

**How to moot**

**Getting Ahead  
Programme 2019-20**

**BPP University Law School**



**BPP**

UNIVERSITY  
LAW SCHOOL

# Introduction

- What is mooting?
- Why should you do it?
- How many of you have done it before?
- How can we help?



---

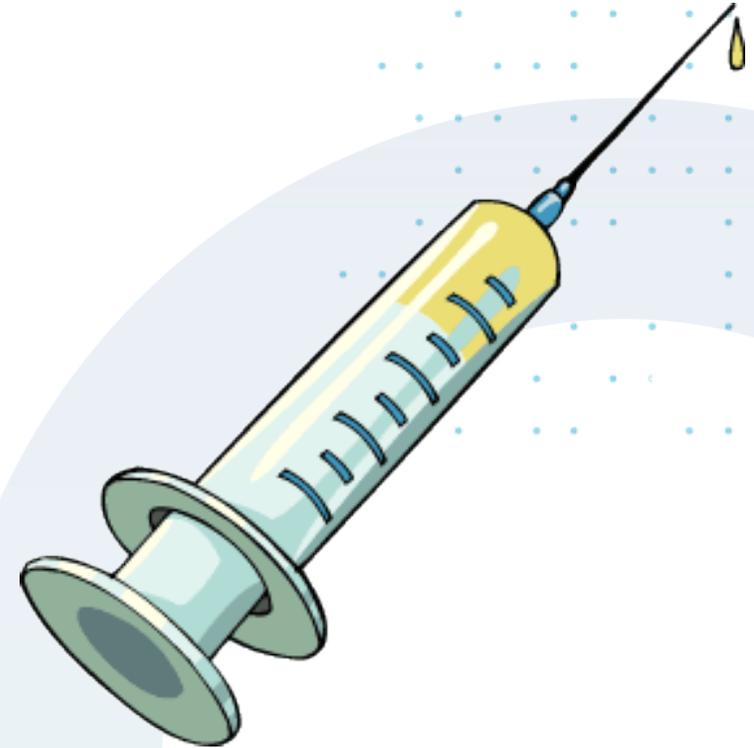
# The moot problem

---



# The scenario

- Vaccination case.
- C (15) is daughter of Appellant and Respondent who are divorced parents.
- High Court on application from Father ordered vaccination of C (15) against the wishes of Mother and C.
- Appeal is by Mother against this decision to the Court of Appeal. The Father resists the appeal



# The paramountcy principle

## 1. Welfare of the child

(1) When a court determines any question with respect to –

(a) the upbringing of a child;

...

the child's welfare shall be the court's paramount consideration

*Children Act 1989*

A young man with dark hair, wearing a dark suit jacket, a white collared shirt, and a white pocket square, stands in a library. He is smiling and holding a blue folder or notebook. Behind him are wooden bookshelves filled with numerous law books. The books are organized by color and title, including 'ENGLISH REPORTS', 'FAMILY LAW REPORTS', and 'LAW OF THE PEOPLE OF THE STATE OF TEXAS'. The lighting is warm and focused on the man.

---

# Preparation

---

# Preparation

“Give me six hours to chop down a tree and I will spend the first four sharpening an axe.”

*Abraham Lincoln.*

# Preparation – Identifying the issues

- Understand the **problem**
- Identify the **test**
- Understand what **you are asking** the Judge to do
- Understand what **your opponent is asking** the Judge to do
- Identify the **issues**
- Distinguish between **relevant and irrelevant** facts

# Preparation – Justifying your submissions

- Read the **authorities**
- Find **supporting material**
- Create a list of **propositions**
- Justify your propositions with **evidence or analysis**
- Remember – you are trying to persuade!



---

# Formalities

---



# Fear of the unknown...

- What do I wear?
- What do I call the Judge?
- What do I call my opponent?
- What do I call the parties?



# Starting your submissions

- Introductions
- Indicate who is doing what
- Tell the court what you seek to persuade them to do
- Get on with persuading them!





---

# Delivery

---



**BPP**

UNIVERSITY  
LAW SCHOOL

# Delivery

Over animated  
& distracting

Calm down!

Relaxed,  
confident,  
intoned.  
Passion &  
energy

Boring

Dull &  
unengaging

Performer's perception  
of their own performance

Listener's perception  
of the performance

# Delivery – Two ends of the spectrum...



# Delivery - Variety

- Your voice is a tool, use it
- Vary your tone, pitch and speed for emphasis and impact
- Engage the listener and highlight your strongest points



# Find your own style

- Functional and persuasive advocacy
- Observe others
- Practice, practice, practice
- Keep it simple where you can.
- **BE YOURSELF!**



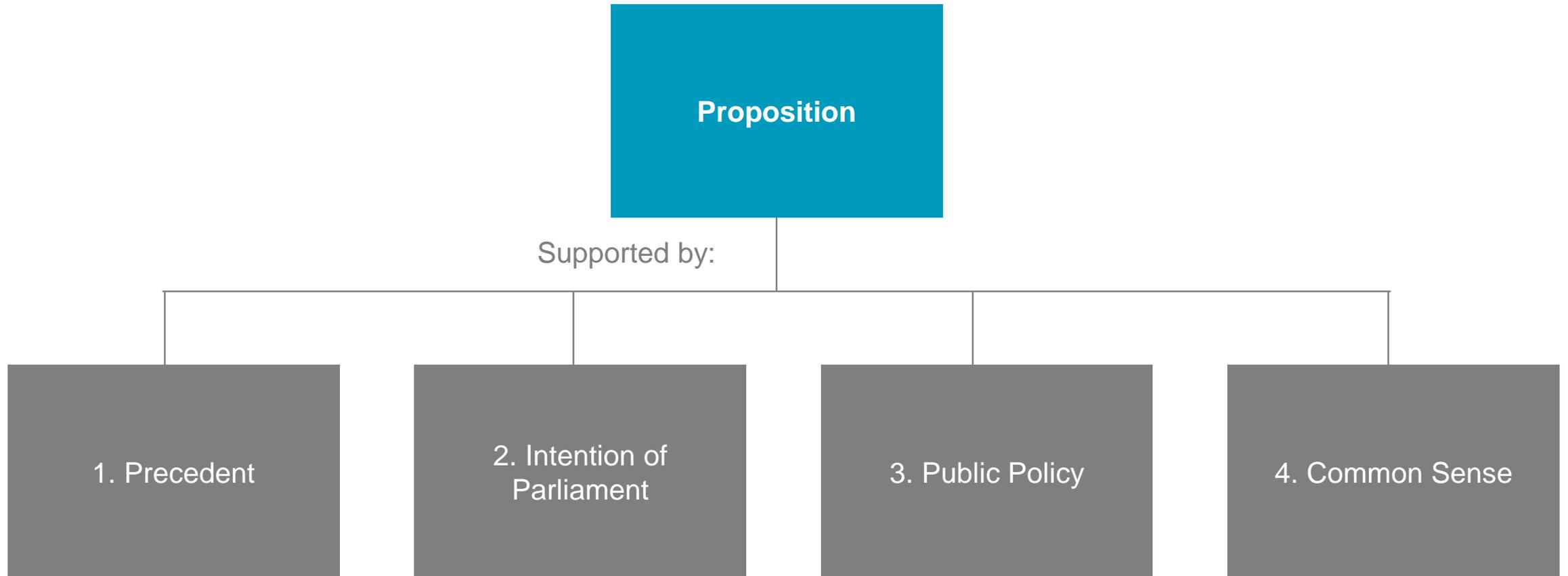
---

# Structure

---



# Structuring a submission



# Your propositions become the Judge's judgment

**P1:**  
The Medical  
Evidence in the case  
is "all one way"



**P2:**  
The contrary case is  
therefore one based  
not on evidence



**P3:**  
As an elementary  
matter of law, the  
Court can only  
proceed on  
evidence



**Judgment in  
your favour**

Judge agrees

Judge agrees

Judge agrees

# The impact of good structure



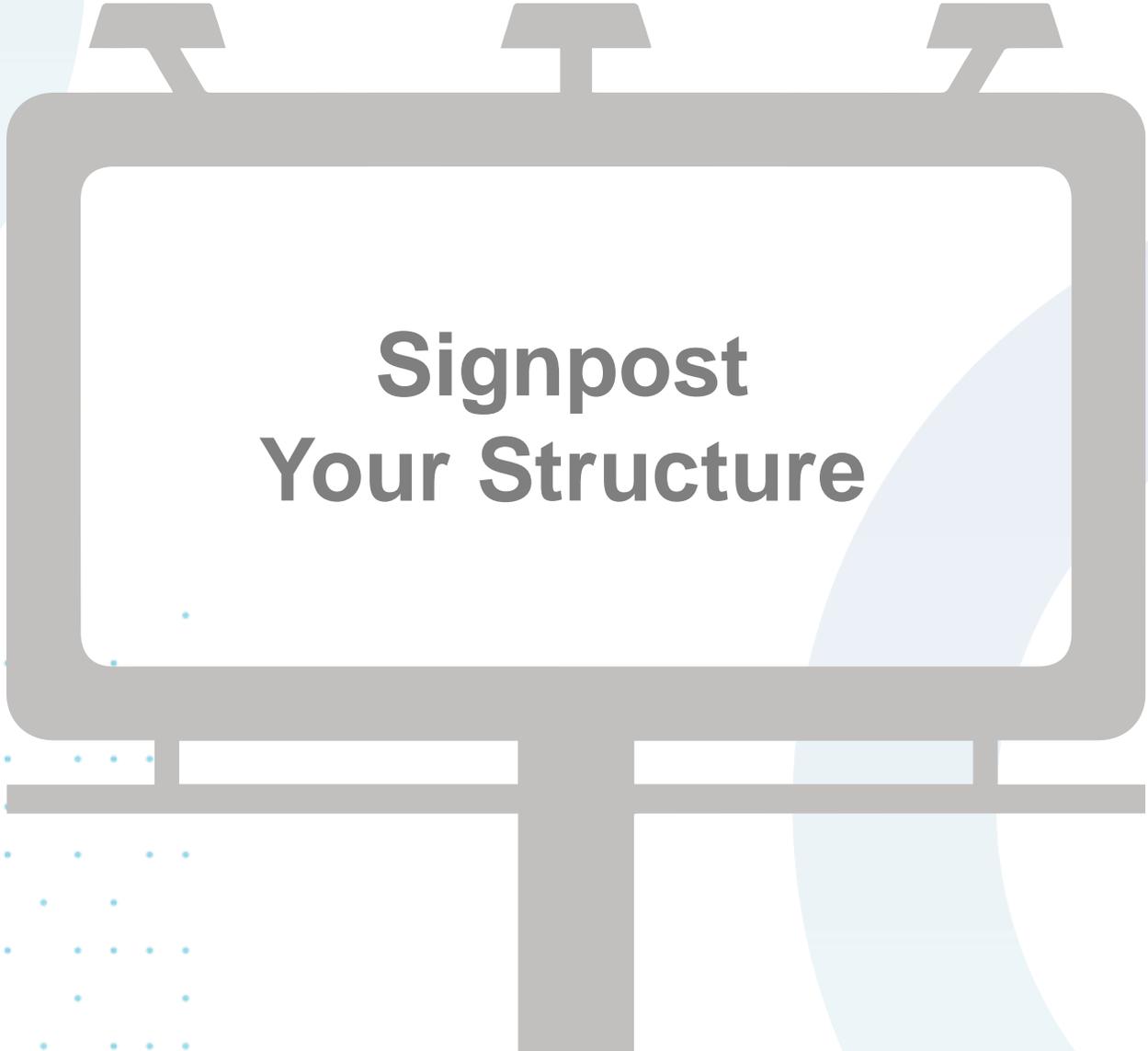
---

# Signposting

---



# Signposting



**Signpost  
Your Structure**

# Signposting – where are we going?



# Signposting between submissions



---

# Skeleton arguments

---



**BP**

UNIVERSITY OF  
LAW SCHOOL

# Skeleton arguments: Format

## 7. Put here the issue or question in the moot

Subheading – i.e sub-part of the question (if necessary)

### 7.1 Proposition 1

- support for proposition [reference];
- support for proposition [reference];
- support for proposition [reference];

### 7.2 Proposition 2

- support for proposition [reference];
- support for proposition [reference];
- support for proposition [reference];



# Skeleton arguments: Using them

## Ground of Appeal C – C’s wishes and feelings

10. The wishes and feelings of C are not a decisive factor:

- a. They are important but not determinative.  
See *F v F (MMR Vaccine) [2019] EWHC 2683 (Fam)*
- b. Fawcett J saw and heard the evidence of C in the lower Court and formed a view of the genuineness of these views.
- c. C is 15, and teenagers commonly hold views, often strongly, contrary to their best interests.



---

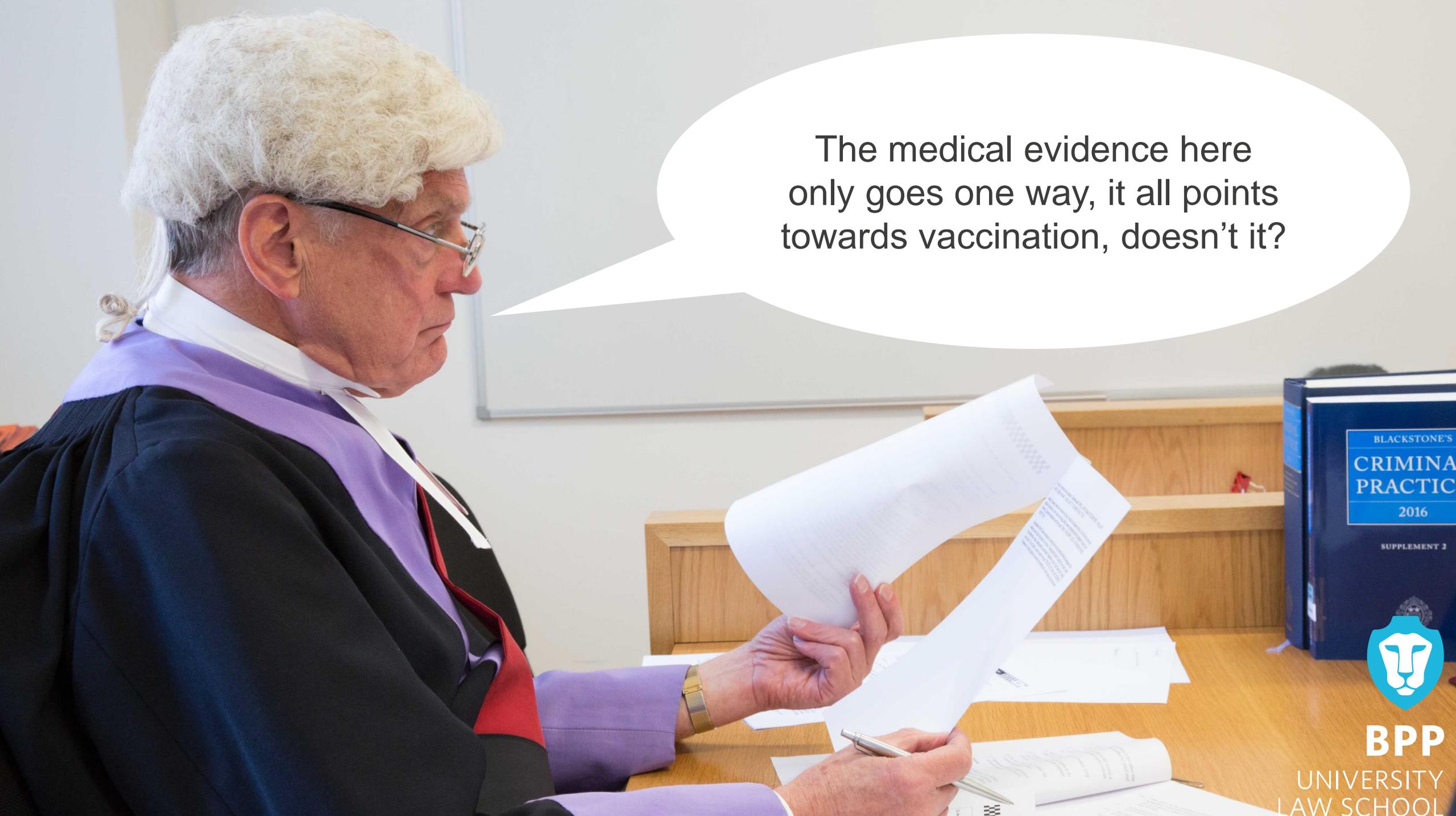
# Judicial intervention

---



**BPP**

UNIVERSITY  
LAW SCHOOL

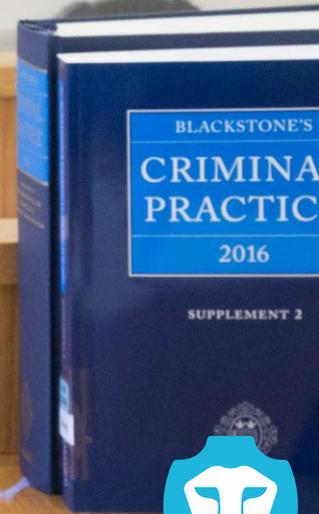


The medical evidence here only goes one way, it all points towards vaccination, doesn't it?



**BPP**

UNIVERSITY  
LAW SCHOOL



# Questions: Don't ramble



# Questions: Don't ignore it!



# Questions: Don't be afraid to take a moment



**Keep calm**



# Use skeleton to respond to Judicial Intervention

“My Lord I take up that point at paragraph 4.5, I am happy to deal with that point now if Your Lordship so wishes....”

**Return to where you were, again,  
with reference to the skeleton**



# Use skeleton to respond to Judicial Intervention

“My Lord, before we diverted to look at the issue of X, I had reached Paragraph 3.3 of my skeleton, perhaps I can return there now and ....”

**Invite involvement from the judge  
(via skeleton)**



# Use skeleton to respond to Judicial Intervention

“Your Lordship will see that I’ve set out 3 alternative ways to find that the Contractual term is incorporated, clearly you only need to find that any one of these is arguable for today’s purposes. I propose to take you through each of these in turn, unless Your Lordship directs me otherwise....”

Looking at your skeleton, it is the 2nd point that interests me.



# If all else fails...



*(\*this is far from ideal...)*

---

# Citing authorities

---



**BPP**

UNIVERSITY  
LAW SCHOOL

# Authorities: Top tips

## 1. State the proposition of law for which you seek to rely on authority:

Advocates will be required to state... the proposition of law that the authority demonstrates, and the parts of the judgment that support that proposition.

**Practice Direction (Citation of Authorities) [2001] 1 WLR 1001w**

## 2. ONE authority per point.

“If it is sought to cite more than one authority in support of a given proposition, advocates must state the reason for taking that course.” PD

## 3. Be scrupulous.

Do not:

- Misquote authority
- ‘spin’ the authority
- Conceal authorities

4. Online authorities are fine. But NB that the headnote from the ICLR is ‘Citable’ as the judges will approve them

5. Copy one page of authority onto one page Of A4. Increase page size to 125%.

## 6. Do not abbreviate ORALLY

- R = ‘the crown’ or Regina
- v = ‘and’

Give full words for reference

7. Identify the level of authority

8. The judges in the court of appeal give judgment. In the House of Lords, they made speeches, Supreme Court give judgment!!

9. Keep in mind WHICH Judge you are quoting.

# Authorities: Citing them orally



# Over to you - Applying the principles

Watch the submissions and consider:

1. How **easy to follow** are the submissions – and why?
2. How **engaging** are the submissions – and why?
3. How **clear** are the submissions – and why?



**Thank you**  
**Any questions?**

**<http://www.bpp.com/events>**



---

**For UK admissions**

**Telephone: +44 (0)33 0060 3100**

**Fax: 020 7404 1389**

**Email: [admissions@bpp.com](mailto:admissions@bpp.com)**

**[bpp.com/courses/law](http://bpp.com/courses/law)**

**For International admissions**

**Telephone: +44 (0)20 7430 7065**

**Email: [internationaladmissions@bpp.com](mailto:internationaladmissions@bpp.com)**