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**WOMEN**  
*helping women through the law*

# A guide to **preparing witness statements** for the **Family Court**

Preparing court documents can be daunting, especially if you don't have a lawyer. This legal guide will give you information about how to write a witness statement.

Preparing court documents can be daunting, especially if you don't have a lawyer. This legal guide will give you information about how to write a witness statement. Rights of Women publishes a number of other legal guides that may be useful including **Family Court proceedings: where can I get advice and support?** and **A guide to preparing for court hearings and safety in the Family Court**. You can access our full range of legal guides at [www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)

## What is a witness statement?

A witness statement is a document setting out the evidence of the person writing the witness statement. It is signed by the author to confirm that it is true. It should contain all of the evidence that you want the court to have about the case and the reasons why you want the judge to make certain orders or directions.

A witness statement should be factual and state what was seen, heard or felt by the person writing the statement.

It is important to remember that witness statements need to be shared with all of the people involved in the case and not just the court.

## When to prepare a witness statement?

Normally, the court will tell you to prepare a witness statement and give you the time when you have to do this by. This will be set out in a notice or order from the court. You need to make sure that you provide the document by the time the court has given or you may not be allowed to rely on that evidence.

If you need extra time to complete your statement you can write to the other parties in the case and the court asking for extra time and explaining why.

As a general rule, you cannot give a witness statement to the court without first getting permission from a judge to file a witness statement. There are certain circumstances when you may prepare a witness statement without the court's permission, for example, if you are making an urgent application and need to set out the evidence for your application in a witness statement.

It is possible that you will be asked to provide more than one witness statement during the case as further information is required. The court will direct you to do this if necessary. If you believe that something relevant has happened during the case and you want the court to know about it, you can ask the court for permission to prepare a witness statement.

You may want someone who is not involved in the proceedings to give evidence to the court because they have witnessed something that the court should know about. You should tell the court this as soon as possible and ask for the court's permission for them to prepare a witness statement.

**Example:** Jane has separated from Simon. Simon has applied for a child arrangements order in relation to their 2 children. Jane is concerned about Simon having unsupervised contact because he used to get very angry with the children and shout and swear at them. A number of her friends and family have seen Simon behave this way towards the children. Simon denies that he behaved like this.

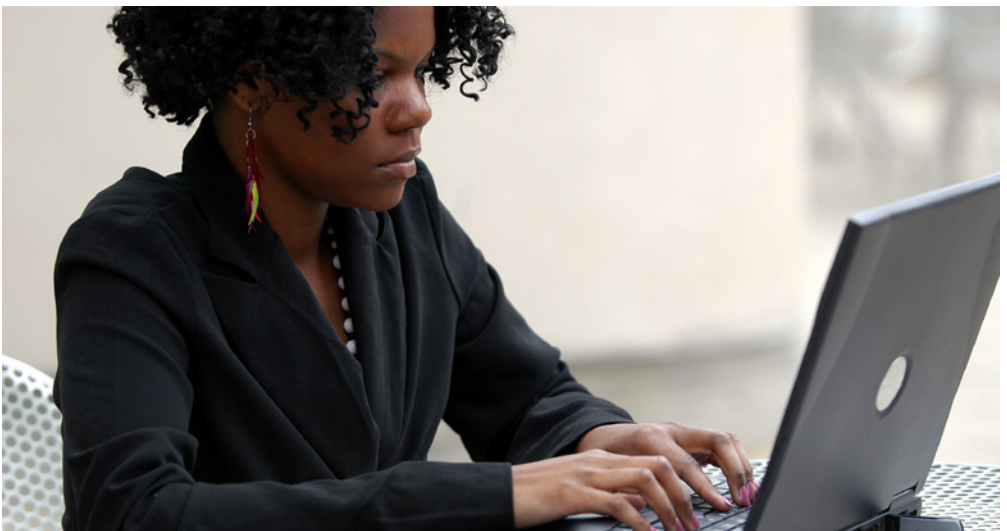
At the first hearing, Jane should ask the court's permission to prepare a witness statement setting out her concerns and for some of her friends and family who have witnessed Simon's behaviour to also prepare witness statements setting out what they have seen.

Anyone can provide a witness statement and you should think about whether you have any witnesses who can support what you are saying before the first hearing. The best witnesses are people who:

- have directly witnessed something that you believe is relevant to the case
- are believable and consistent about what they say
- are not likely to take sides in the case

When you ask the court for permission to send witness statements, the judge will probably ask why they are relevant. The judge can limit the number of witness statements allowed.

Once a person has submitted a witness statement to the court, they need to be prepared to give evidence to the court in person if this is required. This is so that the other party in your case can question them and challenge their evidence. You should always ask your witness whether they would be happy to go to court before you ask them to provide their statement.



## What to put in a witness statement?

Witness statements need to be set out in a particular way. In the top right hand corner on the first page of a witness statement, you need to put the following information:

- a. the party who has asked the witness to make the witness statement
- b. the initials and surname of the witness
- c. what number of witness statement this is for the witness, for example, first, second, third
- d. the number of exhibits attached to the witness statement (see below)
- e. the date of the witness statement

Below this information, you will need to put the heading. This should have the following information:

- a. the name of the court
- b. the case number
- c. the name of the Act under which your application has been made, if you know it
- d. the names of the parties in the case

Here is an example of the headings of a witness statement:

Statement of the Applicant

E. Benici

Statement No: 1

Exhibits: EY1

Dated: 03/06 /2016

**Case Number: HC240001**

**IN THE FAMILY COURT**

**SITTING AT HOLLYMEAD COUNTY COURT**

**IN THE MATTER OF THE FAMILY LAW ACT 1996**

**BETWEEN:**

**Esra Benici**

**Applicant**

**-and-**

**Osman Benici**

**Respondent**

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**FIRST STATEMENT OF THE APPLICANT ESRA BENECI**

Each page should be numbered and the witness statement should be set out in numbered paragraphs.

If possible, the witness statement should be typed and printed on one side of the page only. It should be set out in double space which means that there should be a space between each line.

Once you have written the heading, most witness statements start with setting out the witnesses name and address. Remember the other party will see your statement so if your address is confidential then you can state that the court knows your address.

If you have a witness who is not a party to proceedings, they also need to provide their name and address. If your witness wants to keep their address confidential from your ex-partner then do not include the address on the statement. The witness should complete a form C8 and send this to the court with their statement.

**These are the kinds of things you may wish to include in a witness statement:** →

## General

- Who each of the parties are and their relationship to the author of the witness statement. For example "I am Joe Brown. The respondent, Jane Davidson is my wife's best friend. I have known her for 6 years. I know the applicant, Simon Davidson through Jane and have met him a few times when he has been with Jane."
- If you are the applicant or respondent, summarise your relationship with the other party, how you met, when you started having a relationship, whether you were living together or married, when the relationship broke down and why.
- Has there been domestic violence? Are you able to safely communicate with the other party? Is your address confidential?
- What outcome do you want?

*'...If your witness wants to keep their address confidential from your ex-partner then do not include the address on the statement...'*

*'... You may have medical evidence of injuries or text messages in which your ex-partner was abusive or admitted being violent...'*

### **If you are raising allegations of domestic violence**

- It is easiest to deal with allegations in date order starting with the earliest.
- Try to explain what actually happened in as much detail as possible. For example rather than saying "in 2015, he was violent towards me and I called the police" say, "around the beginning of March 2015, we were celebrating my birthday at home. He started saying that I was being a "princess" because I had been given a lot of gifts by my friends and family. I asked him not to say that and he got angry. He punched me in the stomach twice before storming out of the house. I called the police and they arrested him. The police took no further action because he said that I was drunk which was not true"
- It is sometimes difficult to remember every single incident in detail. If there are more incidents than you can remember or there are too many to put in one statement, say that you are not describing everything that happened but have chosen some incidents to show the court the type of behaviour you are worried about. If you do not remember dates or places, say so. In general, you should choose the first, the most serious and the most recent incidents of violence. You should also consider including incidents that you have supporting evidence for. For example, he may have called you names in front of a group of people and you may be able to get a witness statement from one of them to state that they saw this. You may have medical evidence of injuries or text messages in which your ex-partner was abusive or admitted being violent. You can show the court this evidence by describing the incident and then exhibiting the documents to your statement (see below on how to exhibit a document to your statement).
- Some domestic violence is harder to describe than others. For example, if you are describing a pattern of behaviour that amounts to emotional abuse, you should set out as many incidents as you can or state how often the behaviour occurred.
- Describe the effect of the domestic violence on you and your children.

## If your case is to do with your children

- What is your relationship to the children? What is the other party's relationship to the children?
- Is the other party having contact with the children? If so, explain what contact he is having and what your views are on this. Do you believe it is enough? Has it increased over time or decreased over time? Are there difficulties with the arrangements? Is he consistent in attending contact?
- How is contact going? Have there been any incidents of concern in relation to contact? If so, explain in detail what happened and when.
- Have your children said anything about what has happened? If so, what? And when?
- Are there any relevant parts of your children's lives that the court should know about? For example, is your ex-partner asking for contact at a time that the children have after school clubs? Or when they always visit their grandparents?
- Do your children have any special needs? If so, explain their needs and how this affects the care that you provide to your children. Can you provide the court with any documents about this such as school reports or Education and Health Care Plans?
- Do you have any proposals for arrangements for the children that you believe would be better?



*'...Is there any new information that is not contained in these documents that is relevant to the judge's decision?...'*

### **If your case is to do with finances**

- What is your current financial position?
- Hopefully, you and your ex-partner will have exchanged financial information and raised questions about the other party's finances in questionnaires. Is there any new information that is not contained in these documents that is relevant to the judge's decision?
- Do you disagree with some of the statements made by your ex-partner? If so, why and are you able to provide any evidence to show that he is wrong?
- If the court has directed you to provide a section 25 statement you should address all of the factors set out in section 25 of the Matrimonial Causes Act 1973 using sub-headings for each factor. They are:
  - a) The income, earning capacity, property and financial resources of you and your husband now and in the future.
  - b) The financial needs, obligations and responsibilities of you and your husband now and in the future.
  - c) The standard of living before the breakdown of your marriage.
  - d) The ages of you and your husband and the length of your marriage.
  - e) Any physical or mental disability that you or your husband have.
  - f) Any contributions you and your husband have made to the welfare of the family including looking after the home or caring for the children.
  - g) Any behaviour by you or your husband that the court believes is relevant.
  - h) Any value or benefit which you would lose when getting divorced.



## Additional documents

An exhibit is another document that you would like the court to see as part of your evidence. Types of documents you may want the court to see are:

- medical reports
- school reports
- social services reports or letters
- bank statements
- telephone records
- print outs of text messages
- emails

You can label these documents and attach them to your statement. Each document should be labelled separately. This is normally with your initials and a number, for example, AB01. The next document could be labelled AB02 so that it can be separated from the first document. In your statement, you should explain what the document is, how you got it and give the number so that the judge can easily find what document you are referring to.

This is called exhibiting the document. For example, you could say something like this:

*I suggested to Simon that he collect the children from school every Friday for contact and bring them back on Saturday afternoon to my address. He refused to collect the children and told me that I needed to bring the children to him or he was not going to have contact. I have attached the email correspondence dated 01/01/2017 between me and Simon dealing with this and have labelled it as exhibit JH01.*

Your exhibits should have a front page at the start of each exhibit with the same heading as at the start of the statement and the reference number for the exhibit.

These should go, in order, at the back of your statement and the page numbering should follow on from your statement.



## Declaring that a witness statement is true

All witness statements must include a statement of truth. This is a sentence which states that the person who wrote the statement believes that the facts written in the witness statement are true.

It must be signed by the author who is declaring that the statement is true. At the end, the witness statement should look like this:

*I believe the facts stated in this witness statement are true.*

*Signed: J. Davidson*

*Date: 03/05/2017*

If you require a witness statement from someone who is unable to read or write, for example, they may not speak English, then the statement needs an additional signature from someone who is authorised such as a solicitor or court staff. They must confirm the following:

1. that the witness statement has been read to the person signing it
2. that that person appeared to understand it and approved its contents as accurate
3. that the statement of truth has been read to that person
4. that that person appeared to understand the statement of truth and the consequences of making a false statement
5. that that person signed the statement in the presence of the authorised person

If a witness statement is not signed and declared to be true, the court can decide not to allow the statement to be used as evidence. This means the court can ignore the witness statement when making a decision.

*'...If a witness statement is not signed and declared to be true, the court can decide not to allow the statement to be used as evidence...'*

## How to provide it to the court and other party

You should send your witness statements to the court and the other party. If Cafcass/CAFCASS Cymru are involved, you should also send your witness statements to them. They should receive it by the date you have been given by the court. You can email it to the other party but make sure you check that they have received it and will accept it by email. You should send it to the court by post or hand deliver it. Make sure they have received it by calling the court office a few days after you have sent it.

Before any hearing and especially before any contested hearings, either you or your ex-partner may need to prepare a bundle. Make sure that copies of all of your witness statements are in the bundle. If it is being prepared by your ex-partner and they have not put your witness statements in the bundle, make sure you send it to them again and take extra copies with you to court for the judge. You should then give the statements to the judge and explain that you sent the witness statements to your ex-partner but that they have not included them in the bundle. Give the judge the date you sent the statements.

## What happens if a witness statement is not true?

If the person signing the witness statement knows it is not true, then they can be held in contempt of court. This means that the court can punish them for preparing a false statement by requiring them to complete unpaid work, fine them or imprison them.





*The law is complex and may have changed since this guide was produced. This guide is designed to provide general information only for the law in England and Wales. You should seek up-to-date, independent legal advice.*

Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.

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For free, confidential, legal advice on family law including domestic violence, divorce and relationship breakdown and issues relating to children:

Women living and working in London: call **0207 608 1137** the advice line is open **Mon 11am–1pm, and Tues–Thurs 2–4pm.**

For all women: call **020 7251 6577** the advice line is open **Mon–Thurs 7–9pm and Fri 12–2pm.**

For free, confidential, legal advice on immigration and asylum law or criminal and sexual violence visit **[www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)** for our advice line details.

# Useful contacts

## Emergency contacts

### Police (emergency)

999

### 24 hour domestic violence helpline

0808 200 0247

[www.nationaldomesticviolencehelpline.org.uk](http://www.nationaldomesticviolencehelpline.org.uk)

## Finding a solicitor

### The Law Society

0207 320 5650

[www.lawsociety.org.uk/find-a-solicitor](http://www.lawsociety.org.uk/find-a-solicitor)

### Resolution

01689 820272

[www.resolution.org.uk](http://www.resolution.org.uk)

### Ministry of Justice

020 3334 3555

[www.find-legal-advice.justice.gov.uk](http://www.find-legal-advice.justice.gov.uk)

## Legal advice and support

### Citizens Advice

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

### Personal Support Unit

020 7947 7701

[www.thepsu.org](http://www.thepsu.org)

### Law Centres Network

020 3637 1330

[www.lawcentres.org.uk](http://www.lawcentres.org.uk)

### Disability Law Service

020 7791 9800

[www.dls.org.uk](http://www.dls.org.uk)

### Law Works Clinic Network

[www.lawworks.org.uk](http://www.lawworks.org.uk)

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