

# Overview

- Initial claim advocacy: working with delegates
- Review advocacy: assisting tribunals
- Facts and advocacy: the narrative

# Initial claim advocacy

- Consider the 'audience'.
  - Assumptions?
  - Work with the delegate.
  - Questions.

# Initial claim advocacy

- Evidence:
  - Types.
  - Formats / sworn?
  - Language / ultimate issue.

# Initial claim advocacy

- Facts:
  - Identify and clarify.
  - Chronology?

# Initial claim advocacy

- Law:
  - Legislation.
  - Cases.
  - Too much? Too little?

# Initial claim advocacy

- Policy:
  - Procedures and guidelines.
  - Policy examples or frameworks.
  - Discretion and flexibility.

# Review advocacy

- The legislative framework:
  - Procedures.
  - Limits.
  - Powers and options.

# Review advocacy

- The audience:
  - Internal / external.
  - Context.
  - Merits review.



# Review advocacy

- The decisional history:
  - Relevance of the original decision.
  - Relevance of original reasons for decision.
  - Relevance of earlier related decisions.

# Review advocacy

- Outcomes and objectives:
  - Changing the decision.
  - Reopening investigations.
  - Obtaining a reconsideration.
  - Narrowing the issues.

# Facts and advocacy

- Evidence:
  - The ‘source material’: records, physical objects, test results, eye-witness accounts, and expert opinions.
  - “The evidence that is relevant in a proceeding is evidence that, if it were accepted, could rationally affect (directly or indirectly) the assessment of the probability of the existence of a fact in issue in the proceeding”.

# Facts and advocacy

- Facts:
  - Conclusions that may be drawn from the evidence
  - Agreed facts.
  - Facts to be proved.

# Facts and advocacy

- Narrative:
  - One definition of a “narrative” is “a story of events, experiences, or the like, whether true or fictitious” (hopefully ‘true’ rather than ‘fictitious’).
  - Another is “the rationale for a sequence of events, presented as the underlying explanation”

# Facts and advocacy

- Persuasion:
  - Assist the tribunal.
  - Adapt to the case / be flexible.
  - Use the chronology.
  - Link to the evidence – where/why.
  - Confront inconvenient facts.