

What is Witness Familiarisation?

The witness familiarisation process provides witnesses with a comprehensive understanding of the theory, practice and procedure of giving evidence and what is expected of them. This includes familiarising the witness with the layout of the legal forum, the likely sequence of events and a balanced appraisal of the different responsibilities of the various people at the hearing.

Why Use Legal Empowerment?

Legal Empowerment is the exclusive provider of Bond Solon witness familiarisation courses in Australia and New Zealand. Bond Solon itself has been the leading provider of witness familiarisation in the UK for more than 20 years. It regularly provides this service to most of the top 100 leading law firms across the UK as well as directly to a large number of companies. Over 250,000 witnesses have attended Bond Solon sessions.

Who does the training?

Our trainers are experienced litigators as well as being professional trainers. They provide witness familiarisation sessions for witnesses of fact and training for professional and expert witnesses in a variety of legal forums.

Is Witness Familiarisation Ethical?

Lawyers are not allowed to influence witnesses as to what they should say or attempt to persuade the witness into changing their evidence. That is known as witness coaching and is unethical.

Witness familiarisation on the other hand is to be encouraged. Witnesses should be put at ease as much as possible before giving evidence. Witnesses should not be disadvantaged by the ignorance of the process or taken by surprise at the way in which the hearing works.

The English Court of Appeal in *R v Momodu* [2005] EWCA Crim 177 endorsed witness familiarisation, even in criminal proceedings, provided there was no witness coaching and those conducting the session had no personal knowledge of the matters in issue in the case. This position has been followed in other cases in the United Kingdom and is consistent with the position in Australia and New Zealand.

How do we deal with the risk or perception of coaching?

Legal Empowerment is wholly independent of your case. By using us, you avoid the risk of criticism or allegations of unethical coaching because we ensure that any assigned trainer has no personal knowledge of the evidence and issues in dispute. We also have robust internal processes to manage conflicts of interest.

What about preparing for cross examination?

During 1, Witness sessions, witnesses will be cross-examined in a mock hearing using hypothetical case studies. Witness familiarisation can include mock cross examination so long as the material used is not similar to the real-life proceeding and those conducting the session are not involved in the case.

Which legal hearings do the sessions cover?

Legal Empowerment delivers witness familiarisation sessions and expert training to witnesses of fact, professional and expert witnesses, who are required to give evidence in a variety of legal forums including:

- Arbitrations
- Civil courts
- Coroner's courts
- Criminal courts
- Employment tribunals and courts
- Inquiries
- Professional conduct hearings
- Select Committees
- Tribunals

When should we schedule a witness familiarisation session?

The ideal time to hold a session is three weeks before the hearing. This will mean the learning is still fresh by the time witnesses give evidence and also allows time for them to reflect on what they have learned. While we recommend that you start organising sessions three months in advance, we can arrange sessions at very short notice if necessary.

How long does a witness familiarisation session last?

The length of training depends on the number of witnesses. Usually allow three hours for one witness and up to a full day for between 4-6 witnesses. After the initial session, some witnesses may require a follow-up cross-examination session.

Key witnesses, particularly nervous ones, may also benefit from specialised public speaking training.

How many sessions should each witness attend?

If your witnesses are likely to give evidence for less than a day, one session will usually be sufficient. If evidence is likely to take a day or more, we recommend that they have at least one follow-up cross-examination session.

Where does the training take place?

We usually conduct the training at your offices, but can meet your witnesses and deliver the programme wherever you require.

What feedback is given?

The trainer will give oral feedback to each witness following the mock cross-examination. This critique is designed to help them understand what is required at the hearing. We also prepare a confidential witness assessment form which we can discuss with you after the session. The advanced cross-examination session includes video, which can be a profound way of helping people improve the way they communicate.

Free 1 Hour CPD Training for Litigation Lawyers

This training session is designed to provide participants with a comprehensive understanding of case law and guidelines in relation to witness familiarisation.

The session is interactive. It will cover the problems that lawyers encounter with witnesses (fact and expert) and how best to address these issues in ways that do not transgress into unethical witness coaching.

Training overview

- Interactive exercise reviewing problems litigation lawyers may have with factual and expert witnesses
- Review of case law and rules, including distinction between witness coaching and familiarisation
- Hints and tips on working with witnesses
- Role play – a short cross examination exercise and feedback