



Giving Evidence In Court

As a member of the public in Hong Kong, you could be asked to appear as a witness to give evidence in court either in a civil or criminal case. Should you be asked to attend, you will be told the location of the court and the time and date of the hearing.

What courts are there?

There are Magistrates' Courts, Coroners' Court (which deals with inquiries into the causes of certain deaths), the District Court, the Court of First Instance of the High Court and a number of Tribunals such as the Small Claims Tribunal (which deals with monetary claims up to HK\$75,000) and the Labour Tribunal. Criminal cases are heard in Magistrates Courts, the District Court and the High Court. The District and High Courts also have civil divisions to deal with cases such as disputes over contracts or claims for compensation for personal injuries.

Must I attend court?

Most people attend court voluntarily as a civic duty. People who refuse to attend can be ordered by a judge to attend. If you receive the court's summons (which is called a subpoena), ordering you to attend the court on a specified date and time to give evidence, you must attend that court on that date and time, as well as any other times the court orders. The subpoena may also require you to bring specified documents with you when you attend court. If you disobey, you may be found guilty of contempt of court, and may be fined or even imprisoned.

How should I dress?

Dress neatly. Show respect to the court.

How should I address court officers?

It is perfectly acceptable for a witness to address court adjudicators, solicitors and barristers as "Sir" or "Madam". If you wish, you can address a Magistrate as "Sir" or "Madam", a District Court Judge as "Your Honour" and a High Court Judge as "My Lord" or "My Lady".

Must I swear an oath?

Before you give evidence from the witness box, you will be asked whether you have a particular religious belief. If you do, you will be asked to swear that you will tell the truth in a manner appropriate to your religious belief. Otherwise you will be asked to affirm (give a solemn promise) to tell the truth; this practice has the equivalent effect of the oath. The court's clerk will help you; speak to him or her before you swear or affirm.

What language is used?

Chinese and English are the official languages in Hong Kong. In the Magistrates' Courts most of the cases are conducted in Chinese (Cantonese). However, if you wish to give your evidence in a language other than English or Cantonese, an interpreter will be provided by the court for you.

Where should I sit?

When you arrive at the court, you should report your presence to the solicitor or court prosecutor who called you to be a witness, or to their assistants. If you do not see them, or you do not know what to do, approach the court clerk and identify yourself (by producing your ID card) and provide information such as the court case number.

If the case in which you are to be a witness is a criminal one, you will be called when it is your turn to give evidence and shown where to stand. Before giving evidence, you should remain outside the court room and should not discuss the case with anyone who has witnessed the events, including other witnesses who have already given evidence.

How should I give evidence?

All you need to do as a witness is answer honestly and truthfully questions which are put to you. If you do not fully understand or hear a question, ask for it to be repeated. If you do not know the answer to a question, you should say so and do not guess what the answer might be. In all cases, do not give any false answer to any question. Try to avoid long answers. Answer questions simply, but as fully as necessary to explain what you mean. Speak clearly and audibly at all times.

Although the lawyers are asking the questions, you should direct your answers to the Judge.

*The information contained in this leaflet is for reference only.
It should not be regarded as legal advice for any individual cases. If you have any queries, please consult a solicitor.*

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Who will ask me questions?

There will be three stages to your evidence:

- First: the solicitor, barrister or court prosecutor who called you as a witness will ask you questions about those details of the case known to you personally. These are usually straight-forward questions, but the court must hear your evidence from you in person. This is called "evidence-in-chief". If you have already given a signed witness statement or a signed police statement, you may be asked to confirm the contents of that statement.
- Second: the solicitor, barrister representing any other (usually opposing) parties to the case or court prosecutor may ask you questions. These questions are designed to check the accuracy of your evidence-in-chief, and its consistency with other evidence. This is called "cross examination" and may involve questions which challenge your evidence.
- Finally the solicitor, barrister or court prosecutor who first asked you questions may ask you further questions. This is called "re-examination" and occurs only when it is necessary to clarify any matters arising from cross examination.

At any stage the Judge may also ask you questions.

May I leave court after giving my evidence?

When you have answered all the questions put to you, your part will be finished and you will be told to leave the witness box. You should not leave the court room unless the Judge excuses you. If you want to leave as soon as you have finished your evidence, tell the solicitor, barrister or court prosecutor so he or she can ask permission for you to be excused.

Can I claim expenses?

Yes. Reasonable expenses can be claimed by witnesses attending court to give evidence. You should ask the solicitor, the police officer in charge of the case, or a court officer about your claim.

Remember

Many people feel nervous when they have to appear in court as a witness. You do not need to be. All you need to do is answer questions truthfully, as you have sworn or affirmed to do. If you genuinely do not know the answer to a question you should say so. Do not attempt to make up an answer. If you deliberately lie in your evidence, you will be committing the offence of perjury for which you may be prosecuted.

Remember when you are giving evidence in court, you are assisting the court and carrying out your civic duty.

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