

MARY TURNER/THE TIMES

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Roman Abramovich was "meticulously prepared"; Sherlock Holmes could have avoided a trip to the cells if he'd followed Watson's advice to not be too clever

## 'Let's give smartarse a wide berth'

With fortunes and reputations at stake, courses for witnesses are in demand, says **Grania Langdon-Down**

Dr Watson urges Sherlock Holmes not to "try to be clever" as he prepares to give evidence in the trial of the arch criminal Jim Moriarty in the denouement of the recent *Sherlock* series on BBC One. But, unable to resist several cutting put-downs, the great detective earns himself a trip to the cells for contempt of court.

He is not the only witness who struggles with giving evidence — whether in court or at a public inquiry or a select committee hearing. For many it can be a nerve-wracking ordeal.

Roman Abramovich, the owner of Chelsea, chose to go through a witness familiarisation course, including a mock cross-examination (it is never called "coaching" and not even "training") before he gave evidence in the recent multibillion-pound battle of the oligarchs at the High Court.

Judgment in the case, in which he was sued for breach of trust and breach of contract by Boris Berezovsky, the exiled Russian businessman, has been reserved. But, with each side calling the other a liar, the result will depend on who the judge believes presented the more credible case.

When quizzed about the familiarisation course by opposing counsel, Abramovich, who gave evidence in

Russian through a translator, said: "They told us that you need to breathe slowly, that you have to look at the judge, that there is a certain etiquette that you have to comply with."

It sounds straightforward, but a poor performance can wreck a case and undermine the credibility of the witness's evidence. This has prompted a growing demand for courses for lay witnesses.

Abramovich's course was run by Bond Solon, a legal training consultancy, which has had a 20 per cent growth in demand, with nearly 1,000 witnesses taking part in sessions over the past year. Along with big civil cases, it has helped witnesses appearing before the Leveson inquiry, the Ladbroke Grove rail crash inquiry, the inquest of Diana, Princess of Wales, big-money divorce cases, as well as in hearings and arbitrations abroad.

Coaching witnesses on their evidence is prohibited in both the civil and criminal courts. The Court of Appeal laid down safeguards for criminal trials in 2005 but accepted that "witnesses should not be disadvantaged by ignorance of the process nor when they come to give evidence, taken by surprise by the way it works".

The guidelines are considered a benchmark for civil cases. Courses

include the theory, practice and procedure of giving evidence, including cross-examinations in mock hearings, but they are based on examples unrelated to the forthcoming case. Solicitors turn to external bodies to keep it at arms' length and so avoid any suggestion of coaching.

Mary Malecka, a barrister who put Abramovich through his paces, says: "It is fundamental that you tell the truth. When you are nervous, it can be difficult to listen to the questions, so you have to make sure you understand what is being asked and think before

the judge and answer to him or her so you don't answer in kind. Don't criticise or challenge counsel's line of questioning. Also be wary of the barrister who is very courteous — don't be fooled into thinking he is your friend."

So how did Abramovich do? He gave textbook responses to complicated questions: "Forgive me could you please split your question up into smaller parts? I am not sure I understood everything." However, he was picked up by the judge for suggesting that Berezovsky's counsel was getting confused. "Don't criticise his understanding," he was told by Mrs Justice Gloster. "What's relevant to me is your answers, not whether he got it right or wrong or whether he is confused."

For someone who admitted that he gets so nervous he does not give public statements, he remained calm under pressure during nine days in the witness box. Berezovsky's counsel described it as a "highly controlled performance" by Abramovich, who was "meticulously prepared".

Solicitors certainly do not want their witnesses to crumble under pressure, says Fran Pryor, the academic head of the College of Law's witness familiarisation courses. "It also doesn't help the court process if witnesses are like rabbits caught in headlights."

In the US, says one City lawyer, "you would be regarded as crassly incompetent or negligent if you didn't put your client through his or her paces in a way that, frankly, would cause us to throw our hands up in horror. I was sceptical about the familiarisation courses but, having seen the results, I can see their value in demystifying the process."

They do not come cheap, costing about £850 a witness. But with reputations and possibly millions on the line, witnesses would do well to heed Dr Watson's advice: "Intelligent is fine. But let's give smartarse a wide berth."

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you speak. If you don't know something, say so — don't speculate as you would sitting round a dinner table."

She highlights cross-examination techniques such as a question covering multiple points that might trap the witness into an inconsistency, repeated questions or ones that are fired at a rapid pace or demand a yes or no answer. "The barrister may sound irritated or sarcastic or disbelieving," she says. "Ignore the tone of voice, turn to