

Appearing in court as a witness

Introduction

This page contains information on your responsibilities when appearing in court as a witness and the process behind it.

We welcome your [feedback](#) on these pages.

Related topics

- [Medico-legal reports](#)
- [Role of SLT in justice settings](#)
- [HCPC standards](#)

Key points

- Speech and language therapists must be aware of their responsibilities under the HCPC and duty of care guidance
- Support and supervision should be appropriately sourced, including knowledge of the legal process and suitable training in preparation of attending court as an expert witness
- When appearing in court as a witness, the SLT's primary obligation is to the court and not the client
- The specialist skill, knowledge and experience of the SLT is used to assist the court to reach a conclusion
- Speech and language therapists can be cross-examined in the evidence provided

Responsibilities

Speech and language therapists must follow the Health and Care Professions Council (HCPC) standards. For more information see:

- [guidance on meeting the HCPC standards](#)
- [guidance on SLTs' duty of care](#)

Process

Under normal circumstances, permission is given as the witness summons or the subpoena may stipulate that the practitioner attend court with the relevant records.

It is also necessary to obtain permission from the employing authority to take the records to court, while a witness:

- Should not attempt to give evidence from memory in the absence of a record in an attempt to be helpful.
- Who has no relevant records available but who has received a witness summons or subpoena should attend court.
- Refusing to attend could be seen in contempt of court.

SLTs anticipating any involvement with **making statements**, writing **medico-legal reports** or appearing in court should seek help from their employing authorities legal department.

Giving evidence

Before giving evidence, the witness is required to swear an oath or to affirm that the evidence that she/he will give is the truth. Questions will be asked on the basis of the written statement which the professional will have been asked to make prior to appearing in court.

Professionals will not have a copy of their statement while giving evidence. In some cases, the statement will have been written months earlier.

Under these circumstances, a witness may wish to refresh her/his memory by referring to contemporaneous records.

When giving evidence, technique is important. A witness is advised to:

- speak slowly and clearly, in a loud voice
- address all answers to the judge
- remember everyone is nervous in court

The speech and language therapist may be asked to explain any clinical terms used.

The evidence given by the SLT may be weighed against that of an expert witness (independent therapist) or the SLT may be called as an expert witness. In such instances, it is vital to be clear and specific when giving evidence.

If it is necessary to refer to contemporaneous records or notes while giving evidence, a witness must ask leave of the judge or magistrate. If there are no objections, the witness may refresh her/his memory.

It is important to note that if the records or notes are referred to in court, they become part of the evidence in the case and may be examined by the other solicitors and the judge/magistrate.

The professional can be cross-examined by the solicitor of the defendant on matters contained in the records that may not have been referred to orally.

Resources

- GOV.UK – [Going to court as a victim or a witness](#)
- Gov Scot – [Being a witness at court](#)
- NIDirect – [Witness services and special court measures](#)
- [Government practice direction on providing expert evidence](#)
- [HCPC what you need to know about being an expert witness](#)
- [HCPTS practice note – opinion evidence, experts and assessors](#)

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