



DURHAM
UNIVERSITY
BAR
SOCIETY

MOCK TRIAL HANDBOOK

2024/2025

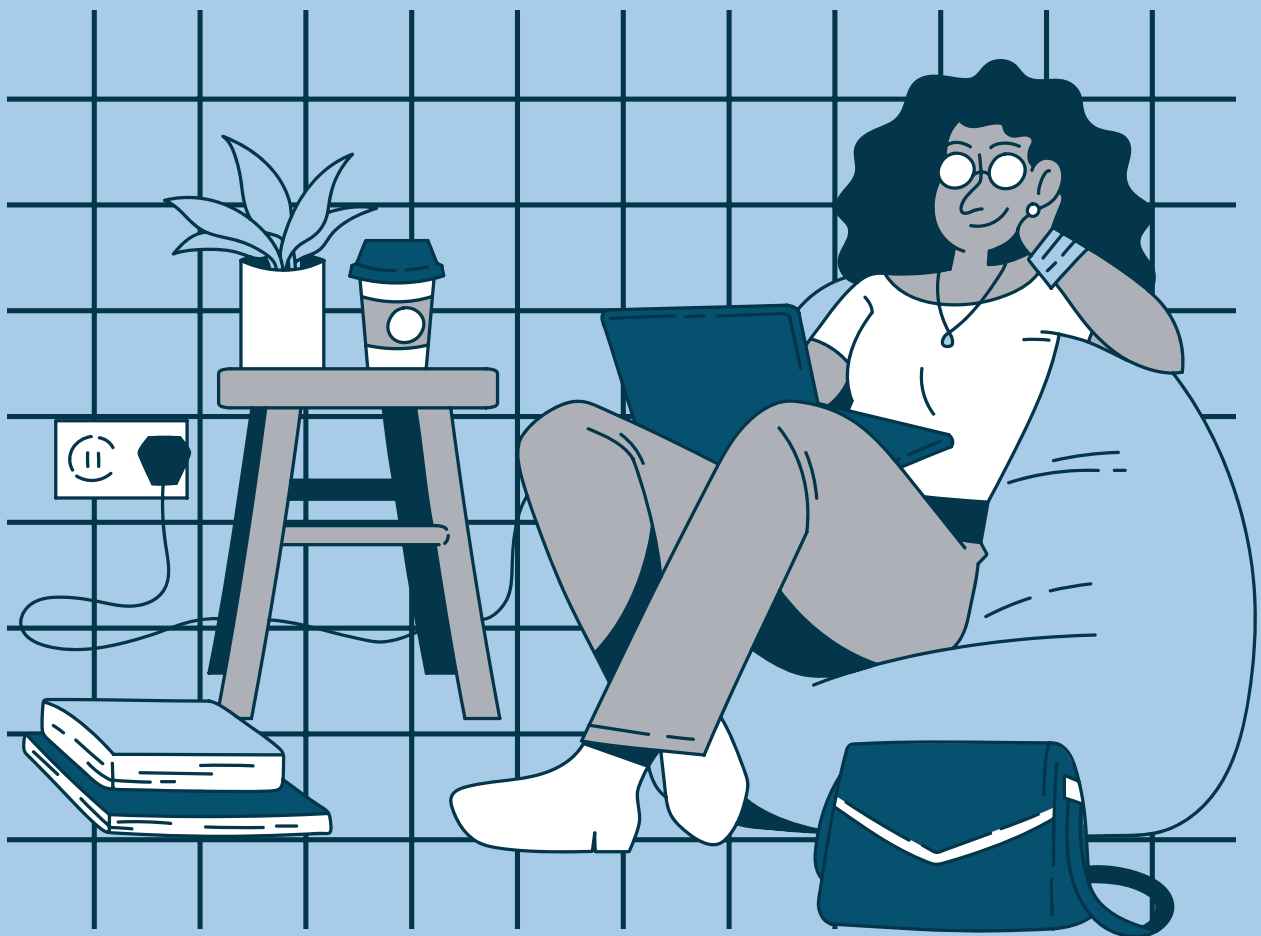


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WHAT IS A MOCK TRIAL?



A Mock Trial is a competition that stimulates a real trial and is meant to imitate the role of barristers in a courtroom standing before a judge (and jury)

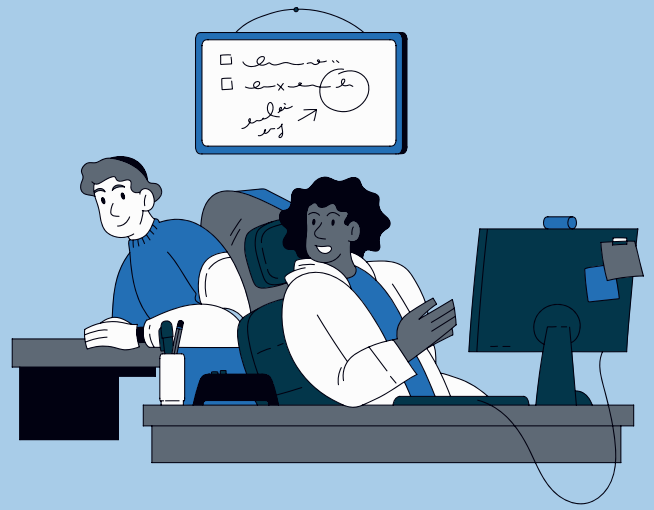
The competition tests your advocacy skills which includes your ability to:

-  Analyse a scenario;
-  Formulate an argument based on evidence and reasoning;
-  Present and support that argument clearly
-  Examine witnesses

Each individual round of Mock Trial has 4 competitors: 2 for the Prosecution and 2 for the Defence (however you are all competing against each other!)

Your role will either be to play the role of a “Prosecution barrister” - representing the crown; or a “Defence barrister” - representing the defendant

STAGES OF A MOCK TRIAL



Opening Statement

A timed speech made by both the Prosecution and the Defence to present the facts of the case and introduce key arguments

Examination in chief

The questioning of witnesses by the party that called that witness

i.e. Prosecution barrister when examining a Prosecution witness, Defence barrister when examining a Defence witness

Cross-examination

The questioning of a witness by the opposing party

i.e. Prosecution barrister and Defence witness, Defence barrister and Prosecution witness

Closing statements

A timed speech presented by both the Prosecution and the Defence to summarise/reiterate their arguments at the end of their case before the jury deliberates and returns their verdict.



HOW TO PREPARE

OPENING STATEMENT



Key themes/points to convey through your statement:



Short and selective summary of the facts;



The issues that are in dispute and what you will seek to prove;



The burden of proof;



A plausible case theory of which you seek to convince the jury.



**Prosecution vs. Defense
Opening Statements**

Prosecution Opening Statements

In no more than one or two sentences, state what the defendant is being charged with and the verdict that the prosecution will ask for at the end of the case (i.e. guilty).

Remind the jury that the burden of proof lies with the prosecution - **it is up to the Prosecution to prove, beyond reasonable doubt, that the defendant is guilty.**

Provide a clear summary of the factual background of the case based on the witness statements.

Lay out a roadmap of the prosecution evidence; tell the jury what to expect during witness examination and weave this into your key arguments. However, never speculate as to what a witness will say; you haven't questioned them yet!

Try to anticipate and rebut some of the arguments the defence might make. Restate that the prosecution submits that once all the evidence has been heard, there is a compelling case that the defendant is guilty. Also explain *why* this is so.

Defense Opening Statements

Give an account of the facts of the case from the defendant's point of view.

Remind the jury of the standard and burden of proof; reiterate that the prosecution must prove beyond reasonable doubt that the defendant is guilty. This is important because the burden is with the prosecution, **not** the defence.

Undermine the strength of the prosecution's account/theory of events.

Outline the main arguments of the defence and emphasise which facts are not in dispute – be careful not to go into too much detail here to avoid repetition and to not 'give away' the case.

Remember: your job is to highlight problems and inconsistencies in the prosecution's case, with an overall aim of calling into question whether the burden of proof has been met.

EXAMINATION IN CHIEF



The aim here is to help your witness tell their story - do not attempt to tell it for them.

Think carefully about the order of your questions; work chronologically through the events of the scenario and ensure there is enough time to run through it in its entirety

Use broad, open questions, but be careful not to ask questions that are too broad to avoid parts of the story being skipped over.

Remember: for EIC, leading questions are not allowed.

Examples of questions:



Who, if anyone, did you interact with that evening?



Can you describe a summary of your interaction/conversation?



How did this make you feel?



How, if at all, did you react?

Ask the witness to clarify if you feel something was unclear.

CROSS EXAMINATION

There is no need to be aggressive or too confrontational as a witness is likely to be less responsive.

The aim is to put your case to the witness and give them a chance to respond to it



Ask leading questions (but you can also ask open questions). However, in general, try to keep your questions as closed as possible; you should aim to make your case through the questions asked to the witness.

Examples of leading questions:



You were in the park on Friday morning, weren't you?



Did you see the 'no entry' sign?



Despite seeing the 'no entry' sign, you remained there, didn't you?



It therefore follows that you ignored the sign, doesn't it?



You had been drinking that night, hadn't you?

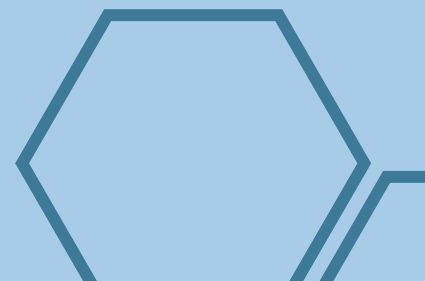
Try to 'set up a trap' for the witness by asking a series of questions that can only lead to one conclusion

Stick to their witness account - you cannot ask about inconsistencies in another witness' account

Listen for and point out inconsistencies between what the witness says and what they wrote in their statement. You may like to give them a chance to read the statement to refresh their memory, and then highlight any inconsistencies in their account.



Prosecution vs. Defense
Closing Statements



Prosecution Closing Statements

Aim is to convince the jury that there is enough evidence to find the defendant guilty beyond a reasonable doubt.

Focus on the strength of the case - acknowledge some of the strengths of the defence, but try to rebut points of contention.

Link back to the elements of the offence and explain how the prosecution has proven them.

Highlight inconsistencies in the stories of the defence witnesses, including the defendant.

Explain clearly how the prosecution has met the burden of proof and invite the jury to reach the right conclusion based on the evidence you have presented.

DO NOT deviate from or try to augment the witness' statements. However, you may use their own words against them or be selective.

Defense Closing Statements

Aim is to convince the jury that there is enough evidence to find the defendant not guilty

Focus on deconstructing the prosecution case by pointing out weaknesses in their reasoning, and inconsistencies in witness accounts

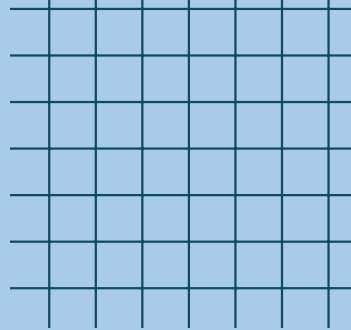
Reiterate that the burden of proof lies with the prosecution. Emphasise how high the standard of proof is - jury must be reasonably sure

Raise many questions but do not try to manipulate or deceive the jury. Use evidence and examples from witness statements.

Communicate in a clear and concise manner, explain why the prosecution has failed to prove their cases.

DO NOT try to augment the witness' statements by departing from the evidence. Use what is there to your benefit and be selective; focus on how certain facts/your theory undermine the prosecution's case.

EXTRA TIPS



SPEECH

- Have a clear and logical structure; introduction, body and conclusion
- Speak clearly and articulately; make use of silence and pausing for emphasis and keep concise to ensure that you are easy to understand.
- Be sure you understand what you are saying - it will make it easier to speak confidently
- Remember you are addressing a jury that is likely made up of “ordinary” people; make sure they can understand what you are trying to say (without being condescending or patronising)
- Eye contact is vital; even if you are reading from a script or have notes to refer to, remember to look up and engage with the jury/judge.
- Be realistic and effective with the time limit; there is almost always ‘more’ you could have said - be discerning and tailor your arguments for persuasiveness.
- The style of your statements should be engaging and direct. Try to avoid reading your speeches verbatim from paper/screen.



WITNESS EXAMINATION

- Treat witness examination like a conversation in which you are trying to gather information, not an interrogation.
- Try to ensure you have control over the conversation; politely stop witnesses from going off on tangents.
- Take your time and be composed.
- Don't be afraid to go off script based on something a witness has said - improvise and be present as opposed to trying too hard to force a pre-prepared narrative.



USEFUL LINKS!

- Watch the videos on [this link](#) to see each element of Mock Trial in action
- Useful page from the [SRA](#) to help with the structure of your speeches and oral advocacy



THANK YOU



FOR YOUR ATTENTION