

Chapter 14: Witness Statements: Format & Content

14.1 General

14.1.1 To promote good quality and best practice in statement taking, a National Standard Statement was designed. This now forms the template for dictation of **all** statements to be submitted to the Fiscal by all Scottish Police Forces. A copy of the template is attached at Annex A.

14.1.2 Police Scotland and COPFS have prepared joint guidance on Police Reports, Statements and Presentation of Evidence in Court which includes guidance on completion of the National Standard Statement.

14.2 Framework of the National Standard Statement (NSS)

14.2.1 The NSS is in two parts. The first part is the statement itself and is designed to be disclosed. The second part contains confidential information about the witness that does not form part of the statement and is for the information of the Procurator Fiscal. Either part may, however, contain information that is or is not disclosable in terms of the materiality test under section 121(3) of the Criminal Justice and Licensing (Scotland) Act 2010 i.e. information which is likely to materially weaken or undermine the evidence that is likely to be led by the prosecutor; materially strengthen the defence case; or to form part of the evidence to be led by the prosecutor in the proceedings against the accused and Procurators Fiscal must consider both parts when considering whether information requires to be disclosed.

14.3 Disclosable Part of the National Standard Statement

14.3.1 Sections one to three of the NSS make up the disclosable part of the statement.

14.3.2 The first section contains basic information about the witness, such as name, disclosable address and age.

14.3.3 The second section confirms the circumstances in which the statement was taken, including details of the date and time it was compiled, where it was compiled and the identity of the persons present. This section – the provenance section – also notes details of where the original statement is recorded (whether in a notebook, hard copy statement, log or elsewhere). Finally, this section provides details of whether the witness has authenticated the contents. Completion of the details in the provenance section are mandatory, e.g. if a witness does not authenticate the statement it will still be necessary to say whether the witness has refused to sign the statement. A police officer's statement must be verified by that officer as his or her own statement. If the witness has not had the opportunity of doing so, then that statement should not be submitted until it has been verified except where the statement is required urgently for full committal. In such circumstances, it has been agreed nationally that the police can submit essential statements unauthenticated for the purposes of full committal, but thereafter must confirm their accuracy within 21 days of committal for further examination, i.e. by the date that the remainder of the statements in the case should be submitted.

14.3.4 The third section of the disclosable part is free text. This will contain details of what the witness says. Where there is information that is operationally sensitive (as defined by section 122(4) of the Criminal Justice and Licensing (Scotland) Act 2010

or if there is personal information about the witness that is not relevant to the case, this should be put in the separate confidential part.

14.4 Confidential Part of the National Standard Statement

14.4.1 Sections four to six of the NSS make up the confidential part of the statement. Although, in general, the information contained in this part of the NSS is confidential, it may nevertheless contain information which the Crown is obliged to disclose to the defence in terms of the materiality test i.e. information which is likely to materially weaken or undermine the evidence that is likely to be led by the prosecutor; materially strengthen the defence case; or to form part of the evidence to be led by the prosecutor in the proceedings against the accused

14.4.2 Section Four contains additional personal data, such as mobile phone numbers, private addresses etc. This section will also note details of whether a witness has an 'S' (CHS) number. Completion of this information is mandatory, e.g. if a witness does not have an 'S' (CHS) number then it is necessary to state this by selecting the option "No SCRO Record". A search for a 'S' (CHS) number will only be carried out if the witness is a civilian witness. Where the witness is either a police witness or a "professional/expert/official" witness, then the officer must state that the 'S' (CHS) number is "not applicable". (See Chapter 17, **sections 17.4 – 17.5.**)

14.4.3 Section Five provides details of a witness's availability to come to Court over a 12-month period. This is particularly critical in High Court cases because the Court must have a range of dates available for each witness in order to set a date upon which it is known that any trial will proceed.

14.4.4 Section Six contains any confidential material that would not, in the opinion of the police, be disclosable to the defence but which the officer requires to bring to the attention of the Fiscal. This will include any concerns that the officer may have regarding the accuracy of the 'S' (CHS) number included in section four of the NSS. Ordinarily this part of the statement will not be treated as part of the statement for the purposes of disclosure.

14.5 Specialist Reporting Agency Cases

14.5.1 Currently statements submitted as part of a Specialist Reporting Agency Case will not necessarily be in the format of the National Standard Statement. Special care may, therefore, need to be taken when redacting these statements.

14.6 Content of Witness Statements

14.6.1 It is a fundamental and obvious requirement that statements should be compiled as accurately as possible. Prosecution decisions depend on the accuracy of statements. Statements may be used, both by the Crown and by the defence in the course of the trial. The contents of a statement may, in certain circumstances, become evidence in the case. All of this presupposes that statements contain an accurate account of the witness's evidence as given to the police.

14.6.2 Guidance to the police on the form and content of statements is contained in the COPFS/ACPOS Guidance on Police Reports, Statements and the Presentation of Evidence in Court. Further detailed guidance on the form and content of statements from medical witnesses and police casualty surgeons is included in the COPFS/Strathclyde Police Guidance Notes for the Prosecution of Serious Crime.

14.6.3 Where the police submit statements that do not comply with the guidance detailed at paragraph 14.6.2 above, consideration should be given to requiring the Reporting Officer to submit fresh statements, particularly where any of the matters specified in the guidance have not been adequately dealt with in the statements originally submitted. In addition, in light of other information which is or becomes available to the Crown, the police may be instructed to take an additional statement. In any case where a fresh statement is obtained, both the original and the new statement should be disclosed to the defence.