



Crown and Magistrates Court Attendance and Policing Policy (568/2024)

Abstract

This policy details the responsibilities of police officers, Special Constables and police staff, when called to court in the capacity of either a witness or 'Officer in the Case', it includes the use of video live link facilities. It also establishes the command structure and deployment of appropriate police resources in specific cases or incidents at court.

Policy

1. Introduction

1.1 This policy is required to ensure police officers, Special Constables (SCs) and police staff understand their responsibilities when preparing to attend court in the capacity of an officer in the case (OIC) or to give witness testimony either in person or by video live link to portray a professional image at all times and be fully prepared and briefed to present their testimony.

1.2 Courts, for the purpose of this policy, refers to both Magistrates and Crown Courts which are specifically criminal courts that prove a person's guilt or innocence. Live link in the Video Evidence Justice (VEJ) suites are only for Magistrates cases and not for Crown Court at this time, although this is something that is currently being reviewed and is hoped to be in place in the near future. This will not apply to OICs who will still be required to attend court in person.

It incorporates;

National remote link site protocol or use by criminal justice service agencies and partner agencies for witnesses providing evidence via live video links at locations away from a court building. Refer to National remote link sites protocol.

Remote link sites – responsibilities and end to end process for use alongside the National Remote links protocol for witnesses providing evidence via live video links at locations away from a court building at Remote link sites responsibilities and detailed process.

2. Scope

2.1 This policy and associated appendices provide guidance and details on:

- How to prepare for court and what to expect within the judicial arena including personal responsibilities
- The uniform standards expected when attending court, including Personal Protective Equipment (PPE) where applicable

- The command structure and deployment of appropriate police resources in specific cases or to spontaneous incidents at court
- Regulations concerning police remuneration are contained within the Police Regulations 2003 (as amended) determinations thereto.
- How to provide testimony via live link.

3. Policy Statement

3.1 Sussex Police expects the highest professional standards from its workforce when preparing and giving evidence in court in accordance with this policy and the Code of Ethics, as the effective presentation of a case in a confident, impartial and efficient manner may well determine the outcome. Failure to comply with this policy and associated appendices could result in the invoking of disciplinary procedures.

Procedure

1. Planning and Preparation to Give Evidence

1.1 Sussex Police has a responsibility to ensure that cases being prosecuted are conducted professionally, and often a court appearance is the final stage in the criminal justice process. This can involve a large investment of resources.

Attending court and giving evidence is a significant event. Evidence preparation for the trial must be planned and coordinated.

1.2 Providing witness testimony in court can be challenging and stressful, therefore proper preparation and familiarisation with both procedures and the physical environment of the court is essential. The courtroom is effectively a live theatre and those attending must be aware that an audience is watching them throughout. (Redacted text).

1.3 Comprehensive preparation for your role is key, as an unprepared witness will come across as an unconvincing one. Whenever a court warning to be a witness is received the preparation should begin.

- The Witness Care Officer will warn individuals via email, also copying in the corresponding duties teams.
- Evidence will be provided via attendance in person or via a police live link room (which is an extension of the court room).
- CJU will advise to attend the relevant police live link room location rather than attending the courtroom.

1.4 The following only applies to Magistrates Court trials. For Crown Court trials, individuals are still required to attend court in person.

On the day of the trial the individual must arrive at the police live link location 30 minutes before the trial is due to start to check the room is suitable, that the information technology is online and that they have access to the oath / affirmation. The witness

should call into the court at least 10 minutes before the trial is due to start. For full details please see Using Live Link.

Individuals may be tasked with on-site duties whilst waiting to give evidence.

In instances where police witnesses have not reported their arrival at the police live link location as expected, it will be the responsibility of the CJU to establish why and make alternative arrangements.

The above instructions only apply to Witness Care Unit Trials.

1.5 For Central Ticket & Summons Unit (CTSU) Trials, please follow instructions below:

Contact details of the OIC must be supplied to His Majesty's Courts and Tribunal Service (HMCTS) so they can be contacted when the court is ready to hear their evidence, or for a pre-trial conversation with the prosecutor. If evidence is to be provided via 'live link', guidance is provided in the room with clear instructions to follow. In instances where police witnesses have not reported their arrival at the live link location as expected or not turned up, either Crown Prosecution Service (CPS) or the HMCTS will notify the Filebuild Team within Operation Command Prosecutions at Shoreham Police Station who will attempt to locate the OIC or try to establish the reason for the absence. If the case is subsequently adjourned, e.g. non-appearance, HMCTS will notify the Filebuild Team of the new trial date. Filebuild will then notify the OIC and CJU of the new trial date and request that CJU book the live link room.

1.6 Individuals must ensure they have detailed knowledge of the case so that they know what they are going to say in court. Additionally, they will need to be prepared to explain their specific job description, without reference to police jargon.

1.7 If you are the OIC you may be required to display a greater knowledge of operational matters and reasons for decisions than if you were merely the interviewing officer.

If you attend in person, it is your responsibility to ensure that all exhibits and original evidence not available within the digital case file are brought with you to court. If you are giving evidence via live link you will need to hold the exhibits up on the screen.

You will need to possess a detailed knowledge of your own police powers to be able to demonstrate that you acted lawfully when arresting, searching, detaining, cautioning etc.

1.8 As a professional witness you have a set of professional standards (CPS National Standards of Advocacy) that consist of a number of principles, which can be used as a benchmark by which you will be judged retrospectively in court.

1.9 The role of a police officer, SC or member of police staff is to collect and collate evidence in the investigation of the crime then subsequently present that evidence to the court in an impartial fashion. Your evidence will relate to the facts you yourself have witnessed (seen or heard). It will be the courts task to do justice according to the facts of each case.

1.10 Police officers, SCs and police staff have no role whatsoever in deciding guilt or innocence, apart from the effective presentation of the facts to the court. For this reason, you should treat both prosecution and defence counsel with the same demeanour and attitude throughout. Individuals should not speak to the defendant or their representative,

even if they approach you, without reference to the CPS first. Police officers, SCs and police staff are classified as witnesses in the case and should be mindful of doing anything that could prejudice the trial.

1.11 Police officers, SCs and police staff attending court to provide witness testimony, you have a responsibility to work in partnership with the CPS prosecutor. This may include providing information such as Police National Computer (PNC) printouts, researching issues or obtaining statements which will assist in the successful hearing of that case.

1.12 When presenting and delivering evidence in court, you only have one chance to create a good impression. Criminal justice partners together with the public will be looking at you as a professional witness and assessing the quality of your evidence.

1.13 When giving evidence by live link police officers, SCs and police staff should be seated in order to provide the best possible images of the witness.

It is acceptable to have access to a drink whilst giving evidence. Vessels should be in the form of a clear glass or plastic cup (as is customary in a court room). Mugs and bottles are not appropriate.

2. Oath and Affirmation

2.1 In the witness box the usher will ask you whether you wish to take the oath or affirm. Decide in advance which you are going to do and ensure that you speak with clarity and conviction reading out / reciting the oath or affirmation.

2.2 If you are giving evidence via live link there is a guide to oaths and affirmation present in the live link room. You will need to select the oath or affirmation you wish to give and select a holy book as required.

2.3 The Oath

Oath cards and holy books are available for several religions. If you want to take the oath on a holy book, please tell the court official which book you require as soon as you can. The official can then arrange to have that oath card and holy book ready for you. You will then be asked to take the oath. This means you have to swear to tell the truth on the holy book of your religion.

2.4 The Affirmation

This provides an alternative option for those wishing not to take the oath and reads as follows

'I do solemnly, sincerely and truly declare and affirm that the evidence I shall give shall be the truth, the whole truth and nothing but the truth.'

3. Communication in Court

3.1 The 'Golden Triangle of Communication' – The court scenario can be difficult to manage, as essentially witnesses are being asked questions by one person, the advocate for the defence or the prosecution, and then witnesses are expected to address

their answers to a completely different set of people, i.e. the judge, magistrates or jury positioned somewhere else in the court.

Police officers, SCs and police staff delivering evidence will need to position themselves in the witness box so that they can face the fact finders (the judge, magistrates or the jury) remembering to also look and listen to your questioner (the advocate) and address your answers to either the judge, magistrates or jury. Any on-going individual reasonable adjustments will be supported where applicable for those who are required to attend court.

3.2 All police officers, SCs and police staff who attend court to give evidence will ensure they report to the CPS on arrival. They will deal with any issues in respect of witnesses, evidence and exhibits, and make sure they are ready to give their evidence.

4. Notebooks

4.1 Original notes are usually made in Pocket Notebooks (PNBs), Investigators Notebooks (INBs) or E-notebook. If this is the case, you must ensure you are in possession of this material when attending court.

Since the 5th of April 2004 Section 139 of the Criminal Justice Act 2003 permits a person giving oral evidence in criminal proceedings to refresh their memory at any stage from any document made by them at an earlier time if:

- They state in their evidence that the document records their recollection of the matter at that earlier time and
- Their recollection of the matter is likely to have been significantly better at that time than it is at the time of giving oral evidence.

Police officers, SCs and police staff must not produce their PNB, INB, E-notebook or other notes, and wait for the advocate to ask them a series of questions to lay the foundation for the admissibility of the original notes which will add greater weight and credibility to them when they are admitted.

5. Uniformed Police Officers, SCs and Police Staff

5.1 Police officers, SCs and police staff must wear the uniform that they usually wear to work when attending either Magistrate or Crown Courts. Clean and smart operational uniform is acceptable. For further details on appearance, Carriage of Taser and PPE refer to the Uniform and Standards of Appearance Principles within the Uniform Policy (Surrey and Sussex) (1219).

6. Categories and Responsibilities for Policing at Court

6.1 Spontaneous Requests for Police Assistance by the Court

Police officers and SCs who are at court to give evidence will respond where there is an incident of disorder or any other matter requiring emergency assistance and an immediate response is required, pending the arrival of Divisional officers. Police officers on recuperative and adjusted duties should act in accordance with their agreed support plan and are not expected to respond to a request for police assistance if this goes

against their individual plan. It is important that an officer communicates this with the court so undue pressure is not placed upon the individual to respond.

The Divisional Command in whose area the court is placed will provide the necessary response to such calls.

6.2 High Security Trials

This category of trial includes those where there is a substantial risk of extreme physical violence, with or without the potential for the use of firearms, threats or intimidation of any person or any matter involving terrorism.

A nominated Gold Commander drawn from either the Division or Operations Command will decide on the appropriate policing response for each trial.

In making these assessments and decisions the Gold Commander will liaise closely with the Senior Investigating Officer (SIO) and the head of the Criminal Justice Department.

Resources for the initial police response will be decided in agreement with the Gold Commander / SIO / Divisional Commander and Operations Command.

6.3 Trials with potential for Disorder / Threats / Intimidation

In terms of planning deliberations, whilst some trials may be in the least serious category, there may still be a justifiable requirement for police presence.

The District Commander, who has geographical responsibility for the court, will also be responsible for policing trials when there is potential for disorder, threats or intimidation. If the case has evolved through intelligence developed by other Districts or Divisions and requires significant resources, the Divisional Commander for that court area will be responsible for providing a suitable shared police response.

6.4 Trials involving outside forces

A nominated Gold Commander drawn from either Division or from within Operations Department will determine the level of police response. In making the decision, Gold will liaise with a Sussex Police SIO (if appointed) together with the OIC of the case from the outside force.

Providing the police response will initially be the responsibility of the relevant Division with Operations Command Planning Unit assisting where cross-Divisional or specialist resources are required.

7. Planning

7.1 In order to ensure the resources of the organisation are maximised and used effectively, it is essential that all interested parties liaise at the earliest opportunity to establish the level of risk and responsibility for policing arrangements.

7.2 The Force and Divisional intelligence officers will be consulted in order to calculate the risk assessment. The information will assist in accurately determining the most appropriate response.

8. Communication

8.1 The District Commander will be the liaison officer for the Magistrates / Crown Court and have responsibility for the operational policing arrangements, alongside any relevant SIO and Operations Command, with support from Corporate Communications and Media Departments as required.

9. Support

9.1 It is acknowledged that attending court and giving evidence can be a stressful and sometimes traumatic experience.

Initial foundation training is provided to assist in giving evidence in court and the processes around this.

Support is also provided through direct supervision and all police officers and staff have access to the following support services:

- Employee Assistance Programme
- Occupational Health
- Mental Health First Aiders
- Police Chaplaincy

Team: Criminal Justice