



The Inns of  
Court College  
of Advocacy

The Council of the Inns of Court

## ADVOCACY TRAINING

“Training the Trainers” Manual and DVD

**The Method: Witness Handling – Anthony Leonard QC (narrator and witness), Jill Frances (trainer), Mrs Justice Whitehouse (trainer) Naomi Carpenter (barrister), Peter Jones (defendant), Mr Justice Davis (narrator), Anesta Weekes QC (narrator)**

(transcript of [video](#))

- A** **Anthony Leonard QC:** Training advocates at any level is no different from teaching any skills-based subject. Many of you will have learned to play a sport when you were younger; the pattern was always the same - you played, they told you where you had gone wrong, they told you why it was wrong, they told you how to put it right. One of the coaches would then demonstrate how to do it, before asking you to do it again.
- B**
- C** The Hampel Method has simply analysed this approach, and identified what is being done. It works; and that is why this method is used in various guises throughout the world to teach advocacy.
- D** Before describing the method in more detail, a few preliminaries as to organising the session:
- E** Key to the success of an advocacy training session is: preparation. You need to know the papers, as well as any of those being taught. If you're going to be any help to the advocates you need to have conducted your own case analysis. Make sure that you have identified where you are teaching, and with whom you are
- F** teaching. Good timekeeping during the session is essential. Make sure that you have plenty of paper to write on.
- G** If the session is being recorded make sure that the camera is working, and that you understand how to operate it. Make sure that the room is laid out as you want it; make sure for instance that the camera is not facing towards a window - which will leave the performer in silhouette - or that the camera is so far from the
- H** advocate that the voice is not picked up.
- Begin the session with the trainers and the advocates introducing themselves, and identifying their experience - and explain the need for strict time controls.

**A** Now to the method itself; each stage of which is essential to a successful review:

- It begins with the headline: that is the topic to be addressed
- Next, the playback: an illustration of the headlined matter
- Thirdly, the rationale: why the topic is being addressed
- Then the remedy: how to improve the performance
- The demonstration: The trainer demonstrates how to apply the remedy
- The Replay: By the advocate to confirm he has understood the review

**B**

**C**

**D** Whilst each part of the review will be considered separately the review - except for the replay - should be looked on as one entity. A good review will flow seamlessly through its constituent parts.

**E** A review which identifies each part - "my headline is...my rationale is... I propose the following remedy" - is formulaic and dull; it identifies the teaching method to the advocate rather than providing the assistance which the advocate is looking for. Furthermore; it's unnatural.

**F** To give yourself time to think through your review the trainer should divide his time as follows:

**G** Firstly, write down the questions for the first three quarters of the performance time. By about halfway through you should choose your headline.

Do not be concerned if a better topic comes to light in the second half; there will be ample opportunities for that to be dealt with on another occasion.

**H** During the last quarter keep listening to the performance - noting further examples which will confirm your headline point - but use this time to plan your review.

Now let's look at each topic in turn.

- A** Firstly, the headline: The headline is by far the most important part of the review process. A poorly chosen headline, or a poorly worded or imprecise headline, will adversely affect the focus of the review. What follows will be equally unhelpful to
- B** the advocate.
- The desire of the trainer to assist the advocate on several points - which he has noticed could be improved during the performance - is sometimes overwhelming,
- C** but must be resisted. Remember that the advocate will be receiving many reviews over the course of a training session, where other issues can be put right. It is better to improve one element of an advocate's performance than to try and achieve a full makeover and not succeed.
- D**
- The headline needs to be short and memorable - get the advocate to write it down. He will be asked what it is when the DVD review takes place.
- E**
- Try to make simple statements such as "target your questions", rather than "my headline is that you asked rather long questions of the witness such that they will have quite forgotten what it is that they were supposed to be answering in the
- F** course of your otherwise punctilious examination-in-chief".
- Make sure that what you have chosen is something that the advocate - at his stage of development - will be able to improve, and that he will be able to take
- G** on-board your remedy and improve in their replay. Never condemn the performance with an emotive phrase; not only will you lose the advocate you are trying to assist, and undermine his self-confidence in a group setting, but the rest
- H** of the group will be too terrified to perform in front of you - and as a group, will turn against you.
- When stating the headline do not give a mixed message such as "that was very good, but you need to...", if there is something that genuinely needs attention - but in many other respects it was a sound piece of advocacy - you can always

**A** include the right words of encouragement later in the review. Something on the following lines tends to be appreciated: "You may wonder why I chose this particular aspect of your advocacy to review. I've done so because it will enhance an already very polished technique..."

**B**

**C** I move on to the playback. The quality of the playback depends on the accuracy and fullness of the notes taken during the performance. You need to note all the questions asked - at least for the first three quarters of the allotted time. It is a tricky discipline, during the rest of our working lives we tend to note the answers - not the questions.

**D** There are two golden rules:

- Firstly, the note of what the advocate says must be accurate. Otherwise your review may be side-lined by a debate with the advocate as to what he's said, and
- Secondly, it must be legible

**E**

**F** Do not feel obliged to read out every example of the point you wish to highlight; rubbing it in may not assist. Pick the best two or three examples.

**G** Now the rationale: this is your opportunity to explain why you have chosen this topic to assist the advocate. If you cannot come up with a convincing explanation, either the advocate will switch off because he cannot see the advantage of putting it right, or the trainer will suddenly realise that he has chosen the wrong headline.

**H** As with every part of the review it needs to have been thought out in advance. The explanation need not be long.

It is not uncommon to hear trainers changing their review when they get to this stage, because the realisation has dawned that the headline chosen is not worth

**A** addressing. If you try to change tack at this stage the whole review will unravel, it is better to go on with the headline you have chosen, and use your own powers of advocacy to persuade the advocate that there is a genuine rationale for

**B** addressing the issue.

The next stage: remedy. As with any doctor it is no good diagnosing what is wrong with the patient unless you're able to prescribe the right medicine. The best reviews are those which identify the root of the problem and seek to put that right in the suggested remedy. It is not uncommon to see a trainer remedying the surface problem, without identifying what lies behind the advocate's difficulty.

**D** The remedy we prescribe must be one which the advocate is able to make use of and carry through into practice. It is pointless teaching them an art which you have only mastered after 15 years or more at the Bar if they are still in Pupillage. **E** Assess the ability of the advocate that you are reviewing and give him the help which you judge he will be able to make use of.

**F** The demonstration: this is the part of the review which the trainers least enjoy - but from the feedback from the advocates is an essential and really useful element of the review.

**G** The trainer will - using the material as the advocate - show how the remedy he has prescribed can be used to achieve a better result. If the demonstration does not employ the technique which you have explained to the advocate it will lose its point.

**H** The secret to a good demonstration is to keep it short; advocacy is never easy - it is doubly hard when you know that the group is watching to see what an improvement it will be on what the advocate has just done. Ask three or four

- A** questions in the style that you have suggested will work. Do not risk it going wrong by asking five, six or seven questions.
- B** If a demonstration does go wrong - or you fall into the same error that you have tried to correct in the advocate - come clean with the group and - if you think you can get it right by starting again - do so. They will in fact learn as much and gain more confidence from a demonstration that goes awry.
- C** Trainers tend to try and find any excuse for not doing a demonstration, perhaps they will choose a topic which they think will obviate a need for a demonstration. But even taking a topic such as a flaw in their case analysis can be enhanced by
- D** you demonstrating how it could have been done.
- E** I move to replay. The method more commonly employed is to have a delayed replay; this is a separate session which takes place after a coffee, lunch or tea break, which gives the advocate time to adjust the notes and assimilate what you have told him. Experience shows that this hugely improves their ability to
- F** improve on what they have done before, and put into practice the remedy given during the review. They - and the trainer - will be elated by the improvement.
- G** If you are not using delayed replay, then you should ask the advocate to re-do part of the exercise straightaway. Stand by the advocate, and be ready to stop him once he has shown he can get it right.
- H** As to delayed replay; which you will see demonstrated during the DVD, this requires the trainer to remind the advocate in a sentence at the end of the review, what is expected of him in the replay and to make sure he notes it. At the adjourned replay the advocate should be asked to tell you what he is going to do, and how he hopes to improve on what he did before.

- A** He should then be given about three minutes to perform, but this can be shorter if you think the advocate is beginning to stray back to his previous standard.
- B** There is no formal review of the replay, hopefully you will be able just to congratulate the advocate on the obvious improvement. The review shouldn't take more than one minute. If he is still falling into error, you may have to remind him - in a sentence - of what he was told before. The purpose of the review at this
- C** stage is to consolidate and congratulate; on no account should you attempt to do a full Hampel review - the session does not allow time, and should a hurried review will only confuse.
- D** This introduction to the teaching method cannot cover everything, and I advise you to study the accompanying handbook, which will help you with specific problems which you may encounter.
- E** May I end with three things?
- F**
- Firstly: conduct your review from beside the advocate. This will mean you moving to join the advocate; they appreciate it and it avoids any possible feeling that the process is confrontational
  - Secondly: when you do a demonstration have the advocate standing next to you. For some reason it seems to have an osmotic effect on them
  - And finally, enjoy it: an inspired trainer is an inspirational trainer, and will get the message across that much better
- G**
- H** \*\*\*
- Screen Text:**
- Examination-in-chief*
- Trainer: Jill Frances*



**A** **Jill Frances:** Naomi, you're doing an examination-in-chief of the defendant yes?

**Naomi Carpenter:** Yes

**B** **Jill Frances:** Right, when you're ready thank you

**Naomi Carpenter:** Could you give the court your name please?

**C** **Peter Jones:** Peter Jones

**Naomi Carpenter:** And your age?

**Peter Jones:** I'm 21

**D** **Naomi Carpenter:** And your address?

**Peter Jones:** Flat three, The Tower Block, Camberwell

**E** **Naomi Carpenter:** Now it's been agreed that you have not been convicted of a criminal offense in the past hasn't it?

**F** **Peter Jones:** I haven't, no

**Naomi Carpenter:** Right, I'm going to ask you some background in relation to your state of affairs a year ago - the time of the incident.

**G** Could you describe very briefly your immediate family background?

**Peter Jones:** Well, I've got a girlfriend... I live with her...

**H** **Naomi Carpenter:** Any children?

**Peter Jones:** Two, yes.

**Naomi Carpenter:** And could you tell the court what your employment situation was a year ago?

- A**      **Peter Jones:** Well, I was unemployed.
- Naomi Carpenter:** And could you tell the court your financial situation a year ago?
- B**
- Peter Jones:** I was on income support.
- Naomi Carpenter:** Any more details in relation to your financial situation?
- C**
- Peter Jones:** Well I didn't have any income.
- Naomi Carpenter:** Did you have money in the bank? Did you owe people money?
- D**
- Peter Jones:** Well I definitely had no money in the bank, yeah I owed someone some money... yeah.
- Naomi Carpenter:** And why did you owe some people some money?
- E**
- Peter Jones:** It was drug debts.
- Naomi Carpenter:** And about how much money did you owe them?
- F**
- Peter Jones:** A thousand pounds.
- Naomi Carpenter:** And you say it was for drug debt-
- G**
- Peter Jones:** -Yes
- Naomi Carpenter:** So you owed a drug dealer some money?
- H**
- Peter Jones:** Well, yeah, yeah I suppose so yeah.
- Naomi Carpenter:** And was that just one drug dealer? A group of drug dealers? Could you tell the court a little more of the drug dealers to whom you owed money?

A

**Peter Jones:** Well, it was a group.

**Naomi Carpenter:** And could you describe the group? How many in the group?

B

**Peter Jones:** Well... they're a few... few of them.

**Jill Frances:** Naomi if I could just stop you there? Please take a seat.

C

*Screen Text: Headline*

**Jill Frances:** Naomi, don't reproduce your proof, OK?

*Screen Text: Playback*

D

**Jill Frances:** You said "I'm going to ask you some background questions, could you describe very briefly your immediate family background... girlfriend... any children... could you tell the court your unemployment situation, could you tell the court your financial situation?" and then you started to ask questions about these people that owe him money, and if he's got any debts, yes?

E

F

*Screen Text: Rationale*

**Jill Frances:** Now all that is very very unfavourable to your witness isn't it? It's a bit sort of messy and it might not really create a very good impression of him. So just because it's in the proof doesn't mean you have to, one; introduce it into evidence and two; actually do it in the order you did it. Can you see what I mean?

G

H

So just because it's in that order there's no need to stick to it because what you want to do is create a good impression of this witness and get what actually happened on the way from him - the most important bit from him - and get that story from him first right? And if there so unfavourable has to go in, maybe it should go later, and I think you were doing it because it was in that order in your proof, so you felt you had to stick to that order in your chief.

A

**Screen Text:** *Remedy*

B

**Jill Frances:** Now the way to do it is to get your witness statement - as you've got here - have a look at what's in there, and if there is some unfavourable stuff in there highlight it, or ring it, or cross it out. But pile... make sure you ring the bits you do want, and then you can cut straight to what really really happens, and if you need to ask any questions back to the background that fit in a bit better within relation to Vinny you can. Do you see what I mean?

C

Alright, let's have a go at that now.

D

**Screen Text:** *Demonstration*

(they stand)

E

**Jill Frances:** Can you give your name?

**Peter Jones:** Peter Jones

F

**Jill Frances:** Do you have any previous convictions?

**Peter Jones:** No

G

**Jill Frances:** Where were you on the sixth of February?

**Peter Jones:** Well, I was in Camberwell going shopping.

**Jill Frances:** Who with?

H

**Peter Jones:** My brother.

**Jill Frances:** And did anything happen while you were shopping?

**Peter Jones:** Well I... yeah, there were some guys there who were watching me.

**Jill Frances:** Alright, thank you

|   |  |
|---|--|
| A | So now you've got to the guys and you can deal with the stuff about why he owes this money and things like that and that would be a way to deal with it rather than dealing with it in the order of the proof - see?   |
| B | <b>Screen Text:</b> <i>Topic for Delayed Replay</i>  |
| C | <b>Jill Frances:</b> Have a seat, so remember: next time you're doing this when you're doing replay after lunch don't be a slave to your proof and do it in that order - do the best order for the witness. OK?  |
| D | <b>Mr Justice Davis:</b> A good clear review from Jill for Naomi to take away, covering all the essential points: <ul style="list-style-type: none"> <li>• Headline - strong headline, clear for her to take away</li> <li>• Playback - some of those examples that she can take that away for next time</li> <li>• A rationale - why it should be avoided, so she can take it away</li> <li>• Remedy - how to put it right, so that she can build on it</li> <li>• And then finally a strong and brief demonstration, so that Naomi goes away with that information, clear review, so that she can build on those skills</li> </ul> |
| E |  |
| F |  |
| G | ***  |
| H | <b>Screen Text:</b><br><br><i>Cross-examination</i><br><br><i>Trainer: Sarah Whitehouse</i><br><br><b>Naomi Carpenter:</b> You've told the court that you live on Manchester Road haven't you?   |

**A**

**Anthony Leonard QC (playing witness):** Yes

**Naomi Carpenter:** And that it's a residential area?

**B**

**Anthony Leonard QC (playing witness):** Yes it is.

**Naomi Carpenter:** And that and Rose Avenue is all part of the residential area around which you live? That's correct?

**C**

**Anthony Leonard QC (playing witness):** Yes it is yes.

**Naomi Carpenter:** Going to the day in question, it was 6pm wasn't it?

**D**

**Anthony Leonard QC (playing witness):** Yes

**Naomi Carpenter:** February the second?

**E**

**Anthony Leonard QC (playing witness):** Yes

**Naomi Carpenter:** And that's objectively two days before January isn't it?

**F**

**Anthony Leonard QC (playing witness):** I think its two days after January.

**Naomi Carpenter:** Yes, correct... and that's really to all intents and purposes the depths of winter isn't it?

**G**

**Anthony Leonard QC (playing witness):** Well you could argue about it but it certainly was... if you're getting to the point it was dark, it was dark, yes.

**H**

**Naomi Carpenter:** And you've also said that there were no street lights on haven't you?

**Anthony Leonard QC (playing witness):** Well, there were...

**Naomi Carpenter:** You said in evidence that the street lights hadn't come on yet.

- A**      **Anthony Leonard QC (playing witness):** Oh I don't think that can be right... no, no... If it was... if it was six o'clock in February, they've got to be on haven't they?
- B**      **Naomi Carpenter:** You've already told the court that they weren't on and in your witness statement you said that the lights hadn't come on yet.
- C**      **Anthony Leonard QC (playing witness):** Oh well, if that's what I said that's what I said but I'm not sure about that.
- Naomi Carpenter:** You drove up and you saw the front door open didn't do?
- Anthony Leonard QC (playing witness):** I did.
- D**      **Naomi Carpenter:** The adrenaline was pumping wasn't it?
- Anthony Leonard QC (playing witness):** It certainly was.
- E**      **Naomi Carpenter:** You were quite angry, it looked like somebody had been in your house...
- F**      **Anthony Leonard QC (playing witness):** Yeah
- Naomi Carpenter:** You quietly opened the door didn't you?
- G**      **Anthony Leonard QC (playing witness):** I did, yes.
- Naomi Carpenter:** Because you didn't want to disturb anybody inside?
- Anthony Leonard QC (playing witness):** No, no.
- H**      **Naomi Carpenter:** So you didn't turn the lights on when you went in did you?
- Anthony Leonard QC (playing witness):** Not the hall lights.
- Naomi Carpenter:** You didn't want to catch whoever was there did you?

- A**      **Anthony Leonard QC (playing witness):** Oh I did.
- Naomi Carpenter:** You heard someone jump...
- B**      **Anthony Leonard QC (playing witness):** Yes
- Naomi Carpenter:** And then what happened?
- C**      **Anthony Leonard QC (playing witness):** Well that's when I went into the kitchen  
          and I saw him in the garden, running away from where he'd jumped.
- Naomi Carpenter:** And what did you do then?
- D**      **Anthony Leonard QC (playing witness):** Well I turned on the kitchen light... it  
          flooded the garden with light.
- Naomi Carpenter:** And what did you do then?
- E**      **Anthony Leonard QC (playing witness):** And then I went out... I, well I spoke to  
          my brother or something... and then I went out.
- F**      **Naomi Carpenter:** And whilst he was running he was 20 feet away from you  
          wasn't he?
- G**      **Anthony Leonard QC (playing witness):** I'm not good on distances, I said that...  
          but yeah 20 feet or thereabouts.
- Naomi Carpenter:** And he was running towards the fence wasn't he?
- H**      **Anthony Leonard QC (playing witness):** Yes he was.
- Naomi Carpenter:** And as he was running he looked back didn't he?
- Anthony Leonard QC (playing witness):** He certainly did.
- Naomi Carpenter:** And you saw him for a split second didn't you?



- A**      **Anthony Leonard QC (playing witness):** Well, it seems longer than a split second, I mean enough for me to see what he looked like.
- B**      **Mrs Justice Whitehouse:** Alright Naomi stop there, thank you.
- \*\*\*
- C**      ***Screen Text:** Headline*
- Mrs Justice Whitehouse:** Naomi - lead lead lead, all the way.
- Screen Text:** Playback*
- D**      **Mrs Justice Whitehouse:** What you did when you began asking the witness questions, as you got top the crucial part of his evidence - which is of course, how much he could see of the burglar as he fled down the garden path - you stopped asking leading questions entirely.
- E**
- And you asked him this; he just told us that he had heard somebody jump, and you then said "and then what happened?" That gave him the opportunity to talk
- F**      about what he'd seen. You then asked him "what did you do?" which gave him a further opportunity to explain what he'd done. And then you asked him a third, wide-open question; "what did you do then?" - and all of those questions were
- G**      asked while the witness was coming to the most important part of your cross-examination - which you gave him the opportunity to ramble and... you lost control of him.
- H**      ***Screen Text:** Rationale*
- Mrs Justice Whitehouse:** The very simple reason why it's important not to do that, is because you knew to hang on to this witness you need to box him into a corner, so that every answer he gives is an answer that you want him to give. It's you who's running this, not him.

A

**Screen Text:** *Remedy*

B

**Mrs Justice Whitehouse:** And the way in which you can ensure that it never happens again is simply never ask... never allow yourself to ask a question which is open. So no questions beginning "why", nothing beginning "what", nothing beginning "where", nothing beginning "when". I'll give you an example of how you might approach it, if you'd like to stand up.

C

**Screen Text:** *Demonstration*

(they stand)

D

**Mrs Justice Whitehouse:** Mr Smith you saw the burglar through the window didn't you?

E

**Anthony Leonard QC (playing witness):** I did.

**Mrs Justice Whitehouse:** The light in the kitchen was on, wasn't it?

F

**Anthony Leonard QC (playing witness):** Yes

**Mrs Justice Whitehouse:** He was 20 feet away from you?

G

**Anthony Leonard QC (playing witness):** He was.

**Mrs Justice Whitehouse:** He was running away from you?

H

**Anthony Leonard QC (playing witness):** Yes

**Mrs Justice Whitehouse:** It was getting dark? Wasn't it?

**Anthony Leonard QC (playing witness):** It was.

**Mrs Justice Whitehouse:** He turned around just once didn't he?

**Anthony Leonard QC (playing witness):** Yes just once.

- A**      **Mrs Justice Whitehouse:** You were still in the kitchen when he turned around?
- Anthony Leonard QC (playing witness):** I was.
- B**      ***Screen Text: Topic for Delayed Replay***
- Mrs Justice Whitehouse:** You see? Have a seat
- C**      (they sit)
- Mrs Justice Whitehouse:** And when you come back later on to do your replay, think about asking only very short, leading questions all the way through.
- D**      **Anesta Weekes QC:** Sarah's review of this advocate was just what the advocate required; "lead, lead, all the way" it was pithy, it was memorable.
- E**      She then went on to demonstrate how she could do that, the demonstration worked because there were no questions of *where, how, when* - she lead all the way.
- F**      She remembered to take down verbatim what the advocate had said so that she could replay it to her, and when she came along to tell her how to improve it was clear guidance.
- G**      ***END***
- H**

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