



Home Office

Witness statements

Version 4.0

archived

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About this guidance

This guidance tells criminal investigators in Immigration Enforcement (IE) the different types of witness statements you might take and how to write them.

The guidance includes:

- general information on the different types of witness statements
- legislation relating to witness statements
- writing a witness statement for a witness, or as an officer
- taking a witness statement in or outside the UK
- witness statements using an interpreter
- property and exhibits in a witness statement
- victim personal statements
- points you must include and things to avoid in a statement
- identification and recognition statements

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the CFI Operational Guidance team

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

The Home Office has a duty to safeguard and promote the welfare of children for more information see: safeguard and promote child welfare

Clearance and publication

Below is information on when this version of the guidance was cleared:

- version **4.0**
- published for Home Office staff on **6 February 2017**

Changes from last version of this guidance

- new template
- minor housekeeping changes

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What is a witness statement?

This page tells you about what a witness statement is and how it is used in court. This only applies to statements taken in England, Wales and Northern Ireland.

Definition of an 'admissible witness statement'

To be admissible (allowed) in court [section 9 of the Criminal Justice Act \(CJA\) 1967](#) states for a witness statement to be used as evidence in any criminal proceeding, other than committal proceedings, it must:

- be a formal written document of a person
- be a set of facts relating to a certain event, or events
- be signed by the person who makes it, to confirm that the contents of the document are true, this is known as a statement of truth
- have had a copy served on the other parties before the trial

If all of the above apply, the witness does not always need to attend the trial to give oral evidence. But once they have made a written statement they may be called on to attend court and give their evidence in person. The jury do not see witness statements so the evidence contained in them will either be read out by counsel or be given orally by the person who has given the statement.

When you can produce a witness statement as evidence in court

To be admissible in court, evidence must be relevant to a fact which has to be proved, or disproved. Nothing proves itself, and every fact, and document relied upon in court must be proved by admissible evidence.

You can produce a witness statement as evidence in court when:

- the relevant conditions in [section 9 Criminal Justice Act 1967](#) are met:
 - this allows the defence to agree to a statement being read at trial where it has been served in advance to them
- [section 116 Criminal Justice Act 2003](#) or [section 117 Criminal Justice Act 2003](#) applies this allows first hand hearsay and business documents to be admitted as evidence
- schedule 1 paragraph 2 of the [Criminal Procedure and Investigations Act 1996](#) (CPIA) applies:
 - this allows a written witness statement to be read in court as evidence without further proof - this happens where both the defence and prosecution agree on what is written in the witness statement

[Section 9 Criminal Justice Act 1967](#) only applies to statements taken in the UK. The Crown Prosecution Service lawyer will decide what statements are to be used under section 9, and what exhibits will be produced as evidence.

When you cannot produce a witness statement as evidence

A written witness statement is not admissible on its own as evidence at trial if the defence do not agree with the evidence that has been written within it.

How the statement is used in court

The statement will be read out at the hearing, only if it has been agreed by both the prosecution and defence. This allows for evidence to be given without having to call the witness to attend. If there is no agreement, the statement will not be read out in court.

A witness may refer to specific documents in a statement and these documents or items of evidence will be 'produced' as exhibits in the case. Any document or object referred to as an exhibit and identified in the statement will be treated as if it has been produced by the person who made the statement.

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Types of witness statement

This section tells you about the different types of witness statements.

It is good practice for you to take a witness statement as soon as it becomes clear the witness could be useful whilst the information is fresh in their mind. You can always take further statements at a later date if more evidence comes to light.

Any written draft statement is unused material which you must give to the disclosure officer.

There are 3 types of witness statement:

- narrative statements:
 - made by the people who have played a part in the event at issue
- production statements:
 - made by people who are employees, who have access to computer systems or documents, but who cannot testify as to how the information was entered on to the systems, as it may have been done by other people in the organisation
- statements by expert witnesses:
 - include analysis and comment and can include personal opinion within their professional remit

You must avoid any reference to confidential information or sources in the witness statement.

For more information on witnesses who do not speak English, see: [taking a witness statement using an interpreter](#).

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Victim personal statements

This page tells you about what victim personal statements (VPS) are and how to complete one.

What is a VPS?

This is a statement made by the victim of a criminal offence. It is recorded on form MG11 and the content relates to the effect the offence has on them. To see a copy of this form, see: MG forms

Purpose of VPS

These statements provide the:

- victim with an opportunity to state how the offence has affected them:
 - physically
 - emotionally
 - psychologically
 - financially
 - in any other way
- victim an opportunity to say if they require further support, or wish to claim compensation
- Home Office and the courts with information on these matters and allow them to take account of the consequences of the offence on the victim

These statements are voluntary and are separate to other statements. They are disclosed to the defence. For more information, see: [victim personal statements](#) .

When the VPS is used in court

The VPS is put before the court after conviction in the sentencing bundle.

For a leaflet on victim personal statements, see: making a victim personal statement leaflet

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Taking a witness statement in England, Wales or Northern Ireland

This section tells you what you must do when you take a witness statement in England, Wales or Northern Ireland.

Which form to complete and storing the witness statement

If you take the statement in England, Wales or Northern Ireland, you must record it on an MG11, see: MG forms

If you take or receive the statement in Northern Ireland you must make sure you sign the additional declaration.

You must keep the original copies of all witness statements in the case file and send copies to the Crown Prosecution Service.

What you must tell the witness

Before a witness signs a witness statement you must always explain:

- the perjury clause to them before you take the statement
- a statement taken in this form meets the legal requirements, and so they may not need to attend court:
 - but you must make it clear the Home Office cannot guarantee they will not have to attend the court because the court, and the defendant, have the right to call any witness to attend and give oral evidence

Drafting the witness statement

When you draft a witness statement you must make sure:

- it is concise and to the point
- you only deal with matters within the witness's direct knowledge
- as far as possible, it is in their words

You may find it helpful to take notes before you begin writing the witness statement.

When you question the witness you must make sure you:

- ask all relevant questions to satisfy your duty under the Criminal Procedure and Investigations Act 1996
- pursue all reasonable lines of enquiry whether they point towards or away from the suspect

For more information, see:

- [Criminal Procedure and Investigations Act 1996](#)
- Manual of guidance and MG forms.
- MG forms

Sign and check the witness statement

You must always give the witness the opportunity to check the contents of the statement and make any corrections before they sign it. The witness must sign the declaration at the top of the statement and beneath the last line of the text in the statement.

You must make sure the person making the statement:

- consecutively numbers and signs all the sheets
- initials all alterations and deletions

If you need to read the statement to the witness

You must insert the following clause at the end of the statement:

‘(Full name of witness) being unable to read this statement, I (name of officer reading the statement) of (official address) read this statement to him or her before they signed it.’

When you finish taking the witness statement the witness must sign it and you must provide them with a witness information pack. For further information see: Witness information pack, parts 1 to 4:

- Witness information pack, part 1: Front page and covering letter
- Witness information pack, part 2: Witness charter leaflet
- Witness information pack, part 3: Witness in court leaflet
- Witness information pack, part 4: Witness statement leaflet

If the witness may have committed a crime or becomes a potential suspect

If you have reason to suspect a person may have committed the offence before you take the witness statement, you must not treat them as a witness and must interview them under caution.

If a witness becomes a potential suspect in the course of you taking a witness statement you must stop and offer to interview under caution.

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Taking a witness statement outside of the UK

This page tells you about taking a witness statement outside of the UK.

If you need to take a witness statement outside the UK for use in the UK you must consult with the Crown Prosecution Service first.

For the witness statement form, see: MG forms

The [Criminal Justice Act 1972 section 46 \(1C\)](#) allows statements taken outside the UK to be admitted in evidence, as long as they meet the following conditions:

- you leave out:
 - the signed declaration at the head of the witness statement (required by [Magistrate Courts Act 1980 \(MCA\) section 5B \(2\)\(b\)](#), 'this statement consisting of x pages each signed by me...')
 - the age of the person making the statement
- you do not apply the provisions of [Criminal Proceedings and Investigations Act 1996 schedule 1](#) (CPIA) paragraph 2 relating to the reading of statements at trial without further proof

Though proceedings in English courts must be in English, you must record statements made outside the UK in the witnesses own language and present these as evidence.

You must provide a translation in a separate statement by a translator or interpreter.

For more information on taking witness statements using an interpreter, see: [taking a witness statement using an interpreter](#)

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Taking a witness statement using an interpreter

This page tells you about taking a witness statement from someone who does not speak English as their first language.

You may need assistance from an interpreter when you take a witness statement from an individual who does not speak English as their first language.

For the witness statement form, see: MG forms

When a witness statement is recorded in another language the interpreter must make a translation into an English version on a separate witness statement form MG11, to formally produce the translation as an exhibit which can be used in court.

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Completing a witness statement

This section tells you how to complete a witness statement or an officer's witness statement and what to avoid when preparing a statement.

How you complete the witness statement

When you need to complete a witness statement, you must:

- make, or take, the statement as soon as possible after the event whilst it is fresh in your mind or that of the witness
- only use the MG11 witness statement template, see: MG forms
 - you can use the spell check function and can insert tables when necessary
 - the form has an automatic continuation so the witness' name will be repeated on subsequent pages with revised numbers
- use Arial size 12 font
- double space the text
- not remove or amend the:
 - perjury clause
 - headings, including the statutory references
- record:
 - any draft notes taken where possible, in the officer's notebook or daybook
 - personal details of the witness such as contact details and date of birth in the relevant section

You must not copy the witness statement to the defence.

What information you must include

A witness statement must give an accurate, relevant and concise account of the witness's involvement in the case being heard. It must include:

- the witnesses identification of themselves:
 - their job title
 - place of work
 - main responsibilities
- the event that started their involvement in the matter
- what the witness did, heard or witnessed that is material to the case
- everything that is relevant to the event or events (you will need to take advice from your case officer as to what are and are not relevant issues)
- full identification of any person or business featuring in the witness statement:
 - individuals must be identified initially by using the phrase: 'Who I now know as....'
 - when identification is an issue special rules apply, for more information see: [identification and recognition in a witness statement](#)
- a chronological narrative of events, including timings, names and places
- identification of any legal authority under which you have taken action
- identification by reference number of any exhibits that will be produced

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Completing an officer's witness statement

This page tells you about how to write an officer's witness statement for an investigation.

If you need to produce a witness statement as an investigating officer it will be a chronological (in order) account of the evidence you can give. This is why it is important that during investigations you make good notes in:

- your officer's notebook
- daybooks, surveillance logs
- property and other supplementary records

These notes must be sufficient to accurately complete the witness statement, see:

- Notebook guidance
- Daybooks guidance

You must keep any drafts you make as they may have to be disclosed to the defence as unused material.

All your statements must contain evidence that is:

- admissible
- relevant
- probative (honest)
- not prejudicial (opinion formed beforehand)

The main principles to follow when writing your statement

Only you can write your witness statement and others are not allowed to contribute to it or influence what you say.

When you are writing an officer's witness statement, you must:

- use plain English, avoiding jargon or technical language (if you have to use it make sure you explain it)
- write in the active voice, for example 'I saw this, I did that'
- try to use short sentences with each sentence dealing with only one idea or event, this will make it easier to follow:
 - but you must also vary the pace of your writing as a lot of short sentences can sound robotic and monotonous
- not routinely include your every action or produce every item you come into contact with as an exhibit as:
 - this is a waste of time
 - it may confuse the court

- record anything you think is relevant, or may become relevant, so by the time you come to write your statement the issues in the case are clearer
- make sure you are being even handed, it would not be right to include everything that proves the prosecution case and exclude all material that might contradict it
- include any material which is not included in your witness statement as unused material in the disclosure process
- ask a colleague to check your statement to make sure it will make sense in court

You, as case officer, must help witnesses by specifying the areas to be covered in the statement.

As a general rule, an officer's witness statement is not admissible in itself as evidence at trial if the defence contest the evidence it contains. If the evidence is not contested the statement is read out loud in court by the prosecution counsel.

The Criminal Justice Act 1967 contains provisions for inadmissible material to be deleted. The trial judge, and counsel, will make sure any inadmissible evidence is not placed before the jury.

For more information, see: [Criminal Justice Act 1967](#)

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What to avoid when preparing a witness statement

This page tells you what you must never include and what you must avoid in witness statements.

What you must never include in a statement

Your witness statement must never include any of the following:

- subjective and prejudicial comments, for example:
 - 'the defendant, in my view, is guilty'
 - 'the defendant is a criminal type'
- personal views which cannot be objectively tested, for example: 'he appeared to be drunk'
- sensitive issues, such as reasons for selection
- prejudicial (opinion formed beforehand) matters not relevant to the case, for example:
 - mention of previous convictions
 - informant details

Official – sensitive: Start of section

The information on this page has been removed as it is restricted for internal Home Office use.

Official – sensitive: End of section

What you must avoid using in a statement

You must try and avoid:

- jargon or language that others may not understand, where you have to use it you should explain what it means
- ambiguities, contradictions or gaps which may be revealed on cross examination
- irrelevant facts or information
- hearsay, unless you clearly identify it as this
- anything that might be seen as 'expert opinion' unless you are one

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Property and exhibits in a witness statement

This page tells you how to refer to property and exhibits in witness statements.

Evidence cannot speak for itself and so the witness must explain it so that it can be exhibited. This means you would exhibit items you have found, or created yourself (such as lists or logs).

Introducing items

You must introduce new items in the statement by:

- giving a description of the material
- giving a statement of how it was found or made
- using the phrase: 'which I produce marked....'
- give an exhibit reference number made up from the witness's initials or surname and a sequential number, for example AB0001

If there are a number of exhibits you can use a simple table like the one below:

| Description | Where found | Now marked | Seal number |
|-------------|-------------|------------|-------------|
| | | | |
| | | | |

Tables can simplify the procedure so they must not be too complicated or they will do the opposite. The jury does not see the witness statement.

If the evidence is complicated it may be better to prepare a separate list or chart that can be exhibited and given to the jury to refer to.

Referring to material found during a search in a witness statement

You can mention this material in a statement without producing it as an exhibit. This is particularly useful when you have obtained a large item and you find a piece of material within it that you need to exhibit. The statement would read:

- by the officer finding the material: 'during the course of the search I found a lever arch file which I marked AJ1'
- by the officer exhibiting the material: 'I examined AJ1 and removed from it an invoice which I now produce marked PJS1'

You can use tables if you need to record a number of items found during a search but you must not use them as a way of mentioning every item you found during a search regardless of its relevance.

Once you produce an item in your statement this means it must be available for the court and the jury to see. You must take care which items are produced in

statements and which are marked. For example, you must not produce drugs, they must be marked otherwise the case team would have to take all of the drugs to court.

The role of the case officer

If you are the case officer, you must:

- not ask witnesses to mention every item taken during the search, that would be
 - time consuming for the witness
 - irrelevant to the issues of the case
- indicate to witnesses which items must be identified as exhibits
- indicate which items must be mentioned to demonstrate the origin of an exhibit

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Identification and recognition in a witness statement

This section tells you about the identification, or recognition, of targets in witness statements using the information recorded in surveillance records.

Definition of a target

A target is a person or company being investigated.

Identification

This is when the target is named and known to those watching them. For more information on identification of targets and the Turnbull factors, see: [Crown Prosecution Service guidance on Turnbull and identification](#) and [Identification methods for witness statements](#)

Surveillance records

Surveillance records state how to record observations of subjects under surveillance in a surveillance log. You must also apply these principles of recording observations of subjects under surveillance when you come to writing witness statements.

Role of the case officer

If you are the case officer you must advise witnesses which observations are disputed. When you reach these in the chronology (order) of the statement you must consider the Turnbull factors as fully as possible, and seek advice. You must follow with:

- a detailed description of the target and what they were doing
- any recognition or identification procedures that were followed

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Identification methods for witness statements

This page tells you how to include identification in the witness statements and the acceptable methods used for witness statements.

You must comply with one of the following codes of practice when you are writing statements:

- Code D - Police and Criminal Evidence Act 2011 (PACE)
- [Police and Criminal Evidence \(Northern Ireland\) Order 1989 Code D](#)

In most investigation cases observation evidence is admitted and identification is not an issue. But identification is increasingly being challenged, so you must make sure when you deal with it in a witness statement you approach it with the Turnbull factors in mind. See below for more information.

If you use any identification procedures other than those detailed below you are in breach of PACE or PACE NI and this may:

- make the evidence inadmissible
- infect any subsequent admissible evidence

Law enforcement officers are expected to be better identification witnesses than civilians, as they have been trained to look out for identifying features. You must make sure:

- you establish the defendant was the subject of the witness's sighting, before the trial, by evidence gathered as part of the investigation process
- if identification is not at issue, when a suspect is first introduced into a statement you give a full description, followed by the phrase 'the person I now know to be' which implies an identification
- the statement then details the observations in chronological order and uses the name of the person under observation from then onwards - the evidence must show who you saw and what they did

Description evidence

Description evidence, either of clothing or appearance or both, is admissible. It is used in cases where arrest follows the sighting, typically when the subject:

- wears distinctive clothing
- has other distinguishing features such as tattoos, scars
- has unusual facial features.

Description evidence is admissible in:

- 'handover' or 'chain of evidence' cases:

- when one witness gives a description to another who sees an incident
- 'joint observation' cases:
 - when 2 witnesses observe the person by one of the means of identification set out below

In most cases you must try to improve this evidence using the identification procedures in PACE or PACE NI Code D, unless the witness indicates they would not recognise the person again.

If identification is at issue

You must include full descriptions in the statement and the witness must use the Turnbull factors which are summarised by the acronym 'ADVOKATE' below. For more information on the Turnbull case and identification evidence, see: [Crown Prosecution Service guidance on Turnbull and identification](#).

- Amount of time under observation – how long was the person or item in view?
- Distance – how far away was the target?
- Visibility – what was the visibility like?
- Obstruction – did anything obstruct the view?
- Known or seen before – had the target been seen before?
- Any reason to remember – were there any special reason to remember the observation?
- Time lapse – how long since the sighting?
- Error or material discrepancy – are there any changes in the witnesses descriptions of the suspect?

When taking account of Turnbull issues in statements you must give consideration to whether it will reveal:

- surveillance techniques
- static observation point (OP) locations
- the use of technical equipment

Often cases are dropped rather than revealing this information to the defence.

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Identification evidence: finding a suspect

This page tells you about using identification and recognition to find a suspect if the person is not already a known suspect.

To find a suspect, rather than confirm a known suspect was the person seen by the witness you may:

- take the witness to:
 - the likely suspect to confirm they were the person the witness saw (a scene of crime identification), this is normally where the person seen has run off and a person matching the description is stopped or arrested shortly afterwards
 - a location to see if the suspect is still present
- show them a photo board of 12 photographs which must be of 'similar type' for example hair colour, height or clothing, including the likely suspect, to establish who they saw:
 - Code D (3.12) - Police and Criminal Evidence Act 2011 (PACE) or [Police and Criminal Evidence \(Northern Ireland\) Order 1989 Code D \(PACE \(NI\)\)](#) set out the rules for using a photo board
 - a police officer, of the rank sergeant or above, must supervise the photo board procedure
 - you must preserve the photoboard for possible use at trial
 - once a person is identified as a suspect you must not show the photo board to any other witnesses, and the person identified becomes a known suspect
- show them a video identification parade (VIPER):
 - this method allows the witness to identify a suspect without confronting the suspect face to face
 - the video identification parade is played from a DVD onto a television which can be located in a police station or even at the witnesses home on a laptop to promote witness care

You must hold an identification procedure in all cases where the suspect disputes being the person the witness has identified.

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