

# 5 Stone Buildings

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**Cross examination: tarnishing the gold standard**

**Toby Bishop**

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7 June, 2021

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## STRUCTURE

- Relevance now.
- How lies are detected.
- Remote trials and demeanour.
- END with 3 slides of citations.

## Assessing witness credibility

- Bingham J: *The Judge as Juror: the Judicial Determination of Factual Issues* *Current Legal Problems*, Volume 38, Issue 1, 1985, Pages 1-27.
- *Gestmin SGPS S.A. v Credit Suisse (UK) Ltd* [2013] EWHC 3560 (Comm), paragraphs 15-22, Leggatt J.
- *Kimathi v FCO* [2018] EWHC 2066 (QB) paragraphs 95-98, Stewart J.
- *R (on the application of SS (Sri Lanka)) v Secretary of State for the Home Department* [2018] EWCA Civ 1391 at paragraphs 33-41, Legatt LJ.
- *Kogan v Martin* [2019] EWCA Civ. 1645, paragraph 88, Floyd LJ
- *Wrangle v Brunt* [2021] EWHC 368 (Ch), Green J.

## Probability and serious allegations

- *Dellow's Will Trusts* [1964] 1 W.L.R. 451, Ungood-Thomas J.
- *In re H (Minors) (Sexual Abuse: Standard of Proof)* [1996] A.C. 563, per Lord Nicholls from 586C.
- *In re B (Children) (Care Proceedings: Standard of Proof) (CAFCASS intervening)* [2009] 1 A.C. 11, per Lord Hoffman beginning at 19F [11-15] and Baroness Hale beginning at 32H [62 to 73].

## Remote trials

- *Bilta (UK)Ltd v TFS Ltd* [2021] EWHC 36 (Ch)
- *Bilta (UK) Ltd (in liquidation) & Others v Tradition Financial Services Ltd* [2021] EWCA Civ 221
- *A Local Authority v Mother* [2020] EWHC 1086 (Fam), Lieven J



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## Thank you

Toby Bishop  
[tbishop@5sblaw.com](mailto:tbishop@5sblaw.com)  
020 7242 6201

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