

School Mock Court Case Project Teachers' Guide

Contents

Contents.....	1
Introduction	2
Pupil Roles.....	3
• Solicitors	3
• Witnesses	3
• Gown Makers	3
• Journalists.....	3
• Artists	3
• Allocating Roles	4
The Process in the Real World	4
The Process in the Mock Court Project.....	5
• Initial Writ.....	5
• Initial Defences.....	6
• Initial Writ Amended	7
• Initial Defences Amended	8
Productions	10
In Court	11
How the Project is Marked	14
• Solicitors	14
• Gown Makers	14
• Witnesses	15
• Journalism	15
• Artists	16
• Others.....	16

Introduction

Welcome to the School Mock Court Case Project. This project revolves around the case between the Byte Family (The Pursuers) and SMC Insurance (The Defenders).

Whilst on holiday in France the Byte's daughter Apple, who had been left with their neighbours the Sim family, organised a party in their house. Things got out of hand and damage was caused. What actually happened depends on who you believe (of course) but when the Bytes filed a claim with SMC Insurance they refused to pay.

The Byte family took SMC Insurance to court to try and get the money they felt was due to them. SMC Insurance defended their side trying not to pay anything. This is the case that this project revolves around.

Before going any further it is vital that you have access to the online resources on the School Mock Court Case Project website as they will be referred to.

At this point it is worth downloading them all and familiarising yourself with the arguments of both sides and the various documents available.

Go to www.mockcourt.org.uk click on 'login' (top right) and download the Teacher User Guide (green button at the bottom). This will explain how to use the website and where to find the resources etc.

I'm sure you will all have heard verdicts in criminal cases – guilty, not proven and not guilty and the phrase 'beyond reasonable doubt'. In criminal cases the charge has to be proven by the prosecuting solicitors beyond reasonable doubt for a verdict of guilty.

This is very different in civil cases such as ours. In a civil case the Sheriff simply decides on the balance of probabilities which is more likely – the Pursuer's version of events or the Defender's version of events. This often comes down to which witnesses are more believable, although the Pursuer still has to prove their case (including backing it up with figures)

For this reason, it is vital that your witnesses know their story as well as possible, can answer their own solicitors' questions confidently and can cope with awkward questions under cross-examination.

Pupil Roles

Your class will be split into two teams with half as Pursuers and half as Defenders. Within each team there are various roles that the children will take:

Solicitors

There will be 2 solicitors. Their main roles are to prepare the court documents and to represent their side in court. However, to do these properly they need to know the case inside-out. Right from the start they will need to examine all the documents and identify the key points from both sides' point of view.

Witnesses

Each team can have up to 3 witnesses who will support their side of the argument when questioned in court. Again, they need to know the story as fully as possible so that they can answer questions in court. The questions from their own solicitors are easy to prepare for as they will know them in advance. However, they will also face cross-examination from the other side's solicitors when they can be asked anything. They need to be confident in their roles and be able to think quickly. Witnesses will also be expected to keep a diary with 3 entries in it completed at appropriate times during the whole project. **Imagination** – thinking outside the box! How imaginative can you be with your case?

Gown Makers

Rather self-explanatory. Their responsibility is to make the gowns the solicitors will wear in court. They should keep a diary of the process including design ideas, photos, lists of materials etc. All materials used should be sourced without cost making use of anything they can find or source for free themselves.

Journalists

During the project they will be expected to complete 3 newspaper front pages. Each one must include an article about the case and 2 or 3 other articles about current items in the news. They must also research the Sub Judice law and produce an article explaining it in simple terms. They should also make sure that the articles written about the case comply with the Sub Judice laws.

Artists

The artists will be expected to produce 3 pieces of art. One of these will be a court sketch done during the case. The others are up to you. These may be things that can be submitted

as evidence, or something completely different. For 3D objects a photo should be submitted.

Allocating Roles

It is up to you how you split the class. If you have a small class it may be that there are pupils who take on more than one role. You may also create the newspapers as a whole class activity or all take on roles as artists – it's up to you as long as all the roles are covered and everyone has a role.

Each team will be paired with an opposing team from another school. These will be your opposition with whom you will exchange documents and productions (evidence) and will meet in court.

The Process in the Real World

In the real world the initial writ is served and the initial defences written in reply.

The Initial Writ is the document created by the Pursuers that states what it is they are claiming from the Defenders and why. The Initial Defences state what the Defenders accept, what they are contesting and why.

There is then a flexible period of adjustments during which both sides can amend their document until both are happy.

These documents will be combined to form what is known as the Record for the case. This is presented to the court as the basis for the case.

At this point it goes to court.

Clearly this can't happen with the School Mock Court Case Project as there is a finite and relatively short time in which to get from the initial writ to the final record.

The Process in the Mock Court Project

Initial Writ

Before starting it is essential that everyone involved is as familiar with the case as possible. All the documents available should be examined to identify what they say and how they impact the different sides. The more familiar everyone is with the case the more they will get out of the project.

There are templates for the initial writ and initial defences included in the online resources which should be used in conjunction with these comments.

This document sets out the case. As well as the header items which should be completed to identify the relevant parties etc., it must also include **all** the items being claimed for under CONDESCENDENCE item 2.

Nothing can be added once the initial writ has been submitted so it is essential all items to be claimed for are researched from the documents provided and included.

Item 2 should start with a paragraph outlining the main events and be followed with a list of the items being claimed for, why they are covered and how much is being claimed. Finally, under item 3, details of the Defenders actions so far:

Example (*made-up, not from this case*):

2. The Pursuers, having fully paid their premiums to the Defenders for Home Insurance (policy number 1234QWERTY5678) claimed on this insurance following events at their home on 5 November 2011 as detailed below:

On this day Fred Bloggs invited a few hundred close friends to his parents' house for a small get together whilst his parents were away [fill in the rest of what happened here] The pursuers have suffered financial losses as listed below:

- a. Under Part A – Buildings (page 14 of the Insurance Policy) eight hundred and eleven pounds and fifty-three pence (£811.53) for repairs to a broken toilet.
 - b. Under Part F [*and so on*]
3. The Defenders have declined to pay items a, c [*and so on*]

The Defenders have accepted liability for and made a partial offer of 23p in relation to item b.

.... [*and so on*]

Initial Defences

This should set out the Defender's position on each item in the Initial Writ. For each one there are 3 possible responses:

- a) **Admitted** – This is not being contested and is accepted as true.
- b) **Not known** – As it suggests, these are things that are not known and are considered irrelevant.
- c) **Denied** – Not accept and will prove otherwise. These should also include **Explained and averred** – Your version of events.

| *Aver (verb) past tense averred : state or assert to be the case.*

Example:

NOTE: Sections 1 and 3 should also be responded to although, unless there are mistakes, these should all be admitted.

2. **Admitted the Pursuers have paid their premiums to the Defenders. Admitted there was an event at the Pursuers property on 5 November 2011.**

Not known if the friends Fred Bloggs invited to his parents' house for a small get together whilst his parents were away were close friends or not [and so on for the rest of the story breaking it into bits].

a) **Admitted** damaged toilet covered under Part A – Buildings (page 14 of the Insurance Policy). **Denied** eight hundred and eleven pounds and fifty-three pence (£811.53). **Denied** liability for repairs to a broken toilet. **Explained and averred** the amount claimed is excessive. **Explained and averred** the damage was not caused at the time the Pursuers claim.

b) **Admitted**

Initial Writ Amended

The Initial Writ should be amended to show how the Pursuers are going to prove their version of events.

It should be noted at this point that unless something is mentioned in either the Initial Writ Amended or the Initial Defences Amended then it cannot be raised in court. It is therefore essential that you mention here anything you plan on using in court.

Example:

2. **On this day Fred Bloggs invited a few hundred close friends to his parents' house for a small get together whilst his parents were away [fill in the rest of what happened here] The pursuers have suffered financial losses as listed below:**

a) Under Part A – Buildings (page 14 of the Insurance Policy) eight hundred and eleven pounds and fifty-three pence (£811.53) for repairs to a broken toilet.

We have two witnesses who saw partygoers dancing on the toilet and breaking it. We will produce a photo of the toilet taken only days before the event. We will produce a quote for the repairs.

b) Under Part

Initial Defences Amended

As above, this is the Defenders chance to state how they will be defending the claim.

Example:

3. **Admitted the Pursuers have paid their premiums to the Defenders. Admitted there was an event at the Pursuers property on 5 November 2015.**

Admitted Fred Bloggs invited a few hundred close friends to his parents' house for a small get together whilst his parents were away [and so on for the rest of the story breaking it into bits].

a) **Admitted** damaged toilet covered under Part A – Buildings (page 14 of the Insurance Policy). **Denied** Eight hundred and eleven pounds and fifty-three pence (£811.53). Denied liability for repairs to a broken toilet. **Explained and averred** the amount claimed is excessive. **Explained and averred** the damage was not caused at the time the Pursuers claim.

**We will produce a quote for the actual cost of repairs.
We have witnesses who can confirm that the damage to the toilet pre-dates the events of 5 November 2015 by at least 2 months.**

b) **Admitted**

**Remember, if it is not mentioned in the Record
then it cannot be raised in Court.**

Productions

This is the legal term used for evidence that is produced in court. This can include documents, photos, actual items etc. Everything you intend to use (or might use) in court must be included in your list of Productions (and nothing else).

If it is not in the list of Productions then it cannot be used as evidence in court. If not spoken to in court, it will have no effect, so the solicitors need to know what is being produced.

The numbering process for productions may seem a bit strange:

- Pursuers productions should be numbered 6.1, 6.2, 6.3 etc.
- Defenders productions should be numbered 7.1, 7.2, 7.3 etc.

If possible, these should be numbered in the order they will be used in court.

The file name of the document or photo submitted to the project should start with the number:

e.g. "6.3 Insurance Claim Form"

All productions must be clearly numbered in the top right corner. You will need to bring 3 copies of your productions to court:

1. For your own solicitors
2. For the Sheriff
3. For the witnesses to look at

For 3D objects a photo should be submitted. If it is to be used in court then the actual object should be brought but a photo of each should still be included in each folder.

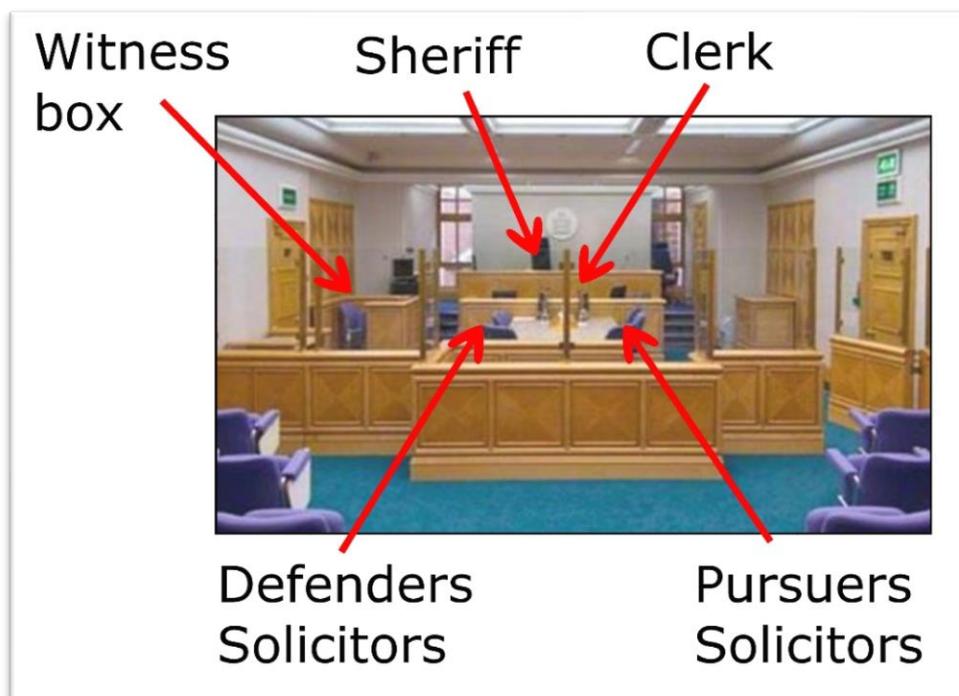
For those interested, the numbering of documents used in court is as follows:

<i>1) Principal Summons</i>	<i>The principal signed summons</i>
<i>2) Certified Copy Summons</i>	<i>This is a copy of document 1. You must write "Certified a true copy" and sign the document on the top right hand corner of the first page</i>
<i>3) Interlocutor Sheet</i>	<i>All orders made by the court will be recorded on this sheet</i>

<i>4) Motion Sheet</i>	<i>Any motions enrolled in the case will be attached to this sheet</i>
<i>5) Minute of Proceedings</i>	<i>The Clerk of Court will record any information in addition to what is on the Interlocutor Sheet.</i>
<i>6) Pursuer's Productions</i>	<i>All productions submitted by the Pursuers</i>
<i>7) Defender's Productions</i>	<i>All productions submitted by the Defenders</i>

In Court

This will (hopefully) be a new experience for the children, and probably the adults. It is therefore useful to have an idea of what to expect.



The witness box may be on the other side. There will probably be another Clerk who will help with presenting the productions to the witnesses.

This court is one used for criminal cases and so there is a glass screen separating the court from the visitors area and a dock just inside the glass wall. Neither of these are there in courts only used for civil cases.

As the Sheriff enters the Clerk will instruct everyone to rise. Everyone in the court should stand until the Sheriff indicates that they may sit down.

The Sheriff will probably say a few words of welcome before the formal proceedings start:

1. Pursuers solicitors introduce themselves.
2. Defenders solicitors introduce themselves.
3. Pursuers opening statement.
4. Defenders opening statement.
5. Pursuers' Witnesses. For each witness:
 - a. Initial questioning by a Pursuers solicitor
 - b. Cross examination by a Defenders solicitor
 - c. Re-examination by a Pursuers solicitor
6. Defenders' Witnesses. For each witness:
 - d. Initial questioning by a Defenders solicitor
 - e. Cross examination by a Pursuers solicitor
 - f. Re-examination by a Defenders solicitor
7. Pursuers closing statement.
8. Defenders closing statement.

Following this the Sheriff will give their findings on the case. They may retire for a few minutes to consider the case or may stay in the court.

- | | |
|------------------|---|
| <i>1 & 2</i> | <i>Usual way to introduce yourselves is with your surnames, e.g. "Smith and Jones for the Pursuers".</i> |
| <i>3 & 4</i> | <i>A brief statement outlining the case and your point of view stating what you will be showing and what you would like the outcome to be.</i> |
| <i>5 & 6</i> | <i>VERY IMPORTANT: Nothing is considered part of the case until a witness says it:</i>

<i>* If it is something they saw or heard then they need to be asked what they saw or heard and they describe it.</i>

<i>* If you have a document then a witness has to say what it is and what it shows.</i>

<i>Solicitors cannot lead the witness (e.g. suggest what they saw or what a document shows).</i>

<i>* Nothing new can be introduced in re-examination. This should only be used</i> |

to clarify points already raised in initial questioning or cross-examination.

7 & 8 *Summing up your side of the case – what you have proven true from your side, what you have proven false or discredited from the other side and what you would like the Sheriff to find.*

- In a real court each witness promises to tell the truth prior to being questioned. This is known as taking the oath. As our witnesses are telling a completely fictitious story and will actually be required to make things up on the spot under cross-examination, our witnesses will not be asked to take the oath.
- When speaking to the Sheriff participants (solicitors or witnesses) should stand and address the Sheriff as ‘My Lord’ or ‘My Lady’.
- When introducing a piece of evidence, the solicitors should say something like:
“My Lord (or Lady), may I refer the Court to Production number 7.5, a quote from Toilets ‘r’ Us”
or, if referring to the opposition’s Productions:
“My Lord (or Lady), may I refer the Court to Defender’s (or Solicitor’s) Production number 7.5, a quote from Toilets ‘r’ Us”
after which they should wait for the clerk to collect a copy and give it to the witness and also for the Sheriff to find his or her copy before proceeding.

How the Project is Marked

1.Solicitors

Documents

- Initial Writ or Initial Defences
- Amended Writ or Amended Defences

Performance in Court

2.Gown Makers

Gown Makers' Diary

This should include the following:

1. Initial ideas
2. Final idea
3. Materials needed (a list) together with where they have been sourced (at zero cost)
4. Photos of blank gown (front and back)
5. Photos during making
6. Photos of final gown (front and back)

Actual Gowns (marked in Court)

3. Witnesses

Diaries

For each witness there should be 3 diary entries. These could be:

1. After the party detailing their experiences
2. After their visit to the solicitor detailing what happened and what they expect to happen
3. After the court detailing their experience

Clearly it will be a bit different for expert witnesses who weren't actually at the party, but these can easily be adapted.

Performance in Court

4. Journalism

Newspapers

3 Newspaper front pages each containing a report relating to the case, possibly:

1. The Byte's take legal action against SMC Insurance.
2. SMC Insurance refuse to pay.
3. After the court visit with the outcome.

These should all observe the Sub Judice law.

Sub Judice Report

- A brief document explaining the law and its implications.

5. Artists

Quality of Artwork

Variety of Media Used

6. Others

Parental Quiz – bonus points for participation and success of parental quiz.

Imagination – thinking outside the box! How imaginative can you be with your case?

This Teachers' Guide is new for 2019. We would welcome comments/suggestions so that we can improve it. There is a thread on the Teachers' Forum. Please post comments/suggestions there.