

## Acting as a Witness

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## Policy Statement

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**Summary** There will be cases when officers and staff are required to attend civil courts or tribunals, or criminal proceedings as a witness for the defence or any third party. In accordance with Authorised Professional Practice (APP) this policy explains the criteria to be met when required to attend, how the different circumstances vary based on procedure and costs that can be reclaimed as part of the process.

There are Civil Procedure Rules that cover the service of witness summonses in the civil courts. Tribunals and criminal courts also have the power to issue witness summonses. In all other circumstances, assistance must be sought from Legal Services.

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**Scope** This policy applies to all police officers and police staff.

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## Civil Court or a Tribunal

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- Principles**
- When required to attend court individuals must submit a report to an Inspector or an equivalent without delay, providing the details of the action and the capacity in which they are involved.
  - Individuals must only attend a civil court or tribunal hearing to give evidence in connection with matters which came to their attention during the course of their duty, if served with a witness summons.
  - The general rule is that a witness summons is only binding if it is served at least 7 days before the date on which the individual is required to attend court. However the court can order a shorter period of notification in exceptional circumstances.
  - If the solicitors seeking attendance of a witness fail to comply with the rules for service of a witness summons, no penalty can be imposed.
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## Employment Tribunals and Employers Liability Claims

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- Principles**
- These guidelines only apply in cases where the police **are a party** to the proceedings.
- In civil cases where the Chief Constable (or Police and Crime Commissioner) is a party to the proceedings, individuals may be requested to be interviewed by the opposing party in the dispute.
  - Individuals are not obliged to provide a statement or be interviewed.
  - If individuals are willing to be interviewed there is no requirement to supply a proof of evidence or statement to an Inspector or an equivalent, and it is not necessary for civil proceedings to have been issued.

- In cases where there are, or likely to be, criminal proceedings a request for interview must be refused until the conclusion of the criminal proceedings.
  - The only exception is if representatives from Legal Services or the Force Insurers acting on behalf of the Chief Constable wish to interview the individual, in which case it is their duty to provide a statement.
  - If individuals are interviewed, this may be:
    - In their own time;
    - At their own discretion; and
    - Without the presence of a senior officer.
  - Such interviews must not take place on police premises.
  - Individuals are not required to:
    - Divulge the circumstances;
    - Give details of the evidence; or
    - Inform a senior officer of the interview.
  - If however individuals wish a senior officer to be present, the interview must take place on police premises.
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## Non-Traffic Related Cases

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### General Cases

These guidelines only apply in cases where the police **are not a party** to the proceedings.

- If the individual is requested to be interviewed in connection with a civil case, the interview will only be allowed if adhering to the following conditions:
    - Civil proceedings must have been issued, unless Legal Services grants an exception;
    - There are no criminal proceedings being taken or such proceedings have been finalised;
    - The interview must be conducted in the presence of an Inspector or an equivalent; and
    - A copy of the proof of evidence must be supplied to the Inspector or equivalent who supervised the interview prior to the individual signing it, and once signed retained.
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### Child Care Proceedings

- If the individual is requested to be interviewed in connection with child care proceedings by the solicitor acting on behalf of the local authority Social Services, there is no need for proof that civil proceedings have started.
- Interviews and documentary evidence can be disclosed whilst there are ongoing or proposed criminal proceedings. Assistance and guidance must be sought from the Child and Public Protection Unit or Legal Services in specific cases.
- The interview will only be allowed if adhering to the following conditions:
  - The interview must be conducted in the presence of the District Safeguarding Inspector or an equivalent; and

- A copy of the proof of evidence must be supplied to the District Safeguarding Inspector or equivalent who supervised the interview, prior to the individual signing it, and once signed retained.
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## Criminal Court

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### Not Giving Evidence for Prosecution

- If an individual is not giving evidence for the prosecution in connection with criminal proceedings but receives a request from a defence solicitor to be interviewed or provide a statement, they are not obliged to provide a statement or give an interview.
  - If they chose to make a statement or give an interview, the interview will only be allowed if adhering to the following conditions:
    - The interview must be conducted in the presence of an Inspector or an equivalent who is unconnected to the criminal enquiry;
    - A copy of the proof of evidence must be supplied to the Inspector or equivalent who supervised the interview, prior to the individual signing it, and once signed retained.
  - If an individual is required to give evidence at a criminal court in their professional capacity, but as a defence witness they must only attend if:
    - They are served with a summons; or
    - They have written permission to attend without a summons which is given by an Inspector or an equivalent. Such permission will only be given in exceptional circumstances.
  - On receipt of a summons the individual must immediately submit a report through their line manager to an Inspector or an equivalent for it to be reviewed and CARM updated.
  - In the case of a private prosecution, the individual must be seen to be completely unbiased. To secure their attendance and presence as a witness, a witness summons will need to be served by the person responsible for the prosecution.
  - In cases when the individual is required to attend court in another police area, in order to give evidence about an incident witnessed when off duty, the individual must submit the notification and a report of the incident to an Inspector or an equivalent, and they will decide whether they can attend court in duty time.
  - If an individual is required to attend court during a career break, then refer to the policy Career break scheme - police officers or Terms and Conditions for police staff.
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## Charges and Expenses

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### Principles

- There will be a standard charge for each interview. Payment must be made to the District or Departmental receipts account and received before each interview is conducted, unless:

**OFFICIAL**

- The interview is conducted in the individual's own time, without an Inspector or equivalent present;
  - The statement is provided to partner agencies or where information sharing agreements exist and in circumstances where they are acting for the good of the community.
  - Witness expenses which are incurred through attendance in a civil case will be reimbursed from the District Disbursements Account. The solicitor responsible for the service of the summons must be given details of any travelling and lodging expenses.
  - When served with a witness summons, the individual must be offered a sum of money to cover travelling expenses to and from court, as well as compensation for their loss of time. Current rates can be found on the Finance and Business Support intranet site.
  - Individuals will not be paid any witness expenses incurred as a defence witness for a criminal case which came to their attention during the course of their duty.
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## Additional Information

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### Compliance

This policy complies with the following legislation and policy:

- APP Prosecution and Case Management
  - Career Break Scheme Police Officers policy
  - Data Protection Act 2018
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