

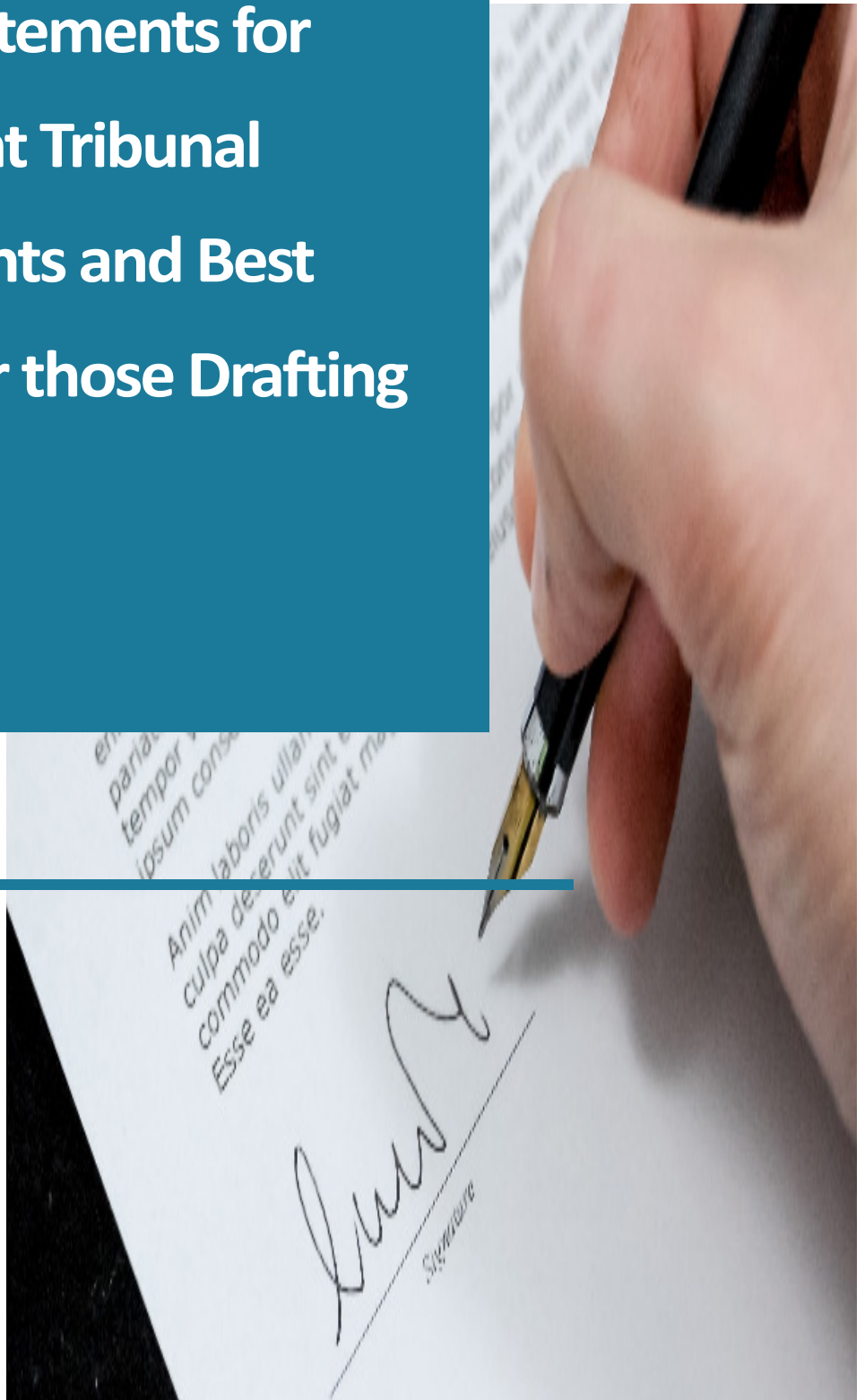
Michael Salter

Developing Persuasive Witness Statements for Employment Tribunal Cases: Insights and Best Practices for those Drafting Statements

Workbook

42

**BEDFORD ROW
BARRISTERS**



Michael Salter

1999 Call

SUMMARY

Michael specialises in pure employment law and associated areas. He is ranked as a leading junior for employment in both the Legal 500 and Chambers and Partners directories and has been every year since 2013.

Owing to the sensitive nature of many of Michael's cases Michael is vetted to undertake claims involving national security issues. For such cases Michael has a secure email address, details of which can be obtained from him or his clerks.

APPOINTMENTS

- 2013 to date: Part-time Employment Judge
- 2015 to date: Legally Qualified Chair of Police Disciplinary Panels
- 2015 to 2020 Association of Chartered Certified Accountants: Disciplinary Assessor
- 2017 to 2022: Examiner of the Court
- 2017 to date: Deputy Chair of the Jersey Employment and Discrimination Tribunal



DIRECTORY COMMENTS

'Superb client-handling skills and super-sharp on legal detail and commerciality. Always on top of the papers and proactive in terms of the next steps and getting the client the result...'

"Michael is a pleasure to work with. He has the technical expertise, but also the pragmatism and ability to engage effectively with witnesses and clients; and he is very personable. He is responsive, flexible and provides valuable assistance during the preparation of claims, even when he is engaged in other matters."

"A pleasure to work with. He is extremely responsive and always very thorough and diligent. He has an excellent manner with clients and communicates well with instructing solicitors."

"incredibly easy to work with, amazingly organised and good at building a strong rapport with clients very quickly"



<https://www.linkedin.com/in/michaelsalter/>



@Michae1Salter

Contents

Introduction.....	4
The Speaker.....	5
Housekeeping.....	6
What we will cover	7
Good Statements.....	8
The Rules	9
Aim of a Statement.....	10
Limitations of Statements	11
Gestmin	12
The Guide	13
Know Your Audience.....	14
Know Your Witness.....	15
The Dangers.....	16
Helpful Tips.....	17
Presentation Tips.....	18
Questions	19

Tips and techniques for drafting witness statements and pleadings in the Employment Tribunal

Michael Salter

Introduction

NOTES

About the Speaker



Michael Salter



Email me:

In Chambers: Michael.Salter@42BR.com



<https://www.linkedin.com/in/michaelsalter/>



@MichaelSalter

Practise Summary

- Specialist employment barrister with over 20 years experience
- Practice in professional regulation and disciplinary hearings (especially police and barristers)

Relevant Appointments

- 2013 to date: Fee-Paid Employment Judge
2015 to date: Legally Qualified Chair of Police Disciplinary Panels
2017 to date: Deputy Chair of the Jersey Employment and Discrimination Tribunal
2021 to date: Legal consultant for Employment Standards Office of the Qatar Financial Centre

Publications and Courses

- Widely published on employment law
- Co-author of Social Media in the Workplace, a Handbook (2015 Jordan Publishing);
- Contributing author to book on costs (chapter focused on costs in employment tribunals)

Testimonials

Rated by independent directories as a leading junior in employment law, testimonials are provided confidentially by the referees and include:

"He's a very knowledgeable and very able advocate."

"He is a fantastic advocate who is always thoroughly well prepared and incredibly responsive."

"Incredibly easy to work with, amazingly organised and good at building a strong rapport with clients very quickly"

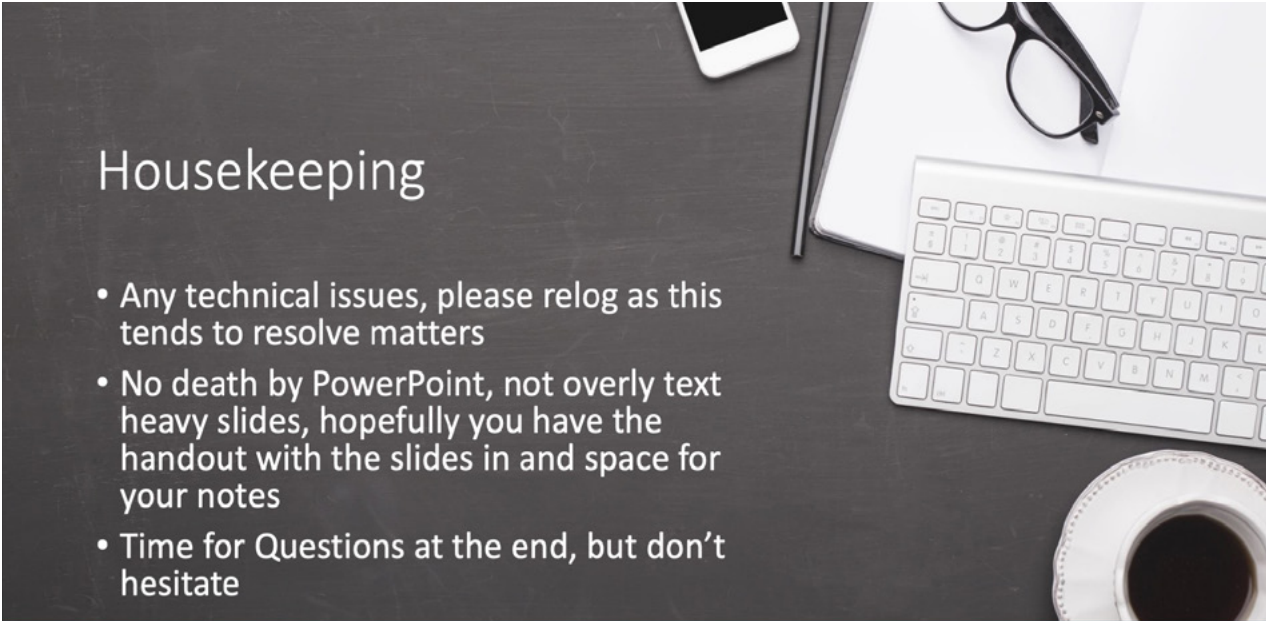
See more at <https://www.michaelsalter.net/testimonials/>



Michael.Salter@42BR.com
www.42BR.com

The Speaker

NOTES



Housekeeping

- Any technical issues, please relog as this tends to resolve matters
- No death by PowerPoint, not overly text heavy slides, hopefully you have the handout with the slides in and space for your notes
- Time for Questions at the end, but don't hesitate

Michael.Salter@42BR.com
www.42BR.com

Housekeeping

NOTES



Here is what we are
going to cover today...

- Common failings of witness statements
- Tips on maximising the effect of witness statements
- Practical tips on presenting the statements

Michael.Salter@42BR.com
www.42BR.com

What we will cover

NOTES



Michael.Salter@42BR.com
www.42BR.com

Good Statements

NOTES



Michael.Salter@42BR.com
www.42BR.com

The Rules

NOTES

GUIDANCE

Cooper, Penelope and Mattison, M. (2021)

Witness statements for the employment tribunal in England and Wales: What are the issues?

Employment Tribunal Rules: r43, 44, 50 and 94

Presidential Guidance on Case Mngement and Vulnerabe Witnesses

Regional Guidance



Michael.Salter@42BR.com
www.42BR.com

Aim of a Statement

NOTES



Michael.Salter@42BR.com
www.42BR.com

Limitations of Statements

NOTES

STUDY

Plos One: Seeing, remembering C: Illusions in short-term memory

At paragraph 22 Leggatt J says:

“the best approach for a judge to adopt in the trial of a commercial case is, in my view, to place little if any reliance at all on witnesses’ recollections of what was said in meetings and conversations, and to base factual findings on inferences drawn from the documentary evidence and known or probable facts. This does not mean that oral testimony serves no useful purpose – though its utility is often disproportionate to its length. But its value lies largely, as I see it, in the opportunity which cross-examination affords to subject the documentary record to critical scrutiny and to gauge the personality, motivations and working practices of a witness, rather than in testimony of what the witness recalls of particular conversations and events. Above all, it is important to avoid the fallacy of supposing that, because a witness has confidence in his or her recollection and is honest, evidence based on that recollection provides any reliable guide to the truth.”

Michael.Salter@42BR.com
www.42BR.com

Gestmin

NOTES

CASES

Gestmin SGPS S.A.
v Credit Suisse (UK
Limited) & Anor
[2013] EWHC 3560
(Comm), para-
graphs 15-23



Michael.Salter@42BR.com
www.42BR.com

The Guide

NOTES



Michael.Salter@42BR.com
www.42BR.com

Know Your Audience

NOTES



Michael.Salter@42BR.com
www.42BR.com

Know Your Witness

NOTES

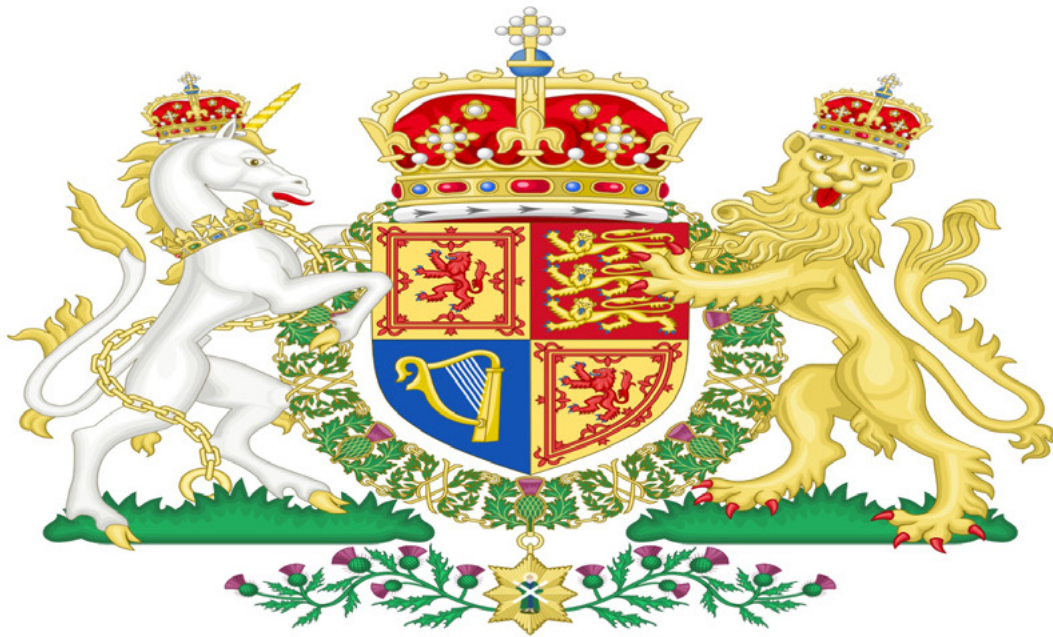
CASES

Mackenzie v Rosenblatt Solicitors & Anor [2023] EWHC 331 (Ch)



The Dangers

NOTES



Michael.Salter@42BR.com
www.42BR.com

Helpful Tips

NOTES

CASES/RESOURCES

Presidential Guidance
– General Case Management

Presidential Guidance
in Connection with the
Preparation and use of
Witness Statements in
Employment Tribunal
Proceedings in Scotland

Mansion Place Ltd v
Fox Industrial Services
Ltd [2021] EWHC 2747
[25]



Michael.Salter@42BR.com
www.42BR.com

Presentation Tips

NOTES



Questions?

Michael.Salter@42BR.com
www.42BR.com

Questions

NOTES



42 Bedford Row has a strong group of barristers in its employment practice, ranging from senior practitioners to rising stars more recently called to the Bar. We work across the full spectrum of employment law, focusing strongly on delivering pragmatic, commercial solutions.

Our clients include major employers, small businesses and major public and private sector organisations as well as employees at all levels with requirements ranging from legal advice and opinion to specialist representation during complex disputes.

Our barristers regularly appear in Employment Tribunals, the Employment Appeal Tribunal and the High Court - and they are no strangers to boardrooms when providing a legal dimension to business strategy.

We will always quantify the costs and risks from the start and explore all options, including mediation and arbitration, to maximise your returns (while never losing sight of the principles at stake).

Iris Ferber K.C. (2005)(2023)
 Neil Vickery (1985)
 Mark Maitland-Jones (1986)
 Sinclair Cramsie (1988)
 Benjamin Uduje (1992)
 Marcus Baldwin (1994)
 Susan Chan (1994)
 Jude Shepherd (1996)
 Aysha Ahmad (1996)
 Gillian Crew (1998)
 Rebecca Thomas (1999)
 Michael Salter (1999)
 Kenneth McGuire (2000)
 Jason Braier (2002)

Jonathan Davies (2003)
 Safia Tharoo (2004)
 Orlando Holloway (2004)
 Amy Stroud (2004)
 Nick Singer (2006)
 Rad Kohanzad (2007)
 Neil Clark (2007)
 Tim Welch (2009)
 Catherine Urquhart (2010)
 Hamed Zovidavi (2010)
 Nicholas Bidnell-Edwards (2012)
 Christi Scarborough (2012)
 Krishma Patel (2012)
 Stefan Liberadzki (2013)

Eleanor Wheeler (2014)
 Vondez Phipps (2014)
 Max Gordon (2016)
 Louise Whittington (2016)
 Jamie Fireman (2016)
 Katherine Archer (2018)
 Andrew Carter (2018)
 Robert Winspear (2019)
 Catrin Howells (2019)
 Charmaine Clubb (2020)

