

Guidance for Health Professionals Providing Statements to Police Scotland

The aim of this guidance is to provide clarity for health professionals who may be asked in the course of their work to provide statements to the Police undertaking investigations where a crime may have been committed. The guidance offers advice to health professionals to ensure they receive the appropriate support while providing statements and the opportunity to debrief thereafter.

You may be asked in the course of your work to provide a statement to the police. **You are obliged** to take part in any police investigation as an NHS employee.

If you are contacted by Police Scotland to provide a statement you need to advise your line manager as soon as possible to ensure appropriate support is available during the process.

A Police Officer should arrange a suitable time to take your statement. You can be supported by your line manager, colleague (if not involved in the case/incident) or a staff side representative. These individuals can only offer support; they are unable to answer on your behalf. It is important to discuss this with the police officer in advance of the meeting.

Providing Witness Statements

The Police Officer will outline the requirements of the witness statement and state the subject of the investigation/patient/client involved.

You will be asked to provide details of your employment, professional qualification, name and job title and length of time in current post.

You may be asked how long you have been involved with the patient/organisation as well as your role and involvement in patient(s) care, including times you were on duty.

If the investigation relates to a specific incident you may be asked to provide an explanation on what you were doing and where you were during any run up to the incident or whether you saw what happened.

You may be asked to go through in chronological order a list of events including who was there and what happened before, during and after any incident. If you did not see the incident you may be asked to clarify when you first heard about it, what you heard and who told you.

You can add any other information which you think might be relevant to the investigation.

Staff should restrict themselves to commenting on facts. Opinion or adverse comment should be avoided.

If you cannot remember something, then state this clearly.

Avoid the use of jargon, clichés and abbreviations.

Do not discuss your statement with others.

An opportunity to debrief after you provide your statement should be given by your line manager/staff side representative.

Being a police witness can cause anxiety for practitioners, it is important to remember, you will only have to go to court if the defendant:

- Denies the charges and pleads not guilty
- Pleads guilty but denies an important part of the offence which might affect the type of sentence he/she receives.

Most cases are heard in the Sheriff Court, more serious crimes are held in the High Court.

The police can issue a formal citation to witnesses requiring them to appear at court. If you receive a citation, you must ensure that you comply with any instructions contained within it. You should always take a citation seriously and if you are unable to attend for whatever reason. You should notify the court as soon as possible. If you fail to attend the court may take action against you for failing to appear.

If you do receive a citation to attend court, please contact your line manager in the first instance for advice and support.

Precognition Statements

A precognition is a distinctive feature of the Scottish legal system. It is a face to face interview of a witness who may be called to give evidence at a forthcoming criminal trial, civil proceedings or in respect of insurance claims.

A precognition statement is carried out to evaluate the evidence the witness will give while under oath at the trial.

A precognition is an account of what the witness says. It can't be put to the witness during the course of the trial – whilst other statements (Police statements or Witness statements) can be.

A precognition statement is given orally, then typed up and looks like a witness statement. Defence agents may employ a precognition agent to take statements on their behalf. You may be asked to give a number of statements if there are a number of parties involved in a case.

Witnesses are not under any direct legal obligation to agree to give a precognition statement to the Defence:

- You do not have to agree to give one but if one is given, it may stop you being cited for Court;
- You can meet face to face with no prior notice of the questions although this is not advisable;
- You can meet face to face having been sent the questions in advance. The Defence are not then allowed to deviate from those questions;
- You can have written questions and give written answers

If you do not wish to give a statement you should write or telephone them to make them aware of the fact.

Where can I get support?

If you are questioned by the police, it may be the case that you simply need to report what you have witnessed. However, if you are concerned about the incident or any aspect of your conduct or practice then you should seek support from your staff side representative.

If you find that you are a suspect (ie the police say that they will be interviewing you under caution) you should not answer questions or submit any statement until you have legal support. You should also advise your manager that this is the case.

Staff associations NHS Lothian intranet:

<http://intranet.lothian.scot.nhs.uk/StaffRoom/StaffAssociations/Pages/default.aspx>

Royal College of Nursing: <https://www.rcn.org.uk/>

Unison Scotland: <https://www.unison-scotland.org/about-us/help/>

NHS Lothian Public Protection Team 0131 536 5065