WITNESS FAMILIARISATION - PREPARING TO GIVE EVIDENCE

Witness evidence is a vital part of any hearing. Hearings are expensive and stressful and it is essential that witnesses of fact, professional witnesses and expert witnesses have a clear understanding of their role and the confidence to give evidence to best effect at the hearing.

What will witnesses gain from attending Witness Familiarisation?

Witnesses will achieve an understanding of the theory, practice and procedure of giving evidence. They will gain an understanding of the layout of the court, the likely sequence of events when giving oral evidence and a balanced appraisal of the different responsibilities of the various participants, including the cross-examination techniques used to test witness evidence.

The Witness Familiarisation includes cross-examination role-play based on a fictitious case study, to give the witness greater familiarity with, and confidence in, the process of giving oral evidence.

Witness familiarisation is not witness coaching, which is prohibited in the United Kingdom. The Guidance on Witness Preparation (Bar Council Professional Standards Committee October 2005) says that “witness familiarisation is to be welcomed… and prevents witnesses from being disadvantaged by ignorance of the process or taken by surprise at the way in which it works.” In addition, in the case of Ultraframe (UK) Ltd v Fielding and others [2005] EWHC 1638 (Ch), Lewison J approved of Witness Familiarisation which gives “an introduction to the theory, practice and procedure of giving evidence”.

Why use Legal Experience Training?

Legal Experience Training is a leading provider of Witness Familiarisation across the UK and internationally. The courses are accredited and approved by several Professional Bodies. The Legal Experience Training team includes solicitors and barristers all of whom are experienced tutors with a track record of delivering highly effective sessions. We have expertise in working with witnesses giving evidence in a range of legal fora, including the High Court, Arbitrations, Tribunals and Crown Court and in other jurisdictions including Europe, USA, UAE and others.

“Legal Experience Training provides outstanding guidance and training; prospective witnesses develop a composite understanding of the court process, their role and their duty to the court as well as gaining much needed confidence. One of our witnesses commented: this training was invaluable and the tutor was very effective”.

Gaby Kaiser     Partner      Clyde & Co LLP (merged with Barlow Lyde & Gilbert)
What do we offer?

Witness Familiarisation - Case Preparation - Module 1.
Legal Experience Training has worked closely with witnesses, solicitors and barristers to identify how to assist witnesses with the process of preparing to give evidence. Witnesses will be equipped with the knowledge, practical skills and confidence to give evidence effectively.

The Bar Council Guidance says that barristers have a duty to ensure that the evidence in support of their client’s case is presented to best effect. It is also the responsibility of a barrister to ensure that those facing unfamiliar court procedures are put at ease as much as possible, the Witness Familiarisation - Case Preparation will ensure that witnesses are able to prepare their evidence to best effect and know what to expect in unfamiliar legal proceedings.

The Bar Council Guidance says that those involved in Witness Familiarisation should not have any “personal knowledge” of the matters in issue in the trial or hearing in question. The Legal Experience Training tutors will not have personal knowledge of the facts of the case.

The Witness Familiarisation - Case Preparation assists the witness to effectively prepare to give evidence. This includes looking at the process, procedure and techniques used for scrutinizing evidence. Advice is given about the duty to the court, how to identify the key issues and evidence, how to assist the court to understand the evidence and how to distinguish the role of the witness from the role of the advocate. We provide feedback to witnesses to assist them fulfil their roles and responsibilities in giving evidence.

The case studies to be used for any cross-examination role-play will be sent to the lawyers instructed in the case to confirm that there are no facts in the role play which are the same as or similar to those of any current or impending trial, hearing or proceedings at which a delegate is likely to be a witness.

The session will cover:

- Understanding the hearing process, practice and procedure
- Understanding the role of the witness to be honest, clear and objective
- Effective preparation of evidence before a hearing
- Evaluating how to present evidence to best effect
- Understanding the purpose and techniques of cross-examination
- Dealing with questioning under cross-examination with confidence, credibility and clarity
- Understanding how to use documents and other evidence at the hearing
- Do’s and don’t for a witness and tips for survival in the witness box
- Practical cross-examination role-play on a case study unrelated to the facts in the real case

When should Module 1 take place?
We recommend that this session take place 4-6 weeks before the hearing. This will ensure the witness has time to properly prepare to give evidence.

Witness Familiarisation – Cross- Examination - Module 2.
Witnesses who have attended Witness Familiarisation – Case Preparation may require further experience of being cross examined. This is to give them the opportunity to experience more detailed cross-examination and gain greater understanding of how to handle cross-examination.

This opportunity for further cross-examination may be particularly important to increase the confidence of a witness. The cross-examination session may include recording a witness’s performance to assist with feedback to the witness.

When should Module 2 take place?
We recommend that these sessions take place 3 weeks before the hearing but they may be arranged a few days before a hearing. A few days before a hearing may be the only available time for witnesses who are arriving in the jurisdiction just prior to the hearing.
Advising on and tailoring the length of the modules for the client.

Legal Experience Training is a learning and development consultancy. We will work closely with lawyers and witnesses to identify which modules are required and the length of the modules. The session may be anything from half a day to a full day depending on the needs of the witness.

What our client's say and references.

We are able to provide detailed references from those who have engaged Legal Experience Training; however here is a sample of recent feedback that we have received. A * indicates that for reasons of confidentiality it is not possible to disclose individual names.

“There is tremendous value in ensuring that witnesses do not fall short simply because they are in an unfamiliar environment. The familiarisation training provided by Legal Experience Training, quickly and very effectively gives witnesses the confidence they need to testify at their best. One of our witnesses said: without this training I would have been naked”.

Stephen Brown Partner Jones Day

“I feel much better prepared for my upcoming testimony. The session was extremely thorough and helpful. It is essential preparation for a witness. The tutor had a very good interactive style and gave very tangible answers” and “Excellent and experienced tutor, it was good to have Director level attention and advice”.

Witnesses of Fact * referred by Clifford Chance in an International Arbitration case

“This course was excellent and extensively helpful. I am sure that it will be invaluable in the future. The tutor was excellent, very clear and helpful”.

Hilary Sharpe Tax Partner PKF (UK) LLP

“The session was excellent. My comment on the tutor: Perfect! Clearly very knowledgeable in subject and engaging in presentation”.

Jonathan Coates Partner Construction Resolution LLP

“The course exceeded my expectations. The course was very good and the tutor was an excellent presenter”.

Lawrence McGinley Manager BDO LLP
Who has designed the Witness Familiarisation programme?

Penny Harper, solicitor and the Director of Legal Experience Training. Penny is the principal author of “The expert witness” a practical guide published by Sweet and Maxwell. Penny has particular expertise in the design and delivery of Witness Familiarisation training. She recently sat on the Skills for Justice Working Group considering the design and development of training for those writing and giving evidence in court proceedings. Penny has over 15 years of experience of delivering training for witnesses. In this time she has prepared several thousand witnesses to give evidence in hearings.

Mark James, Barrister, Temple Garden Chambers, London, is the author of “Expert Evidence: Law and Practice” published by Sweet and Maxwell. This is the seminal text book on expert evidence. It deals with expert evidence in civil, criminal and other cases. It is the primary reference book for courts and practitioners on expert evidence. Mark is regularly instructed in complex cases involving expert and professional witnesses and regularly cross examines witnesses at trial.

We are committed to supporting witnesses giving oral evidence in the UK and internationally, including those who have to give evidence in unfamiliar jurisdiction. We will assist them to handle questioning with confidence, give their best evidence and assist the decision maker.

Who do I contact to ask for further information?

For further information please contact: info@legalexperiencetraining.com

We look forward to working with you.

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