



GREENWAY CHAMBERS

Ethical issues in dealing with witnesses

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Ethical issues in dealing with witnesses

'Would your mother slap you for it?' – Steve Mark

- Lawyers love rules
- The *Solicitors Rules* and *Barristers Rules* are helpful
- Case law is helpful
- But they aren't the complete repository of our ethical obligations
- It might depend on who your mother is



Preparing written evidence

- Must be the witness's evidence
- Avoiding false evidence
- Memory issues
 - Direct speech
 - Testing recollection vs suggesting the evidence - documents, inconsistencies (both internal and external)



Preparing written evidence (continued)

- Avoiding witness collusion
- Particular issues with experts, including interpreters



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Pre-hearing issues

- Contacting the other side's witnesses
- Preparing the witness for cross-examination



Oral evidence – issues arising in Court

- Communication during cross-examination and after cross-examination
- Lack of truth in the witness box – what to do when you discover it
- Foundation for putting propositions, including in fraud claims



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What happens if you do something wrong?

- The Golden Rule: honesty
- How dishonesty, fudging or not owning up to a mistake can make things so much worse



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Questions?

