

Guidance note one:

Giving evidence in court

This note focuses on how you can prepare for giving evidence in court, the phases of giving evidence and top tips for presenting yourself professionally and credibly.

Going to Court

The firm of solicitors instructed on behalf of your employers will advise you about the details – for example, time off work or payment of expenses. In general these are reimbursed by employers as far as they are reasonable and supported by documents.

Giving evidence

- Be familiar with your statement but not so that your answers sound rehearsed or lack spontaneity
- Review the relevant documents so you know your way around them
- Be clear who has asked you to attend
- Find out where the court is and how long it will take you to get there
- Find out how long you will be needed for
- Get to the court in good time

It is for the claimant to prove the case, but in some cases they will only have to prove that the accident happened as alleged.

You will be shown to the witness box. A court officer will ask you to swear that the evidence you are about to give is the truth. Forms of oath for different religions, or no religion, are available.

The claimant will put his or her case first. Their witnesses will give evidence and be cross-examined; the defendant will then respond. After the evidence has been heard, both sides make closing speeches.

The judge will decide, on the basis of the law and the evidence presented, whether to find in favour of the claimant or the defendant. If the claimant is successful, the judge will also decide on the level of any compensation to be paid.

Phases of giving evidence

Examination-in-chief

The barrister instructed on behalf of the NHS Resolution member will take you through your evidence.

Cross-examination

The barrister for the claimant will question you about your evidence. They will draw attention to any bits of your evidence which are not agreed and demonstrate why the claimant's case is right.

Re-examination

After cross-examination the barrister for the NHS Resolution member can re-question you to clarify any issues arising from cross-examination. Again the judge may have questions of his or her own.

Tips

- You can sit in the court whilst other evidence is given
- If matters arise during the evidence by or on behalf of the claimant, let your legal team know, but be discreet
- Speak clearly, using short sentences and try to avoid extravagant language
- **Be prepared but not rehearsed**
- Explain any technical terms you may have to use
- **The judge may also ask you questions**
- You are giving evidence to the judge so you should address your answers to him or her
- Listen carefully to the questions and ask for them to be repeated if you have not properly heard or understood
- Make your answers open, honest and fair
- If you don't know the answer, or understand the question, say so
- Disparaging comments can be tactical. It may feel personal but it isn't, so try to remain neutral and focused
- Don't panic if you need a bit of time to get the answer right
- You can appeal to the judge if you feel that a question is improper, or if you would like to expand on your answer
- Don't leave the court without checking with the legal team first and check whether you need to return the next day or have been discharged
- The press may be present, so do take time to think about what you say
- If you aren't sure, don't be afraid to ask
- **Your duty is to the court and not to either of the parties**

Be happy with your statement: A witness statement should not be a document created in the language of lawyers by the lawyers, because the lawyers do not go into the witness box to defend it.

Please contact your nominated NHS Resolution team leader or a Nominated Partner at your Panel solicitors if you wish to discuss anything arising from this guidance note.

Prepared with the assistance of the NHS Resolution legal panel

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