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Giving evidence in court

Giving evidence in court

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This guidance explains the good practice you must use if you give evidence in court, how to prepare, what to expect when you give evidence, and the rules of evidence.

It also covers how to deal with cross examination, which is when the defence representative asks you questions and gives some general witnesses care advice.

This guidance helps immigration enforcement staff prepare for the experience of giving evidence and to make sure you give a good account of yourself in the witness box.

It provides the following information:

- Why there is good practice.
- Your role in giving evidence.
- The rules of evidence.
- Preparing to go to court.
- In the witness box.
- Dealing with cross examination.
- How preparation and presentation of the evidence can have an impact on the result.

For more details about rules of evidence, see related link: Evidence in criminal investigations.

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Changes to this guidance: This page lists the changes to this guidance, with the most recent at the top.

Contacts: This page explains who to contact for more help or advice.

Information owners: This page tells you about this version of the document and who owns it.

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	Safeguard and promote child welfare: This page explains your duty to safeguard and promote the welfare of children and tells you where to find out more.	
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This page lists changes to the 'Giving evidence in court' guidance, with the most recent at the top.

Date of the change	Details of the change
20 November 2014	Change request: <ul style="list-style-type: none">• Minor housekeeping and plain English changes.
15 November 2013	Completely revised by the modernised guidance team.

Related links

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This page tells you about good practice of giving evidence in court.

Going to court to give evidence can be a nerve-racking experience. The evidence you give and the way you give it are important factors in the decision making process for both:

- major cases, and
- cases involving relatively minor offences.

Your evidence can be crucial to the outcome of a trial, and the public do not take it for granted that your evidence is completely truthful or efficient.

All staff are under the same pressure as any other witness to demonstrate their:

- honesty
- credibility, and
- competence.

It is important to maintain and improve public confidence in the criminal justice system and immigration enforcement in particular.

If you are called to give evidence in court you must expect to go through rigorous questioning from the defence and, in some instances, your integrity may be questioned.

Complex or hostile questioning from the defence or allegations of impropriety (improper behaviour) can make you feel that either you or the organisation as a whole is on trial rather than the defendant. If you do not prepare your case correctly or the facts properly you can do a disservice to yourself, the organisation and to the cause of justice.

If you need more information about giving evidence in court, see related links: CPS information on going to court.

External link
[CPS information on going to court](#)

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Your role when giving evidence

<p>About this guidance Giving evidence in court good practice Arriving at court Using notes when giving evidence Dealing with cross examination Witness care</p>	<p>This section tells you about your role when you give evidence in court, how to prepare, the rules of evidence and refreshing your memory.</p> <p>You must remember what the roles are in a court hearing:</p> <ul style="list-style-type: none">• As a witness or investigator, you are there to help the court to reach a decision on the basis of the evidence placed before it.• The prosecutor's job is to try to secure a conviction. And• The jury or the magistrate decides the defendant's guilt or innocence. <p>To help the jury or magistrate reach a decision, you must explain, as clearly and concisely as possible, what you have:</p> <ul style="list-style-type: none">• seen• heard• recorded, and <p>you must do this:</p> <ul style="list-style-type: none">• honestly• impartially, and• without embellishment. <p>As a general principle, all you are required to do is to give evidence as honestly and clearly as possible.</p> <p>You are not a professional witness or a performer, and are not expected to demonstrate any special evidence giving skills. But, the courts are entitled to expect to hear the true facts, as you know them, presented competently.</p>	<p>In this section How to prepare before going to court The rules of evidence and refreshing your memory</p>
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How to prepare before going to court

<p>About this guidance Giving evidence in court good practice Your role when giving evidence Arriving at court Using notes when giving evidence Dealing with cross examination Witness care</p>	<p>This page explains what preparation you can make before you go to court.</p> <p>The key to a good presentation of evidence is preparation. You must consider the whole process not just the time spent in the witness box.</p> <p>You must remember that the following may be subject to the critical scrutiny of the court:</p> <ul style="list-style-type: none">• everything you do, say or record as having seen or heard, from the first report or observation of an offence throughout the course of the investigation• the preparation of the case papers, and• those things you fail to do or record. <p>To help you present your evidence and to answer questions on it, you must take care to make sure notes, sketch plans and other records are accurate and clear.</p> <p>It gives a poor impression to the court if your exhibits are mishandled or mislaid, so you must organise the exhibits beforehand, especially if there is a large number.</p> <p>Any doubts, apparent inefficiency or lack of knowledge of the case can detract from the prosecution case. Equally, if you do not have the required information it can damage you personally and the organisation or could have serious implications for the defendant.</p> <p>Pre trial visit</p> <p>Courts can be confusing and sometimes frightening places so try and arrange a pre court visit so the first time you give evidence is not your first time in court.</p> <p>Spending time in both a magistrates' and a Crown court, to familiarise yourself with the surroundings and court procedures will help you to:</p> <ul style="list-style-type: none">• understand how a hearing is conducted• the roles of those present, and	<p>In this section The rules of evidence and refreshing your memory</p> <p>Links to staff intranet removed</p>
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- the ways in which people behave.

Court observation makes the court a more familiar and less intimidating place when you have to give your evidence. Seeing the formality of the surroundings and seriousness of the issues the courts deal with helps you to understand the significance of your role in presenting evidence.

For more information about evidence in criminal investigation, see related link.

Giving evidence in court

The rules of evidence and refreshing your memory

<p>About this guidance Giving evidence in court good practice Your role when giving evidence Arriving at court Using notes when giving evidence Dealing with cross examination Witness care</p>	<p>This page explains the rules of evidence and what evidence is admissible (allowed) during a court hearing.</p> <p>Your preparation must include reminding yourself of the rules of evidence. For more detailed information on the rules of evidence and the types of evidence, see related link: Forms of evidence in court.</p> <p>You can often be caught out by your failure to understand the types of evidence and attempt to introduce:</p> <ul style="list-style-type: none">• opinions, or• hearsay evidence. <p>This is usually an innocent mistake but when you are criticised for such an error and part of your evidence is ruled inadmissible (not allowed), you may seem to others to be incompetent or insincere.</p> <p>When you are called to give evidence in court, you must take the following steps in advance:</p> <ul style="list-style-type: none">• Make sure you are familiar with the case, this is especially important if the:<ul style="list-style-type: none">○ offence took place a long time ago, or○ case is complex.• Check all the necessary administrative steps have been taken:<ul style="list-style-type: none">○ the case papers are complete, and○ any exhibits are available, correctly ordered and labelled. <p>Exhibits that are poorly organised or mislaid can cast doubt on the efficacy (value) of the case. If material relevant to your evidence is the responsibility of others, check with them that everything is available and organised so you are able to give a complete and competent account.</p>	<p>In this section How to prepare before going to court</p> <p>Links to staff intranet removed</p>
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Refreshing your memory

There is nothing to prevent you from refreshing your memory from your contemporaneous (written at the time) notes before giving evidence and this is an essential element of your preparation for giving evidence, do not rely on your memory but re-read your notes and look at the case file.

You must not interpret the need to familiarise yourself with the case and the evidence you are to present as implying you can discuss the evidence with other officers involved in the case.

Disclosure and evidence

Under the Criminal Procedure and Investigations Act (1996) (CPIA) you must retain (keep) all material, whether it is information or objects, which is obtained or produced during a criminal investigation, which may be relevant to the investigation.

If it is important to the offence under investigation, it will be produced as evidence and later served upon the court and the defendant as evidence (subject to the restrictions regarding sensitive material).

For more detailed information on the acceptable types of material and the disclosure process, see related links:

- Disclosure and
- Criminal Procedure and Investigations Act (1996) (CPIA).

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Arriving at court

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This section tells you about arriving at court and how to give evidence in the witness box.

Make sure you arrive at court in good time so you have an opportunity to talk to the Crown Prosecution Service (CPS) lawyer and/or the prosecution barrister before the hearing to:

- make sure they know who you are
- discuss any outstanding points, or
- answer any questions you may have before you enter the witness box.

Occasionally, the prosecution lawyers may not arrive much in advance of the hearing. But clarifying issues before going into the witness box benefits both you and them, so approach them and talk through any problems in advance wherever possible.

A witness is a person who gives evidence in a court, and are either:

- prosecution witnesses who give evidence on behalf of the prosecution case who have instigated (started) the court proceedings, or
- defence witnesses who give evidence on behalf of the defendant who has had the court proceedings brought against them.

Before you are required to give evidence you will have made a witness statement in relation to your evidence. A witness statement is the main way of informing lawyers about the evidence you can give. The witness statement is recorded on a form MG 11. For more information about making and taking a witness statement and MG forms, see related link: [Witnesses statements](#).

The credibility of all evidence, and therefore the outcome of a court hearing, can be affected by the way in which you conduct yourself in the witness box. The following are important:

- your appearance

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| | <ul style="list-style-type: none">• your demeanour (behaviour), and• the manner in which you address the court. | |
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In the witness box

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This page tells you the good practice to follow when you are in the witness box.

Be smart

You are more likely to make a good impression on the court and to be respected and believed if you are of smart appearance. A neat appearance shows respect to the court and the participants and knowing you look smart will make you feel more comfortable and relaxed.

Of course, you may find you have no choice but to attend court directly from a situation that demanded casual dress. If this happens, the court will appreciate you explaining the situation at the first opportunity.

In the witness box

When you enter the witness box you are required to take an oath in accordance with your religion to tell the truth, the whole truth and nothing but the truth.

If you have no religious belief or do not want to take the oath you must make a solemn affirmation (declaration) to the same effect. If you do want to make an affirmation, you must inform a court usher or the case officer in advance so they can make the necessary arrangements to avoid any delay in the hearing. After you have taken the oath or made the affirmation, you are then asked to give evidence.

If you do not tell the truth it may result in you being prosecuted, and you could be:

- held in contempt of court, or
- accused of perverting the course of justice.

Be confident

You can be asked questions about anything the court thinks might be relevant to a case. It is therefore important you are seen to be a professional and reliable witness. Good advice is:

- When you address the judge or magistrate(s):
 - stand straight
 - speak clearly and confidently
- do not be afraid of direct eye contact, and
- give your replies in a pleasant, courteous and helpful manner.

Remember to address the various court officials correctly:

- High court judge – My Lord.
- Crown court judge – Your Honour.
- Recorder – Sir or Your Honour.
- Magistrate – Your Worship.

Be straightforward

Try to:

- speak clearly and positively
- present your evidence succinctly (briefly), in a straightforward way and give the information required as simply as possible
- avoid using jargon and acronyms
- listen to the questions you are asked and answer them precisely
- avoid:
 - rambling
 - giving irrelevant information, or
 - personal opinions
- speak in plain English do not use long, uncommon words when short, familiar ones will do.

Be objective

The court hearing is the conclusion of your investigation and an opportunity to get a conviction but, securing a conviction is not your job. If the evidence presented to the court, including your own, results in an acquittal, you cannot change that. But, you must present the facts as you know them in a dispassionate and impartial manner.

Everyone makes mistakes sometimes. Memories fade or play tricks, so:

- If it becomes clear you have made an error or not done something, you must say so.
- If you are not sure, you must say so.
- If you are convinced that what you are saying is true then do not yield (give up). And
- Make your position clear to the court firmly but courteously.

It is not helpful to try to cover up lack of knowledge or errors so say what you know to be the case and, where appropriate, do not be afraid to admit if you do not know or cannot remember.

If this means you may have to show that you have a different recollection or perception of events from those of your colleagues, then it is not a major source of concern.

It is rare for two or more people's accounts of the same set of events to be identical in every detail. Witnesses who all give exactly the same story can look as if their evidence was:

- written up jointly, or
- part of a conspiracy to remove any discrepancies to minimise any cause for doubt.

Stick to the facts and do not be tempted to reconstruct what you do not know.

Normally, when you have entered the witness box and taken the oath you are expected to give all your evidence before leaving the witness box. But there may be occasions when giving evidence spans a break in the court hearing. This is called part heard.

This break may be for:

- a short recess
- a lunch break
- an overnight adjournment, or exceptionally
- the court to hear the evidence of other witnesses whilst another remains part heard.

During the period of any break in your evidence you must not discuss the case or your

evidence with anyone else.

To avoid any accusation that you have discussed your evidence with others if you are part heard you must wherever possible not associate with colleagues unless it is unavoidable. For example, travelling home in a shared vehicle with other witnesses.

If this situations occurs you must make:

- this status known to colleagues, and
- sure the case is not discussed in your presence or hearing.

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Using notes when giving evidence

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This page tells you about using notebooks when you give evidence in court.

If you need to use a notebook, or other aide-memoir, for example, observation log, you must ask the court's permission first. It is standard practice for you to:

- refresh your memories when giving evidence, and
- to refer to notes made at the time of an incident or very shortly afterwards.

You may also have to give evidence about the notes, and the time they were made, in relation to the events you are giving evidence about.

It is important that any material, deemed sensitive under the Criminal Procedures and Investigations Act 1996, (CPIA) is not readily accessible to the defence. This is because whatever you use to refresh your memory in the witness box can be examined there and then by the:

- judge, or
- defence counsel.

For further information about CPIA and disclosure, see related link.

If you are very heavily dependent on your notes and you read verbatim (word for word) from them magistrates, jurors or judges may gain the impression you do not remember the case at all which may reduce the value of your evidence.

Reading your notes in a 'wooden', monotonous tone:

- makes the content boring and difficult to understand, and
- may mean those listening fail to notice important points in the prosecution case.

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A more effective way to use your notes is to:

- refer to them as necessary, to refresh your memory, then
- to look up and tell the story in your own words.

Assuming you have familiarised yourself with the material before going into the witness box, you must not consult your notes continually but only on specific issues.

In general, notes are best read out only when a precise point has to be answered, such as:

- verbatim (word for word) quotes
- times, or
- vehicle registration marks, for example.

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Dealing with cross examination

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This page tells you how to deal with cross examination by defence representatives.

You may find the prospect of cross examination by the defence particularly daunting. However in practice it should not be a problem, if:

- you are well prepared and confident
- the investigation stands up to scrutiny, and
- you do not attempt to answer questions beyond your level of knowledge or powers of recall.

Cross examination can be very demanding and it helps to anticipate the kinds of questions the defence might ask, to try to:

- identify weaknesses in your account
- cast doubt on the veracity (accuracy) of your evidence, or
- question the efficiency, fairness or thoroughness of the investigation.

Listen carefully to the questions you are asked and think before you answer. If you do not understand a vague, complex or poorly phrased question, say so and ask, politely, for clarification.

Of course, you must be aware that some defence lawyers will sometimes try to discredit your evidence by:

- pointing out supposed inconsistencies, or
- challenging you to remember difficult or barely relevant details.

Some may even accuse you of lying. This can be extremely upsetting. It is important to remember this is a standard operating technique, not a personal attack. Even though you may feel such allegations are unworthy and unethical, you must appreciate the lawyer

probably cannot find any other grounds for attacking you or your colleagues.

Do not take defence attacks on your integrity personally, you can only deal with these assertions effectively by remaining calm. Respond firmly and courteously, do not:

- become emotional
- get angry, or
- lose your temper.

As a general rule, the more rude and outrageous the questioner, the more cool, calm and collected you must be, the person who remains reasonable and composed will gain more respect and credibility.

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This page tells you about witness care when you give evidence in court.

Remember you may not be the only person who is apprehensive about giving evidence. If this is the first time your witnesses have been to court:

- show them round the court, and
- explain the procedures to them.

If they are nervous, make sure the Crown Prosecution Service (CPS) lawyer is aware so that they can be as sensitive as possible.

There may be a lot of waiting around before you or other witnesses are called to give evidence or the case may be adjourned or abandoned.

This can be very frustrating but do not let it affect your perceptions of going to court. Giving evidence can be an enjoyable and satisfying experience, but this depends on:

- a good standard of investigation
- good preparation, and
- good presentational skills.

If you are confident about all of these, you will be a credit both to yourself and the organisation you represent.

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Contact

<p>About this guidance Giving evidence in court good practice Your role when giving evidence Arriving at court Using notes when giving evidence Dealing with cross examination Witness care</p>	<p>This page explains who to contact if you need more help with a question about good practice of giving evidence in court.</p> <p>If you have read this guidance and still need more help, you must first ask your line manager. If you need further help you may contact:</p> <div style="border: 2px solid red; padding: 5px; text-align: center;"><p>Official sensitive – do not disclose – start of section</p><p>The information in this page has been removed as it is restricted for internal Home Office use only.</p><p>Official sensitive – do not disclose – end of section</p></div> <p>Changes to this guidance can only be made by the guidance, rules and forms team (GRaFT). If you think the policy content needs amending you must contact the policy team, using the related link: Email: criminal investigation operational guidance who will ask the GRaFT to update the guidance, if appropriate.</p> <p>The GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the related link: Email: guidance, rules and forms team.</p>	<p>In this section Changes to this guidance Information owner</p> <p>Links to staff intranet removed</p>
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This page tells you about this version of the 'Giving evidence in court' guidance and who owns it.

Version	2.0
Valid from date	20 November 2014
Policy owner	Official – sensitive: information removed
Cleared by director	Official – sensitive: information removed
Director's role	Official – sensitive: information removed
Clearance date	28 October 2013
This version approved by	Official – sensitive: information removed
Approver's role	Official – sensitive: information removed
Approval date	20 November 2014

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