

## Giving evidence

### Helpful things to remember when giving evidence

- Speak loudly, speak clearly and speak slowly.
- Listen carefully to the questions.
- Don't be afraid to say you don't know if you really don't.
- If you don't understand a question just say so or ask for it to be said again.
- If you can't remember say that you do not remember.
- If you need time to think about your answer then say that you need more time.
- Try to breathe evenly and stay as calm as you can.
- If you are giving evidence about a conversation, try to use the words that were said. For example, if someone said *"Take me to the shops"* then the right way to give this evidence is to say, *"She said, 'Take me to the shops'"* not *"She told me to take her to the shops."*
- If you are giving evidence in the courtroom the accused will be there but you don't have to look at the accused unless asked to.
- It is normal to feel nervous, upset or embarrassed when giving evidence. If you need to have a break, ask the Judge or Magistrate. Tissues and drinks of water will be available if you need them.
- Remember not to talk about your evidence with other witnesses.
- Focus on telling the truth and answering honestly, not on making the case sound good (that's not your job).

### Tips for evidence-in-chief

- Remember that the prosecutor will ask open-ended questions and cannot suggest answers to you.
- If you can, try to remember the order of events and details like times and dates.
- The jury don't have a copy of your statement so it is important that you talk about what you remember in as much detail as possible, and in an order that makes sense to them.

### Tips for cross-examination

- Defence will often make statements to you, which may not sound like questions. They are asking you to agree or disagree with them.
- Try not to get angry with the defence lawyer even if you feel they are being aggressive or rude to you; they have a job to do.
- Only answer what you are asked.
- Keep your answers clear, simple and to the point.
- If you don't agree with something that is suggested to you, it is important that you say so.
- Don't try to guess the purpose or reason behind the questions, just answer honestly.



## Giving evidence at court

Most witnesses give evidence in court however some victims such as sexual assault victims and vulnerable witnesses can choose to give evidence using CCTV.

It is important to remember that what you say is only part of the whole case against the accused.

Remember, it is not your responsibility to prove the case. This is the role of the prosecution. Your job is to tell the truth.

## Promising to tell the truth

**Oath:** *Swearing on a bible or other religious book to tell the truth.*

**Affirmation:** *Making a promise to tell the truth.*

Witnesses must give an oath or affirmation before giving evidence. You will be asked to face the Judge or Magistrate, then the Court Officer will recite the oath or affirmation and ask you to adopt the oath or affirmation by saying, “I do.”

Children will be asked to promise to tell the truth.

## Evidence-in-chief

Evidence-in-chief is the first part of your evidence. The prosecutor will ask you questions about what happened.

The questions asked in evidence-in-chief are based on what you told the police in your statement. You are allowed to read your statement before you go to court but you won't usually be allowed to look at it when you give evidence.

Sometimes the defence lawyer will say “*objection*” about the way the prosecutor is asking you questions. The Judge or Magistrate will decide if you can be asked the question and how it should be asked. Don't take objections personally, just wait and you will be told when to continue.

## Cross-examination

Cross-examination is when the lawyer for the accused (the defence lawyer) asks you questions.

Sometimes the defence may say things like “*I put it to you...*” or “*I suggest to you...*”. These may not sound like questions but they are.

The defence lawyer might suggest that you are mistaken, confused, exaggerating or not telling the truth. Stay calm and try to answer the questions as best you can even if you feel hurt or offended.

If a question is offensive or inappropriate the prosecutor will object to it, and the Judge or Magistrate will decide whether or not you have to answer it.

## Re-examination

After the defence lawyer has finished asking you questions, the prosecutor may want more information about what you said in cross-examination. They can ask you more questions, this is called re-examination. If they do not ask any more questions, it is because they do not think it is necessary.

## When you have finished giving evidence

When you have finished giving your evidence, the Judge or Magistrate says “*You are excused.*” This means that you can go home or you may be able to sit in the back of the courtroom and listen to other witnesses, but check with the prosecutor first.

Even when you have finished giving evidence you still need to check with the prosecutor or Witness Assistance Service Officer about whether you can talk about court. Sometimes you may have to wait until all the legal proceedings have finished before talking about your evidence with friends, family or other witnesses.