

# BEING A WITNESS in the High Court

witness



# high court



**As a witness you have a key role to play in the Criminal Justice system.** We understand that you may be unfamiliar with how the Court works and may feel nervous about giving evidence. We hope this booklet helps to answer some of your questions. You will also find information about people who can help you through the Court process and information about your entitlement to expenses, including details of how to claim.

Your contribution as a witness is much appreciated.  
Thank you for your time and trouble.

If you have any questions about the information in this booklet or about any aspect of coming to court or giving evidence, please do not hesitate to contact the Procurator Fiscal's office. You will find the address and telephone number in the document enclosed with your witness citation headed 'Going to Court'.

The address on your citation is the one to which any letters will be sent. Please make sure that your address is correct and tell the Procurator Fiscal's office about any changes or mistakes.



## what should I bring to court?

When you go to Court, remember to take your citation with you. (This also has your Expenses Claim Form on the back.) Ask any Court official where you should go. Show the official your citation and you will be directed to the correct waiting room for witnesses.

**You must not go into the courtroom itself until you are invited to give evidence.**

By arriving promptly and going to the correct waiting room you will help the Court to start on time. Take something to pass the time as you may have to wait for a while before being called into Court.

# who's who

## in the High Court

The other people at Court will include:

**Accused:** The accused is the person charged with an offence.

**Advocate Depute:** The Advocate Depute represents the prosecution.

**Defence Advocate:** The Defence Advocate acts on behalf of the accused.

**High Court Judge:** The High Court Judge decides any sentence.

**Jury:** The jury is made up of 15 members of the public who decide the verdict.

**Clerk of Court:** The Clerk of Court assists the Judge and is responsible for the smooth running of the Court.

**Court Official:** The Court official calls each witness into Court when it is their turn to give evidence.

**Other People:** Other people who may be in Court include police officers, members of the public and journalists. Staff and volunteers from the Witness Service may also be there supporting witnesses.

# witness

## how long will it take?

It is not possible to predict how long proceedings will take.

**You may have to stay all day if necessary.**

The trial, together with a number of other cases, is due to start on the date given in your witness citation. The trial may last more than one day and you may be asked to come to Court and give evidence on **any** day of the trial and maybe on more than one day. You will be advised of any change of date as soon as possible.

If your citation is for what is called a **Floating Trial** ('Floating Trial' will be printed on the top right of your witness citation), your case **may** begin within a short period after the date specified in your citation and **may** move to another High Court Sitting, possibly in another town nearby. You will be advised of any changes as soon as possible.

Accused persons are entitled to change their plea from not guilty to guilty at any time. They sometimes do this during the trial, or just before it is due to start. If an accused person decides to plead guilty, it is not necessary for witnesses to give evidence. In addition, some trials cannot start because the accused or perhaps another witness is ill or absent.

In any of these situations you will be told that you may leave, but you may also be told that you will have to return on a later date.



how long will it take?

You should wait in the witness room until you have been called to give evidence or told that you can go. A Court official will keep you informed about the progress of your case. You must not leave the Court building until a Court official tells you that you can go.

will the defence be given a copy of my statement?

To ensure that proceedings are fair, a copy of any statement provided by you to the police will be passed to the accused person's lawyer. Also, the defence lawyer is usually entitled to receive details of any previous convictions or pending cases which you may have. The Court will not always allow such information to be referred to at trial but may do so if it considers that it is relevant to the evidence that you will be giving.

## what will happen?



When it is your turn to give evidence a Court official will call your name and show you to the witness box in the Court. The Judge will ask you to repeat a religious oath and the Court will take account of your particular beliefs. If you prefer not to take an oath you can ask to ‘affirm’ or ‘promise’ to tell the truth.

You should call the Judge ‘my Lord’ or ‘my Lady’. You should stand when giving your evidence unless this would be difficult for you, in which case ask the Judge if you can sit down.

Some witnesses may be considered vulnerable if there is a significant risk that the quality of their evidence will be affected by a mental disorder or by fear or distress relating to giving their evidence. Mental disorder can mean mental illness, a personality disorder, or a learning disability. Fear or distress can be caused by a number of things. Special arrangements can be made to assist vulnerable witnesses.

If you think you may be a vulnerable witness you should contact the Procurator Fiscal’s office. The Procurator Fiscal will discuss your circumstances with you and whether it will be possible to make an application to the Court for you to use special measures when giving your evidence (for example, giving evidence from behind a screen in the Courtroom or having a support person with you in Court).

# what will I be required to do when I'm giving evidence?

The first person to ask you questions will be the Advocate Depute who represents the prosecution. You will be asked your name, age and occupation. Unless it is necessary to help prove the crime, the Advocate Depute will not ask you to reveal your home address in Court. The Advocate Depute will ask you questions about the case.

After the Advocate Depute has finished, the Defence Advocate will ask you questions about the case. In cases with more than one accused the Defence Advocate for each accused may ask you questions. In a few cases where there is no Defence Advocate, you may be asked questions by the accused – but this rarely happens. Sometimes the Judge may also ask questions.

It will help the Court and your confidence if you listen carefully to what you are asked. Take your time in answering and say if you do not understand the question or do not know the answer. It is your duty to answer all of the questions asked truthfully and as accurately as you can. Speak slowly and clearly.

# witnesses

Witnesses must tell the truth at all times while giving evidence. Witnesses who deliberately do not tell the truth may face criminal charges.

The Judge will tell you when you are free to go after you have given evidence. You can stay and listen to the rest of the case if you wish.

If spoken English is not your first language and you need an interpreter at Court, the Procurator Fiscal will provide one for you. If you have not already received a letter about this with your witness citation please contact the Procurator Fiscal's office. You will find the telephone number in the document enclosed with your witness citation headed 'Going to Court'.

You must not return to the witness room after giving evidence in Court or discuss your evidence with other witnesses who have still to give their evidence.



## what happens at the end of the court case?

When the evidence of all witnesses has been heard, the Jury must reach their verdict. In a criminal case there are three verdicts:

**Guilty** means that the evidence has been enough to prove 'beyond reasonable doubt' that the accused person committed the crime. The Judge will then consider any sentence or punishment.

**Not Proven** or **Not Guilty** means there was not enough evidence to prove the case 'beyond reasonable doubt', or that there were other special reasons why the accused was not found guilty. Both these verdicts have the same effect and mean that the accused will be excused from the Court and will be free to leave.

## what if I don't want to go to court?



Being a witness is an important responsibility. It is a criminal offence for a person who has been cited as a witness to fail to appear in Court unless they have a reasonable excuse. If a witness fails to attend Court it is likely that others involved in the case will be caused inconvenience and the trial may be delayed. If a witness does not attend Court a warrant for their arrest may be granted and they may be prosecuted.

However, there may be ways of resolving any difficulties you may have.

If the time or date is inconvenient, contact the Procurator Fiscal's office. It may be possible for you to come to Court at a different time.

If you have any other concerns about coming to Court or giving evidence contact the Procurator Fiscal's office. It may be possible to find a solution.

Special arrangements can be made for elderly or disabled people, if required.

## what if I am disabled or elderly?

Most Courts are wheelchair accessible and have facilities for disabled people inside including loop systems for people with hearing aids. Details of the facilities at the Court to which you have been cited are in the 'Going to Court' document enclosed with your citation. Please contact the Procurator Fiscal's office to let them know of any special requirements you may have.

If you are disabled or elderly and restricted in your movements, the Procurator Fiscal's office may agree to meet the cost of you hiring a taxi for the journey to and from Court.

In order to claim back the taxi fares, the Procurator Fiscal's office must approve the use of a taxi beforehand and you will need to provide receipts for the fares paid.

## how do I claim expenses and what expenses will I be able to claim?

You should use the Expenses Claim Form on the back of the citation to claim travelling expenses to and from Court and an allowance for meals, etc. Please follow the instructions on the Claim Form if you need to claim for loss of earnings or childminding expenses.

The Cashier at the Procurator Fiscal's office can help you to fill in your Claim Form if you would like help with this.

You may present your Claim Form personally at the Procurator Fiscal's office after you have been advised that you can leave Court. Alternatively you may claim your expenses by posting the completed form to the Procurator Fiscal's office.

Payment of expenses will be made by BACS which will be paid directly into your bank account. The payment will be made to your account within 7 working days of the date on which your completed claim form is received by the Procurator Fiscal's Office.

# expenses



Cash payments are not normally made. The only exception to this is in cases of genuine hardship or emergency where the Office Manager at the Procurator Fiscal's office may authorise a cash payment up to a limit of £30 to cover travel costs, meal allowances and any other out of pocket expenses.

**All payments for loss of earnings will be made by BACS.**

Further information about claiming your expenses is set out in the section on Witness Expenses. If you have any questions or would like further advice about what expenses can be claimed, please do not hesitate to contact the Procurator Fiscal's office.

## where can I get further help or advice?

If you need any further information, help or advice, please contact the following:

**Procurator Fiscal's Office:** If you have any questions about the information in this booklet or about any aspect of coming to Court or giving evidence, please contact the Procurator Fiscal's office. You will find the address and telephone number in the document enclosed with your witness citation, headed 'Going to Court'.

**Victim Support Scotland:** Victim Support Scotland provides practical advice, emotional support and assistance to people affected by crime. The service is free and confidential. To contact your nearest service call 0845 603 9213 or look under Victim Support in the telephone directory.

**Criminal Injuries Compensation Authority:** If you have been the victim of a crime of violence, you may want to consider an application for criminal injuries compensation. You can get a Claim Form by contacting the Criminal Injuries Compensation Authority (CICA), Tay House, 300 Bath Street, Glasgow G2 4JR. Tel: 0141 331 2726. If you need help in completing the form, you can ask your local Victim Support office or a lawyer.

**The Witness Service:** The Witness Service is based in the Court building. The staff and volunteers can help all witnesses and their families through the judicial process. They can also carry out pre-trial visits at Court to help any anxious witnesses become more familiar with the Court setting and proceedings. Their service is free and confidential. The telephone number for your local Witness Service is in the document enclosed with your witness citation, headed 'Going to Court'. You can also ask a Court official to direct you to the Witness Service when you arrive at Court on the day of the trial.

# guide to witness expenses



## Cash Advances

Cash advances for travel will **not** be given unless there is a valid reason – for example, real hardship.

## Travelling Costs

Travelling expenses will only be paid between the address on your citation and the Court unless you have made separate arrangements with the Procurator Fiscal's office beforehand.

Taxi fares will not be paid unless there are exceptional circumstances – for example, you are elderly or disabled and restricted in your movements. The Procurator Fiscal's office must approve the use of a taxi beforehand and you will need the receipt to claim back the fares.

Bus and Standard Class rail fares will be paid but you will need to provide the ticket with your claim.

# allowance



If you need to travel by air you must contact the Procurator Fiscal's office well before the day you plan to travel. Air travel must be authorised by the Procurator Fiscal's office and in most cases the Procurator Fiscal's office will book the flights on your behalf. If you need to stay overnight in hotel accommodation you must contact the Procurator Fiscal's office who will book accommodation for you. If you do not do this you may not be entitled to the full cost of your airfares or your full accommodation costs.

If you travel to Court by car a set mileage allowance will be paid. Parking expenses will not be refunded and in many areas parking is limited around the Court building. If you are bringing other witnesses to Court in your car you will be able to claim an allowance for each additional witness you bring.

## allowance for snacks and meals

You are entitled to a fixed allowance based on the time that you spend at Court. Receipts for snacks/drinks/lunch, etc. will not be paid as the allowance is intended to cover such costs.

## loss of earnings - employed witnesses

Loss of earnings will only be paid if your employer has fully completed the Claim Form on the back of your citation. You will also be required to provide one of the following; a company stamp, a letterhead, an invoice or a business card together with a copy of your most recent payslip.

**Without this, payment cannot be made.**

Payments for loss of earnings are tax free for employed witnesses.

If your claim for loss of earnings is for more than £50 (or £25 if you were at Court for 4 hours or less) your claim must be supported by a separate letter from your employer on headed paper stating your exact **net loss of earnings (i.e. less tax and national insurance) and the number of hours lost**. If you can bring this letter with you to Court, it will help to ensure that you receive payment quickly.

**All payments for loss of earnings will be made by BACS.**



## self-employed witnesses

Inland Revenue rules mean that if you are self employed and appear at Court as a prosecution witness, you should be paid the gross earnings that you have lost because you are not at work. In turn, you are responsible for declaring the money you get to the Inland Revenue under Schedule D along with your business's other income.

We will need to see documentary proof in support of your claim. If less than £50, a business card, letterhead or taxi driver's licence will suffice.

If your claim for loss of earnings comes to £50 or less, you must provide a business card or headed notepaper or, ideally, a letter from your accountant saying how much you have lost. If your income comes from commission for goods or services that you sell, you should bring copies of sales invoices. Any documents that you bring with you to back up your claim will be kept by us and not returned to you.

If your claim for loss of earnings comes to more than £50, you will need to bring your latest tax return or a set of your most recent annual accounts signed by your accountant.

If you don't have these (for example, because it is a new business venture), then we will need a letter from your accountant or other suitably independent person (for example, from your bank) confirming that the claim for gross loss of earnings is accurate. We are not liable for the cost of obtaining any supporting letter.

If you employ a substitute to run your business while you are at Court you will be reimbursed the cost on production of a receipt from the substitute for the sum paid.

All payments for loss of earnings will be made by BACS.

## childminding expenses

There are no childcare facilities at Court buildings. Prosecution witnesses can claim expenses for **additional** childcare and babysitting at fixed rates. Payment will only be made for time spent at Court. The form for claiming childcare and babysitting expenses is provided at the back of this booklet. Please detach and complete this form and bring it with you to allow the Cashier at the Procurator Fiscal's office to process your claim.

## carer expenses

If you are required to ensure appropriate care cover in your absence, you will be re-imbursed at a fixed rate. If you provide a receipted invoice from, for example a nursing agency, the amount stated on the invoice will be paid.

## expense rates

The table below provides details of the fixed rates of payment for mileage, meal allowances, childminding and carer expenses.

Type of Expense	Description	Rate*
<b>Mileage Allowances</b>	Motor Mileage Allowance	28p per mile
	Additional Witnesses carried as Passengers:	
	First additional Witness	2p per mile
	Each additional Witness after the first	1p per mile
	Motor Cycle	28p per mile
	Bicycle	7p per mile
<b>Allowance for Snacks and Meals, etc.</b>	Attendance at Court not exceeding 5 hours	£2.50
	Attendance at Court exceeding 5 hours but not 10 hours	£5.00
	Attendance at Court exceeding 10 hours but not 15 hours	£10.00
	Attendance exceeding 15 hours	£15
<b>Childminding Expenses</b>	Un-registered Childminder	£1 per child per hour
	Registered Childminder	£3.50 per child per hour
<b>Carer Expenses</b>	Care cover (please also refer to previous page)	£3.50 per person per hour

\* Expense rates are subject to change.

# people accompanying witnesses

People accompanying child, disabled or vulnerable witnesses are entitled to claim the following expenses, on the same basis as witnesses.

<b>Accompanying Person</b>	<b>Travel Costs</b>	<b>Allowance for Meals, etc.</b>	<b>Loss of Earnings</b>	<b>Child-minding Expenses</b>
Parent or Guardian of Child Witness	Yes	Yes	Yes	Yes
Carer of Vulnerable or Disabled Witness	Yes	Yes	No	No
Supporter for Child or Vulnerable Witness (other than Parent/Carer)	Yes*	Yes*	No	No

\*Expenses will only be paid where the supporter has received a letter from the Procurator Fiscal asking them to attend court with the witness.

If you are the parent or guardian of a child witness you should complete the witness Claim Form, following the above guidance.

If you are attending Court as the supporter of a vulnerable witness you should present your letter from the Procurator Fiscal together with the Claim Form issued with the letter.

The Cashier at the Procurator Fiscal's office can help you to fill in your Claim Form if you would like help with this.

## further information

If you have any questions about your entitlement to expenses please contact the Procurator Fiscal's office and the staff there will be happy to help.



# Childminder Expenses Claim Form

## Witness Details

Name:
Address:
Telephone No:
Case Against:
Date of Trial:

## Childminder Details

Name:
Address:
Number of Children Looked After:
Registered: <input type="checkbox"/> Yes <input type="checkbox"/> No (Delete as applicable)
If Yes, please give Registration No:
If No, please state relationship to witness:

In all cases evidence confirming the names and ages of each child (for example, a Child Tax Credit letter) must be shown to the Cashier or payment will not be made.



EXPENSE

## Payments

If the Childminder is not registered **£1 PER CHILD PER HOUR** will be paid.

If the Childminder is registered, an invoice or receipt must be produced to the Cashier and **£3.50 PER CHILD PER HOUR** will be paid.

## Declaration

I declare that the details provided above are correct.

Signature:

Date:

## Warning

**Any person providing false information will be prosecuted.**



Please contact the Procurator Fiscal's office if you would like this document in another language, audio, large print or another format.

‘الرجاء الاتصال بمكتب المدعي العام إذا كنت تريد الحصول على ترجمة هذه الوثيقة‘

如果你需要此文件的翻譯本，請聯絡檢察官辦事處。

در صورت نیاز به دریافت نسخه ترجمه شده این متن ، لطفاً با دفتر دادستانی تماس حاصل نماييد.

“Veuillez contacter le bureau du Procureur Général (Procurator Fiscal's Office) si vous souhaitez la traduction de ce document”.

“Ma tha sibh ag iarraidh eadar-theangachadh den phàipear seo, chan eil agaibh ach fios a chur gu oifis Neach-casaid a' Chrùin.”

‘اٹھگہر دہتہویت ٹہم نووسراوہت بؤ تہرجومہ بکریت، تکایہ بہیوہندی بہ ٹؤفیسى Procurator Fiscal بکہ‘

Jeśli chciałby/chciałaby Pan/i otrzymać tłumaczenie tego dokumentu, proszę o kontakt z biurem Prokuratury Okręgowej.

‘ਜੇ ਤੁਸੀਂ ਇਸ ਦਸਤਾਵੇਜ਼ ਦਾ ਅਨੁਵਾਦ ਚਾਹੁੰਦੇ ਹੋ ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਪ੍ਰੋਕਿਊਰੇਟਰ ਫਿਸਕਲ ਦੇ ਦਫਤਰ ਨਾਲ ਸੰਪਰਕ ਕਰੋ‘

"Eger bu belgenin tercume edilmesini istiyorsanız, lutfen mali vekaletname ofisi ile kontak kurunuz"

اگر آپ اس دستاویز کا ترجمہ حاصل کرنا چاہتے ہیں تو براے مہربانی پریکوریٹور فیسکل کے دفتر سے رابطہ کریں۔

## data protection act

The Crown Office and Procurator Fiscal Service holds data about you as a witness for the Crown for the purpose of prosecuting offenders. Your name and address will be disclosed to the Witness Service to enable them to offer you assistance. You do not have to take up this offer of support and involvement with the Witness Service is on a purely voluntary basis.