



# PLANNERS AS EXPERT WITNESSES

How planners can improve their effectiveness at  
planning inquiries and hearings

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**RTPI  
Practice  
Advice**

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# Introduction

When planners are called to act as an expert witness many admit to feeling more than a little nervous. However, this practice advice demonstrates that with some time and careful preparation it can be, “a thoroughly worthwhile experience for a planner - testing your professionalism, judgment and understanding”<sup>1</sup>. The RTPI has worked closely with representatives of PEBA, The Planning and Environment Bar Association for England and Wales, to prepare this advice.

This practice advice is written for RTPI members. It refers to the different legislation and procedures that apply in England, Wales and Scotland. The principles of good practice should apply wherever you work in the world.

The advice also outlines the procedures for planners to secure professional access to barristers under The Bar Standards Board’s Licensed Access scheme.

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<sup>1</sup> Quote from a respondent to an RTPI survey of our member’s experiences of being an expert witness carried out in 2017.

# 1. Why, who are they and when do we have expert witnesses?

## Why do we have expert witnesses?

The general rule in the courts is that opinion evidence is not allowed. The exception to this rule is where a properly qualified professional – known as an expert witness is asked to give their opinion on a matter about which the court<sup>2</sup> lacks the necessary expertise or the court's knowledge needs to be supplemented by expert opinion. The expert's role at a hearing or inquiry for a planning appeal is to give evidence that is necessary or valuable to ensure that the Inspector<sup>3</sup> can make a fully informed decision. Within this role you, as an expert, also have the opportunity to be persuasive and put forward arguments to support your viewpoint to ensure the best decision is made by the Inspector in the public interest. Your 'duty' as an expert witness is always to the Inspector and overrides any obligation to the person or organisation that has instructed or paid you.

## Who can be an expert witness?

All chartered town planners can be an expert witness. Being a chartered member of the RTPI is a mark of your professional standing and therefore RTPI members are often asked to appear as expert witnesses. Referring to your professional designation at the start of your evidence is important to demonstrate your professionalism and experience. It also means that your opinion can be trusted and relied upon<sup>4</sup> and strengthens how your evidence is viewed by others. You should make the Inspector aware of your formal qualifications and cite all your relevant experience at the start of your written evidence. You do not necessarily need to be in a senior role to be an expert witness. It is your training, knowledge and experience, and how you present it in relation to the case that is important.

You can act as an expert witness in a number of different capacities. The RTPI carried out a survey of our members in December 2017 to gather views about their experiences of being an expert witness. The survey found that the majority of consultees (82 percent) have defended a local authority decision, with 34 percent representing a developer and 19 percent acting as a consultant.

Other examples of when our members have been an expert witness includes acting for a third party or supporting a community planning group.

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<sup>2</sup> Sometimes known as the tribunal.

<sup>3</sup> In Scotland this role is undertaken by a Reporter, but for simplicity we will use the term Inspector throughout this advice.

<sup>4</sup> It is a requirement of the RTPI [Code of Professional Conduct](#) that members "disclose their professional designation where appropriate to their employers, clients, colleagues or others and use their post-nominal letters, where held and where possible, in any professional correspondence as a mark of professional standing."

## When can planners act as an expert witness?

**Written representations** – the majority of planning appeals are dealt with through written representations. The Inspector will decide the appeal on the basis of the written material provided by all parties and following a visit to the appeal site. Many of the top tips outlined on page 11 will be relevant when writing your representation.

**Hearing** – a more informal, inquisitorial method of appeal than an inquiry that takes the form of a round table discussion, which the Inspector leads. The Inspector identifies the issues for discussion based on the evidence received and any representations that have been made. The aim of a hearing is to enable everyone present to put forward their points of view to help the Inspector reach a decision. A barrister<sup>5</sup>, solicitor or other advocate might be present, but they are rarely allowed to directly examine and cross-examine the professional representatives<sup>6</sup>, but they can put questions to them via the Inspector.

**Inquiry** – these are mainly reserved for the largest and most controversial development proposals as they are the most costly and time-consuming option at appeal. They are based on an adversarial approach with examination and cross-examination by a barrister, solicitor or other advocate.

**Court** – in a civil case, such as landlord and tenant proceedings or in contracts relating to the acquisition of land.

**Lands Tribunal**<sup>7</sup> – where planning evidence may be necessary to decide the development potential of the land being valued.

There are similarities and differences between each approach<sup>8</sup>.

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<sup>5</sup> In Scotland a barrister is called an advocate.

<sup>6</sup> Called a witness at an inquiry.

<sup>7</sup> Known formally as the Upper Tribunal (Lands Chamber).

<sup>8</sup> In Scotland when a planning application has been decided by officers, applicants can have the decision reviewed by the Local Review Body. If the application has been decided by the planning committee, appeals are made to the Scottish Government and dealt with by the Directorate for Planning and Environmental Appeals (DPEA). This route also applies where an authority has not made a decision within the statutory period or if a Local Review Body fails to give a decision on a review against the non-determination of a planning application by officers. <https://beta.gov.scot/policies/planning-environmental-appeals/>

## 2. How does the RTPI Code of Professional Conduct apply?

The RTPI requires our members to meet and maintain high standards of competence and conduct themselves in a way that inspires trust and confidence in the profession. The RTPI requires our members to adhere to five core principles, namely:

- Competence, honesty and integrity;
- Independent professional judgement;
- Due care and diligence;
- Equality and respect;
- Professional behaviour.

Town planners deal with important long term issues that need to be carefully considered in terms of their economic, social and environmental outcomes. Issues can be complex and planners will weigh up and balance often competing demands for the use or development of land. Therefore a planner's independent professional judgement is crucial, and as our Code states, RTPI "members must exercise fearlessly and impartially their independent professional judgement to the best of their skill and understanding<sup>9</sup>."

It goes on to say that, "Members must not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions, nor knowingly enter into any contract or agreement which requires them to do so." This is particularly important when undertaking the role of expert witness and considering your declaration of evidence.

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<sup>9</sup> Find out more about the Code of Professional Conduct [www.rtpi.org.uk/membership/professional-standards/](http://www.rtpi.org.uk/membership/professional-standards/)

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## Declaration of evidence

The RTPI would expect its members, when acting as an expert witness, to include the following statement, or a similar version:

“The evidence which I have prepared and provide for this appeal reference APP/xxx (in this proof of evidence, written statement or report) is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions<sup>10</sup>.”

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<sup>10</sup> The proposed text is based on Annexe O: The Planning Inspectorate procedural guidance [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/677953/Procedural\\_Guide\\_Planning\\_appeals\\_version\\_1.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/677953/Procedural_Guide_Planning_appeals_version_1.pdf) which sets a useful benchmark on the declaration of evidence for all planners regardless of jurisdiction.

### 3. What are an expert witness's key duties and responsibilities?

The key duties and responsibilities of being an expert witness for any professional, were laid down in his judgment in the shipping case known as *The Ikarian Reefer* ([1993] 2 Lloyd's Rep. 68) by Mr Justice Cresswell<sup>11</sup>. The *Ikarian Reefer* principles are regarded as a statement of good practice for expert witnesses in civil cases. They are a useful starting point when preparing expert evidence:

1. The expert evidence should be the independent product of the expert uninfluenced as to form or content by the pressures of litigation;
2. The witness should provide expert, unbiased opinion in relation to matters within their expertise and should never assume the role of advocate;
3. They should state the facts or assumptions on which their opinion is based. They should not leave out material facts which might alter their professional opinion;
4. The expert witness should make it clear when a question falls outside their expertise;
5. The expert should clearly state if their opinion is provisional only, or subject to any qualification;
6. If, after exchange of reports, the expert changes their view, this should be communicated to the other side and the court as quickly as possible;
7. Where the expert evidence refers to photographs, plans, calculations, analyses, measurements, survey reports or other similar documents these must be given to the other parties at the same time as the exchange of reports.

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<sup>11</sup> Confirmed as law in Scotland by SC in *Kennedy v Cordia (Services) LLP* 2016 UKSC 6 at [52]

## 4. What are the roles of the barrister, advocate and the Inspector?

It is important to understand the purpose of the different roles that are undertaken at a hearing or inquiry to help you prepare for your role as an expert witness.

### What is the role of an advocate?

An advocate's role is to persuade the Inspector of the merits of their client's case, by putting it forward as favourably as possible. This role can be undertaken either by a barrister, solicitor or a town planner. When acting as an expert witness your advocate will work with you to ask questions to draw out the key elements of the case. You will also be questioned by the opposing side's advocate<sup>12</sup>.

### Working with your barrister

The role of advocate is often carried out by a barrister. In order to perform effectively as an expert witness you will need to be well prepared. By re-reading your proof of evidence with you, your barrister (or other person carrying out the advocacy role) should be able to identify any areas that are likely to come under scrutiny in cross-examination. Annotating your proof and identifying useful cross references will mean that you will be able to respond under pressure.

There is guidance for barristers from the Bar Council in preparing witnesses, in particular in preparing a witnesses' written evidence. It emphasises the difference between acceptable witness preparation and coaching. Coaching is where it is suggested what the witness should say or express themselves, "you must not rehearse, practise with or coach a witness in respect of their evidence<sup>13</sup>".

### What is the opposing barrister trying to achieve?

Don't be intimidated by the opposing side's barrister or advocate. Their role is to put their client's case to the witness and to fearlessly protect and promote their interests. They do this by asking questions that draw out the main issues for the Inspector and expose the weaknesses in the other side's case by testing the accuracy of the witnesses' evidence. The Bar Code of Conduct contains a number of core duties that must be followed. One of them is that a barrister, "must promote fearlessly and by all proper and lawful means the client's best interests<sup>14</sup>".

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<sup>12</sup> Remember in Scotland a barrister is called an advocate.

<sup>13</sup> Witness preparation, The Bar Council, 2017 [www.barcouncil.org.uk/media/438420/witness\\_preparation.pdf](http://www.barcouncil.org.uk/media/438420/witness_preparation.pdf)

<sup>14</sup> [www.barstandardsboard.org.uk/regulatory-requirements/bsb-handbook/the-handbook-publication/](http://www.barstandardsboard.org.uk/regulatory-requirements/bsb-handbook/the-handbook-publication/)



## What is the role of the Inspector?

At the heart of an Inspector's role is the need to make planning judgements on the basis of differing viewpoints and evidence. In order to do this they will need to identify the issues, assess the evidence, decide what weight to give the various parts of the evidence they have read and heard, and reach a reasoned decision.

The Inspector is in charge of the inquiry. If the advocate or barrister is cross-examining the witness in a way that is intimidating or repetitive the Inspector can, and should, step in.

# 5. How do you prepare to be an expert witness?

## Before your appearance as an expert witness

**Receiving a request to appear** – it is vital before you accept instructions to act as an expert witness in a planning inquiry that you have enough facts to be able to come to a professional view that you can support the case. In order to do this, you will need to read a number of background documents such as the officer's report, the reasons for refusal and the grounds of appeal. You may even consider that you need to undertake a site visit before you can commit to giving evidence. If you decide that you can support the case, then you should formally accept the instructions.

The person instructing you should also give you an indication of how the case will be run, and your role within it, as there may be more than one witness. The evidence of each witness should address distinct topics and not overlap each other<sup>15</sup>.

Now is a good time to ask questions, lots of them if necessary.

**Pre-Inquiry meeting** – a meeting is usually only held if an inquiry is expected to last more than eight days<sup>16</sup>. The meeting is held in public by the Inspector to allow them to make procedural directions and to identify the issues that need to be addressed. It is generally not necessary for an expert witness to attend this meeting. There is not a pre-meeting for hearings.

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<sup>15</sup> See the appeal procedures for England, Wales and Scotland for more detail. Links are listed on page 19 of this advice.

<sup>16</sup> In Scotland, a pre-inquiry meeting is held before most inquiries at which the Reporter will determine the procedure. They can, for example, depending on the topics deal with issues as a mixture of written representation, hearing or inquiry.

**Statement of case** – each party will have had to produce a statement of case. This sets out in full what the position of their party is and which documents they intend to rely on. The appellant's statement of case must be submitted with the appeal form. The local authority's statement of case must be submitted to the Planning Inspectorate<sup>17</sup> five weeks before the start date and should be copied to all parties.

**Statement of common ground** – this is a statement of what the two main parties have agreed on, and includes a list of matters which they consider to be in dispute. The representatives of the appellant should submit a draft statement of common ground at the same time as the appeal form. As an expert witness you may expect to contribute to this statement. Setting out what you agree are the relevant planning policies at national and local level is useful. It helps to focus the time at appeal on the main issues. The final statement of common ground must be submitted within five weeks of the start date. It should include draft (without prejudice) conditions.

**Proof of evidence** – is required for your role as an expert witness at an inquiry, but not at a hearing<sup>18</sup>. It enables you to give your professional opinion on evidence provided by other parties in their statements of case. The proof should not include new areas of evidence or new arguments, unless there is exceptionally good reason why it was not included in the statement of case.

To write a good proof of evidence<sup>19</sup> takes time. Reading and discussing the statements of case and statements of common ground with your advocate or barrister will mean that you have all the facts at the start, and it should prevent you from changing your mind during the inquiry. The proof needs to be submitted to the Planning Inspectorate four weeks from the start of the inquiry. It should be clear and concise, drawing out the key information in a way that someone who is not familiar with the case can understand easily and quickly. It is very important that you meet this deadline, as documents that are received late may not be accepted by the Inspector.

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<sup>17</sup> The Planning and Environmental Appeals Division in Scotland, but for simplicity we will use the term Planning Inspectorate throughout this advice.

<sup>18</sup> In Scotland they are called precognitions.

<sup>19</sup> In Scotland, the main evidence is usually a report with appendices and the proof is either a summary or summary and rebuttal.

## Tips for writing a proof of evidence

- Keep it simple and stick to the main points. Your job is to communicate the information to the Inspector in a clear and persuasive form;
- Start with a personal introduction, including your relevant experience, qualifications and professional designation (MRTPI);
- Then briefly outline what your evidence will cover;
- Bring out the strengths of your case and the weaknesses of the other side. Remember that all of your conclusions must be reasoned and backed up by evidence;
- Use it as an opportunity to overcome any doubts the Inspector might have;
- As you prepare, think about the likely lines of cross examination and how you can respond to them;
- You can refer to policy, but do not quote extensively, as much of it will be already contained in the statement of common ground;
- Check the details carefully – proof read and include illustrations when they can make your argument clearer. Number each paragraph so that it can be easily referred to when you give oral evidence. Have separately bound appendices, which have dividers and are fully paginated.
- If your evidence is over 1,500 words long it should be accompanied by a summary that can be read out at the inquiry;
- You should seek feedback from the other members of the team, in particular from the person in charge of the case when writing your proof of evidence. This is to ensure that the proofs from your side are consistent with each other. However, you must ensure your proof remains your evidence.

## Site visits

It is worth making an aside comment here about your conduct as an expert witness at a site visit. The Inspector will visit a development site and any relevant neighbouring land or properties when it is necessary to assess the impact of a development on its surroundings. The purpose of the visit is to help the Inspector to understand the case before the hearing or inquiry. A site visit is not an opportunity for anyone present to discuss the merits of the appeal or their written evidence. The Inspector will therefore not allow any discussion about the case with anyone at a site visit.

## Preparing to give evidence

It can take a lot of time to fully prepare to act as an expert witness at an inquiry. Of course it is vital to know your own proof of evidence, but you also need to understand the case as a whole. You will

need to be familiar with the other proofs on your and the opposing sides, along with all the relevant documentation. You are able to take all your supporting information with you into the room when you give evidence. However, you won't appear to be fully prepared if you have to rifle through a pile of papers to be able to answer a question. Be organised. Simple techniques like numbering pages and paragraphs, coloured tabs all make a difference. If you have changed your professional opinion for any reason, whether as a result of a recent change in policy or as a result of a matter you had omitted to take into account, you should inform the team as soon as possible.

When preparing for cross-examination it is important to understand the weakest aspects of your case and prepare to answer questions on these points. Your barrister or advocate will be able to help you to draw out these aspects of the case but they will not tell you what answer to give. Each witness will be examined, cross-examined and possibly re-examined during the inquiry.

## Rebuttal Evidence

Occasionally, it may be useful to produce written evidence which rebuts the evidence you have received in a proof of evidence from your opposing expert witness. This should not include any new evidence. It will help your advocate to prepare cross examination. Your team may decide to disclose the written evidence to the other party before the start of the inquiry, but practice differs on a case-by-case basis. Rebuttal evidence may or may not be accepted by the Inspector.

## When giving your evidence

**Evidence in chief or examination in chief** - are the terms used for presenting your evidence as an expert witness. It is likely you will be asked to read out your summary proof of evidence or your advocate or barrister may ask you a number of questions which encapsulate the case with the aim of drawing out the elements of the evidence that supports your side of the case. It will also emphasise where and why you disagree with your opposing expert witness. The main proof is usually taken as read. The aim is to explain your case. When you are preparing it is useful to memorise the most important 5-10 issues in the case. Once you have started to be cross-examined you are not allowed to speak to your team about the case until you have finished. This includes the time up until you have been re-examined by your own advocate or barrister. Therefore, if you need anything clarified, check before you start giving your evidence. This requirement is to ensure that the expert witness is seen to maintain their professional independence throughout their oral evidence.

The delivery of your evidence should be clear - speak up, be logical – don't jump around in terms of the timeline or sources of information and don't repeat yourself unnecessarily. The Inspector will be writing notes of your evidence, so make sure that when giving your answers they are paced to allow them to keep up. Practising your own answers to possible questions can help with pacing.

Never approach the Inspector before, during or after the inquiry. Inspectors need to be seen to maintain their independence and so all matters should be dealt with during an inquiry session.

**Cross-examination** - is the stage of the process where the opposing barrister or advocate will ask you questions. It is the part of the process that causes the most concern for prospective expert witnesses. The aim of the cross examination is to test the proof of evidence and the expert's opinions and conclusions.

The opposing barrister or advocate may ask questions in a challenging or adversarial manner. However, stay calm and continue to give your answers in a polite and careful way. Even though they are asking the questions, your answers should be directed towards the Inspector.

If you are asked a question and you don't understand it, don't try and guess what the barrister or advocate is looking for. Ask for the question to be repeated or clarified. It is perfectly acceptable to take your time, and consider your answer before you begin speaking. If the barrister leaves a long silence after you have given your answer, don't feel compelled to fill the silence.

If it emerges under cross-examination that you have made a mistake or omission you should admit your mistake and move on. Maintain your own professional view even if it would help the client or your employer to change your opinion. It won't necessarily be explicit why the barrister is asking a question. You will however need to remain factually accurate and be able to support your answers with evidence.

It is good practice to answer a question directly with a yes or no, but if you want to give a qualified yes or no, say, for example, the answer is a qualified yes and the qualification or caveat is X.

**Re-examination** - the purpose of re-examination is for your barrister or advocate to ask you questions on matters arising out of the cross-examination. It is often used to recover any lost ground in the case. It is restricted to non-leading questions (those are questions which do not suggest an answer). It is not an opportunity for witnesses to change their answers.

## Afterwards

**Notes** - it is possible that some cases will be re-heard. This is often the case following a successful High Court<sup>20</sup> challenge to an Inspector's decision. It is therefore important to keep copies of your proof of evidence and any other relevant documentation. Immediately following your evidence it may be useful to make notes about the key questions and your responses to help you to remember what you have said. This helps you to be consistent if you are asked to give evidence again.

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<sup>20</sup> In Scotland, Court of Session.

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## Tips for giving oral evidence

- RTPI Code of Professional Conduct – remember that the RTPI Code states, “Members must exercise fearlessly and impartially their independent professional judgement to the best of their skill and understanding”;
- Be confident in your own ability and that your MRTPI credentials demonstrate to the Inspector that you are a Chartered professional;
- Don’t underestimate the amount of time it takes to prepare. Knowing that you are fully prepared will improve your confidence and appearance on the day;
- Conduct yourself in a professional way – dress appropriately, be on time, speak clearly and be polite. These are all simple things, but they add up to create a professional and authoritative impression;
- Your duty is to the Court or Inspector – direct your answers to them;
- Watch the Inspector’s pen to ensure that they are keeping up with your evidence;
- If you don’t understand the question, ask for it to be repeated or clarified;
- Don’t rush to give an answer, it is perfectly acceptable to pause to consider your answer before speaking;
- Be factually accurate. If you make a mistake, interrupt the questioning to correct it as soon as you become aware of it;
- Concentrate on answering the question you have been asked. Don’t try to second guess why you are being asked it. The advocate’s reasoning should become clear later on in the proceedings;
- Don’t shy away from the difficult questions about your evidence, be honest;
- Stay calm. Remember you are an appropriately qualified professional providing independent judgement working in the public interest.

## 6. How can you avoid conflicts of interest?

### Can you be an expert witness at the same time as being advocate?

The short answer is yes. However, as the role of advocate is quite different from the role of being an expert witness, it can be a difficult balancing act and the two roles should remain clearly separate. Advocates are employed by the client to speak on their behalf, presenting what they would say for themselves if they had the skills and legal knowledge to help and direct the Inspector to reach a valid decision.

Only twenty percent of the respondents to our survey had taken on the joint role of being an advocate whilst also acting as an expert witness. The first thing to remember is what our Code of Professional Conduct says, “Members must not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions, nor knowingly enter into any contract or agreement which requires them to do so.”

When deciding whether it is appropriate to act as an advocate you should have as a primary concern the best interests of your client or employing authority, as well as the need to retain your professional integrity. Therefore, you should ask the following questions:

- Do you have adequate experience to act as an advocate?
- Is the complexity of the case (including the legal elements of it), or what is at stake in the event of failure, such that your client's or authority's chances would be improved by the engagement of a solicitor or barrister to act as the advocate?
- How contentious is the case?
- Will you be prevented by your responsibilities as an expert witness from adequately performing the role as advocate as well?
- As an advocate will you be required to put forward evidence or submissions which you would have difficulty in supporting if they were put to you in the role of an expert witness?
- If you have been previously employed by the local planning authority involved in the case do you have knowledge from your previous employer that isn't publicly available<sup>21</sup>?
- Do you have adequate professional indemnity insurance as you are accepting added responsibility<sup>22</sup>?

<sup>21</sup> If the confidentiality of particular information is in question, the test is whether or not it would have been revealed to a member of the public making the most diligent, but fair enquiry.

<sup>22</sup> For more information [www.rtpi.org.uk/membership/professional-standards/professional-indemnity-insurance/](http://www.rtpi.org.uk/membership/professional-standards/professional-indemnity-insurance/)

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## Defending a local authority decision – member overturn

As a local authority officer you might be asked to give evidence at an inquiry defending a refusal of planning permission in circumstances where your colleague, as the case officer, has recommended that planning permission be granted. The first question to ask yourself is whether you have followed the approved procedure for making your decision and whether it is your professional view, formed on the basis of that approved procedure that planning permission should have been allowed. Local authority officers have a duty of candour and cooperation, in order to assist an Inspector in understanding their decision-making processes and dealing with the issues fairly. Public bodies should make decisions objectively according to the law and the material before them. It is important that decision makers have no personal interest in the subject on which they are making their decision, for example. If you hold a different professional opinion and consider that it was correct to refuse planning permission then the evidence you give at the inquiry should explain clearly why you hold a different professional view to another planner. If you find yourself in the position of putting a case forward with which you do not agree, for example, you are expressing the local authority elected members' reasons for refusing planning permission, then you must make that position clear to the planning inquiry. Do so in your proof of evidence and in your oral evidence. You should take care to avoid giving the impression that any opinions expressed represent your own professional view, if they do not.

Clearly, if you do not agree with the opinion being put forward, you are unlikely to be the best witness in such a case. You should always make sure that the person in charge of defending the case is aware of your differing viewpoint well in advance. It will then be up to them to decide if you are the best person to give evidence. It is better to avoid the situation where someone is giving evidence that they do not agree with. It is preferable to call someone else, who is in a position to speak with conviction about the harm that the scheme would cause or why the planning balance should be weighed in favour of refusing the scheme. For example, the Chair of the Planning Committee could be called or an external planning consultant could be appointed. If you are concerned about representing a local authority position that you do not professionally support you should discuss your concerns in advance with more senior members of staff or your local authority's legal department if necessary.



## 7. How do planners gain access to barristers?

The Royal Town Planning Institute is one of a group of professional organisations that are permitted to have 'Licensed Access'<sup>23</sup> to barristers under regulations from the Bar Standards Board. This means that because of their identifiable area of expertise or experience chartered members of the RTPI are licensed to instruct barristers directly, without the need to go through a solicitor in cases relating to planning<sup>24</sup>.

The advantages to a planner of having such access to a barrister is that it is an opportunity to offer a more streamlined and cost-effective service to some clients in some circumstances. The normal objective is to save time or money or both. Chartered town planners who are considering instructing a barrister (without first instructing a solicitor) should appreciate that they are accepting added responsibility. Therefore, checking that you have adequate professional indemnity insurance is vital<sup>25</sup>. RTPI members who want to instruct a barrister will need to show that they are eligible by notifying the barrister's clerk of their professional qualifications and RTPI membership number. The Bar Council website identifies a number of resources to help you to find a barrister [www.barcouncil.org.uk/using-a-barrister/find-a-barrister/](http://www.barcouncil.org.uk/using-a-barrister/find-a-barrister/).

In Scotland advocates [www.advocates.org.uk/](http://www.advocates.org.uk/) perform the same role as barristers in England and Wales. They are also able to accept instructions from RTPI members.

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<sup>23</sup> It replaces the terms 'BarDIRECT' and 'Direct Professional Access'.

<sup>24</sup> Find out more from the Bar Council [www.barcouncil.org.uk/using-a-barrister/licensed-access/](http://www.barcouncil.org.uk/using-a-barrister/licensed-access/)

<sup>25</sup> For more information [www.rtpi.org.uk/membership/professional-standards/professional-indemnity-insurance/](http://www.rtpi.org.uk/membership/professional-standards/professional-indemnity-insurance/)

## 8. Further information and sources of CPD

The RTPI undertook a survey of our members in December 2017 to gather views about their experiences of being an expert witness. We asked, “What did you find to be useful ways to prepare? Background reading (74 percent), followed by speaking to experienced colleagues (55 percent) and attending training courses (30 percent) were the most frequent responses.

### RTPI professional standards

RTPI Code of Professional Conduct (2016) All RTPI members are bound by our Code setting out our required standards of practice and ethics.

[www.rtpi.org.uk/media/2684840/code\\_of\\_conduct\\_newcover2017.pdf](http://www.rtpi.org.uk/media/2684840/code_of_conduct_newcover2017.pdf)

Ethics and Professional Standards (updated December 2017) practice advice provides advice for RTPI members on their professional responsibilities.

[www.rtpi.org.uk/media/2675025/ethics\\_update\\_2017.pdf](http://www.rtpi.org.uk/media/2675025/ethics_update_2017.pdf)

### Training

See our Events Calendar to find the relevant CPD events we are delivering. Many are run by barristers and feature a ‘mock trial’, which is particularly valuable in working out what to expect from an inquiry or hearing. [www.rtpi.org.uk/events/events-calendar/](http://www.rtpi.org.uk/events/events-calendar/).

### Watch an inquiry

Going to watch an inquiry that you are not involved in can help to give you a sense of the rhythm of the proceedings and allow you time to watch how the barrister and expert witness interact. The Planning Inspectorate (England) regularly publishes a list of the planning inquiries it is holding over the next few months. These are free and open for anyone to attend

[www.gov.uk/government/publications/planning-inspectorate-list-of-inquiries](http://www.gov.uk/government/publications/planning-inspectorate-list-of-inquiries).

Planning and Environmental Appeals Division (DPEA) of the Scottish Government publish case documents allowing you to see all the information that the reporter takes into account in considering a case. Some oral sessions are also webcast [www.dpea.scotland.gov.uk/Default.aspx](http://www.dpea.scotland.gov.uk/Default.aspx).

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## Shadowing and assisting colleagues

If you think that acting as an expert witness is a skill you want to develop in the future see if you can get involved in shadowing and assisting colleagues who are preparing to be an expert witness.

## Publications

Procedural guide planning appeals – England

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/677953/Procedural\\_Guide\\_Planning\\_appeals\\_version\\_1.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/677953/Procedural_Guide_Planning_appeals_version_1.pdf)

Planning appeals: advice and information – Wales

<https://gov.wales/topics/planning/appeals/appeal-guidance-and-information/planning-appeals/?skip=1&lang=en>

Planning and environmental appeals – Scotland

<https://beta.gov.scot/policies/planning-environmental-appeals/>

## Legal organisations

Planning and Environment Bar Association (PEBA) - an association of barristers working in England and Wales who specialise in planning, environment, compulsory purchase, highways, housing, rating and other aspects of local government and administrative law <http://peba.org.uk/>.

The Scottish Planning Local Government and Environmental Bar Group - provides contact details of group members and advice on instructing Advocates. [www.scottishbarplanninggroup.co.uk/](http://www.scottishbarplanninggroup.co.uk/).



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**For more information about RTPI practice advice**

[www.rtpi.org.uk/knowledge/practice](http://www.rtpi.org.uk/knowledge/practice)

**Written by**

Sarah Lewis, MRTPI

**With thanks to**

Megan Thomas, 6 Pump Court, Temple and Victoria Hutton, 39  
Essex Chambers

**RTPI - Royal Town Planning Institute**

**practice@rtpi.org.uk**

**Tel: 020 7929 9494**

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Royal Town Planning Institute,  
41 Botolph Lane, London EC3R 8DL.

Registered Charity in England (262865) & Scotland (SC037841)

