

LORD ADVOCATE'S GUIDELINES TO CHIEF CONSTABLES THE CITATION OF WITNESSES

The following guidelines by the Lord Advocate set out, in general terms, procedures to be followed in the citation of witnesses for attendance at court. It is important that all witnesses who have been cited for a particular trial are in attendance at the diet of trial. If a material witness, without whom the trial cannot proceed, is absent, trial diets have frequently to be adjourned, with consequent inconvenience to witnesses who are in attendance. It is desirable that service of witness citations should be effected well in advance of the trial diet, so that problems regarding the attendance of witnesses can be identified as early as possible and remedial action taken with the aim of minimising the unnecessary attendance of other witnesses.

1. Wherever possible Procurators Fiscal will issue witness citations to the police at least 4 weeks before the trial date. In some cases, where for instance the accused is in custody, a trial date may be fixed for a date less than 4 weeks after his appearance in court. In such cases the Procurator Fiscal will issue witness citations as early as possible.
2. When witness citations are received from the Procurator Fiscal, arrangements should be made for service to be effected as soon as possible thereafter.
3. It is desirable that, in cases where it can readily be done, the citation should be served personally on the witness and the execution of service completed accordingly. This will enable a motion to be made for a warrant to apprehend in appropriate cases where the witness fails to attend the trial diet. If, however, the witness cannot be found in person, the citation may be left with another person in the household, and the execution of service completed accordingly. This should be done, however, only if every effort is made to ensure that the witness will in fact receive the citation. It should always be borne in mind that the purpose of a citation is to produce the appearance in court of the witness, and all reasonable steps should be taken to ensure that service of the citation will be effectual. Under no circumstance should a witness citation be put through a letter box or otherwise simply left at an address.
4. Where service of a witness citation cannot be effected the Procurator Fiscal should be informed of that fact immediately and of the reason for non service. To avoid unnecessary delay this should be done by telephone, and confirmed in writing as soon as possible thereafter enclosing the unserved citation. A record of the unsuccessful attempts made to effect citation should be made on the reverse of the form used to record the execution of the citation.
5. Immediately upon service of a witness citation, the execution thereof should be returned to the Procurator Fiscal. Care should be taken to ensure that all the particulars are completed accurately, including those on the reverse of the form, and in particular it should be noted whether service was effected personally or otherwise.
6. Where instructions are received from Procurators Fiscal to countermand witnesses for a trial, immediate steps should be taken to secure compliance. It is of importance that the unnecessary attendance of witnesses at court is avoided.