

Guidance on cross-examination improves accuracy of witness testimony

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The study, by researchers at the Universities of Liverpool and Leeds, showed that the construction and phrasing of 'lawyerese' questions can inhibit processes in the brain that impact on how a witness responds under cross-examination. The use of complex questions, containing multiple parts, double-negatives and advanced vocabulary may affect the brain's ability to filter and streamline information effectively.

Researchers showed more than 50 participants footage of a staged crime, as though they were eye-witnesses, and then subjected them to the kind of questioning techniques they might encounter in court. They found that participants, who had been given prior guidance on cross-examination techniques, were seemingly able to add to their understanding of the cross-examination process, so that when they encountered complex questions in court they were more able to respond appropriately and less likely to make errors.

Dr Jacqueline Wheatcroft, from the University's Centre for Investigative Psychology, said: "Witnesses who come to court to give evidence have 'schematic' structures of experience. These structures allow the [brain](#) to organise knowledge around themes or topics. They act to streamline information so that we can cope effectively with daily life. We believe that exposing witnesses to the techniques used in cross-examination before they enter court, engages these structures, allowing the [witness](#) to organise their knowledge of events so that information can be accessed more easily in response to complex questions.

"Witnesses who are were not given prior guidance, however, are likely to work much harder to answer cross-examination questions accurately and tend to become nervous and frustrated in [court](#) as a result.

Familiarisation with questioning techniques 'frees up' capacity in the brain to process information, but if a witness is not given guidance, the frontal/executive systems in the brain are potentially forced to work harder, leaving less processing capacity to work on understanding and responding to questions properly."

Dr Louise Ellison, senior lecturer in law at the University of Leeds, added: "People are going into the witness box with very little knowledge and preparation. The lay person has little idea of what to expect and this understandably impacts on their evidence. It puts witnesses at a disadvantage and barristers are able to exploit their inexperience. There is increasing evidence that the accuracy of evidence is undermined by these questioning techniques."

Provided by University of Liverpool

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