civil case, the Plaintiff is required to prove the case *on the balance of probabilities*, that is, by satisfying the court that their version of the facts is more probable than not. In a criminal case, the Prosecution has to convince the Magistrate that the Defendant is guilty *beyond reasonable doubt*. The Prosecution therefore bears a heavier burden of proof than a Plaintiff in a civil case.

The Defendant sometimes has the burden of proving things. For example, if a witness says they were somewhere else at the time the offence was committed, they must prove this alibi, or if a statutory defence is provided for a breach of statute law.

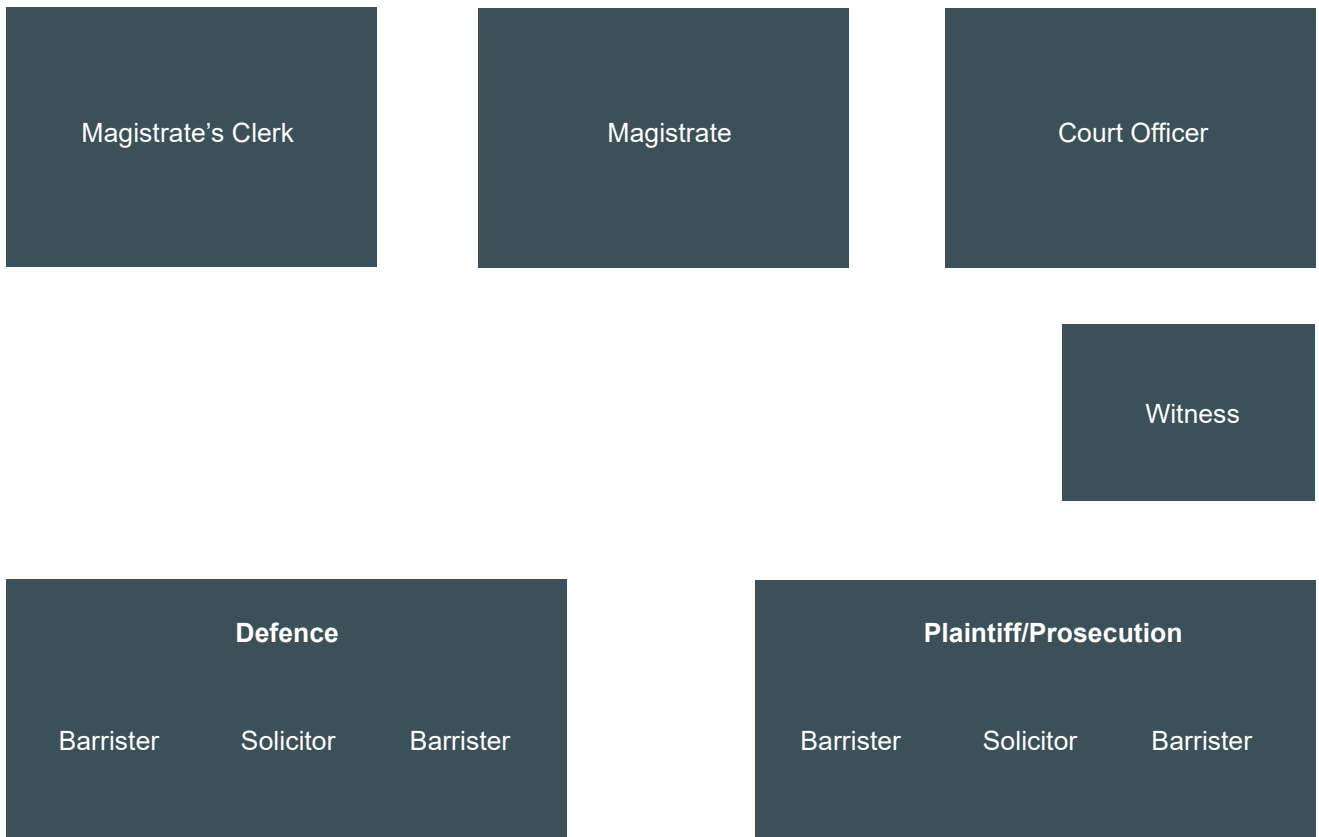
If the Defendant only has to prove an alibi or statutory defence, they must do so on the balance of probabilities. It is only the Prosecution in a criminal case, which must prove the case 'beyond reasonable doubt'.

What the Prosecution (in a criminal case) and the Plaintiff (in a civil case) have to prove are called the "elements". These elements are derived from legislation (Acts of Parliament) or case law.

Matters for proof will be set out in the case materials for each round of the Mock Trial Competition.

# 7. Court layout

Below is an example of the court layout for an in-person trial.



## 8. Legal glossary

### Adjournment

When a case is not ready to proceed on the day that it is listed, it might be postponed ("adjourned") to another day. If court proceedings have to be stopped for any reason they are "adjourned". If a criminal matter is adjourned and the Defendant has not been granted bail, they are "remanded" to appear on the adjourned day.

### Bail

When a person is charged with a criminal offence they will usually remain in custody until the hearing of the case unless granted bail. This requires a formal promise that they will appear at the hearing. As a guarantee that they will appear, a sum of money may have to be paid to the court. This money is refunded if the Defendant appears at the hearing, but it is forfeited if they don't.

### Barrister

In New South Wales, a Barrister is a member of the Bar Association. Barristers specialise in the preparation and presentation of cases at court.

### Civil Proceedings

Proceedings brought by the Crown or a private person to redress a wrong that has been suffered and is not covered by a law that imposes a penalty. The most common civil proceedings involve recovery of debts, claims for damages for injury to a person or property and claims relating to breach of contract.

### Common Law

Law is made in two ways. The Parliament passes laws (which are known as statute law or legislation), and the law is interpreted and developed by judges based on previous cases (known as 'Common Law').

### Committal Proceedings

When a person is charged with a serious criminal offence, a Magistrate considers all the evidence presented by the Prosecution. The Defendant does not usually present their side of the story at the committal proceedings, reserving their defence until the trial.

### Contract

A contract is an agreement between two or more parties which is enforceable. Generally, to be enforceable, there must be an offer by one party, an acceptance of that offer by the other party and "valuable consideration". Valuable consideration is what is given or done in return for the promise. The usual consideration given is money, goods or some promise to do something or refrain from doing something. A contract may be oral or in writing.

### Criminal Proceedings

Proceedings usually brought by the Crown (often the police) where there has been a breach of the law; a penalty is imposed under an Act for that breach.

### Defendant

A Defendant is a party against whom an action or charge has been brought. Once a Defendant in criminal proceedings is committed for trial before a judge and jury, they are referred to as "the accused".

## Equity

Historically, the common law (made by judges) became entrenched in formal rules that could give rise to injustice. A system of equity made by judges came into being which provides remedies where it would be unjust or unfair to attempt to enforce the common law. Cases now dealt within the Equity Division of the Supreme Court include claims against a person holding property for others (trustees), claims to stop a person invading another's legal rights (injunctions), and claims requiring a person to carry out their contract (specific performance).

## Evidence

The information put before the Judge or Magistrate, that supports the truth or existence of a fact, for the court to consider when making a decision. Evidence may be oral (from the witness) or contained in documents or objects.

## Exhibits

Things (documents, articles of clothing, equipment, etc.) that are tendered to the Court and admitted as evidence by the Judge or Magistrate.

## Judge

A person appointed to determine disputes between parties. In New South Wales judges determine disputes in most courts, which include the District Court, certain Tribunals and boards. Judges are addressed as "Your Honour".

## Jury

Members of the community who determine questions as to what happened (fact). There are twelve jurors in a criminal trial and usually four in civil proceedings.

## Magistrate

A Magistrate is a person who presides over matters listed before the Local Court. Local Courts deal with small debts, less serious crimes, inquests into violent and unexplained deaths, and hearings as to whether a person may have committed a serious crime (see Committal Proceedings). Magistrates are addressed as "Your Honour".

## Negligence

Negligence involves the failure of one party to exercise proper care towards another party; resulting in the other party suffering an injury or loss. The monetary compensation for the injury or loss is referred to as "damages". Contributory Negligence refers to a situation where even though the first party has been negligent, the other party has not taken sufficient care to protect him/herself and by these actions contributed to his/her own injury or loss.

## Plaintiff

A person who commences a civil action.

## Precedent

A principle established in a past case. A Judge or Magistrate is bound to follow a decision in a previous case (in which the facts are similar) where the court handing down the decision is higher in the court system. A hierarchy of courts is set out in Part 11. In some cases, NSW courts follow English decisions or decisions of superior courts outside the New South Wales court system. Sometimes a precedent of another court that is not binding will be

followed by the court on the basis that it is persuasive because of the status of the court or the similarity of the law.

## **Prosecutor**

A person who presents evidence and conducts the case against an accused person in criminal proceedings. In the Local Court, they may be a lawyer employed by the Office of the New South Wales Director of Public Prosecutions, the Office of the Commonwealth Director of Public Prosecutions, or a specially trained member of the police force. In criminal trials s/he is called a 'Crown Prosecutor' appointed from the ranks of practising barristers and solicitors.

## **Solicitor**

A person who is legally qualified, admitted to the legal profession, holds a practising certificate, and is trained to handle legal matters or instruct barristers. Some solicitors specialise in advocacy.

## **Trial**

This word is commonly used to cover all legal proceedings. However, it generally refers to a criminal case which is heard before a Judge and jury.

## **Witness**

A person who can give evidence in relation to the facts in issue during legal proceedings.

# 9. Frequently asked questions

## 1. What happens if a date and time for the trial cannot be agreed upon between schools?

Schools should be as flexible as possible when trying to organise a mutually available time for the trial. In the event that no solution can be reached, and neither school forfeits, schools will need to proceed with a bye. This means that both schools are awarded two points for their overall score, and zero for their for/against score.

## 2. What happens if a date and time for the trial cannot be agreed upon between schools and their allocated Magistrate?

If the schools agree on a date but their allocated Magistrate is unavailable, schools should contact the Law Society at the earliest opportunity. The Law Society may seek an alternative Magistrate to preside over the trial, however this cannot be guaranteed. Where no Magistrate is available, a representative from both schools may come together to preside jointly, or both schools may proceed with a bye and be awarded two points each for their overall scores, and zero for their for/against scores.

## 3. Are time extensions permitted?

Extensions will only be permitted in extremely extenuating circumstances. All extensions must be requested and approved by the Law Society with ample notice.

## 4. Is travel required?

While efforts may be made to allocate schools to another school from within their region, to ensure fairness and variety across rounds, this will not always be possible. Schools should be prepared to travel outside their region during the competition.

## 5. Can students refer to cases and legislation not referenced in the script?

The law to be applied in the trial is included within the script. Teams are not permitted to refer to, or to rely on, any legislation or cases which are not referred to in the script. The legislation and cases provided may be researched to provide greater context, but students must not move beyond those mentioned in the script.

## 6. How does scoring work?

During Round Robin, schools will receive three points for a win, two points for a bye, or one point for a loss. Schools will receive an additional score which is the difference between their team scores awarded by the Magistrate following their trial. E.g.:

- School A receives 291 points
- School B receives 281 points

School A is the winning school. They will receive 3 points for a win, while School B will receive 1 point for a loss. As the difference between the total scores is 10, School A will receive +10 for their for/against score, and School B will receive -10.

## 7. Are witnesses permitted to change conversations to direct speech before the opposing team objects?

No, it should not be changed until the opposing team raises an objection.

# Annexure A: Grand Final Winners

<b>2025</b>	Chevalier College, Bowral	<b>2002</b>	Tangara School for Girls, Cherrybrook
<b>2024</b>	Asquith Girls High School	<b>2001</b>	Newtown High School of the Performing Arts, Newtown
<b>2023</b>	Loreto Kirribilli, Sydney	<b>2000</b>	The King's School, Parramatta
<b>2022</b>	Chevalier College, Bowral	<b>1999</b>	MLC School, Burwood
<b>2021</b>	Loreto Kirribilli, Sydney	<b>1998</b>	Warners Bay High School
<b>2020</b>	St Catherine's School, Sydney	<b>1997</b>	MLC School, Burwood
<b>2019</b>	Loreto Kirribilli, Sydney	<b>1996</b>	Knox Grammar School, Wahroonga
<b>2018</b>	Saint Ignatius' College Riverview	<b>1995</b>	North Sydney Girls' High School
<b>2017</b>	Radford College, Canberra	<b>1994</b>	Trinity Senior High School, Wagga Wagga
<b>2016</b>	St Gregory's College, Campbelltown	<b>1993</b>	Wenona, North Sydney
<b>2015</b>	Chevalier College, Bowral	<b>1992</b>	Trinity Senior High School, Wagga Wagga
<b>2014</b>	Barker College, Hornsby	<b>1991</b>	Newcastle High School, Hamilton
<b>2013</b>	Chevalier College, Bowral	<b>1990</b>	Blakehurst High School, Blakehurst
<b>2012</b>	Bega High School, Bega	<b>1989</b>	The King's School, Parramatta
<b>2011</b>	John Paul College, Coffs Harbour	<b>1988</b>	Loreto College, Normanhurst
<b>2010</b>	Knox Grammar School, Wahroonga	<b>1987</b>	Loreto College, Normanhurst
<b>2009</b>	Fort Street High School, Petersham	<b>1986</b>	Cheltenham Girls High School, North Sydney
<b>2008</b>	Canberra Girls' Grammar School, Deakin	<b>1985</b>	St Francis Xavier's College, Newcastle
<b>2007</b>	Oxley High School, Tamworth	<b>1984</b>	Sydney Grammar School, Sydney
<b>2006</b>	Pymble Ladies' College, Pymble	<b>1983</b>	Kadina High School, Goonellabah
<b>2005</b>	St Andrew's Cathedral School, Sydney	<b>1982</b>	St Leo's College, Wahroonga
<b>2004</b>	Merewether High School, Hamilton	<b>1981</b>	St Leo's College, Wahroonga
<b>2003</b>	Newtown High School of the Performing Arts, Newtown		

# Annexure B: Terms and conditions of entry

1. The 2026 Mock Trial competition ('the Competition') is a game of skill.
2. The promoter is The Law Society of New South Wales, 170 Phillip Street, Sydney NSW 2000 ACN 000 000 699, ph. (02) 9926 0333 ("Promoter").
3. By applying to enter the Competition, all applicants will be deemed to have accepted and agreed to be bound by these conditions of entry.
4. **Who may apply to enter?**
  - a) The Competition is open to students in years 10 and 11.
  - b) Each school may enter only one team of six students. The performance of each of the six students will contribute to the total score of the team, and for this reason it is suggested that teams prepare three reserves so that last-minute stand-ins are available.

## 5. Application process

- a) Registrations will be limited to 100 schools determined by order of registration. To participate in the Competition, applicants must:
  - i. complete the nominated registration form by **Friday, 13 February 2026**; and
  - ii. pay the registration fee noted on the registration form for the Competition by Friday 13 February 2026.
- b) Whilst all efforts will be made to allow eligible applicants to participate in the Competition, the Promoter reserves the right to reject any entry for the Competition if there is an uneven number of schools. Unsuccessful applicants will be refunded the registration fee.
- c) The Promoter reserves the right to permit additional teams to participate in the Competition past the deadline of **Friday, 13 February 2026** in its sole discretion if additional volunteers are available.

## 6. Disqualification

The promoter reserves the right to disqualify any applicant from participating in the Competition:

- a) if an applicant is in breach of these conditions of entry or for breaches of the rules (as stipulated in the Competition Manual) where disqualification is stipulated as a potential penalty;
- b) on reasonable grounds as determined at the Promoter's sole discretion; and/or
- c) if the promoter forms the reasonable opinion that an applicant is putting the integrity of the Competition at risk.

Whilst every effort will be made to ensure that during a trial there is no cheating, the responsibility for preventing its occurrence rests with the schools, and not the Mock Law Coordinator or the Magistrates. 'Cheating' in this context refers to participants reading unauthorised notes from a laptop/phone, witnesses reading from their statements rather than giving their evidence from memory, or coaches, teachers or other persons present at a mock trial giving direction or advice to the participants during the course of the Competition.

If a school is found to have cheated, the Mock Law Coordinator can take action in their sole discretion to deduct points or to disqualify the team from further participation in the Competition for that year.

## 7. Logistics

- a) Schools will cover all costs of participating in the Competition, including travel and accommodation expenses.

- b) Mock trials can be held either virtually or in person. The format of the trial is to be decided by schools in consultation with their opponent. Schools will have the option to hold in person trials. Whilst all effort will be made to match schools regionally within the first three rounds, allocations will be on a random basis and not necessarily within the same region, from Elimination Round 1 onwards. Mock trial magistrates may choose to preside either virtually or in-person.
- c) The Grand Final will be held in person subject to any restrictions due to government regulations or as decided by the Promoter at their sole discretion.
- d) Magistrate allocations will be determined on a random basis and not by regional location. Regardless of the format of the trial as determined by reference to 7(b), allocated Magistrates may choose to preside over trials in person or virtually and schools must accommodate their Magistrate's preference.
- e) If a school is unable to comply with these conditions of entry and wishes to withdraw from the Competition, it must do so within a week of registering to receive a full refund.
- f) Schools must ensure they are able to enter a full team of participants prior to completing the registration form. Withdrawal from the competition on this basis will result in a forfeit of registration fees.
- g) Materials for the Competition are password protected and accessible on the Competition website. All schools must provide an email address to receive this information. If a school has not provided an email address or has provided an incorrect email address, the promoter will not be responsible for that school missing out on updates and changes to scripts etc.
- h) Each round must be completed by the date nominated by the Promoter and the results forwarded to the Mock Law Coordinator on or before that date. Any team which does not complete a round by the due date, without prior permission from the Mock Law Coordinator will be disqualified.
- i) The Magistrate's decision is final and no correspondence will be entered into by the Law Society.
- j) During a virtual trial, witnesses must give evidence from memory and coaches, teachers, and other persons present at a mock trial must not give advice, direction or assistance to any of the participants. Mobile telephones, laptops and/or tablets must not be used by barristers, solicitors, or witnesses under any circumstance except to connect online in order to participate in a virtual trial.
- k) Any disputes between participants, which are unable to resolved, will be determined by the promoter. The promoter's decision will be final.
- l) The Law Society may arrange for the mock trial to be video or audio recorded and will own the recording in perpetuity for use in all formats and media.

## 8. Intellectual Property

All intellectual property rights, including copyright, relating to any script or written material remain the property of the promoter in accordance with the *Copyright Act 1968 (Cth)*.

## 9. Privacy

The promoter respects the privacy and confidentiality of personal information applicants provide. How the promoter handles applicants' personal information is explained in its privacy policy at <https://www.lawsociety.com.au/privacy-policy> and its personal information collection notice at <https://www.lawsociety.com.au/privacy-policy/personal-information-collection-notice>.

## 10. Force majeure

If for any reason the Competition is not capable of running as planned, including by reason of epidemic, pandemic, computer virus, bugs, tampering, unauthorised intervention, fraud, technical failures or any other

causes beyond the control of the promoter, the promoter reserves the right in its sole discretion to cancel, terminate, modify, postpone or suspend the Competition.

#### 11. **Amendment and variation**

The Promoter:

- a) reserves the right to amend these conditions of entry from time to time; and
- b) reserves the right to vary any element of the Competition at any point if deemed necessary and/or in the best interests of the Competition.
- c) This includes varying the Competition timetable. If any changes are made, schools will be notified by email and the timetable <https://www.lawsociety.com.au/Legal-Communities/High-School-Students/Mock-Trial-Competition> will be updated on the Competition webpage.

#### 12. **Limitation of liability**

To the extent permitted by law neither the promoter, its employees, agents, contractors or sub-contractors will be liable to any school or applicant for any loss or damage (including any consequential loss) arising out of their participation in the Competition including but not limited to:

- a) late, lost or misdirected emails or mail;
- b) inaccurate or incorrect transcription of entry information;
- c) non-receipt of entries for any reason;
- d) problems or technical failures of any kind;
- e) unavailability or inaccessibility of any service or website;
- f) unauthorised human intervention in any part of the Competition;
- g) electronic or human error; or
- h) any damage or loss (direct or indirect) suffered by reason of any act or omission of the promoter, its employees or contractors in relation to entry into the Competition.

#### 13. **Exclusion**

To the extent permitted by the law, the promoter excludes all conditions or warranties unless they are expressly set out in these conditions of entry.

#### 14. **Indemnity**

Each applicant indemnifies and holds harmless the promoter, its employees, agents, contractors and subcontractors from any claim, cost, demand, liability or damage (including legal costs, professional costs and other expenses on a full indemnity basis) incurred by the Promoter, its employees, agents, contractors and sub-contractors arising out of or in connection with (but not limited to):

- a) any breach of these conditions of entry by the applicant;
- b) the applicant's entry into the Competition;
- c) any injury or damage sustained due to any act or omission by the applicant; or
- d) any damage the applicant causes to the promoter.

#### 15. **Governing law**

These conditions of entry are governed by the laws of New South Wales. The promoter and the applicants irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of that state and courts entitled to hear appeals from those courts.

# Annexure C: 2026 Mock Trial Competition Timetable

Round	Materials released	Results due
Round one	Tuesday 3 March	Friday 27 March
Round two	Tuesday 21 April	Friday 15 May
Round three	Tuesday 26 May	Friday 19 June
Elimination round one	Tuesday 23 June	Tuesday 28 July
Elimination round two	Monday 3 August	Thursday 27 August
Quarter final	Monday 31 August	Thursday 24 September
Semi final	Monday 12 October	Thursday 5 November
Grand final	Tuesday 10 November	Grand Final will take place on Tuesday 1 December

\*The Law Society reserves the right to make changes to the Mock Trial Competition timetable at any time.

# Annexure D: Top Tips for Schools

## General

- In preparation for the trial, all team members should develop and agree upon the details of the incident – where items were, colours, distances, positioning etc, so that the Barristers and Witnesses are aligned.
- When a team is given the statement of an opposing Witness, it would be beneficial for the two Barristers and Solicitor to split duties during the three-minute review; one can focus on identifying opportunities for objections whilst the other two members could review matters for cross-examination.
- Teams should demonstrate brevity in their opening and closing addresses.
- Don't forget to prepare your team's pre-trial notes.
- Only one Barrister should be standing and speaking at any time.
- Submissions on law should be carefully structured.
- Teams should be mindful of their terminology e.g. 'victim', 'witness' and 'defendant' are all different and shouldn't be used interchangeably.
- All team members should thoroughly know their case theory or story.
- Make sure to look at the Magistrate when doing opening and closing submissions.
- Try and help the Witness by prompting (without leading) during examination in chief.
- Teams should have the relevant section of legislation with them at all times.
- The opening and closing addresses should have a natural but not digressive structure. Pre-blocking the flow of these, and then fitting the detail into it, would be helpful.
- All issues should be considered, e.g. even if the Magistrate finds that the Defendant had carried out the graffiti, both parties should address and lead evidence or cross examine on the second issue; whether the action caused damage.
- Barristers should use more formal language e.g. addressing witnesses as "Mr" or "Ms" rather than using first names, and introducing themselves at the start of the trial ("My name is Mr/Ms X and I appear with Mr/Ms Y for the Defence").
- Teams should take the time to thank their Magistrate after the trial, acknowledging their time.

## Defence

- Defence teams should ask themselves how they can create reasonable doubt in respect of each element? What questions can they ask the Witness to create doubt in the mind of the Magistrate?

## Prosecution

- Prosecution should consider how they can discredit the Defence witness. Focus on getting the witness to say "Yes" or "No" to a question that is damaging to the defence case.
- In a criminal matter, the Prosecution team should be aware of the burden of proof issue; the accused bears no burden of proof, and they really need to tell the Magistrate how they (the Crown) had discharged their burden.

## Cross-examination

- Cross-examination is a difficult art, but it should never descend into an argument with the Witness. Ideally, the Barrister should know the answer to the question they are asking.
- The questions should always be leading (yes/no) questions and give the Witness no opportunity to elaborate. The best forms of cross-examination are where the Barrister asks a series of non-controversial questions which, if the answers to all are yes, leads to an ultimate question and answer that supports your case. An example of this is:
  - You gave evidence before that you observed my client late at night in the alleyway, do you accept that there are things you could have missed due to the lack of lighting?
  - You also gave evidence that you witnessed the incident when you were in the back of a car, is that right?
  - And that never stopped directly in front of the alleyway?
  - You gave evidence before that you had several alcoholic drinks prior to witnessing the incident, is it possible that you were affected by alcohol?
  - And is it fair to assume you could not hear everything that was said during the incident?
- Depending on the script, there is the ability in cross-examination to ask whether the witnesses have discussed their evidence. For example, if the second Witness was a very good friend of the Defendant, their evidence strongly corroborated the Defendant's statement, and the language was strikingly similar, this would have the effect of damaging the credibility of both witnesses.
- Use a variety of questions during examination in chief beyond "what happened next".
- Teams should think carefully about the rule in *Browne v Dunn* and be assiduous in putting questions to witnesses where that team wishes to rely upon contradictory evidence in its case. Both sides could have made more of these discrepancies between the evidence of the witnesses in cross-examination.
- Cross-examination should focus on elements of the offence e.g. if the line of questioning does not relate to proving actus reus or mens rea, then it is probably not relevant.
- The first questions asked should always be those relevant to your own case. That avoids missing out on points for failing to cross-examine on that evidence, and, in the case of the Defence, avoids a *Browne v Dunn* objection.
- Questions should always be structured as a statement, followed by "didn't you?" or "don't you?" or "was there?" etc...
- Restrict Witnesses to yes/no responses - do not give the witness an opportunity to explain. The only exception to this is if the Witness starts saying things that are damaging to the opponent's case. In that instance, let the Witness speak and ask them to elaborate on damaging points.
- Don't rush cross-examination - it may take 7 or 8 questions before you get to the central points.
- Repetitive questions during cross-examination can disrupt a case, especially if you have won over your Magistrate with your argument. Questions need to be short, sharp yes/no questions.

## Witnesses

- Witnesses should prepare for both examination in chief and cross-examination and thoroughly memorise their statements.
- Witnesses should prepare a list of questions they might be asked and practice their responses.
- Witnesses should not pre-empt the objections from the opposing team by rendering all their speech as direct speech, as this deprives the other side of the opportunity to make the objection and receive credit for doing so in the scoring.

- If the Witness answers no to a question that you assert should be yes, have a quick follow-up such as “but you nevertheless drank numerous alcoholic drinks over the course of several hours prior to the incident, is that right?”. If the witness persists with answers that are not logical or simply not possible, that is a matter for submissions at the end. There are no points for “getting one up” on the Witness during the cross-examination – the Barrister will have done enough by asking the right questions.
- If the Witness answers a yes/no question with a lengthy or argumentative response, it is appropriate to follow by asking, “is that a yes or a no?”. Obviously, the question needed to be a leading one, but by asking it of the Witness, you are alerting the Magistrate to the Witness being difficult.
- At the same time, witnesses should refrain from giving detailed responses during cross-examination where the questions don’t call for it. By doing so, they become de facto advocates, making them appear argumentative, less objective, and weakening their points. The role of the Witness is to assist the court by recounting their version of events. Just as in real life, Judges and Magistrates give less weight to evidence given by a Witness who is not cooperative.

## **Objections**

- Teams should select one of their team members to mark a copy of the other team’s witness statements with possible objections. That person should be the Solicitor (which increases that member’s contribution to the trial) but can be one of the Barristers if necessary. The objections should be marked “R” (relevance) or “O” (opinion) or “DS” (direct speech) or “H” (hearsay) etc. and should be highlighted in different coloured pens. This enables the Barristers (assuming the Solicitor takes this task) to review the statement as a whole and get a feel for the areas to cross-examine. It also avoids missing possible objections and therefore points.
- Teams should ensure they thoroughly understand and know when to apply objections.
- Keep to the facts as provided.

## **Court Officer/Magistrate’s Clerk**

- The Court Officer and Magistrate’s Clerk should take their role as seriously as do those at the Bar table and the witnesses, as schools are marked on their performance as a whole team.
- The Objections and Timesheet need to be completed by the Magistrates Clerk at each trial.
- Make sure the Court Officer and Magistrate’s Clerk understand their role and responsibilities. Teams should understand how to call a witness, how to affirm the witness and the requirement to time the three minutes once statements are exchanged. Court Officers should also practice how to complete the forms regarding timing, objections etc.