

UNIT – IV

Interviewing, counselling and pre-trial

Interview · Conference · Advice · ADR door

Explanatory Lecture Slides

Moot Court Exercise and Internship · Clinical-IV · Semester X

MOOT COURT EXERCISE AND INTERNSHIP

Topics covered in this unit

01

State the object of a client interview

02

Structure a first conference

03

Place listening against interrogation

04

Write an attendance note

05

Spot conflicts, limitation and the ADR door

06

Note ethics of advice

How this unit is organised

01	02	03	04	05	06
Object	A first conference	Listening	Attendance note	Conflicts, limitation, ADR	Ethics of advice

Object of the interview

To learn the facts the client has, the relief the client wants, the facts the client does not know they have, and whether you can and should act. It is not a cross-examination and not a promise of a result.

- A 10-mark: objects, a suggested structure, two sins (talking first, promising a decree).
- Legal-aid interviews and paying chambers use the same skeleton; only the fee-talk differs.

Object of the interview

LEARN

- Facts.
- Relief.
- Deadlines.
- The other side.

DO NOT

- Perform.
- Guarantee.
- Interview the other client.

A first conference — structure

Greet, identity, confidentiality in one sentence, a non-leading 'tell me what happened', a timeline you write, documents you list, the other side's name, previous lawyers, a limitation date you compute before they leave, a next step, a fee if that is your chambers, a writing.

- Open questions first, closed questions later to pin a date. Do not start with the law. The law comes after the facts have sat still.
- A 16-mark specimen of 12 questions that are not leading.

A first conference — structure

OPEN

- ‘What happened next?’

CLOSED, LATER

- ‘Was the notice dated 1 June or 1 July?’

Listening against interrogation

Silence is a tool. A client will tell you the damaging fact if you do not fill the air. Interrogation is for a hostile witness, not for the person who hired you (or whom legal aid assigned).

- Trauma-informed: a survivor of violence is not your PYQ. POCSO / DV interviews have a statutory and ethical shape (in-camera, a support person). Do not moralise.
- A language the client speaks. An interpreter is better than a wrong fact.

Listening against interrogation

DO

- Wait.
- Reflect back ('you are saying the cheque was for rent, not a loan').

DO NOT

- 'Why didn't you ...' as a first question.
- A lecture on the IPC/BNS.

Attendance note

Date, time, who was present, facts in the client's words in quote-marks where it matters, documents received (a list), advice given, next step, your signature. This is the document that saves you in a s.35 complaint and in a limitation fight.

- A 10-mark artefact, like the observation note. Write it the same day. A WhatsApp is not an attendance note (it may be an annexure).

Attendance note

MUST

- Date.
- Facts.
- Documents.
- Advice.
- Next step.

SAVES YOU IN

- A 'you never told me' fight.
- A Bar Council memory-test.

Conflicts, limitation, the ADR door

Conflict: a previous opposite number, a partner's client, a company you hold shares in — decline or a Chinese wall the rules actually recognise (usually decline). Limitation: compute in the room (Art. of the Limitation Act, a s.138 15-day clock, a writ laches). ADR: s.89 CPC / Mediation Act 2023 / a commercial pre-institution mediation (s.12A CCA) — tell the client the door exists before you draft the war.

- A chambers that never mentions mediation is a Clinical-II failure sitting in Clinical-IV.

Conflicts, limitation, the ADR door

IN THE ROOM

- Conflict check.
- Limitation.
- ADR option.
- Cost of a suit.

THEN

- Accept the brief, or don't.

Ethics of advice

Advice is a range (best, likely, worst), not a guaranteed decree. Privilege has started (BSA 132). A 'burn the papers' is a crime and a s.35. A 'we will see that the witness ...' is the same. Put the risky advice in writing.

- Mohammed Rafi: you may have to take the conference the city hates. Harish Uppal: you will not promise a strike. R.D. Saxena: you will not keep their papers if they leave.

Ethics of advice

SAY

- A range.
- A cost.
- A time.
- A risk of losing.

NEVER SAY

- A guaranteed result.
- 'Destroy that'.
- 'I know the judge'.

Attendance note

Date, time, who was present, facts in the client's words in quote-marks where it matters, documents received (a list), advice given, next step, your signature. This is the document that saves you in a s.35 complaint and in a limitation fight.

- A 10-mark artefact, like the observation note. Write it the same day. A WhatsApp is not an attendance note (it may be an annexure).

Cases a KSLU answer should name

CASE

R.D. Saxena

(2000) 7 SCC 264

The file you opened in the interview is still theirs when they leave.

CASE

A.S. Mohammed Rafi

(2011) 1 SCC 688

The hated client still gets a conference.

CASE

Afcons Infrastructure v Cherian Varkey

(2010) 8 SCC 24

s.89 CPC — the ADR door you mention before you file.

Provisions & materials to quote

BSA ss.132–134

Privilege starts in the conference.

Limitation Act 1963

Compute before they leave the room.

CPC s.89 / Mediation A

The ADR door.

BCI conduct: fee, conf

The ethics of the room.

POCSO / DV Act process

How some interviews must be shaped.

10 / 16-mark frames from this unit

Q1

How will you conduct a first client interview?

Q2

What is an attendance note? Why does it matter?

Q3

What checks (conflict, limitation, ADR) must be done before accepting a brief?

Q4

Write a note on listening / advice as a range / privilege in the conference.

Unit recap

- 1 Interview: learn facts and relief, do not perform.
- 2 Open questions first; limitation before they leave.
- 3 Attendance note the same day.
- 4 Conflict / limitation / ADR in the room.
- 5 Advice is a range; never a guaranteed decree, never 'destroy that'.