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A survival guide to

Witness statements and expert reports

Who is this guide for?

This guide will help you to understand witness statements and expert reports – what they are and when you need one. It is part of a series of guides about sorting out a dispute and going to a civil court.

This guide is for you if you:

- are thinking about suing (starting a civil claim) in either England or Wales, and
- your case involves a claim for £25,000 or less, and
- you are representing yourself (you are a litigant in person) and not eligible to have your case paid for by legal aid, a trade union, or insurance

This guide is also for people supporting litigants in person, for example Support Through Court volunteers, Citizens' Advice volunteers, housing support workers, advice workers and court staff, as well as relatives and friends.



This guide is not for you if you are involved in:

- a criminal case,
- a family case (such as an application for a domestic violence injunction or a divorce),
- a housing disrepair or housing possession case including mortgage possession,
- an injunction (including court claims about anti-social behaviour)
- a medical accident case,
- a case involving defamation (libel or slander) or
- a tribunal case (such as a discrimination or employment case).

Legal language

We try to explain any legal language as we go along, but there is also a 'What does it mean?' section at the end.

Top tip

Have a look at [An overview of the process of taking a claim in the civil court](#) to get an overview of what a typical case might look like and [How to take a claim in the civil court – at a glance](#).

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Witness statements

Generally, all claimants and defendants have to prepare a witness statement. If you want anybody else to give evidence to the judge at the trial about what they know or saw or heard, you must prepare a witness statement for them as well. These witnesses are called witnesses of fact because they can help prove the facts of the case. Witness statements say in writing and in advance what the witnesses would say orally if they were in court. This makes sure that both sides know what their opponent evidence is before they get to an expensive and stressful trial. It might mean that they are able to settle the case.

If you have a small claim, the judge may decide not to order you or the defendant to prepare a witness statement if you are both litigants in person, and if the issues are very simple and of low value – for example, if you claim that you lent your neighbour £100 and want it back, and he says it was a gift because he was on hard times. Although the judge might allow your case to go ahead without witness statements, it is better to get witness statements prepared if you can. Having a witness statement can also help if witnesses later forget what happened, so it's usually a good idea prepare them as soon as you can.

In a fast track claim, the court will expect you to prepare a formal witness statement. If you have to do witness statements, you should prepare them fairly early on in your case, because the overall time you have to prepare your case will disappear and before you know it you'll be at trial.

The contents of a witness statement

At the trial, you and your witnesses will normally only be able to talk about what you have covered in your witness statements. You will not be allowed to talk about anything new or additional. If you want to talk about it, put it in the statement. This is a really important point: the court will not usually give you much leeway, even if you are a litigant in person.

There are rules about what a witness statement has to have in it. If you are the claimant, what you put in your witness statement is a similar but more detailed version of what you put in your Particulars of Claim.

You need to describe:

- the background to your claim,
- how you and the defendant know each other,
- what the defendant agreed to do and what went wrong,
- the chronology – what happened and when,
- the impact, for example, on your life, your family, your health, your home, car, and
- what you have tried to do to solve the problem or lessen the damage. (But do not include details of the offers that you have made to settle the claim as remember neither of you were allowed to tell the judge about these. See '[How to settle a claim](#)' for more details).

Your witness statement must also include details of how your losses and expenses came about, so that you can justify them. Claimants often forget this. They tend to concentrate on proving fault, and forget about proving quantum. Here's an example:

'I work as a self-employed gas-safe plumber, and because of my knee injury couldn't work for six weeks. I averaged take-home pay of £1,800 a month for the six months before the accident, but November and December are my busiest months because of boiler repairs and breakdowns and emergency call-outs, so I believe I would have earned more, more like £2,500 take home. I refer to my diary for evidence of my work schedule and earnings for November and December last year.'

You can see that the statement explains that

- 1 there was a loss for six weeks (or 1.5 months), and
- 2 that the claim is for £2,500 per month.

The judge and the opponent can understand what is claimed and why, including referring to documents that back up the point.

For further information about what you need to include in a witness statement read the section on witness statements in [Practice direction 32 – Evidence](#).

The layout of a witness statement

A witness statement needs to be laid out in a particular way to be used in court. But you don't need to do that immediately. What is important is to get the information you need from your witness as soon as possible, to put this into a typed statement

using short numbered paragraphs and to get the witness to sign and date it.

You should end the witness statement with the sentence 'I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.' This sentence is called 'the statement of truth' and is a necessary ending for a witness statement.

If you don't add the statement of truth to the end of the witness statement, the witness statement and any information in it cannot be used in court. The law protects witnesses so that nobody can be punished for making an honest mistake. So long as a witness honestly believes what is written in the statement, they are protected, even if it later turns out that honest belief was wrong.

Once you see the other side's disclosure evidence, you may want to get your witness to comment on it. Afterwards you may want to update their statement.

Shafiq's story

'I was cycling along the road between home and work when I hit a deep pothole and was thrown off my bike. I injured my knee as a result and my bike was damaged. Someone called an ambulance and I was taken to hospital. I want to make a claim against the council for failing to maintain and repair the area. The road surface was dangerous.'

Shortly after his accident, Shafiq finds Anne and thanks her for her help and asks her to give him a witness statement. Here is Anne's witness statement as an example to help you write one.

An example of a witness statement

	[Name of witness Anne Best] First statement On behalf of claimant 1 exhibit "AB1" Dated dd/mm/yyyy
IN THE COUNTY COURT at [Insert name]	Claim No C001GH516
Mr Shafiq Ahmed	Claimant
and	
London Borough of Z	Defendant

Witness Statement of Anne Best

I, Anne Best, shop assistant, of 12 Smith Street London E28 4QZ will say:

1. I am over 18 years old. I work as a shop assistant at Jay's Boutique, 322 High Street, Maystone, London E29 1JY.
2. On Wednesday 23 November 2020 at just after 9 am, I was working in the shop. I heard a bang from the street and looking through the shop window I could see a man lying in the road. There was a bicycle next to him. I rushed out. He was clearly injured – I could see blood on his left leg near his knee, and his jeans were torn. He was moaning but conscious. I asked his name and he told me Shafiq.
3. I used my mobile and called emergency services, ambulance and police. I waited with him while the ambulance was coming, 10 to 15 minutes, I think. He told me his bike had hit a pothole, and I could see a hole in the tarmac. It was about a metre out from the gutter, and about 20 cm across and 5 or 10 cm deep. It was a couple of metres away from where his bike was lying. When the ambulance came, I left.
4. The weather was cold but fine and dry. Shafiq was wearing jeans and a leather jacket, a high-vis waistcoat and a cycle helmet.

I attach a rough sketch plan marked "AB1" showing the scene.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

SIGNED:
DATED:

Top tips

- Keep the statement focused on facts only – not your opinions or what someone else has told you.
- If you are the claimant you need to cover liability (who is legally responsible for what happened and why) and quantum (how much your claim is worth and how you have calculated this).
- If you are the defendant, make sure you put forward any facts that back up your version of events that you set out in the defence.
- Keep it simple, but make sure you have covered every point that is in dispute. To do this, you need to match it to your particulars of claim and the defence, making sure that everything that is said in them about fault and about value is covered.
- Show your statement to a friend. Do they think you are repeating yourself, straying too far from the point or being too emotional in it? Or have you left out anything important!
- You have to bear in mind that the court allows a limited time for the hearing – probably only ½ or 1 day if it's a fast track case, and less for a small claim. So, irrelevant extra length can make your case overrun.
- And for everything you put in the statement, ask yourself:
 1. Does it help show someone else is at fault?
 2. Does it help to show how much my claim is worth?
 3. Does it cover everything the defendant might say to blame me?

Summary – quick check

- Preparing your witness statements correctly is important.
- Does it cover every issue and fact about liability, including if you are partly at fault?
- Does it cover every issue and fact about quantum, including what you have done to minimise your losses and expenses?
- Have you anticipated what the defendant might say and covered anything they might raise on liability and quantum?

Exchange of witness statements

The order for directions in your case (the list of steps that the court sent to each party explaining what must be done and by what date) will tell you when you and the other party must exchange your witness statements. Typically, the court orders the parties to exchange witness statements after disclosure (see '[After you start a civil claim](#)' for more details about disclosure). This is standard and is because otherwise you would not benefit from what you find out from the other party's documents. For example, you might find out something that supports your case that you want to bring to the court's attention. You can do this by mentioning it in your statement. Alternatively, you might find something that threatens your case. You have the chance to explain the circumstances or offer a different explanation in your statement.

If you have a witness but you decide not to use their evidence, there is no need to give their statement to the other party.

You have to exchange witness statements at the same time. This is called 'simultaneous exchange'. Exchange happens when parties exchange statements on the same day. If you exchange via email you both press 'send' at the same time – a time you've agreed in advance. Simultaneous exchange is to prevent a party or witness seeing the other side's statements before writing their own. The idea is that otherwise you could get some advantage from seeing what the other side's witnesses say before you write yours.

You can only be completely sure that 'simultaneous exchange' happens if you agree to exchange statements at a person-to-person meeting. But very few people do this; it is too inconvenient. Instead you all agree to exchange statements by email on a particular day at a particular time or by posting them on the same day. If you post them, get a certificate of posting from the post office in case there is a dispute later.

Be aware!

If you exchange witness statements by sending them attached to an email, it is far better to send them as pdf documents or as scans. If you send them as Word attachments, there is software that allows the other side to read the changes you have made in the course of preparing your statements.

Important:

- You should not send your statement without double checking that the other party is sending theirs at the same time. Phone them or their adviser to check that they are ready to exchange. You might say something like: 'Do you agree that we will email our statements to each other immediately after this call ends?'
- You should also agree that neither is to open the other's witness statements until you each confirm safe receipt. It is particularly common for something to go wrong with email – perhaps the attachment was too large to be delivered, or the email went into the spam folder, or a wrong digit in the email address caused delivery failure.

You should keep a written record of any conversation about exchange. Note down the key points made by you and the other party and the date and time of the conversation.

If it turns out that the other party has not prepared their witness statements in time to exchange them before the deadline set out in the order for directions, you can try informal pressure, for example, phoning or emailing them to ask them to get them ready immediately. Explain that if they don't, you will have to go back to court. Tell them when you will do this. If you phone them, follow this up with a letter.

If this doesn't work, you may need to apply to the court for an order that unless they exchange witness statements within a certain number of days (for example, 7 days), the court will strike out (not allow them to continue with) their claim, defence and/or counterclaim. You will have to pay a fee, and you will want to ask the court to order the defendant to pay this back to you in any event. You can find more information about making this kind of application in another guide in this series [Interim applications – how to ask a civil court to do something](#).



Forms and rules



Relevant rule: [Part 32 Evidence](#)

Try to comply with the court rules as much as you can. The court will be aware that you are a litigant in person but aren't likely to allow you much flexibility.

Expert reports

Expert reports

People who give expert opinion are called expert witnesses. The evidence they give is called expert evidence. Their evidence comes in a written document called an expert's report. It focuses on what they think or believe about something they are experts in.

A judge will only take account of someone's opinion if it is given by an expert. And their opinion must be relevant to the dispute, for example, a doctor's opinion about whether or not you will fully recover from an accident.

You can't have an expert's report in a small claim unless the court gives permission (except if it is a small claim for personal injury).

In fast track claims it is quite common to have an expert's report, but often the contents of the report aren't in dispute, and you won't need the expert at court to give evidence. If an expert has to attend court it will add hugely to the cost. It may also delay the trial of your case as their availability is often limited.

When do I need expert evidence?

Think carefully before getting expert evidence. It is a costly step and, even though you are paying the expert's fees, the expert is there to help the court, not you. This means that the expert may say something that you do not like, and you cannot stop that happening. Alternatively, the expert appointed by your opponent might be more convincing.

However, there are cases where you need to get expert evidence to prove some of the points in your case. For example, if your case is about personal injury, you will need a medical report from an appropriate medical expert. Because experts must be impartial, it is usually best if they have not been involved in your case in any way so you

would normally instruct someone who is not involved in treating you.

How to get expert evidence about your case

It is normal to use an expert who is agreed on by both sides, except in the most complex and high value cases. If you need an expert, you are expected to propose who you want to the other side and ask them to confirm within 21 days that they don't object.

If your case is a small claim, you won't be allowed to use expert evidence without the permission of the court, which you have to apply for. (The rules for personal injury small claims are different. See '[How to take a small claim about injuries caused by a road traffic accident](#)' for more details.)

If you have a soft tissue injury resulting from a road traffic accident and are using the Claims Portal to deal with your claim, then MedCo (<https://medco.org.uk/>) is the system you will use to get a medical report.

If you have to get your own expert report we can't recommend a particular expert, but the internet is full of links to directories of expert witnesses. Here are a few you may want to look at:

- [UK Register of Expert Witnesses](#)
- [Expert Witness](#)

If you are taking a small claim for whiplash injuries (soft-tissue damage to the neck and shoulders) resulting from a road traffic accident on or after 31st May 2021 and are using the [Official Injury Claim](#) service to deal with your claim, then you need to get a medical report from [MedCo](#) unless you live outside England and Wales or, if you also received more serious injuries in the same accident, you can get a medical

report from another doctor listed on the [General Medical Council register](#).

If you do not need to use the MedCo system as described above and are looking for a medical expert but aren't sure what kind of expert you need, you can try contacting the [British Medical Association](#). They may be able to help. You can contact them by phone: 0300 123 1233 or email: info.public@bma.org.uk. You could also ask your GP.

How to arrange for your expert to give evidence

You will need the court's permission to use expert evidence in court, that is, where experts actually come to the court to give evidence in person, rather than have their written reports relied on. In most fast track cases the court will decide that there should be a single expert, jointly instructed by you and the other party. In others, it may allow each party to have separate experts, but that is increasingly rare because it is so expensive. In either case, expert evidence has to be given in a written report. Fortunately, it is very common for the other side to agree the contents of an expert report, particularly a medical report in straightforward cases, for example, involving a broken leg.

The order for directions in your case will set out what you need to do about expert evidence. For example, the order may say that you are allowed to rely on a particular expert's evidence and ask you to file an updated report by a particular date.

Usually, either party can submit written questions for the expert to answer before the trial happens. The court will include a timetable in their order for directions setting out how long you have to ask any questions and how long the

expert has to reply. Typically, you may have 14 or 21 days after you get the expert's report to submit your questions and the expert will have a similar period in which to reply. You must send a copy of your questions to the other party.

Unless the court gives permission or the other party agrees you can only ask questions that aim to make some aspect of the report clearer and more understandable. The answer you get will be treated as part of the expert's report and so will become evidence in the case, whether you like what they say or not.

There are lots of rules and guidance about experts, their reports and their role in court proceedings. If you want to involve an expert in your claim, you will need to read these.

Expert reports

Rules

Relevant rule:

[Part 35 - Experts and Assessors](#)

The rules at 'Practice Direction 35 - Experts and Assessors' explain what an experts report should cover.

Try to comply with the court rules as much as you can. The court will be aware that you are a litigant in person but aren't likely to allow you much flexibility.



Top tips

- Expert's reports, particularly from medical experts, often take a long time to get and are expensive. (Except where you are making a small claim for personal injury caused by a road traffic accident that happened on or after 31st May 2021 and are using the Official Injury Claim service. In that process the defendant's insurer pays for the medical report. For more details see [How to take a small claim about injuries caused by a road traffic accident.](#))
- An expert witness must remain independent. They have a duty to the court that is above their duty to you. So, they may say something that does not support your case even if it was you who asked them for their opinion and is paying their bill.
- If you are using the Official Injury Claim service about injuries caused by a road traffic accident that happened on or after 31st May 2021 and you as the claimant disagree with the contents of the medical report, you can request changes. If the medical expert refuses to make the changes requested, the report is submitted to the defendant's insurer with phrasing added which says that you disagree.
- It may be 'your' report but any party can use that expert's report as evidence at the trial.
- Think carefully about whether to ask the expert any questions and if so what questions to ask and how to ask them. You may get an answer that is not favourable to your case.

What does it mean?

Contempt of court – this is showing disrespect to the court, perhaps by lying or not following the judge's orders. It is punishable by a fine or even time in prison.

Brief details of claim – a concise statement of the nature of your claim and the remedy you want, for example a payment of money.

Disclosure – the process of showing the relevant evidence to the other party.

Expert evidence – this is evidence of an expert's opinion, of what they think or believe about something.

Liability – proving that the problem is legally the defendant's fault (they breached your legal rights or breached a contract with you).

Quantum – the amount of compensation your claim is worth.

Simultaneous exchange – this is when the parties to a case exchange their witness statements at the same time on the same day.

Statement of truth – the last and standalone paragraph at the end of a witness statement declaring that the facts stated in the statement are true. There is also a statement of truth at the end of a claim form or particulars of claim or schedule of loss, declaring that the contents are true.

Witness statement – a document in which someone explains what they saw, did, or heard.

What does
it mean?

The information in this guide applies to England and Wales only. The law is different in Scotland or Northern Ireland.

The law is complicated. We have simplified things in this guide. Please don't rely on this guide as a complete statement of the law. We recommend you try and get advice from the sources we have suggested.

advice**now**.org.uk

Making sense of the law and your rights

If you would like this guide in another format please email guides@lawforlife.org.uk

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