



Marine Management Organisation

Drafting a witness statement: Witness statements and exhibits

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What is a witness statement?

A witness statement is a document providing details of an event or set of events which have taken place as part of (or have relevance to) an investigation. If a statement is provided in accordance with certain requirements, it can be used as evidence to the court without the witness needing to attend.

A witness statement can come from an investigating officer a civilian or an expert

witness, but it must always be provided in the same format and on the same forms in order to comply with the rules of evidence.

Definition of an "admissible witness statement"

Section 9 of the Criminal Justice Act 1967 (CJA 1967) states that for a witness statement to be used as evidence in any criminal proceedings it must:

- be a formal written document of a person
- be a statement of the truth, setting out facts relating to a certain event, or events
- be signed by the person who makes it and it must confirm that the contents of the document are true
- have had a copy served on the other parties before the trial
- be agreed by all parties.

If all the above apply, it may be possible for a court to read the statement out instead of calling the witness to court to give their evidence in person, but once they have made a written statement, they may be called on to attend court and give their evidence.

How the statement is used in court

If you are not to be called to give evidence, then the statement will be read aloud at the hearing or (in certain circumstances) handed to the court for them to read. This allows formal and agreed evidence to be given to the court without having to call that person to attend court.

Types of witness statement

There are three types of witness statements.

1. Narrative statements are made by people who have played a part in the event at issue.
2. Production statements are made by people who are employees, who have access to computer systems or documents, but cannot testify as to how the information was entered on to the systems, as it may have been done by other people in the organisation.
3. Statements by expert witnesses include analysis and comment – not personal opinion.

Drafting

General points on drafting

In criminal proceedings the witness statement must be provided on the form MG11, using Arial font in size 12. The statement should be 1.5 line spaced.

Each page of a statement should be typed and printed on single sided pages.

1. Drafting your own witness statement

If you need to produce a witness statement it will be a chronological (in order) account of the evidence you can give, starting with your earliest relevant involvement with the investigation. Therefore, it is important that during investigations you make good notes in:

- your officer's notebook
- daybooks, surveillance logs
- other supplementary records.

These notes must be sufficient to accurately complete the witness statement.

All your statements must contain evidence that is:

- admissible
- relevant
- probative (honest), and not prejudicial (opinion formed beforehand).

The main principles to follow when writing your statement

Only you can write your witness statement and others are not allowed to contribute to it or try to influence what you say.

When you are writing a witness statement, you must:

- use plain English avoiding jargon or technical language (if you must use it make sure you explain it)
- write in the active voice – "I saw this, I did that"
- try to use short sentences with each sentence dealing with only one idea or event, this will make it easier to follow (however, you must also vary the pace of your writing as a lot of short sentences can sound robotic and monotonous – read your statement back to yourself and listen to how it sounds, or alternatively, ask a colleague who is not involved in the investigation to read it back to you)
- not routinely include your every action or produce every item you come into contact with as an exhibit; this is a waste of time, and it may confuse the court
- ensure that during the investigation you record anything that you think is relevant or may become relevant, so by the time you come to writing your statement the issues in the case are more apparent
- make sure that you are being even handed, it would not be right to include everything that proves the prosecution case and exclude all material that might contradict it – remember your duty to investigate all matters that point

both towards and away from the prosecution case

- for a statement of fact, you should use a dispassionate tone and only describe emotions (yours or others) where this has direct relevance to the subject matter of the investigation.
- ask a colleague to check your statement to make sure it will make sense in court.

What to avoid using in a statement

You must try and avoid:

- jargon or language that others may not understand
- ambiguities, contradictions or gaps which may be revealed on cross examination
- irrelevant facts or information
- hearsay, unless you clearly identify it as this
- any expressions of opinion such as "I believe that..." – opinion evidence is inadmissible unless it comes from a suitably qualified expert.

Technical Language

When writing a witness statement, due to the offences we investigate, technical terms are likely to be used. You should explain the term in a simple way as if speaking to a member of the public with no specialist or technical knowledge. You should consider if a diagram would help. For example, when explaining the different parts of fishing gear, a diagram might be simpler than words. Remember to introduce it as an exhibit. Consider if the technical terms need to be used at all, for example when talking about MCMS, it would be simpler to say, "online marine licensing system."

Dates and times

The date should be written in full for example Thursday 21st April 2017.

Times can be written in either 24- or 12-hour clock, but it should be made clear which you are using.

Do not put 09:00 BST or GMT. It is assumed you will be working in the appropriate time zone for that time of year.

Before you first mention a time in your statement you could include a line to

say, “All times specified in this statement are in 24-hour clock”. And therefore, there is no need to continue to use the unit “hrs”.

Acronyms and abbreviations

Abbreviations can help to make text easier to read, especially if the abbreviation is well-known.

Spell out the words in full the first time they appear and put the abbreviation in brackets. After that just use the abbreviation.

“The Marine Management Organisation (MMO) has its headquarters in Newcastle. I am an Enforcement Officer with the MMO.....”

Names

The first time you refer to a person you should write their full name there after it is recommended you use their surname only.

Surnames of people should be capitalised.

Example:

I introduced myself to the master of the vessel, Dennis James SUGDEN. I requested that he haul his gear so that I could perform an inspection. SUGDEN refused to comply with my request.

Species names

Use the common name of the species; Latin names are not needed as standard. The Latin name will only be needed if there is likely to be dispute regarding the species involved or needs explaining due to it being in a piece of evidence. In this case use the common name followed by the Latin in italic and brackets, for example ‘cod (*gadhus morhua*)’. Only use the Latin name once, unless evidence requires otherwise.

Refer to the full name such as Dover sole as opposed to just sole as this could also mean sand sole.

Proof Reading

You should write your draft in a blank word document. You can then use the spell check tool, which is unavailable in the MG11 form. You should also get a colleague to

proof read it. You should ask someone who is not involved in the investigation. The way they perceive the information may differ to those working on the case. Once completed you can copy and paste your statement into the MG11 form.

You should then proof read it again to ensure the format has translated correctly.

2. Drafting the witness statement of a civilian witness

Where evidence can be provided by a civilian witness – someone who is not employed by the MMO – a statement should be taken from them. This should be done face to face. The witness should not be told what the content of his or her statement should be. They should be asked to recount their version of events. It is fine for you to draft the statement using their account. This must be done on the MG11 form in the same way as writing your own statement. You may wish to ask further questions of the witness to illicit their account and then formulate the statement from the notes of the answers you take in your notebook. Alternatively, you may feel comfortable taking the statement from the witness contemporaneously to their giving their account. This is a matter of style. You should always take a civilian witness statement face to face. It is not appropriate to seek third party witness evidence via email or other correspondence.

When you draft witness statements you must make sure:

- they are concise and to the point
- you only deal with matters within the witness's direct knowledge
- as far as possible, it is in their words.

When you question the witness, you must make sure:

- you ask all relevant questions to satisfy your duty under the Criminal Procedure and Investigations Act 1996
- you have pursued all reasonable lines of enquiry whether these point towards or away from the suspect.

Signing and checking the civilian witness statement

You must always give the witness the opportunity to check the contents of the statement and make any corrections before they sign it. The witness must sign the declaration at the head of the statement and beneath the last line of the text in the statement after they have made their statement.

You must make sure the person making the statement:

- consecutively numbers and signs all the sheets
- initials all alterations and deletions.

You should sign at the bottom of each page to witness their signature.

Where a civilian or expert witness provides a statement, an MG11B must also be provided.

What information you must include

A witness statement must present an accurate, relevant and concise account of the witness's involvement in the case. This applies to all witness statements and not just those belonging to a civilian or expert.

It must include:

- identification of the witness:
 - their job title
 - place of work
 - main responsibilities
- the event that started their involvement in the matter
- what the witness did, heard or witnessed that is material to the case
- everything that is relevant to the event or events
- a chronological narrative of events, including timings, names and places
- Identification by reference number of any exhibits that will be produced.

3. Exhibits in witness statements

You or civilian witness may refer to specific items or documents in a statement and these documents or items of evidence will be produced as exhibits in the case. Any document or object referred to as an exhibit and identified in the

statement will be treated as if it has been produced by the person who made the statement.

Evidence cannot speak for itself and so it is necessary for a witness to explain it. This means that you would only exhibit items you have found or created yourself (such as lists or logs).

You may refer to the exhibits of others if you have done something with that exhibit. For example, if you are using some of the content to create another exhibit; or if you need to exam the exhibit, or you take possession of it. Such as you were handed the exhibit to place in storage.

Producing Exhibits

Exhibits should where possible be produced in chronological order.

You must introduce new items in the statement by:

- giving a description of the material
- giving a statement of how it was found or made
- using the phrase ".... which I produce as exhibit....."
- give an exhibit reference number made up from the witness's initials and a sequential number, for example ABC001. If the witness has only two initials, select a random middle letter. But this must be the same for all that witness's exhibits.
- Only produce exhibits which go towards proving the offence you are investigating.
- Describe the exhibit so that it is unique and can only describe that exhibit. For example:

"I have created a table showing the sales records of D. Andrews and Sons between 23rd April 2016 to 14th July 2016, which I produce as exhibit PTW001."

If there are a huge number of exhibits, you can use a simple table, but you will need to have the MG11 unlocked by the legal team in order to insert the table.

And finally,

Writing a good witness statement need not be complicated but requires practice. Once you are comfortable with the format and content requirements it will come naturally with practice. The best witness statements provide clear and unambiguous evidence. The witness statement is your primary source of evidence in proving a case. Your case can stand or fall by its content, so it is important to get it right!

If you would like any help or feedback regarding style, technique or content please do not hesitate to contact the Legal Team using legaltraining@marinemangement.org.uk.