

# CROSS EXAMINATION OF EXPERT WITNESSES

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# Will I be cross-examined?

- Almost certainly!
- Unusual exceptions
  - Civil Evidence Act notice
  - Evidence is accepted
  - Evidence not called

# Procedure in Court

- Trial procedure
  - Opening speeches
  - Claimant's evidence
  - Defendant's evidence
  - Closing speeches
- Evidence procedure
  - Evidence in chief
  - Cross-examination
  - Re-examination

# What is counsel trying to achieve?

- Various possibilities
  - Get you to agree with his/her case
  - Discredit your independence
  - Demonstrate that your approach is wrong
    - Hindsight
    - Wrong skilled person
  - Show that you are not an expert
  - Show that you are too much of an expert
- Maybe simply exploring the arguments

# Typical methods

- Leading questions
- Discrepancy with other published work
- Questioning authorship of your report
- Creating antipathy
  - Tone of voice
  - Not listening to answers
  - Suggestion of incredulity
- Creating empathy

# Typical methods continued

- Acceptance of inferiority
- Suggestion of unethical behaviour
- Leaving difficult questions until 4pm
- Shaking up early
- Questions on unrelated areas

# Good techniques

- Don't worry about where the line of questioning is going!
- Address answers to Judge
- Don't look at client/research assistant/client's lawyers
- Ask to repeat if do not understand or for time
- Speak slowly and clearly
- Be good humoured
- Think before you speak

## Guaranteed to make you unpopular...

- Cut and paste your report from the internet
- Wildly exaggerate your answers for effect
- Ask for your research assistant to come and help you answer
- Give long self-justifying speech before any questions asked
- Deny all knowledge of passages in your report