Home Office

Giving evidence in court

Version 6.0

Contents

About this guidance

This guidance tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the responsibility they have when undertaking roles of witness or officer in the case (OIC) during the court process.

It outlines best practices for giving evidence in court, including how to prepare, what to expect, the rules of evidence, how to handle cross-examination, general advice on witness care and support, and looking after your own wellbeing.

The Home Office has a duty to safeguard vulnerable people and promote the welfare of children for more information see: Vulnerable people and children.

Criminal Investigators in Immigration Enforcement must be aware of their obligations under the UK General Data Protection Regulation (UK GDPR) and Part 3 of the Data Protection Act 2018 see: Data protection.

Contacts

If you have any questions about the guidance and your line manager cannot help you or you think that the guidance has factual errors then email the CFI Operational Guidance, Risk and Compliance 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 Review, Atlas and Forms team.

Publication

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

- version **6.0**
- published for Home Office staff on **21 August 2025**

Changes from last version of this guidance

Changes from the last version of this guidance include:

- housekeeping changes

Related content
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How to prepare for court

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about how preparation for court can be as important as the appearance itself and gives guidance on what officers can do to make the experience less challenging. It is important that the whole court process is considered not just time spent in the witness box.

Understanding your role

When an officer is called to give evidence, it may be in the capacity of the officer in the case (OIC) or as a witness. This can occur in either the Magistrates Court or the Crown Court, and the testimony may be delivered in person or via live video link. The substance of your evidence, along with how it is presented plays a crucial role in the decision-making process for all offences.

Your evidence can play a crucial role in the outcome of a trial. Presenting it to the court with confidence, impartiality, and efficiency can significantly influence the final decision. Therefore, careful planning and coordination of resources and evidence preparation are essential to ensure the strongest possible presentation.

Providing witness testimony can be a challenging experience, but with familiarisation and preparation - not only procedure but also with the physical environment – can make the process significantly less daunting and help build confidence when giving evidence. See presenting of evidence.

Giving evidence in an official capacity does not, in itself, guarantee that the testimony will be regarded as entirely truthful or credible. All staff are held to the same expectations as any other witness, and must demonstrate honesty, credibility and competence – principles that align to the Civil Service Code, which upholds the core values of integrity, honesty, objectivity and impartiality.

Upholding and maintaining these standards are important for preserving and enhancing public confidence in the criminal justice system and Immigration Enforcement (IE). If you are called to give evidence in court, you should be prepared for rigorous questioning from the defence, which may at times challenge your integrity.

What is a witness

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

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

Before giving evidence in court, you will have written a witness statement. This statement explains what you saw or know, and it helps inform lawyers about the evidence you can give during legal proceedings.

For more information about making and taking a witness statement see: Witness statements.

For more information about witness care see: supporting witnesses

Preparation for court

To effectively present your evidence and respond confidently to questions, it is essential that your notes and records are accurate, clear, and well maintained.

Reviewing your witness statement and contemporaneous (written at the time) notes before giving evidence is an essential element of your preparation for giving evidence in court. Do not rely solely on your memory but re-read your notes and witness statement to ensure you are fully informed of your observations and account before giving evidence. Your preparation must include reminding yourself of the rules of evidence see: preparing of evidence.

A lack of organisation - such as mishandling or misplacing exhibits - can reflect poorly on you and undermine the credibility of your evidence. This is especially important when dealing with a large volume of exhibits, which must be carefully prepared and arranged in advance.

Failing to prepare your case thoroughly or to present the facts accurately can seriously undermine not only your personal credibility, but also that of your organisation and the integrity of the justice process. The defence may focus on any failure to follow procedure or adhere to guidance to attempt to expose your case to legal challenge, or weaken the prosecution, and ultimately damage public confidence in the Home Office.

Pre-trial visit

Courts can feel unfamiliar and intimidating, so it's advisable to arrange a pre-court visit. This ensures that your first time giving evidence isn't also your first time inside a courtroom.

The court functions like an independent arbiter; ensuring both parties (defence and prosecution) follow rules and procedure. It may only call evidence on its own initiative in exceptional circumstances.

In Crown Court trials, a Circuit Judge or Recorder or in the most serious cases a High Court Judge presides over the proceedings alongside a jury of 12 members of the public, whose responsibility it is to decide whether the defendant is guilty or not guilty.

In contrast, cases in the Magistrates' Court are heard by a bench of 2 or 3 lay magistrates - volunteers who are not legally trained. They make decisions

collectively and receive legal guidance from a qualified legal adviser, often referred to as the Clerk of the Court. They are sat in attendance in the court room, usually just in front of the bench.

Spending time observing proceedings in both a Magistrates' and Crown Court (or the Sheriff Court and High Court of Justiciary in Scotland) can help you become familiar with the environment and court procedures.

This experience will give you a better understanding of:

- how hearings are conducted
- the roles and responsibilities of those present
- expected standards of behaviour in court

Observing court in advance can make the experience less daunting when it's your turn to give evidence. It also reinforces the seriousness of the setting and the importance of your role in presenting evidence clearly and professionally.

For more information about court proceedings see: Criminal Investigations: court proceedings

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Attending court

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the process when you attend court, what you must have with you and the way you should address the court.

Arriving at court

Officers must arrive at court in advance of the time the case is listed for. They should have in their possession their warrant card along with their pocket notebook. If attending as the officer in the case (OIC), for trial, officers should ensure that all exhibits, investigation and decision logs are in their possession. In Scotland all productions (exhibits) are delivered to the Crown Office and Procurator Fiscal Service (COPFS) in advance of the trial and the COPFS is then responsible for making sure they are delivered to court for trial.

Court numbers can be obtained from the listings displayed in court if this has not already been obtained via CourtServe.

Arriving early allows time to speak with the prosecution lawyer, barrister, or advocate depute before the hearing in order to:

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

Occasionally, the prosecution lawyers may not arrive until the hearing commences. However, by talking through issues with prosecution lawyers before going into the witness box it will allow for clarification of any problems before evidence is given.

Officers should dress appropriately choosing attire in line with the Criminal and Financial Investigations (CFI) dress code guidance see Dress code and standard of appearance for criminal investigation staff.

Officers are to ensure that when entering the courtroom mobile phones are turned off or switched to silent. Enter court quietly as a case may already be in session. In Scotland officers should not enter the courtroom and remain in the prosecution witness waiting room until they are called to give evidence. Officers must not return to the witness room after giving evidence or discuss their evidence with other witnesses but can stay and listen to the rest of the trial.

Acknowledging the bench (desk where judge or magistrates sit) on entry and exit of the court room by way of a small bow shows respect to the officials and the court process.

In the witness box

The court room can be confusing with multiple people in the room all undertaking different roles. You will be asked questions by one person (usually the prosecution or defence lawyer) but you address the answer to a different set of people such as the judge, magistrates or jury.

Officers should position themselves so that they are facing the judge, magistrates or jury addressing them with the answer, however you should remember to look at the prosecution or defence lawyer when a question is put to you.

In the witness box it is important that officers listen to all questions put to them and understand what is being asked of them. It is acceptable to ask a question to be repeated or rephrased if it is not understood.

When you are in the witness box under oath or affirmation you must tell the truth. Failure to do so means you could be held in contempt of court and accused of perjury.

Oath or affirmation

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. After you have taken the oath or made the affirmation, you are then asked to give evidence.

Religious texts are available for several religions. To ensure this is organised tell the court as soon as you can which book you require.

An example of Oath:

- ‘I swear by (relevant religious text) that the evidence I shall give shall be the truth the whole truth and nothing but the truth’

An example of affirmation:

- ‘I do solemnly, sincerely and truly declare and affirm that the evidence I shall give shall be the truth, the whole truth and nothing but the truth’

It is important you decide in advance which will be undertaken so that you are confident in your approach and recite it with clarity and conviction as this not only instils confidence in yourself but also in those hearing the evidence. The court clerk will normally have a copy for you to read from.

How to address officials

Remember to address the various court officials correctly:

- High court judge – My Lord/Lady
- Crown court judge – Your Honour
- Recorder – Your Honour
- Magistrate – Your Worships or Sir/Madam (individually)
- District Judge (Magistrates court) – Your Honour
- Lay Magistrate (Northern Ireland) – Your Worship
- Master of the High Court (Northern Ireland) – Master (surname)
- Justice of the Peace (Scotland) – Your Honour
- Sheriff (Scotland) – My Lord/Lady
- High court of Justiciary judge (Scotland) – My Lord/Lady

What if I make a mistake in the witness box

Everyone makes mistakes at times. Memories fade or you can become confused when trying to recall events which have taken place some time ago. Therefore, you must speak out if it becomes clear you have made an error, have not done something, or you are not sure about what took place

You should also speak out if you are convinced that what you are saying is true and make your position clear to the court in a calm and courteous manner.

You should not try to cover up any lack of knowledge or errors you might have made and, where appropriate, do not be afraid to admit if you do not know or cannot remember.

This may result in you providing a different recollection or perception of events from those of your colleagues. However, this should not be a major source of concern as it is rare for 2 or more people's accounts to be identical in every detail when describing an event.

When witnesses present accounts that are strikingly uniform, it may create the impression that their testimonies were coordinated. Such uniformity can give rise to concerns of collusion, potentially suggesting a deliberate effort to eliminate inconsistencies and thereby reduce the scope for reasonable doubt.

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

Breaks in giving evidence

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:

- a short recess
- a meal break

- an overnight adjournment
- exceptionally, for 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 situation occurs you must make this status known to colleagues so as to ensure the case is not discussed in your presence or hearing.

Using notes when giving evidence

Pocket notebooks (PNB's) or their digital equivalents are usually used for recording notes made during operational activity. Section 139 of The Criminal Justice Act 2003 permits a person giving oral evidence in criminal proceedings to refresh their memory from any document made by them at an earlier time if:

- they state in their evidence that the document records their recollection of the matter at that earlier time
- that the recollection of that matter is likely to have been significantly better at that time than it is at the time of giving oral evidence

Officers must seek the court's permission before referring to their pocket notebook while giving evidence. They should also be mindful—especially in cases involving older offences—that the notebook they carry contains the evidence they intend to present to the court.

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. You must ensure that these notes do not introduce any new evidence that has not already been presented to the court through your witness statement.

It is important that any material, deemed sensitive under the Criminal procedure and investigation act 1996 (CPIA) or the Criminal Justice and Licensing (Scotland) Act 2010 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 the defence counsel.

For further information about CPIA and disclosure, see:

- Disclosure: Criminal Procedure and Investigations Act (CPIA) 1996
- CPS Guidance to Disclosure

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. See Presenting of evidence

In general, notes are best read out only when a precise point must be answered on a specific issue like a verbatim quote, time or vehicle registration mark. For further please see PNB Guidance.

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Evidence

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about how you should prepare and present evidence and what rules exist about what can and cannot be heard.

Preparing of evidence

When you are called to give evidence in court, you must take the following steps in advance: make sure you are familiar with the case - this is especially important if the offence took place a long time ago or the case is complex.

As officer in charge (OIC) you should check all the necessary administrative steps have been taken by ensuring:

- the case papers are complete
- any exhibits are available - correctly ordered and labelled

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 can give a complete and competent account.

Given the complexity of the criminal justice systems' various computer systems, relying solely on electronically stored case papers and exhibits can be unwise. Where possible, officers should ensure a backup is available—either on a laptop or in the form of printed copies of key documents.

You must not discuss your evidence or compare your witness statement with other officers involved in the case. If you are found to have done so this will undermine your evidence and could therefore jeopardise proceedings of the case.

A failure to recognise the distinction between admissible and inadmissible forms of evidence may result in parts of your testimony being excluded from proceedings. This could, in turn, undermine your credibility and create an impression of incompetence or lack of sincerity.

Hearsay and opinion evidence

Hearsay evidence and opinion evidence are legally distinct categories, each governed by specific rules that determine their admissibility in court proceedings.

As a general rule hearsay evidence is not admissible (cannot be used) unless it falls under the exception in the Criminal Justice Act 2003. For further information on hearsay evidence see: Hearsay | The Crown Prosecution Service

Officers are not generally considered expert witnesses and therefore not expected to demonstrate any specialist opinion. Officers may only use opinion where it reflects a personal observation and is used to clarify factual testimony. An example of this being ‘on my approach to the rear of the lorry, I saw several individuals climb out quickly. They looked panicked and disorientated and based on their appearance I believed they were trying to avoid being seen.’

Presenting of evidence

When presenting evidence, sometimes referred to as ‘giving evidence in chief’, you only have one chance to create a good impression. You must remember your principal role when attending a court hearing is that you are there as a witness or investigator to help the court reach a decision based on the evidence placed before it.

It is the job of the prosecutor to present the case and try and secure a conviction and the role of the jury or magistrate to decide the defendant’s innocence or guilt.

To help the jury or magistrate reach a decision, you must explain, as clearly and concisely as possible, what you have seen, heard or recorded.

As a general principle, all you are required to do is to give evidence as honestly and to communicate your evidence as clearly as possible.

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 competent and a reliable witness.

When giving evidence you should:

- speak clearly and confidently
- 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
- speak plain English
- don’t be afraid to maintain eye contact when addressing the bench
- stand straight and not fidget
- not speak over others
- remain calm and composed
- give evidence without embellishment

Presenting evidence via live link

Section 51 Criminal Justice Act (as substituted by the Police, Crime, Sentencing and Courts Act 2022) enables courts to allow for criminal proceedings to take place over a live video stream. It is permitted only for those taking part in the case and is not permitted to observers.

Live links may be used as a special measure for witnesses; however, it may also be granted in the interest of justice where all parties (defence and prosecution are agreeable).

It is important to note that the same rules apply as if you are in court and officers should be mindful that when making the oath the relevant holy book would need to be present with them, see oath or affirmation

If officers are presenting evidence via live link you should ensure:

- the location is quiet and private – free from distractions
- your internet connection is stable
- dress appropriately as if attending in person
- speak clearly into the microphone
- maintain eye contact with the court
- remain attentive and do not read off notes
- no other person is to be in the room unless authorised by the court

If you need more information about giving evidence in court, see:

- CPS - Victim's Guide - the trial
- Evidence in Criminal Investigations
- Live links

Disclosure and evidence

Under the Criminal Procedure and Investigations Act 1996 (CPIA) or Criminal Justice and Licensing (Scotland) Act 2010 in Scotland you must retain (keep) all material, whether it is information or objects, which are 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:

- Disclosure: Criminal Procedure and Investigations Act (CPIA) 1996
- CPS: Disclosure
- Criminal procedure and investigation act 1996 (CPIA)
- Criminal Justice and Licensing (Scotland) Act 2010
- Public Interest Immunity

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Cross examination

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the purpose of cross examination and how to deal with it during court proceedings. It also refers to consideration of the neither confirm nor deny policy (NCND)

Purpose of cross examination

Cross-examination takes place after the initial case has been presented by the Crown prosecutor or Advocate. It is the opportunity for the defendant's counsel to:

- put the opposing version of events to the witness (known as 'putting the case')
- to raise any other relevant matters which are capable of undermining the witness's evidence

The purpose is to test the reliability and credibility of a witness's evidence, to expose weaknesses where they exist and, if so, to undermine the account the witness has given.

You may find the prospect of cross examination by the defence particularly daunting. However, it is important to remember that this is not a personal attack on you or the organisation, they are doing their job. In trying to:

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

The court can intervene if the manner in which the questioning becomes inappropriate or too aggressive.

Managing cross examination

Complex or hostile questioning, as well as allegations of impropriety, can create the impression that you or your organisation are on trial rather than the defendant.

For a case to be proven beyond all reasonable doubt it is important that you and the investigation stands up to scrutiny by the defence. You should therefore 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.

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

You must be aware that some defence lawyers will sometimes try to discredit your evidence by pointing out supposed inconsistencies and challenging you to remember difficult or irrelevant details.

Do not take challenges to your integrity by the defence personally. The most effective way to respond is by remaining calm, composed, and courteous. Avoid becoming emotional, impatient, or confrontational, as this may undermine your credibility. A measured and respectful response will reflect your professionalism and strengthen your evidence.

As a general rule, the person who remains reasonable and composed is more likely to be considered credible by the court.

Official – sensitive: start of section

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Public interest immunity (PII)

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about public interest immunity (PII) matters.

What is PII

PII previously known as Crown privilege is the legal principle that allows the court to order certain material, otherwise relevant to the investigation, to be excluded from disclosure in order to protect the public interest.

The CPIA 1996 allows prosecutors to apply to the court to withhold what would otherwise be disclosable material. The court must weigh the public interest of maintaining confidentiality against the public interest of ensuring fairness and justice in legal proceedings.

Who applies for it

In the circumstances where there is evidence which is likely to lead to questions about the source of information then sufficient notice must be given to the prosecutor so that a PII application or non-notification order and exclusion order as appropriate can be submitted in advance. Application for a PII order comes from the CPS prosecutor to the court. It is then up to the court to consider the application and determine whether it should be granted. If an application is not successful, the prosecutor would seek to challenge the court order by appealing it before it takes effect.

If an order is not granted the Home Office has to make a decision whether to continue with the case or abandon a prosecution because the risk of disclosure regarding law enforcement tactics or risk to source are too great to continue with the case. For more detailed information on PII, see:

Official – sensitive: start of section

The information in this section has been removed as it is restricted for internal Home Office use only.

Official – sensitive: end of section

Disclosure: Criminal Procedure and Investigations Act (CPIA) 1996
Attorney Generals Guidelines on Disclosure published 29 Feb 2024

Related content
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Witness care

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about witness care when you give evidence in court. It also signposts officers to assistance following court appearance.

Supporting witnesses

If you are the OIC in the case and have given evidence previously you will be aware that other officers and witnesses who have been called to give evidence may be apprehensive about giving evidence in court. If this is the first time your officers or witnesses have been to court, you should:

- show them round the court
- explain the procedures to them
- reassure them about giving their evidence
- support them throughout the proceedings

If your witness is nervous and uncomfortable, try to support them as much as possible and make sure the prosecution lawyer is fully aware of the needs of your witness so that they can be as supportive as possible.

For further information see: Witness care and services.

Officer wellbeing

It is acknowledged that attending court and giving evidence can be a stressful experience. If you require further support, there are a number of support services open to officers. These include:

- Employee Assistance Programme
- Trauma Response Incident Management
- Mental Health First Aiders

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