



Legal Information

Advice and guidance for staff attending court

At any time if you have to respond to a child making a disclosure or are witness to the harm or abuse of a child either directly or indirectly you may have to give a statement or provide evidence in court. The evidence may be about the direct disclosure or regarding your involvement with the child over a period of time and will be used to assist the court in making decisions on the welfare of the child. Depending on the nature of the case, the court you may have to attend may either be a magistrates court (if the case is straightforward) or county (if expert evidence or exceptional circumstances are in place).

There are a number of different professionals in court including barristers, QC's, solicitors, clerks, the children's guardian, parents and any other family members who are party to proceedings. Each party is legally represented and the social worker and children's guardian will also be in attendance at court.

How to address people in court:



- Magistrates are 'your worship' or Sir / Madam
- Clerk is Sir / Madam
- District Judge in Chambers is Sir / Madam
- District Judge in Open Court is 'Judge'
- Circuit Judge is 'Your Honour'
- High Court Judge is 'Your Lordship / Ladyship' or 'My Lord / My Lady'

In a magistrates court you will stand to give the oath (you can choose either to swear on the bible or your chosen religion or affirm a non-religious oath), in chambers the Judge will be already in court so you do not need to stand and in open chambers you will stand to give evidence in the witness box. A standard rule of thumb would be to stand when the Judge enters or leaves the room and the same for magistrates.

In preparation for attending court you should read through and be familiar with your statement and the facts of the case. You will only be present in court whilst giving your evidence and this is likely to be for one day or even a half day either morning or

afternoon. Remember that although it may feel intimidating, the court will be grateful for your attendance and it will support the best decision being made for the needs of the child. When you give evidence, the court bundle will be in front of you which is all of the court documents submitted for the hearing including your statement. The bundle will be open at your statement but the rest of the file/folder will be numbered in case you have to refer to something else. The local authority solicitor will confirm details with you and your statement (evidence in chief) then the other party solicitors may ask you questions regarding your statement (cross-examination). You may also be asked questions from the judge or the local authority solicitor again (re-examined). When being cross-examined the solicitor may ask closed or leading questions to try to support the person they are representing.

Top ten tips for giving evidence:

Speak Slowly & clearly (several people will be taking notes)

Direct your answers to the Judge/magistrates

Keep to the point

Don't argue or enter into conversation with the advocate

Don't interrupt the advocate or the Judge

Avoid jargon, figures of speech

Cross refer to bundle if you need to check something

If you need a break, ask for it

If you don't know the answer, say so. Don't make it up or guess

If you don't understand (or remember) the question, say so

In order to support you in court, your statement needs to be as accurate and factual as possible and this of course will heavily rely upon the quality of your recording. In providing evidence for your statement you may be using records regarding a child that have been in place for several years. Ensure that you keep records at a high standard by regularly updating them when events happen, recording the facts of any incident and disclosures word for word from the young person. When preparing for court your statement you will be supported by the local authority in presenting the facts of the incident, disclosure and/or involvement with the child. Use your chronologies to support you and remember when recording anything in your chronologies it should have purpose, action and outcomes for the child, which strengthens the facts of your recording and shows what you were doing and why you were doing it. It also shows how you as a practitioner were moving things forward on behalf of the child through your actions.

The responsibility of attending court now is not just for Designated Safeguarding Leads but any person who may have heard the direct disclosure of a child, this includes, teaching assistants, business support and any other member of staff. Everyone should be prepared because the court wishes to hear first hand evidence. Verbal evidence in court is usually provided at the initial or final hearing. The Local Authority initiates public law proceedings with the aim of finding the safest and securest long term decisions for children. Usually cases are brought to court because those caring for children are deemed to be unsafe and children at risk of significant harm if alternative living arrangements are not made. Through Public Law proceedings a variety of orders can be sought to secure the long term residency for children. These orders include Interim Care and Care Orders which place the child in local authority care, this makes them a 'Looked After Child' but Parental Responsibility is shared between parents and the local authority. Other orders such as Child Arrangement Orders (can be parents or non-parents) and Special Guardianship Orders (non parents) give the person holding the order parental responsibility as well as the parent and the ability to make the day to day decisions for the child. Parental Responsibility is only ever lost if a parent dies or a child is adopted (a placement order is granted to achieve this before adoption proceedings begin).

Private law proceedings may also be initiated by parents or extended family without the need for social care involvement. School will need to have information regarding any legal orders in relation to contact arrangements and who holds parental responsibility something that would always be ascertained during the admission process.