



Police Evidence in Civil Litigation and Certain Criminal Cases Procedure

This procedure is part of North Yorkshire Police policy to which all Chief Constable personnel and the functions provided by the Police, Fire and Crime Commissioner are required to adhere.

Procedure Statement

On occasions, police officers may be approached by solicitors to provide witness statements and/or evidence in civil proceedings or as defence witnesses in criminal proceedings.

Whilst North Yorkshire Police (NYP) does allow officers to do this, it is necessary to ensure that officers follow a strict protocol when in such situations.

This procedure will:

- detail the circumstances in which a police officer is able to give evidence
- set clear guidelines for officers to follow when asked to give evidence
- protect officers from improper/imprudent disclosure of operational material

To ensure operational effectiveness, it is necessary to make certain that information obtained in the line of duty is protected and adherence to this procedure will protect both the officer and NYP.

Overarching Policies:

Procedures:

Protective Marking Procedure

Other Documents:

Human Rights Act (HRA) 1998

Data Protection Act 2018

Process

Interviews with Police Officers in Civil Cases

Interviews with officers/police staff in respect of civil matters, which have come to police notice in the course of duty are permitted in order for proofs of evidence to be obtained. However it is not mandatory for officers/police staff to agree to do so.

When considering disclosure to solicitors, officers must consider the requirements of the General Data Protection Regulation (2016/679), the Data Protection Act 2018 and the Human Rights Act (HRA) 1998. Information obtained by NYP is obtained for a policing purpose and can only be used for that purpose. Therefore, unless exceptional circumstances apply, NYP systems shall not be searched in order for officers to obtain further information. Further guidance can be obtained from Evolve Legal Services

Officers may be called to give evidence at civil proceedings or at statutory tribunals such as the General Medical Council (GMC), Pharmaceutical Society (PS) or Employment Tribunal (ET), where either no criminal proceedings are to be taken or proceedings have been finalised.

Procedure

Interviews will normally only be granted when the solicitor concerned confirms that civil proceedings have commenced, or the matter is to be heard before a tribunal. Such interviews must be authorised by the Safer Neighbourhood Commander (SNC) of the officer concerned.

IN ALL CASES OF DOUBT, OFFICERS OR SNCs AS THE CASE MAY BE, SHOULD AVAIL THEMSELVES OF LEGAL ADVICE FROM THE FORCE CIVIL DISCLOSURE UNIT AND/OR LEGAL SERVICES. LEGAL SERVICES WILL NORMALLY ACT FOR NYP IN CONNECTION WITH ANY DISPUTE ABOUT POLICE EVIDENCE IN CIVIL LITIGATION.

Officers interviewed will be allowed to give a proof of evidence to a solicitor, or his representative. Such an interview will be allowed only on condition that a copy of the proof of evidence will be supplied to the police and that the Chief Constable retains the discretion to supply a copy to any other party.

There is no obligation for an officer to agree to provide such evidence. Officers are reminded that they may take advice from Staff Association representatives or the Professional Standards Department (PSD) and they may request a friend's attendance at the interview.

The person interviewing will be asked to send to the SNC two copies of the statement they prepare as a result of the interview.

The statement will be checked by the officer and SNC concerned who will ensure that it contains no material categorised as restricted or above, adhering to the Protective Marking Procedure. If officers/staff have any concerns regarding the content they should contact JCLS-for advice. For example officers/staff should generally refrain from providing opinion evidence.

The statement will then be signed and returned expeditiously to the solicitor.

A standard charge will be made for each interview, details of which can be found on the NYP Intranet Finance subsite - 'Approved Fees and Charges Manual'.

Attendance of Police Witnesses at Civil Courts, Tribunals Etc.

Wherever possible the SNC concerned should consider requiring the solicitor to convert statements taken from police officers into civil witness statements in an attempt to remove the need for officers to attend Courts and Tribunals".

An officer will not normally attend such proceedings unless they have been served with a witness summons.

OFFICERS AND STAFF SHOULD NOTE THAT THEY MUST COMPLY WITH THE SUMMONS, OTHERWISE THEY MAY BE LIABLE TO EITHER A FINE OR IN CERTAIN CIRCUMSTANCES IMPRISONMENT FOR CONTEMPT.

Attendance will be classed as 'duty time'. The amount offered or paid to a witness at the time of service of a witness summons is in effect set down in the legislation governing civil litigation and based on the sums payable to witnesses attending in the Crown Court. Officers/staff should note that all payments should be paid into their appropriate budget. Any expenses, allowances etc. not covered by the above should be calculated in accordance with NYP's approved fees and charges manual and charged to the party on whose behalf the officer/staff member appears. Any queries on this issue should be directed to Evolve Legal Services.

Request by the Defence in Criminal Cases Brought by Police, for Police Officers to be Interviewed or Give Evidence

An officer may receive a request from a defence solicitor to be interviewed when they are not giving evidence for the prosecution, in connection with criminal proceedings.

Officers are reminded that it is their duty to assist in the search for the truth. However, there is no obligation to agree to provide such evidence.

Prior to a decision to decline to provide such evidence, officers are urged to seek the advice of their Staff Association representatives or PSD.

Police officers are **not to attend** a criminal court as a defence witness unless they have been served with a subpoena or witness summons. Upon receipt of a subpoena or witness summons, the officer must immediately submit a report to their SNC, containing all the relevant facts.

Attendance at Court in these circumstances will be classed as duty time. Police officers who attend Court as witnesses of fact, whether it is for the prosecution or the defence, shall attend in their duty attire. Officers who attend Court for the defence as a witness of character should attend in plain clothes.

Evidence in Private Summons Cases

If any request is received from a solicitor to interview an officer in connection with criminal proceedings which are being instituted privately and not by the police, identical conditions will apply as for interviews in civil cases.