The materials included have been adapted from the materials issued by the Citizenship Foundation & are being distributed for information only.

© Citizenship Foundation Charity Reg No. 801360
Contents

Introduction
Competition Format, Rules and Key Information
Selecting Your Team
Team List
Layout of the Court
Order of Procedure
Role Guides
  • Advocate
  • Witness
  • Court Clerk/Macer
  • Juror
Judging Criteria
Example Judging Sheet
Scoring
Student Resources
  • Guidance for Statement Analysis
  • How to write an Examination in Chief
  • How to write a Cross Examination
  • How to write a Closing Speech
Sources of Extra Resources
Dear all,

Please find included in this document information to help you prepare for the Mock Trial. The materials were produced by the Citizenship Foundation and I have merely selected materials that I would have found helpful the first year I was involved in the competition. I hope the information will enable you to effectively prepare for the competition, should there be any uncertainties or queries please get in touch.

I look forward to seeing you at the competition,

Lynda Swanson
Faculty Head Humanities
Mackie Academy

smalswanson@mackie.aberdeenshire.sch.uk

@mods_mackie

01569 762071
Competition Format, Rules and Key Information

a) Format.

How the competition works
The competition is divided into three rounds of heats where the schools will perform the cases in a live format against other schools over three rounds. The two highest scoring schools then proceed to the final.
Schools must present the prosecution and defence for case one and the prosecution or defence for case two. Schools should prepare the prosecution and defence for both cases as the draw is subject to change and in case they succeed in proceeding to the final.
Schools must ensure that they have enough participants to fulfil all the roles required.

Age of students
Students should be in Years S3 to S6, but this is of course at the discretion of the teacher involved and dependent on participants. Younger pupils have performed well in previous years!

Independent learning
Students are expected to work independently and those who do benefit from the competition a lot more. Teachers should only be there to give them tips and should not prepare anything for the students.

b) Key rules during the trial

Students should not read excessively from notes or speak from memorised scripts
It is much easier to perform well if you can act spontaneously and judges will give more marks for this. Reading rigidly from notes or speaking from a memorised script may make your performance not true to life. You therefore need to learn your statement and be prepared to answer questions relating to it, as if you really were that character.

Students must keep within the time limits set
The judge is aware of the time limits and if students go over, they can only receive a maximum of four marks.

Students should not introduce new evidence (that is not contained in the witness statements)
It is not fair to expect either a student playing a witness or a student playing an advocate to ask or be asked about things outside the scope of the witness statement. Students who introduce new evidence will gain a maximum of four marks. You cannot therefore make something up which is not in the statement. BUT you should have an awareness of what is likely to be known or common for your character eg if you are playing a hoodie wearing teenager it is not unreasonable to be asked if lots of teenagers wear hoodies – it might not be in your statement but you would know it, and as such is not ‘new evidence’. You cannot however say that you don’t have a green hoodie; only red ones if that is not in your statement.

The judge’s decision on the day of the heat is always final
Unlike in real life, there is no appeal system after decisions have been made. It is impossible to change the scores after the event.
c) Key information

Organising a court visit
Visiting a local court is an excellent way for students and teachers to gain an insight into the layout of a court building and the workings of a trial. This will help participants to feel more relaxed on the day of the heat. Feedback from previous participants shows that many schools found a visit very useful. Most courts will be more than happy to show you around and give your students playing the court clerk and macer some pointers. For information about courts near you please visit www.scotcourts.gov.uk.

Advocate Volunteers
Receiving a visit from an advocate/solicitor is a valuable exercise and a good way of introducing the work of advocates to your team. Historically there have been advocates/solicitors who have worked with each school team, anecdotally, their generosity has been invaluable and we would strongly suggest that you make use of this resource. Your advocate is there to advise you on the law and court procedure, not to coach the team. They can help with any procedural questions you may have and advise you on language and court etiquette. The volunteer advocate will attend the heat if possible to support the team on the day. Please speak to your advocate about whether they are able to supply you with two sets of wigs and gowns. If there are not enough sets for both teams neither side will wear them. Please let us know as soon as possible if your volunteer is unable to supply any or enough wigs and gowns.

Withdrawing
If you are no longer able to participate in the competition, please inform Lynda Swanson as soon as possible. Withdrawing from the heats has serious implications on the other schools in your heat.

New Schools
We recognise that for schools new to the competition, getting to grips with the cases and procedure can be a daunting task. Don’t worry – help is available! We will be happy to put you in touch with teachers who have experience in preparing for the competition and we are always on hand to answer any questions or queries you might have.
Court Reporter Competition
Schools can also enter the court reporter competition.

The court reporter competition involves watching a case in the first round and writing a 300 word article in the style of a court report. This must be handed in before the final in the afternoon.

An example of a winning school report is below:

```
"Poor girl" cleared of drug dealing charge.

An 18 year old student was cleared of drug dealing charges at Manchester Crown Courts today. The defendant, Alexander Myers, was arrested on 2nd April 2009 at Millside School for possession of cannabis and was later charged with possession of controlled drug, with intent to supply.

Alexander Myers was found with two "spiffs" and four eighties of an ounce of cannabis. PC Mowlid told the court this amount was "beyond doubt, in excess of an ordinary cannabis user. He was self-proclaimed 'heavy user', was due to convince the court all the cannabis was for personal use.

PC Mowlid had visited the school on the day of the arrest to present a tour on dangers of cannabis. His trained police dog had sensed the cannabis and indicated to the officer that Alex had cannabis on his possession.

The court heard how the constable at Hillsfield police station had been taken off mainstream duties because of an injury to his left ear. The defence team, led by Adam Wood-thomas, used one last doubt on the reliability of the witness's testimony.

One Jones, a victim of Alex Myers's mental bullying, also failed to convince the jury and jury members that Alex was at the kill site at the morning of the arrest to try and sell her cannabis. She told the court she had paid a mental relationship with the defendant and had no reason to lie about what she had seen.

Connor MacAdam, QC, told the court that Alex Myers had been a "poor girl" who was at the wrong place at the wrong time.

After her release, when the jury came back with the verdict, Alexander Myers seemed to be very relieved when the verdict was given and punched the air at the hearing. Jury members say "not guilty". She told reporters after her release, she was happy to be back with her family and wanted to concentrate on her studies and hopefully follow on to university.
```
Selecting Your Team

Only the advocates, witnesses, court clerk and macer are speaking roles. You can have a minimum of twelve students on your team and a maximum of sixteen. **You must make sure that all twelve roles in each round are covered.** Students can swap roles if you wish, e.g. a student playing a prosecution advocate can act as a jury member when you defend.

### The Roles

<table>
<thead>
<tr>
<th>Role (Number required)</th>
<th>Side required for</th>
<th>What they do</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prosecution advocate (2)</td>
<td>Prosecuting</td>
<td>Give closing speech, question witnesses – exam in chief and cross examination</td>
</tr>
<tr>
<td>Defence advocate (2)</td>
<td>Defending</td>
<td>Give closing speech, question witnesses – exam in chief and cross examination</td>
</tr>
<tr>
<td>Prosecution witness (2)</td>
<td>Prosecuting</td>
<td>Give evidence in court.</td>
</tr>
<tr>
<td>Defence witness (2)</td>
<td>Defending</td>
<td>Give evidence in court.</td>
</tr>
<tr>
<td>Court clerk (1)</td>
<td>Prosecuting</td>
<td>Reads the indictment, reads the agreed statement(s), swears in the jury, escorts them to the jury room.</td>
</tr>
<tr>
<td>Macer (1)</td>
<td>Defending</td>
<td>Brings in the judge, make sure the case runs smoothly</td>
</tr>
<tr>
<td>Juror (7)</td>
<td>Prosecuting &amp; defending</td>
<td>Decide the verdict, select a foreperson to read out the verdict</td>
</tr>
<tr>
<td>Court reporter (1 optional)</td>
<td>N/A</td>
<td>Write a court report.</td>
</tr>
</tbody>
</table>

NB: advocates have to show different skills in each round. Both advocates in the team will carry out an examination in chief of one of their own witnesses, and a cross examination of a witness from the other team. Whichever advocate questions Prosecution and Defence witness 1 should also do the closing speech.
The diagram below gives an indication of how the court may be laid out, although all courtrooms vary.
**Order of procedure**

Please note that whenever you are required to speak you should stand up.

<table>
<thead>
<tr>
<th>Role</th>
<th>Event</th>
<th>Timing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court Clerk</td>
<td>Fill in the team identification slip and put it one the judge’s bench.</td>
<td>n/a</td>
</tr>
<tr>
<td>Macer</td>
<td>Go and collect the judge from his/her chambers. Lead the judge into the courtroom and as you enter say ‘Court. All rise please’.</td>
<td>n/a</td>
</tr>
<tr>
<td>All</td>
<td>Stand up. Sit after the judge has sat down.</td>
<td>n/a</td>
</tr>
<tr>
<td>Court Clerk</td>
<td>Ask the judge ‘My Lord/Lady shall I call the diet?’</td>
<td>n/a</td>
</tr>
<tr>
<td>Judge</td>
<td>‘Yes’.</td>
<td>n/a</td>
</tr>
<tr>
<td>Court Clerk</td>
<td>Ask the accused to stand. Identify them by asking ‘Call the diet of Her Majesty’s Advocate against________. Are you__________?’ (insert name of accused).</td>
<td>n/a</td>
</tr>
<tr>
<td>Accused</td>
<td>‘Yes’.</td>
<td>n/a</td>
</tr>
<tr>
<td>Court Clerk</td>
<td>Ask the accused to sit down.</td>
<td>n/a</td>
</tr>
<tr>
<td>Defence Advocate 1 (DA 1)</td>
<td>‘My Lord/Lady, I appear on behalf of (the accused). S/he adheres to his/her plea of not guilty’.</td>
<td>n/a</td>
</tr>
<tr>
<td>Court Clerk</td>
<td>‘Shall I read the indictment, My Lord/Lady?’</td>
<td>n/a</td>
</tr>
<tr>
<td>Judge</td>
<td>‘Yes’.</td>
<td>n/a</td>
</tr>
<tr>
<td>Court Clerk</td>
<td>‘Ladies and Gentlemen of the jury the charge against the accused ________ is that ____________’. (insert name of accused and indictment). ‘Ladies and Gentlemen of the jury, please stand, and raise your hands and take the following oath: Do you swear that you will well and truly try the accused and return a true verdict according to the evidence?’</td>
<td>n/a</td>
</tr>
<tr>
<td>Jurors</td>
<td>‘I do’.</td>
<td>n/a</td>
</tr>
<tr>
<td>Court Clerk</td>
<td>(To the jury) ‘Please be seated’.</td>
<td>n/a</td>
</tr>
<tr>
<td>Judge</td>
<td>‘Yes – Mr/Madam Depute who is your first witness?’</td>
<td>n/a</td>
</tr>
<tr>
<td>Prosecution Advocate 1 (PA 1)</td>
<td>‘My Lord/Lady, my first witness is ____________’ (insert name of first prosecution witness)</td>
<td>n/a</td>
</tr>
<tr>
<td>Macer</td>
<td>Lead the first prosecution witness to the stand.</td>
<td>n/a</td>
</tr>
<tr>
<td>Judge</td>
<td>Swears in the witness, asking them to repeat the following affirmation: ‘I promise to tell the truth, the whole truth and nothing but the truth’.</td>
<td>n/a</td>
</tr>
<tr>
<td>PA 1</td>
<td>Examination in chief of first prosecution witness.</td>
<td>5</td>
</tr>
<tr>
<td>DA 1</td>
<td>Cross examination of first prosecution witness.</td>
<td>5</td>
</tr>
</tbody>
</table>
Macer   Lead the witness back to his/her seat.          n/a

PA 2   ‘My Lord/Lady, my second witness is _____________’ (insert name of second prosecution witness).          n/a
Macer   Lead the second prosecution witness to the stand.          n/a

Judge   Swears in the witness, asking them to repeat the following affirmation: ‘I promise to tell the truth, the whole truth and nothing but the truth’.          n/a
PA 2   Examination in chief of second prosecution witness.          5
DA 2   Cross examination of second prosecution witness.          5
Macer   Lead the witness back to his/her seat.          n/a
PA 2   Ask the court’s permission for the court clerk to read the agreed statement(s).          n/a
Court Clerk   Read the agreed statement(s)          n/a
PA 2   ‘My Lord/Lady I close the Crown Case’.          n/a
DA 1   ‘My Lord/Lady, my witness is the accused, _____________’ (insert name of accused).          n/a
Macer   Lead the accused to the stand.          n/a
Judge   Swears in the witness, asking them to repeat the following affirmation: ‘I promise to tell the truth, the whole truth and nothing but the truth’.          n/a
DA 1   Examination in chief of accused.          5
PA 1   Cross examination of accused.          5
Macer   Lead the accused back to the dock.          n/a
DA 2   ‘My Lord/Lady, my second witness is _____________’ (insert name of second defence witness).          n/a
Macer   Lead the second defence witness to the stand.          n/a
Judge   Swears in the witness, asking them to repeat the following affirmation: ‘I promise to tell the truth, the whole truth and nothing but the truth’.          n/a
DA 2   Examination in chief of second defence witness.          5
PA 2   Cross examination of second defence witness.          5
Macer   Lead the witness back to his/her seat.          n/a
DA 2   ‘That is the case for the defence’.          n/a
PA 1   Make closing speech.          5
DA 1   Make closing speech.          5
Judge   Summing up          5
Court Clerk  Lead the jury to their retiring room. Wait outside and give them a maximum of five minutes to make their decision.  

Macer  After the jury and court clerk have left, say: ‘Court rise’ and lead the judge out of the courtroom to his/her chambers. 

Court Clerk  Once the jury have reached their verdict, lead them back into the courtroom. 

Macer  Go and collect the judge from his/her chambers. Lead the judge back into the courtroom and as you enter say ‘Court rise’. 

Court Clerk  Ask the accused to stand. Ask the foreman of the jury to stand and says ‘What is your verdict on the charge against the accused?’ 

Jury Foreman  ‘We find the accused guilty/not guilty’. 

Judge  Comment on the performance of advocates, witnesses and court staff. Announce the winning team. Put score sheet in an envelope. 

Court Clerk  Collect the score sheet in a sealed envelope from the judge and hand it in.
Role Guides.

a) Advocates
In any trial, two students from your team will have to play the role of prosecution or defence advocates. The questioning of witnesses must be shared equally (i.e. one examination in chief and one cross examination), and one advocate should deliver a closing speech.

Role of the Prosecution
You represent the Crown and present the case on their behalf. It is your job to ensure that the correct verdict is reached, not just a guilty one.

Role of the Defence
You represent the accused and must stick to their version of events. Your job is to undermine the prosecution’s case and create reasonable doubt in the minds of the jury as to the accused’s guilt.

Brief Legal Theory

Burden of Proof
It is for the prosecution to prove the accused's guilt to the jury. The accused does not have to prove his/her innocence.

Satisfied so that you are sure
This is the standard of proof required by the prosecution and it is a very high one. The prosecution must prove to the jury the accused’s guilt so that they cannot reach any verdict other than guilty. If they are not completely sure, they must acquit.

Court Etiquette
The following information is taken from ‘Advocacy in Court, A Beginner’s Guide’ by Keith Evans.

Dress
- Wear dark colours
- Hair must be neat and tidy
- Keep jewellery to a minimum
- Wigs, if worn, should cover hair to the forehead.

Posture
- Stand up straight when you address the court
- Never put your hands in your pockets
- Try not to fiddle with your pen or notes
- Never interrupt during an oath taking.

Language
- Always refer to the judge as ‘My Lord/Lady, e.g. ‘My Lord, I don’t know if My Lord has been given a copy of the sketch of the road at the time of the incident?’
- The term ‘learned’ (pronounced ‘learn-ed’) is a courteous way to address other lawyers, it just means qualified as a lawyer.

Preparing your speeches and questions
Full guidance on how to prepare your speeches and questions can be found on the student worksheets.

Rules for the competition
- No objections can be made
- There are no re-examinations of witnesses
- Never give your opinion
- **Do not read from scripts or speak from a memorised script**
- Stick within the time limits
- Do not introduce new evidence
b) Witnesses

Each team has two witnesses in each case. The jury base their verdict on the evidence you give, so it is important that you know your version of events fully.

Before the trial
- Learn the content of your statement
- Practice being questioned by the advocates.
- Be careful not to over-rehearse your examination in chief with them, so that it does not become a memorised script. You should look and sound like you are hearing the question for the first time, be spontaneous.

During the trial
- In a real trial, witnesses sit outside of the courtroom.
- For the purposes of the competition
- You should sit inside the court for the whole trial
- You will be called to the stand by the advocate
- The macer will lead you to the witness box and the judge will swear you in
- Your team's advocate will ask you questions (examination in chief)
- One of the opposing team's advocate will ask you questions (cross examination)
- The macer will take you back to your seat.

Important rules for witnesses
- Do not introduce new evidence
- If an advocate asks you something that is not in your statement say, ‘That is new evidence, it is not in my statement’
- Sit in the courtroom for the whole trial
- You cannot take your statement to the stand.

Do
- Dress as your character would
- Speak loudly and clearly
- Give short answers
- Put the statement into your own words.

Don’t
- Give long answers, repeating your statement word for word
- Speak from a memorised script
- Overact.
c) Court Clerk & Macer

Court Clerk
The court clerk is taken from the team playing the prosecution. Your role is to help with the administration of the court. For the purposes of the competition the court clerk has been given some additional roles to help balance their part with that of the macer.

Before the trial
- Practice reading your parts in the order of procedure
- Complete the ‘Team Identification Slip’ and place it on the judge’s bench
- Find out where the jury retiring room will be

During the trial
- Identify the accused and read out the indictment
- Swear in the jury
- Read out the agreed statement when the prosecution request it, make sure you include the details of the witness (name, occupation etc) and not just the statement itself
- Take the jury to their retiring room to decide their verdict and then bring them back into court.

After the trial
- Get the score sheet from the judge, which should be in a sealed envelope.
- If it is not, give it back to the judge and ask them to put it in one
- Take the sealed score sheet to the -------------------

Macer
The macer is taken from the team playing the defence. Your role is to help with the administration of the court. For the purposes of the competition the macer’s role has been slightly altered to balance their part with that of the court clerk.

Before the trial
- Learn the order of procedure
- Make sure you know where all of the witnesses and accused as sat and where the witness box is
- Once everyone is ready, go and collect the judge.

During the trial
- Escort the witnesses and accused to and from the witness box
- If anyone disturbs the trial, for example if they are talking, their mobile phone rings or they are taking picture, politely ask them to leave.
d) Juror

The jury is made up of six students from two schools and do not watch their own school perform, except where this cannot be helped. Your role is to decide the verdict of the case based on the evidence you have heard in court on the day. Although your role is not scored, it is a vital part of the competition and should be taken seriously.

Unless you are playing other roles, it is not a good idea for you to sit in rehearsals. This way, the cases are fresh to you on the day. It would be a good idea to complete practice jury exercises, so that you have had a go at deciding a verdict.

In reality, the jury consists of twelve people from the local area.

During the trial

- Stand up and repeat the affirmation when asked by the court clerk
- Listen to the case and take notes (you can use the verdict worksheet if you wish)
- Go to the retiring room after the judge’s summing up (the court clerk will take you)
- Select a foreperson, who will give the verdict to the court
- Decide your verdict. Preferably you should all agree, if that is not possible a majority will suffice. You only have five minutes to do this.
### Judging Criteria

#### Advocates

<table>
<thead>
<tr>
<th>Marks</th>
<th>Closing Speech</th>
<th>Examination in Chief</th>
<th>Cross Examination</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>Lasts over five minutes</td>
<td>Lasts over five minutes</td>
<td>Lasts over five minutes</td>
</tr>
<tr>
<td></td>
<td>Read completely from a script</td>
<td>Read completely from a script</td>
<td>Read completely from a script</td>
</tr>
<tr>
<td></td>
<td>New evidence introduced</td>
<td>New evidence introduced</td>
<td>New evidence introduced</td>
</tr>
<tr>
<td></td>
<td>Unclear or inaccurate</td>
<td>Excessive leading questions</td>
<td>Questions too long and complex</td>
</tr>
<tr>
<td></td>
<td>Lacks confidence</td>
<td>Questions too long and complex</td>
<td>Questions don’t take account of answers</td>
</tr>
<tr>
<td>3-4</td>
<td>Lasts over five minutes</td>
<td>Lasts over five minutes</td>
<td>Lasts over five minutes</td>
</tr>
<tr>
<td></td>
<td>Mainly read from a script</td>
<td>Mainly read from a script</td>
<td>Mainly read from a script</td>
</tr>
<tr>
<td></td>
<td>Some new evidence introduced</td>
<td>Some new evidence introduced</td>
<td>Some new evidence introduced</td>
</tr>
<tr>
<td></td>
<td>Unclear or inaccurate in places</td>
<td>Asks some leading questions</td>
<td>Some questions too long and complex</td>
</tr>
<tr>
<td></td>
<td>Lacks confidence</td>
<td>Some questions too long and complex</td>
<td>Questions often don’t take account of answers</td>
</tr>
<tr>
<td>5-6</td>
<td>Lasts five minutes or less</td>
<td>Lasts five minutes or less</td>
<td>Lasts five minutes or less</td>
</tr>
<tr>
<td></td>
<td>Some reliance on a script</td>
<td>Some reliance on a script</td>
<td>Some reliance on a script</td>
</tr>
<tr>
<td></td>
<td>No new evidence introduced</td>
<td>No new evidence introduced</td>
<td>No new evidence introduced</td>
</tr>
<tr>
<td></td>
<td>Mainly clear and accurate</td>
<td>Very few leading questions</td>
<td>Most questions clear and concise</td>
</tr>
<tr>
<td></td>
<td>Has some confidence</td>
<td>Most questions clear and concise</td>
<td>Some questions take account of answers</td>
</tr>
<tr>
<td>7-8</td>
<td>Lasts five minutes or less</td>
<td>Lasts five minutes or less</td>
<td>Lasts five minutes or less</td>
</tr>
<tr>
<td></td>
<td>Little reliance on a script</td>
<td>Little reliance on a script</td>
<td>Little reliance on a script</td>
</tr>
<tr>
<td></td>
<td>No new evidence introduced</td>
<td>No new evidence introduced</td>
<td>No new evidence introduced</td>
</tr>
<tr>
<td></td>
<td>Information virtually all accurate</td>
<td>Almost no unnecessary leading questions</td>
<td>Nearly all questions clear and concise</td>
</tr>
<tr>
<td></td>
<td>Mainly confident presentation</td>
<td>Nearly all questions clear and concise</td>
<td>Most questions take account of answers</td>
</tr>
<tr>
<td>9-10</td>
<td>Lasts five minutes or less</td>
<td>Lasts five minutes or less</td>
<td>Lasts five minutes or less</td>
</tr>
<tr>
<td></td>
<td>Virtually no reliance on a script</td>
<td>Virtually no reliance on a script</td>
<td>Virtually no reliance on a script</td>
</tr>
<tr>
<td></td>
<td>No new evidence introduced</td>
<td>No new evidence introduced</td>
<td>No new evidence introduced</td>
</tr>
<tr>
<td></td>
<td>Information completely accurate</td>
<td>No unnecessary leading questions</td>
<td>All questions clear and concise</td>
</tr>
<tr>
<td></td>
<td>Confident presentation</td>
<td>All questions clear and concise</td>
<td>Nearly all questions take account of answers</td>
</tr>
</tbody>
</table>
## Other roles

<table>
<thead>
<tr>
<th>Marks</th>
<th>Witnesses</th>
<th>Macer</th>
<th>Court Clerk</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>Responses not spontaneous</td>
<td>Frequently does not follow procedure</td>
<td>Frequently does not follow procedure</td>
</tr>
<tr>
<td></td>
<td>New evidence introduced</td>
<td>Frequently does not deal with disruptions</td>
<td>Inaccurate reading of agreed statement(s)</td>
</tr>
<tr>
<td></td>
<td>Not convincing</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lacks confidence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3-4</td>
<td>Responses often not spontaneous</td>
<td>Often does not follow procedure</td>
<td>Often does not follow procedure</td>
</tr>
<tr>
<td></td>
<td>Some new evidence introduced</td>
<td>Often does not deal with disruptions</td>
<td>Inaccurate reading of agreed statement(s)</td>
</tr>
<tr>
<td></td>
<td>Often not convincing</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lacks confidence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5-6</td>
<td>Responses sometimes spontaneous</td>
<td>Sometimes does not follow procedure</td>
<td>Sometimes does not follow procedure</td>
</tr>
<tr>
<td></td>
<td>No new evidence introduced</td>
<td>Sometimes does not deal with disruptions</td>
<td>Some inaccuracies in reading of agreed statement(s)</td>
</tr>
<tr>
<td></td>
<td>Often convincing</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Has some confidence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7-8</td>
<td>Responses often spontaneous</td>
<td>Usually follows procedure</td>
<td>Usually follows procedure</td>
</tr>
<tr>
<td></td>
<td>No new evidence introduced</td>
<td>Usually deals with disruptions</td>
<td>Reading of agreed statement(s) mainly accurate</td>
</tr>
<tr>
<td></td>
<td>Usually convincing</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mainly confident presentation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9-10</td>
<td>All responses spontaneous</td>
<td>Always follows procedure</td>
<td>Always follows procedure</td>
</tr>
<tr>
<td></td>
<td>No new evidence introduced</td>
<td>Always deals with disruptions</td>
<td>Reading of agreed statement(s) accurate</td>
</tr>
<tr>
<td></td>
<td>Always convincing</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Confident presentation</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Overall Team Performance

<table>
<thead>
<tr>
<th>Marks</th>
<th>Overall Team Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-4</td>
<td>Do not work as a team, impression that the students don’t understand what they are doing.</td>
</tr>
<tr>
<td>5-8</td>
<td>Often do not work as a team, impression that the students often don’t understand what they are doing.</td>
</tr>
<tr>
<td>9-12</td>
<td>Sometimes do not work as a team, impression that the students sometimes don’t understand what they are doing.</td>
</tr>
<tr>
<td>13-16</td>
<td>Usually work as a team, impression that the students usually understand what they are doing.</td>
</tr>
<tr>
<td>17-20</td>
<td>Always work as a team, impression that the students completely understand what they are doing.</td>
</tr>
</tbody>
</table>

**Important Note:**
- All criteria must be met to reach each level of marks.
- For example, if an advocate fulfils all the criteria for 5-6 marks in their examination in chief, except that they go over five minutes, they can only gain a maximum of four marks.
Example Judging Sheet

Judge’s Name                  Court No.
Prosecuting team              Defending team
Final verdict (circle)        Guilty              Not guilty
Winning team

<table>
<thead>
<tr>
<th>Stage in the trial</th>
<th>Time</th>
<th>Prosecution</th>
<th>Max</th>
<th>Defence</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Examination in chief of first prosecution witness</td>
<td>5</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cross examination of first prosecution witness</td>
<td>5</td>
<td></td>
<td></td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>First prosecution witness</td>
<td>n/a</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Examination in chief of second prosecution witness</td>
<td>5</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cross examination of second prosecution witness</td>
<td>5</td>
<td></td>
<td></td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Second prosecution witness</td>
<td>n/a</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Examination in chief of accused</td>
<td>5</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cross examination of accused</td>
<td>5</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accused</td>
<td>n/a</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Examination in chief of second defence witness</td>
<td>5</td>
<td></td>
<td></td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Cross examination of second defence witness</td>
<td>5</td>
<td></td>
<td></td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Second defence witness</td>
<td>n/a</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecution closing speech</td>
<td>5</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Defence closing speech</td>
<td>5</td>
<td></td>
<td></td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Court clerk (overall performance)</td>
<td>n/a</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Macer (overall performance)</td>
<td>n/a</td>
<td></td>
<td></td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Overall team performance (out of 20)</td>
<td>n/a</td>
<td>20</td>
<td></td>
<td>20</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>n/a</td>
<td><strong>100</strong></td>
<td></td>
<td><strong>100</strong></td>
<td></td>
</tr>
</tbody>
</table>

- All criteria must be met to reach each level of marks
- No half marks
- One team must win (no draws).

**Scoring**

It is the scores, not the verdict that determines the winner of the trial. As there will be variation between the way judges award marks, **it is points difference, not raw scores that are used for scoring**.

Schools are placed into leagues of four teams and the top two league winners will go through to the final on the day.

If a team wins a trial, they will gain one trial win. The points difference between the teams is calculated. This is added to the trial win mark to give a total points difference. The winner of each league is calculated firstly by number of trial wins. If this is the same for two schools then the winner is the school with the highest total points difference.
a) Guidance for Statement Analysis

When you are reading the statements:
- Underline any important points.
- Annotate the strengths, weaknesses and contradictions (where people’s stories don’t match).
- Write down the key points in the table below.
- You may wish to add to the table as you analyse the statements in the case should you come across additional contradictions.
- Remember you can only refer to contradictions in statements when you have heard from both witnesses. For example if there is a contradiction between prosecution witness 1 and the defendant you can only address the defendant on this after you have heard form the other witness

<table>
<thead>
<tr>
<th>Name</th>
<th>Prosecution / Defence</th>
<th>Strengths</th>
<th>Weaknesses/Contradictions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
b) How to write an Examination in Chief

Aims
- To help your witness explain to the jury what they saw, heard or did.
- To persuade the jury to find the verdict you want.

Structuring your Examination in Chief
- Start by asking the witness their name and occupation.
- Write notes instead of writing your questions out in full
- Work together with the witnesses you will be questioning.

Important Information

Leading Questions
- You must not ask leading questions during examination in chief.
- These put words into the witness’s mouth and are usually yes/no questions.
- To avoid leading questions, ask questions that start:
  - What, Why, When, How, Where and Who’

Witnesses
- Witnesses must talk to the jury when they answer your questions, not you.
- Remind them if they forget to do this.

Example:

Lawyer  Could you state your name and occupation for the court?
Gerald   Gerald Toogood, I’m a customer assistant at the Woolifax Building Society.
Lawyer  Where were you on 20th December?
Gerald   I was at work.
Lawyer  Is there anything in particular that you remember about that day?
Gerald   Yes, it was the day the Building Society got robbed.
Lawyer  What time did this happen?
Gerald   About 3.30pm.
Lawyer  What is the first thing you remember?
Gerald   A customer wearing a bulky overcoat come up to the counter.
Lawyer  What did this customer do?
Gerald   Got a gun out and pointed it at me.
Lawyer  How did you feel at this point?
Gerald   Petrified, I couldn’t move or do anything, I just stared at the gun.
Lawyer  Can you describe the gun for me?
Gerald   Yes, it was large and black. It said Bruni on it, I guess that was the make.
Lawyer  Did the person say anything?
Gerald   Someone said “Hand over the money if you don’t want to get hurt.”
Lawyer  What happened next?
Gerald   A different man jumped over the counter to my cash drawer. He took money out of it and then went back to the customer side.
Lawyer  What did you do?
Gerald   I definitely pressed the alarm at some point. That brings up a security screen to stop anyone from getting over the counter. By the time it went up the man was already back on the customer side though.
Lawyer  Given that the security screen was now up, did you see anything else?
Gerald   Yes, although I didn’t see anything else in the building society, I went to the manager’s office and looked out of the window. I saw 3 men running out to a car which had its engine running.
Lawyer  What can you tell us about these men?
Gerald  I don’t think the one who pointed the gun at me had it anymore. The other two were wearing baseball caps.
Lawyer  What did the men do when they got to the car?
Gerald  I think the driver opened the front door for one of them. They jumped in and the car sped away.
Lawyer  How clear was your view of all of this?
Gerald  Not bad, the window I was looking out of was lightly frosted but I could make out what was going on.
Lawyer  How much was stolen?
Gerald  About £3000.
Lawyer  Thank you Mr Toogood, I have no more questions.
c) How to write a Cross Examination

Aims
- To point out the problems and inconsistencies in the opposition’s case.
- To put your case to the opponent’s witness.

Structuring your Cross Examination
- Write notes instead of writing your questions out in full
- Be prepared for the unexpected! You will be questioning someone from the other team and you don’t know what they will say!
- A flow chart is a good way to write your questions so you can prepare for the unexpected.

Important information
- You can ask leading questions in cross examination.
- You can bring up inconsistencies with other witnesses that have given evidence.
- Be polite instead of aggressive so the witness will help you!
- Make sure you get the witnesses’ gender right! Check this before the trial starts.

Example:

Lawyer  Mr Toogood, could you just remind the court of your initial reaction when the gun was pointed at you?
Gerald  Fear, I just froze really.
Lawyer  To the extent that it took you long enough for the robber to get to your till, take money and get back over before you pressed the alarm?
Gerald  Yes.
Lawyer  Yet you can still vividly describe the gun to the court?
Gerald  I guess I was fixated on it. It was pointing at me after all.
Lawyer  Who shouted “Hand over the money if you don’t want to get hurt”?
Gerald  I’m not sure.
Lawyer  How many robbers were there Mr Digweed?
Gerald  Two that I saw in the building society.
Lawyer  And you have no idea which one shouted that out?
Gerald  No.
Lawyer  Even though they were both standing in front of you?
Gerald  No.
Lawyer  Let’s move on to when you had finally pressed the alarm. The security screen had gone up hadn’t it?
Gerald  Yes.
Lawyer  So you went to the manager’s window which looks out onto the street.
Gerald  Yes.
Lawyer  How many men did you see leave the building society?
Gerald  Three.
Lawyer  Although you had only seen two inside?
Gerald  Yes.
Lawyer  What had happened to the gun?
Gerald  I don’t know. The man didn’t have it anymore.
Lawyer  Are you certain of this?
Gerald  Pretty much.
Lawyer  But it is possible that the man still had the gun and you just couldn’t see it?
Gerald  I suppose so.
Lawyer  You said the men ran straight to the car?
Gerald  Yes.
Lawyer: Do you know that this was because it was the getaway car?
Gerald: No.
Lawyer: So it is possible that the robbers were lucky enough to see a car outside with its engine running when they left and decided to use it to get away?
Gerald: It's not very likely really.
Lawyer: But it is possible?
Gerald: I suppose so.
Lawyer: What did you say the driver did when the robbers were running to the car?
Gerald: Opened the door.
Lawyer: Are you absolutely certain that this is what you saw?
Gerald: Not completely.
Lawyer: So you could be wrong?
Gerald: Yes.
Lawyer: Was there anything that stopped you from getting a good view of outside?
Gerald: Like I said, the window was lightly frosted.
Lawyer: So you couldn't see everything completely clearly then?
Gerald: No.
Lawyer: And you might have been mistaken in what you saw?
Gerald: I saw what I saw.
Lawyer: You have already told the court that you could have been wrong about the gun and whether the driver opened the door. Surely this uncertainty is backed up by the fact your view was partially obstructed by frosted glass.
Gerald: Maybe.
Lawyer: So you are saying that your view was perfect and you're definite about what you saw?
Gerald: No.
Lawyer: So the frosted glass could mean that you were mistaken?
Gerald: Yes.
Lawyer: Thank you Mr Toogood. No further questions.
d) How to write a Closing Speech

Aims

- To persuade the jury to find in favour of your verdict.
- To remind the jury of the burden of proof.

What to include

- A brief outline of the law in the case.
- A summary of the evidence that has been heard in court that proves the defence case.
- A short reminder of the burden of proof.

Structuring your Closing Speech

- You must only rely on the evidence heard in court. You cannot include things that were not talked about in questioning, even if they are in the witness statements.
- Write your speech as notes not as a script. You could write it in full and then turn it into notes if this is easier. In your notes, include all of the possible things that you might say but ensure you do not say them unless mentioned in court.
- Use large text, bullet points and sub-headings in your notes.
- During the trial, you can tick any points of evidence that are mentioned by witnesses and cross out any that are not. You can also add any new points.
- Make sure you get the gender of the witnesses right! Check this before the trial starts.
- When preparing to give your speech you should produce a checklist such as the one below. Check off the items when they become relevant. Remember you cannot refer to evidence unless it has been stated by the witness.
- Sometimes using a checklist like the one below is also useful.

Example:

My Lord, you have now heard all of the evidence in this case which I would like to take this opportunity to remind you of. My client, Terry Digweed, is accused of robbery contrary to the common law which states that ‘A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.’

The first witness you heard from today was the cashier at the Woolifax, Gerald Toogood who witnessed the armed robbery by the three men, and then saw them get into a car just outside the building. This witness admitted to the court that the window through which he was looking was slightly frosted, and therefore could not have provided a clear view of the car or what happened once they had got in. He also admitted that he only ‘thought’ the driver, Digweed, opened the door for one of the men. Therefore how can we be sure that Digweed was a member of the gang, and not just an unfortunate, and innocent bystander.

The defendant provided us with explanations for all of the incidents that took place on the 20th December. He was waiting for his mother to come out of a shop, which is why he was parked outside of the Woolifax, with
his engine still running. Furthermore, we know that one of the men involved was carrying a gun. It is not surprising then that he drove off from the scene, frightened and held at gun point by three men.

The burden of proof lies with the prosecution. If they have convinced you so that you are absolutely sure that the defendant is guilty then you must convict. However, if there is any doubt in your mind as to whether my client committed this act of criminal damage after hearing the evidence in court today, you must find him not guilty.
Sources of Extra Resources
You may find some of these additional resources helpful.

Books
The Legal System of Scotland, Derek Manson-Smith (2008), HMSO, £3.95.
Criminal Law (Scottish Law 4th Edition), Jones and Christie (2008), Greens, £36.00

Websites
Citizenship Foundation www.citizenshipfoundation.org.uk
Faculty of Advocates www.advocates.org.uk
Law Society of Scotland www.lawscot.org.uk
BBC www.bbc.co.uk
Scottish Law Online www.scottishlaw.org.uk
Centre for Crime and Justice Studies www.crimeandjustice.org.uk
Mini Trials Project www.minitrial.org.uk