







JG&P EVIDENCE IN HEARINGS AND APPEALS

Tim's Top Tips

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#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 10th September 2018 at 5.06am a male can be seen on CCTV in a door supervisor's uniform with a door supervisors badge on his arm. This supervisor can be seen trying to sort out a disagreement with other persons outside Ruby Rooms. 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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#2

Statements speak for you.

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- Magistrates' Courts expect that Statements stand as evidence in Chief.
- 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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#2

Wonderful CCTV | Pitfalls.

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- 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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#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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#4

Refresh don't recycle

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- 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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#5

(Relevant) Expert evidence

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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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#6

He who controls the Bundles.....

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- 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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#7

“He will win who knows when to fight
and when not to fight.”

Sun Tzu – The Art of War [5th Century BC]

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- 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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Thank you!

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