

GOING TO FAMILY COURT; PRACTICAL ADVICE



This booklet will act as your guide, to going to family court by providing our lawyers practical advice and tips.

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INTRODUCTION

The Court has the difficult job of making a decision on what should happen in each case. Often the people involved in cases have never been to court before and are emotionally attached to the result of the case. They do not know how the Court works or what the proper procedure is. Giving evidence can be a daunting experience.

It is natural to feel nervous when going to court, but attendees should try to remain calm and focused. They should speak clearly and loudly enough for everyone in the Court to hear them. Attendees need to avoid guessing or speculating about anything they are unsure of – it is always better to simply state that they do not know or remember something.

This handout is designed to give a practical outline to potential witnesses of what they can expect and how best they can prepare.



PROVIDING EVIDENCE IN COURT

The Court makes its decision based on evidence. Evidence is in two forms: written and spoken. Written evidence takes the form for example of statements, affidavits, letters and reports. Spoken evidence is given by witnesses, that is all the parties in the case or whose views are important, and who the Court will need to hear from to come to the right decision. Remember the Court wants you to do well as a witness. The Court needs to hear you clearly and understand your evidence.

Here is our family lawyers best practical advice when presenting evidence in court:

TELL THE TRUTH

This sounds obvious but needs to be stated. You will have taken an Oath promising to tell the truth and if you knowingly lie you will be committing a criminal offence. Telling the truth will also give you confidence. There is a tendency to improve a story, but lawyers spot this and will expose any inconsistencies. If you do not understand a question, ask for it to be put in a different way. If you do not remember something, say so.

ANSWER THE JUDGE, NOT THE LAWYER

Remember the only person ever to speak to in court is the Judge. The Judge makes the decision. Do not try to persuade the questioning lawyer or even even speak to them. A good way to remind you of this is as follows:

- If you give evidence, directly face the Judge and point your feet at them.
- Do not move your feet. Now twist at your hips to face the lawyer. Look at the lawyer and listen carefully to the question.
- When the lawyer has finished their question, and not before, turn back to face the Judge. Your feet will already be pointing that way as a reminder. You have a few moments in the turning to prepare your answer. In any event you should never hurry your answer.
- When you are directly facing the Judge give your answer. You can see if they are with you or if you are speaking too quickly as they may be writing down your answer. Do not worry if they are not looking at you if they are writing.
- When you have finished your answer, turn back to the lawyer slowly. This signals to them to ask the next question.

Although this may sound unnatural, it is very easy with practice and will give you control of the speed of the questions. The Judge can also hear better and you will not be tempted to get into conversation with the lawyer. If you give evidence sitting down, turn the chair a little towards the Judge or sit in that direction.

PRACTICAL PREPARATION

Make sure you know all the practicalities. It gives you confidence if you arrive in good time and are clear about what is going to happen. Consider the following:

- Where do you have to be? How can you get there? Is there parking, is there a bus or train? When do you have to be there?
- Arrange where and when to meet your Solicitor.
- Find out how long the hearing will take.
- Put the date in a diary or put up a note to remind you. Cases can go very wrong if witnesses do not turn up.
- Re-read the affidavits, statements and reports to refresh your memory.
- If you are not in a local Court, plan everything for being away from home, including your domestic arrangements.
- Think about your appearance in Court and plan what you are going to wear.
- Arrive at Court on time to meet your lawyers.
- If you are a witness of fact, you should wait outside the Court.
- Find out where the waiting room is and any other facilities, such as toilets and refreshment area. Tell your Solicitor where you will be.

UNDERSTAND WHAT HAPPENS IN THE COURT

When you give evidence the order will be as follows:

Oath or Affirmation - The Oath is a promise on the Bible or other Holy book, to tell the truth. The Affirmation is simply a promise, not based on a Holy book. You will be asked to read the words from a card or paper in front of you and if swearing the Oath, to hold the book in your uplifted right hand. It is entirely up to you which you choose to do. They carry equal weight. Take your time and read slowly, clearly and audibly, facing the Judge.

Examination in chief - The purpose of the examination in chief is so the Judge can hear your evidence in your own words. You will be questioned by your lawyer who will ask you what happened or your views.

Cross-examination - The purpose of the cross-examination is for the other side to try to get their view of the case across by asking questions that favour that view. This can be upsetting. But say what you want to say and remember to give your answers to the Judge.

Re-examination - This does not always take place. If it does it is a chance for your lawyers to clarify something that may have been discussed during cross-examination. After your evidence has been given, you will remain in the Court to hear the rest of the case. If you are a witness to the case and you are not entitled to remain in the Court, you will be so advised by the lawyer or Judge.

HOW CAN WE HELP?

At Taylor Bracewell, you can count on our wealth of experience and expertise to guide you through uncertain times brought about by relationship breakdown and family conflict.

Whether you are going through a divorce, separation or a child arrangement dispute, we will work closely with you to understand your needs and goals and provide you with the personalised legal advice and representation that you deserve.

Our family lawyers are listed in the UK Legal 500, which is a mark of excellence judged by our professional peers. Sharon McKie, Head of Family Law, is also proud to be a member of Resolution, an association of family lawyers who are committed to resolving disputes in a non-confrontational way to preserve people's dignity and to encourage agreements.

Our Family team can help with the following:

- Divorce or separation
- Starting a family
- Pre- and post-marital agreements
- Civil Partnerships
- Child Arrangements
- Cohabitation agreements
- Financial issues



I would like to thank Sharon and her team who helped and supported me through a very difficult time. Nothing was too much trouble for them and my case was handled with professionalism and kindness. I would highly recommend Sharon for all her help and thank you once again.

- Mrs Turner -

Sharon McKie was very professional and gave lots of useful advice on what we needed to do to sort out financial affairs. She was very understanding of the situation and explained our rights in law moving forward. She gave us a clear list of priorities which needed attention.

- Mr Smith -

I would recommend Sharon's services. From the initial telephone call through to her written up notes, comments, questions and finally putting together all the information in a format acceptable to the court,, she was thorough, professional and extremely able.

- Anonymous -



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Please note that the duty to disclose information is ongoing until matters are concluded so you must keep us informed should your financial circumstances change. You should note that, where the Court is satisfied that there has been illegal or unlawful conduct (including evasion or non-payment of Tax) by one spouse, the usual approach of the Court would be to order disclosure to the relevant Public Authority

You **MUST NOT** use the self-help approach with regard to your spouse's financial documents whether, for example, from a computer, phone, intercepted e-mails, locked or unlocked filing cabinets, opened or unopened documents lying around the house or elsewhere. It is not lawful to copy or use such material. Serious consequences could follow a breach such as an injunction, civil damages claim, criminal proceedings and possibly a change of solicitors.

Financial Statement

- For a financial order under the Matrimonial Causes Act 1973/ Civil Partnership Act 2004
- For financial relief after an overseas divorce etc under Part 3 of the Matrimonial and Family Proceedings Act 1984/Schedule 7 to the Civil Partnership Act 2004

of

The parties are

Who is the

☐ Spouse ☐ civil partner

☐ Petitioner ☐ Applicant ☐ Respondent

☐ divorce ☐ dissolution ☐ nullity

☐ (judicial) separation ☐ financial relief ap

Applicant in this matter

This form should only be completed in ap
plied for as part of a divorce, dissolutic
Court or family courts in England and Wa
overseas divorce/dissolution etc. If the ap
complete Form E1. If the application is for a
complete Form E2.

Please fill in this form fully and accurately. W
You have a duty to the court to give a full, fra
relevant circumstances.

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