

Attending a court hearing – a guide to witnesses

NHS staff are sometimes involved in court proceedings as part of their role. You may, for example, have given emergency treatment to a patient who had been injured as a result of an assault, been asked to provide a statement in child protection proceedings, or give evidence in relation to a negligence claim or Court of Protection application.

There are two types of witnesses: witnesses of fact and expert witnesses. You will usually be involved in court proceedings as a witness of fact. Occasionally, you may be asked to give your opinion and, if doing so, you should stay within your area of professional expertise. For example, an A&E Consultant may be asked if a wound was consistent with the patient having been stabbed.

Preparation

- Prior to the hearing date, review your witness statement to refresh your memory of the evidence you have given;
- if you do not have a copy of your statement, you should request one from the party that is calling you as a witness;
- ensure that you are familiar with the evidence in your statement and within relevant medical records;
- you may wish to visit the court in advance;
- you may take original notes and records with you to court for your own reference, but do not volunteer them to the court; and
- it is important that you do not discuss your evidence with any other witnesses.

On arrival at court

- Check the court list to find out the court room number, judge and time of the hearing.
- Report to the court usher or receptionist on arrival. Inform them of any special requirements you may have, for example, if you need to remain sitting, if you would prefer to make an affirmation rather than taking an oath, or if you need to leave early.

- You will be directed to a waiting room or area. The solicitor and/or barrister for the party that has called you will usually meet you and explain when you are likely to be called to give evidence.
- If you are a witness in criminal or children proceedings, you must wait outside the court room.
- If you are a witness in civil proceedings, you may sit in the court room and hear evidence which is given before you.
- You may take a friend along for support.
- It is advisable to take a book or magazine along as there may be a lot of time spent waiting!

Inside the courtroom

- The criminal and civil courts are open courts - this means that members of the public and the press may sit in on the proceedings. This may include proceedings in the Court of Protection.
- The courts for proceedings relating to children are closed courts - this means that members of the public are not permitted access, although the press may attend the proceedings in certain circumstances.
- You will be escorted by the court usher to the witness box to give your evidence. You will give your evidence whilst standing. You will be asked to swear an oath or make an affirmation, confirming that the evidence you give will be true. This is a very serious matter as you can be liable for contempt of court if you do not tell the truth.



Giving evidence

- First, you give your evidence in chief: this involves reading your statement out or stating your evidence in response to questions asked by the lawyer for the party which has called you. The judge may also ask you some questions.
- You will then be cross-examined by the other parties' lawyer(s).
- Finally, the first lawyer may ask you some questions to clarify your evidence.
- Hearsay evidence is generally inadmissible. This is when a statement made by a third party is repeated in court. Hearsay evidence may be admissible under one of the exceptions to the general rule. Exceptions include confessions, business documents and certain evidence given in civil and Children Act proceedings.
- After giving your evidence, you will be officially released by the judge and allowed home or you may stay and listen to further evidence if you wish. For proceedings relating to children, you will need the court's permission to stay.

Techniques used by lawyers when questioning witness

- Repeating the same question or asking a similar question: stick to your guns!
- Pausing after you have given your answer: leave a silence, do not babble to fill it!
- Cutting an answer short: do not be afraid to supplement your earlier answer.

Receiving advice/Support

- You may contact the following people/services for advice or support:
- Your line manager;
- the Witness Service - an independent and confidential organisation run by Victim Support; or
- the police/CPS if they are involved the case or the lawyer who has called you to give evidence.



Please contact your usual Hill Dickinson contact if you have any queries, or require information on our legal training for the NHS.

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