

# Cross examination tips and tricks

Getting the best out of expert witnesses



# How can you support your witnesses

- Experienced vs new
- The basics
  - Can they explain the limits of their expertise?
  - Have they done a site visit?
  - Does their argument make sense?
  - Do they understand the regulatory framework?
  - Practice Note 2014
- Watch for advocacy language – “we” or “us”

# Feedback on expert evidence

- Respect the roles
- Constructive feedback – minimise avenues for cross
  - Facts vs opinions
  - Evidence of subjectivity, biases
  - Acknowledgement of limitations / balance
- What don't they want to be asked?
- Skeletons in the cupboard – work for others, inconsistent evidence?

# Preparing for cross of other witnesses

- Use your technical experts
- Really understand areas of disagreement
  - Is the disagreement about facts, methods or opinions?
  - Conservatism / risk
  - Is someone out on a limb?
  - Personal traits
- What are they likely to say?

# Challenges for technical experts

- Client budgets
- Last minute changes/surprises!
- Guidance documents can be out of date .. Or just wrong!
- Technical experts with an agenda
- Level of engagement of counsel with technical issues