

TEACHER'S NOTE: EXAMINATION IN CHIEF ROLE PLAY

It is very important that students have a basic understanding of the rules of evidence including examination-in-chief, cross examination and leading questions. They are central to the conduct of a successful trial.

Examination-in-chief

Examination-in-chief is the examination of a witness by the party calling that witness.¹ In the examination-in-chief you want the witness to give his/her version of events. The witness cannot be asked leading questions in the examination-in-chief. **You cannot put words into their mouth.**

It is the witness who is to tell what he/she saw, did or heard to the judge and jury, not for the barrister to explain what happened.

- Non-leading questions:
 - Ask who/ what/ where/ when/ how/ what happened next... *etc.*

Leading questions are questions that suggest the answer. You would be leading the witness and not letting him/her give his/her version of events.

- Non-leading questions should be in the form of:
 - “Who were you with?...”
- A leading question would be:
 - “You were with Eoin, weren’t you?”

For the most part a witness can only talk about things he/she saw or heard. He/she cannot talk about things other people told them they saw or heard. This is called ‘hearsay evidence’. It must be ‘I saw Mary crossing the road’ not ‘John told me he saw Mary crossing the road’. Certain witnesses, called ‘expert witnesses’, are allowed to give hearsay evidence (*see Explanation of Legal Terms on page Error! Bookmark not defined.*)

¹ See 'Notes & Instructions' on Examination-in-chief in the module 'The Mock Trial'

Exercise 1

When examining a witness (called *examination-in-chief*) you cannot ask leading questions. This is easier when you don't know the answers to the questions you are asking.

- ◆ Divide the class into groups. Appoint one person to ask questions of the others about some event that has taken place - for example, a concert, a holiday, what happened last Christmas.
- ◆ Encourage use of words 'who', 'what', 'when', 'where', 'why'.

Exercise 2

This exercise will demonstrate how difficult it can be to ask the questions when you know the answers and how hard it can be to avoid asking leading questions.

- ◆ Distribute *Student Handout: - Examination-in-chief: Story of events*
- ◆ Assign roles of Orla and Eoin. Assign person (Niamh) to ask questions
- ◆ Using Orla's story of events in the *Student Handout*, Niamh questions Orla first and then Eoin to find out what happened

Note: the names have been chosen solely to help explain what is required of students.