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JG&P

EVIDENCE IN HEARINGS AND APPEALS

## Tim's Top Tips

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EVIDENCE IN HEARINGS AND APPEALS

#1

Illuminate don't exaggerate;  
its all in the edit.

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**Example**

Police Review.

- Current and Historic disorder at venue.
- Door Supervisor previously accused of assault while on duty. That incident resulted in Expedited Review Proceedings.
- Following statement given in a subsequent Review Application.

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## Police Evidence

On [REDACTED] at 5.06am a male can be seen on CCTV in a door supervisor's uniform with a door supervisor's badge on his arm. This supervisor can be seen trying to sort out a disagreement with other persons outside [REDACTED]. The door supervisor then begins assaulting people in the street and when the police arrive further assaults a male in front of them. The supervisor is arrested who is also found in possession of drugs and assaults a police officer at the station.

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- Magistrates' Courts expect that Statements stand as evidence in Court.
- Reduces Court Time.
- Inhibits the use of 'ambush' evidence.
- Allows Parties to properly prepare cross examination.
- With sequential disclosure it is important therefore that Respondent addresses issues raised in their statements.
- You are not talking to yourself.

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EVIDENCE IN HEARINGS AND APPEALS

- One picture is worth ten thousand words. [Chinese Proverb]
- Personal data is information that relates to an identified or identifiable individual. – Should evidence be 'prepared' by original controller before transmission? It's not just your problem.
- Lawful basis for processing:
  - Legal obligation? Public task?
  - Consent, Contract, Vital interest, Special Category, Criminal offence **X**
  - Document procedure and basis.

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EVIDENCE IN HEARINGS AND APPEALS

## #3

### Complete Applications only please!

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- The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005
- Notification of review (29):
  - *...the person making the application shall give notice of his application to...the holder of the premises licence...a copy of the application for review together with its accompanying documents, if any, on the same day as the day on which the application for review is given to the licensing authority.*
  - Are missing Exhibits therefore an issue? Does this make application invalid?
- Principles explored in "*Birch House Business Centre -v- Denbighshire December 2010*"

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EVIDENCE IN HEARINGS AND APPEALS

- Put your best foot forward.
- Re-serving Committee Papers alone = missing an opportunity.
- Bolster your defences, sharpen you points, update your evidence 'Hearing De Novo'

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- Expert evidence to support your case, address the stated issues or reset the agenda.
- What does the decision notice identify as the key pieces of evidence?
- Can the chosen Expert address these issues? Horses for courses.
- An independent Expert is your friend. A friend will tell you when you're wrong. Help you avoid expensive mistakes.
- **Remember** - With sequential disclosure it is important that Respondent addresses issues raised.
- Read your Expert report and take recommended action.

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EVIDENCE IN HEARINGS AND APPEALS

- Expert evidence to support your case, address the stated issues or reset the agenda.
- What does the decision notice identify as the key pieces of evidence?
- Can the chosen Expert address these issues? Horses for courses.
- An independent Expert is your friend. A friend will tell you when you're wrong. Help you avoid expensive mistakes.
- **Remember** - With sequential disclosure it is important that Respondent addresses issues raised.
- Read your Expert report and take recommended action.

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EVIDENCE IN HEARINGS AND APPEALS

#6

He who controls the Bundles.....

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EVIDENCE IN HEARINGS AND APPEALS

- The bundles tell the story. The first and the last word.
- Make sure your evidence is included, in the form you want it, in a position that reflects its importance. Beware the lonely and rarely visited Annexes.
- Agreeing the bundle more than a bureaucratic step.

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EVIDENCE IN HEARINGS AND APPEALS

#7

*"He will win who knows when to fight  
and when not to fight."*

Sun Tzu – The Art of War [5<sup>th</sup> Century BC]

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EVIDENCE IN HEARINGS AND APPEALS

- How many Appeal compromise at Court?
- Analogous to CPR Rule 36 - OFFERS TO SETTLE
- Costs consequences following judgment (36.17)
- 36.17(7)(b) costs (including any recoverable pre-action costs) on the indemnity basis from the date on which the relevant period expired;
- interest on those costs at a rate not exceeding 10% above base rate;

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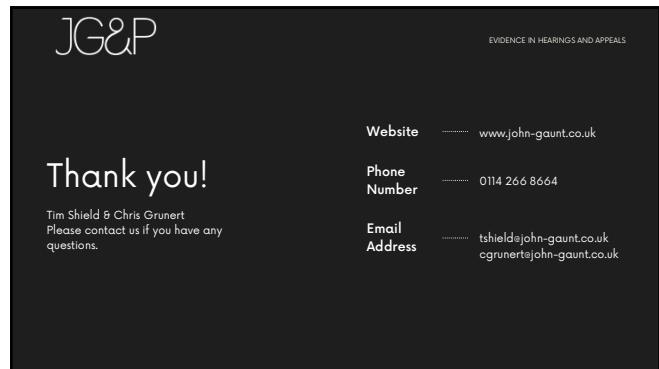
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Thank you!