



The Inns of
Court College
of Advocacy

Advocacy and the Vulnerable

National Training Programme

**Materials for trained Delegates
wishing to become Facilitators**

Context

This bridging course has been created as part of the ongoing iterative development of the national *Advocacy and the Vulnerable* course for criminal practitioners.

It allows for small numbers of trained delegates to enhance their skills to become Facilitators for delivery of training to other delegates.

In due course, A&V training will become mandatory for any advocate wishing to undertake publicly funded serious sexual offence cases involving vulnerable witnesses.

Preparation

Trained delegates will already have completed the minimum eight hours preparation in readiness for a three hour face-to-face course delivered by a Provider. Having completed that aspect of training, you will also have progressed to Stage 3 of the course which is to consolidate knowledge. It involved the viewing of four films, three exemplars and a Registered Intermediary's film.

It is important to note that the exemplars were filmed some time ago and, where they are not consistent with the 20 Principles of Questioning, trainers and trainees should adhere to the 20 Principles instead of the exemplars. They were designed to give an idea of how to approach the cross-examinations and are not intended to be templates or a blueprint.

In completing this training, you will already have drafted your questions for each of the three complainants and will have learnt to adopt the 20 Principles into the construction of questions and their advocacy when questioning a child witness. It is therefore unnecessary for you to complete the currently recommended Facilitator training which involves four small group sessions.

However, you will not have been assessed in terms of your ability to teach the course; to recognise, diagnose and remedy poor practice.

This bridging course allows for an extra hour of training, conducted by two senior Lead Facilitators, with the help of trainee delegates who will have come prepared with their pre-drafted questions.

You will be informed by your Provider when and where the training is to take place. It may well be that it is scheduled alongside regular delegate training. This would obviate the need for specially arranged sessions and allow for you to be assessed by giving feedback to a group of delegates who are fully prepared and at the correct stage of learning.

Feedback to trainee delegates

Not all Facilitators will have experience of training or facilitating learning. Because you are moving from being a recipient of feedback to giving feedback to delegates, the ICCA has decided it is important to stress the need for excellent, accurate and full feedback. What follows is an extract from the *Art of Facilitation Workbook*, the complete version of which is on the ICCA website. If you are unable to download this workbook, your Provider should be able to access it and provide a copy.

Feedback helps delegates learn from their experiences. It is important to give feedback in a way which will not be threatening and increase defensiveness. The more defensive the individual is, the less likely it is that they will correctly hear the feedback.

- Avoid rigid, parental language (e.g. “you always”, “you must”).
- Avoid diminishing your message (e.g. “overall that was good but....”; “well, that wasn’t too bad but....”, “perhaps, sometimes, you might just tweak that a little bit”).
- Keep breathing, relax your posture.
- Ask questions if performances are not quite up to the standard you would be expecting e.g. “The first part of your question was very helpful and I like the way you phrased that however, the second part sounded like it might be leading the witness. How else could you have phrased that?”
- Be encouraging and constructive in giving feedback. Make sure you highlight and compliment a good performance.
- Keep improvement points to one or two key things. Don’t overload. If there is time, you can ask delegates to summarize back what they have heard so you are clear they have taken it on board. Try to do this in a way that does not come over as patronising. “So out of that feedback, what are you taking away for yourself today?” This sounds much better than: “Please repeat back to me what I’ve just said.”
- Focus feedback on observations rather than inferences. Observations refer to what you can see and hear in the behaviour of another person; whereas inferences

20 Principles

You will recall from your own training that the 20 Principles are an important aspect of the course. The Principles govern the modified approach to questioning vulnerable witnesses. They should underpin all training and guidance throughout the lifespan of the A&V course.

The principles have been created after lengthy consultation with experts in the behaviour of children and vulnerable adults in the criminal justice system. A list version is provided in this document below. The full version, including a rationale for each principle is freely available on the delegate pages of the ICCA website.

20 Principles of Questioning Headline List

3 Principles for Preparation

1. GRH
2. Issues
3. Pre-draft

9 Principles for Conduct

4. Rapport
5. Ask, don't talk
6. Chronology
7. Pace
8. No statements
9. Signposting
10. No repetition
11. Behaviour
12. Distress

8 Principles for Questioning

13. No "remember" questions
14. No pronouns
15. Telling someone else
16. No "why" and "how" questions
17. No "tag" questions
18. No compound questions
19. Direct questions
20. No leading questions

One of the three senior trainers on the course, Kama Melly QC, has created a suggested method which you may wish to use to help train others:

1. **Write the question out verbatim as you would like to ask it:** "I put it to you Miss Smith that you did go to the flat with Mr Terrance Brown and Mr Gareth White on Halloween because you wanted the vodka, because you do like vodka, don't you".
2. **Take out the unnecessary preface:** I put it to you Miss Smith that you did go to the flat with Mr Terrance Brown and Mr Gareth White on Halloween because you wanted the vodka, because you do like vodka, don't you.
3. **Check you have started with their proper name, if appropriate, and that avoid pronouns – use names agreed at GRH:** Miss Smith Alex you did go to the flat with Mr Terrance Brown Terry and Mr Gareth White Garry on Halloween because you wanted the vodka, because you do like vodka, don't you?
4. **Take the two parts of the question apart:** Alex you did go to the flat with Terry and Garry on Halloween because you wanted the vodka?
...because you do like vodka, don't you?
5. **Take the inflected statement and turn it into a proper question, so that:** Alex you did go to the flat with Terry and Garry on Halloween because you wanted the vodka?
Becomes: Alex *did you*, go to the flat with Terry and Gary on Halloween because you wanted the vodka?
6. **Take the tag from the end of the question and use it at the start of the question:**
...because you do like vodka, don't you? **Becomes:** Do you like vodka? Did you go to the flat because you wanted the vodka?
7. **Check whether you have multiple issues in one question:** Alex **did you go to the flat with Terry and Garry on Halloween because you wanted the vodka?**
Did you go to the flat?
Did you go with anyone else?
Did you go on Halloween?
Did you go because you wanted the vodka?
8. **Check, now that you have distilled the question, whether you need ask it at all:** Has the witness already said this in the ABE? Has the witness already made such comments elsewhere and it can be dealt with by admission?

Bridging session

Questions for Caroline Lloyd

In this session, there is a list of agreed topics for questions. The list should not be expanded. Delegates will be seated at a large table and should be able to see the flipchart or list of agreed topics.

1. Relationship with Aunty Fay
2. Shed
3. Lollipops
4. Smoking/school
5. Offences

The purpose of this session is to enable trainee delegates to produce a set of questions which they as a group, feel are developmentally appropriate to put to Caroline Lloyd and which challenge her evidence as robustly as possible in the parameters in which they are operating. They should discuss further the language to adopt and the most appropriate approach to be taken with Caroline. It may be that delegates disagree about the tactics or case theory but this is not as important as making sure that the questions are drafted in the most appropriate way. Any side-tracking and case theory discussions should be stopped.

Having been taught this session and further studied the materials and the Art of Facilitation Workbook, you should feel comfortable training delegates by giving accurate feedback as they put forward suggestions for questions.

To start off the process, one delegate should be invited to give a good signpost and then should be asked to pursue that line of questioning in line with the signpost.

At this stage, delegates should be starting to reduce the number of questions they ask and making them more specific and relevant. It is a requirement of your role as a Facilitator to marshal the session in terms of time management and to engage all the learners in the group to contribute and to expose strengths and weaknesses.

None of the following questions are necessary:

- Where was GG's shed?
- Was it a big shed?
- What did GG keep in the shed?

Demonstration teaching session

To help you prepare for this training, you are strongly advised to watch the ICCA's film of one of the senior A&V trainers, Andrew Smith QC, teaching this particular session to a group of four trainee delegates. It is an excellent teaching tool and was widely acknowledged as being informative and instructive.

Competency and assessment

Your training need last no more than an hour. Your Lead Facilitator should give you ample opportunity to demonstrate that you can recognise poor practice and weak questions, diagnose

where a trainee has gone wrong and give a solution by demonstrating good practice or a better question according to the 20 Principles. It is important that feedback is robust and that you are sufficiently familiar with the 20 Principles and the technique to be able to give constructive feedback.

Unlike the delegate stage of training, Facilitator training is pass or fail. Once you have taken part in this bridging session, your Lead Facilitators will make a recommendation as to whether you have demonstrated sufficient competency to go on to train delegates. You will be advised of the outcome.

You can find attached to these training materials the Ready/Not Ready form which needs to be completed in respect of each candidate.

If you are successful, your Provider will send your details to the Bar Council if you are a barrister and to the Law Society if you are a solicitor.

Criteria for successful completion of training

At the conclusion of each Lead Facilitator and Facilitator training session, the appointed trainers will jointly assess the ability of trainees. Each Lead Facilitator and Facilitator will be assessed according to the following set of criteria:

Candidate's Name	
Date:	

Three principles for preparation	
Principle	Ready/Not Ready/In need of further training; Comments
Comply with the Ground Rules Hearing (GRH)	
Correctly identify the issues	
Pre-draft questions in advance	

Nine principles for conduct	
Principle	Ready/Not Ready/In need of further training; Comments
Avoids lengthy rapport building	
Ask questions, do not "talk" to the witness	
Adopt a sensible chronological order	
Keep an appropriate pace	
Avoid "statement questions"	
Signposts correctly	
Avoid repetition	
Adopt appropriate behaviour towards the witness	
Watch for signs of distress	

Eight principles for questions	
Principle	Ready/Not Ready/In need of further training; Comments
Avoid asking if a witness remembers something	
Avoid the use of pronouns	
Exercise special care when asking if and what a witness told someone else	
Avoid asking 'why' and 'how' questions	
Avoid 'tag' questions	
Avoid compound questions	
Avoid direct focused questions	
Avoid leading questions	

Ability to diagnose and correct errors and demonstrate good practice	
Principle	Ready/Not Ready/In need of further training; Comments
Recognise areas of concern	
Diagnose problem areas	
Give accurate and constructive feedback according to 20 Principles of Questioning	
Give useful demonstration(s)	

Overall Ready (R) / Not Ready (NR) / In need of further training (FT):

Signed:

Date: