



SFO

serious
fraud
office

Witness for the SFO

The Serious Fraud Office (SFO) investigates and prosecutes the topmost tier of complex fraud including bribery and corruption. In doing so we are fully committed to putting victims and witnesses at the heart of every case.

This booklet will help you understand in detail what it means to be an SFO witness. It explains the prosecution and Crown Court process, and the ways in which we can help reduce any disruption and cost associated with being a witness.

You may wish to read this booklet in conjunction with Victims and Witnesses – ‘Our Commitment to You’ which sets out what support you can expect from us.

One of our dedicated Witness Care Officers will be happy to help if you have any queries.

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OVERVIEW

The court process

All criminal prosecutions start in the magistrates' courts, but the Crown Court deals with the most complex and serious cases, and has greater sentencing powers than the magistrates' courts. SFO trials almost always happen in the Crown Court.

This booklet relates to cases which have reached the Crown Court, and are set for trial in the coming months or weeks.

The Crown Court sits in various venues across the country, but SFO cases are mostly heard in London, at Southwark Crown Court (near London Bridge station).

In the Crown Court, defendants (or 'the accused') are tried by a judge and jury. The judge is in charge of case preparation in advance of the trial and is in charge of the Court room during the trial. He or she makes decisions about trial procedures and the law.

The jury of twelve people comes into the case when the trial starts. They decide where the truth lies, and at the end of trial they tell the judge whether they find the defendant 'guilty' or 'not guilty'. This is called the verdict. If the defendant is found guilty by the jury, or admits that they are guilty by entering a guilty plea, the judge then decides the sentence. This can include imprisonment, a financial penalty, or various other options including disqualification as a company director for certain offences.

During the trial, witnesses for the prosecution (SFO) and defence give evidence in person, or have their statement read to the Court. If they appear in person, they can be questioned by prosecution and defence lawyers, to help the jury to decide whether or not the defendant is guilty. As an SFO witness, this is the process you are likely to go through.

The date of the trial will have been set months before to ensure that there is enough Court time available, and to provide a deadline for the trial preparation to be completed. Trials take months to prepare and SFO cases can take longer than most because they are so complex. The Court rules (Criminal Procedure Rules) require that the Court, the prosecution and defence must do their best to minimise delay. This means deciding as quickly as possible which witnesses will be needed at the trial, and of these, who will need to give 'live' evidence in person, and who will have their statement read to the Court without needing to attend in person.

Sometimes, it is possible to know months in advance who will need to give 'live' evidence. Very occasionally, things change at the last minute, in which case we will always try to give you as much warning as possible.

If you need to give 'live' evidence, we will check whether you may be entitled to have certain special measures to help you give your best evidence. These can include giving evidence from outside the Courtroom via live video link so that you do not need to see the defendant, or having screens around the witness box. A fuller list of available special measures is given later in this booklet.

You are entitled to ask us for special measures, and we will tell you if we decide to make an application on your behalf. Ultimately, the Court will decide by applying legal criteria. Generally, you are more likely to be granted special measures if you are considered 'vulnerable' or 'intimidated'. We will tell you the outcome of the application as soon as possible.

SFO trials often last many weeks (and sometimes months) because there are so many witnesses and the issues are complex. Therefore, in the run-up to the trial, the SFO will decide the order in which witnesses will be called. This enables us to give each witness an idea as to when they will need to attend Court and for how long. Unfortunately, things can change with criminal trials as they proceed. However, we will keep you up to date with any changes and take your convenience into account when rearranging anything.

Communicating with you

SFO cases are handled by case teams, which include specialist lawyers, accountants and investigators. Each team also has a Case Administrator who deals with practical issues and arrangements. As you are a witness in one of our cases, it is likely that you will have had contact with at least one of these members of SFO staff. They are still your first point of contact regarding the contents of your witness statement or any legal issue which arises.

However, now that the case has been listed for trial, you should have been contacted by a dedicated Witness Care Officer. The Witness Care Officer is a member of SFO staff and a member of the case team, but not involved in the investigation or prosecution. Their contact details are on the inside back cover of this booklet.

The role of the Witness Care Officer is to assist and communicate with you about the practicalities of being a witness, but they cannot talk to you about the evidence you will give, or any legal issues. They will be available to answer practical questions, make the necessary arrangements for you to attend Court, and provide general guidance. They will be happy to refer you on to another member of the case team in relation to anything else.

Generally, the Witness Care Officer will be contactable at our offices before the trial starts and will be at Court for the duration of the trial. They monitor their email even when at Court, so they are always contactable.

The Witness Care Officer will keep you up to date with any changes which may affect you as the case and the trial proceeds. At the end of the case they will be able to help you fill in the expenses application form. Throughout your time as a witness, the Witness Care Officer will be able to refer you on to any other organisation, such as Victim Support, which specialises in support services for victims and witnesses.

The SFO's website contains information about many of its cases. We advise all our victims and witnesses to monitor the site frequently as we will post important news about the case from time to time.

Help with expenses

We understand that being a witness carries a financial cost relating to travel, refreshments, and possibly accommodation. It is possible that you will suffer loss of earnings and have to pay other related costs such as childcare.

We can arrange overnight accommodation and long distance travel tickets for you. The Witness Care Officer will be happy to discuss this.

For other costs directly relating to attendance at Court for the purpose of giving evidence, you will be able to re-claim reasonable expenses, according to the rules and rates set out in the leaflet you have been sent with this booklet.

In summary, the leaflet explains that:

- We will refund your reasonable travel expenses at standard class for public transport and with a mileage rate for travel by road, subject to the scales in the leaflet. Taxi and air travel will be refunded according to set rules set out in the leaflet, and is exceptional.
- For refreshments, we will not refund specific items, but pay you an amount which reflects the time you have spent away from your home or business, according to the scale in the leaflet.

- If you need hotel accommodation, the Witness Care Officer can arrange it for you. If you decide to book your own accommodation there are maximum limits to the cost allowable, set out in the leaflet. If you book your own hotel, please consider letting the Witness Care Officer know the arrangements so they can contact you there if necessary.
- If you suffer loss of earnings because you are self-employed, or your employer will not pay you for the time you are away, these losses can sometimes be refunded subject to maximum limits on production of documentation set out in the leaflet.
- If you have needed to employ someone else to work on your behalf, the cost of this can sometimes be refunded subject to maximum limits on production of documentation set out in the leaflet.

The SFO can occasionally cover other costs for someone else who necessarily attends Court with you. Please speak to the Witness Care Officer as soon as possible if you need someone to come to Court with you to help in some way. This may be relevant where you need:

- help with your mobility, or
- someone to look after a child outside the Courtroom while you are giving evidence. If you need to bring a child to Court please see the section on Facilities and Accessibility later in this booklet.

A friend or relative who comes to keep you company will not usually be able to claim expenses.

Please note that this booklet covers expenses relating to investigation of the case and attendance at Court. Compensation for loss arising out of the criminal conduct is a separate matter. The Witness Care Officer will be able to guide you if you have any questions regarding this.

Once you have finished giving evidence your Witness Care Officer will provide you with a claim form and offer to help you fill it in.

Please obtain receipts for your expenses and attach them to your claim form. We aim to pay claims within 10 working days of receiving your claim form, provided it has been completed correctly and has the necessary supporting evidence.

PLANNING AHEAD

In the run-up to the trial, we will confirm:

- whether you are still required to give evidence,
- the date and time you need to attend Court,
- how long you are likely to have to stay at Court,
- how we can help if you need to stay longer, and
- the name of the SFO representative at Court who will be able to assist you.

Planning your diary

When it is decided you will need to give evidence, the Witness Care Officer will ask if you have any planned time away, for example on holiday or in hospital. We will then try to ensure that you will not be called to give evidence during this period.

If a trial date has not yet been fixed, we will ask the Court to take into account your availability.

As soon as possible, we will give you a precise date and time to attend Court. Please do not book any holidays, which include weekdays, without speaking first with your Witness Care Officer.

If you need to take time off work to attend Court, you should show your employer your SFO 'witness warning' letter as proof that you have to go to Court. Your employer may continue to pay you for the time off when you appear as a witness. But if you do lose pay, you can claim a witness allowance for loss of earnings (see 'Help with Expenses'). The loss of earnings payment may be less than your actual loss of earnings.

We will always try to make sure that you get enough notice of your attendance to give evidence. However, the date and time can change due to matters outside our control. If there are any changes, we will inform you as soon as we can.

If you are concerned about your appearance at Court

If you have any concerns about any aspect of attending Court or giving evidence you can raise these with the Witness Care Officer or you can talk to a trained volunteer from the Citizens Advice Witness Service in advance or on the morning you attend Court.

If you want to contact them in advance, the national telephone number is 0300 3321000. This is not a free call but will cost the same as a call to a number beginning with '01' or '02'. You will hear a voice message in English and Welsh asking you to leave your name, a contact number and the name of the Court where you are due to give evidence. A member of the witness service at the Court will then call you back.

For some people the process of giving evidence in Court can be particularly difficult. Your Witness Care Officer can arrange for you to visit an empty Court room in advance of your attendance to give evidence, so you can see the layout for yourself. You would be entitled to expenses for this as detailed above. The normal Courtroom layout is shown overleaf.

Some witnesses may have particular difficulties attending Court and giving evidence, for any number of reasons. If this could apply to you it may be possible for special measures to be taken to make it easier. These could include:

- giving evidence through a TV link. The witness can sit in a room outside the Courtroom and give evidence via a live television link to the Courtroom. The witness will be able to see the Courtroom and people in the Courtroom can see the witness on a television screen,



- video recorded evidence. The witness' evidence is videotaped and played to the Court,
- screens around the witness box. A screen is placed around the witness box to prevent the witness from having to see the defendant,
- removal of wigs and gowns. The judge and lawyers in the Crown Court do not wear gowns and wigs so that the Court feels less formal. This is usually used for young witnesses,
- evidence given in private. This is when members of the public are not allowed in the Courtroom,
- use of communication aids, for example an alphabet board, or
- giving evidence through a Registered Intermediary. A registered intermediary is someone who can help a witness understand questions that they are being asked, and can make his or her answers understood by the Court.

The need for special measures will have been identified when you were initially contacted by the SFO. However, your circumstances may have changed. As special measures need to be applied for in advance, we suggest that you contact us as soon as you can to let us know what has changed and we can reassess your requirements. It is up to the Court to decide whether any special measures are allowed.

Safety

Please note that it is a crime for anyone to try to influence the account you give to the SFO, or the evidence you would give in Court. It is also a crime for someone to prevent you co-operating with an investigation or prosecution.

Witness intimidation is very rare, but the SFO takes it very seriously and will act to help prevent it. If you believe you are at risk of being intimidated, or that there has been any attempt to influence the account you would give to us or the Court, you should report this immediately to the police, a member of the SFO or Court staff.

Refreshing your memory in advance

It may be some time since you made your witness statement, which may cover quite complicated matters. To help refresh your memory, we will send you a copy of your statement about three weeks before you are due to attend Court. We will also send you, where possible, copies of documents that you provided or referred to in connection with the case (these are called your exhibits). If you have not received them yet, please contact the Witness Care Officer. It is important that you read these documents again before you come to Court. If you are not able to view your exhibits in advance, for any reason, they will be available for you to view when you attend Court.

Please do not discuss your evidence with any other witnesses in the case or show your statement to anyone else. This could undermine the strength of your evidence and the prosecution case.

GETTING READY TO GO TO COURT

Planning your attendance

You will have received the location and contact details for the Court. If not, please contact your Witness Care Officer. Details for all Courts are listed in the public phone directory and on Her Majesty's Courts and Tribunals Service website <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service>.

Please check before the day you are due to attend that you know how long it will take you to get to Court, including possible transport delays. The Witness Care Officer will also be happy to help you with this.

Please arrange to arrive at least one hour before you are due to give evidence, or longer if you think you may need to read large amounts of documentation before you give evidence.

You may want to bring along something to read or do to pass the time on the day. You can bring a laptop and you will be able to work in the Witness Service area. Please be aware there will be other witnesses, not only from your own case but others, in the waiting room.

There are certain objects which may not be taken into the Court building, such as knives, and other sharp instruments such as scissors or razor blades. The rules are very similar to those at airports. If in doubt, it is wise to ask the Witness Care Officer in advance or leave objects at home.

The length of the Court day can vary but generally runs from 10:00am until 4.30pm. This means you are unlikely to need to be at Court before 9:00am or after 5:30pm. If you are likely to need to be at Court outside these hours the Witness Care Officer will let you know in advance. Lunchtime, sometimes known as the 'short adjournment', is usually between 1pm and 2pm.

Facilities at Court

The Witness Care Officer will be happy to speak to you about facilities at Court, such as parking arrangements, whether food or drink will be available, and whether there are baby-changing facilities. You may need to bring cash (including change) to cover costs like car parking and refreshments. Some of your expenses may be refundable (please see earlier section on 'Help with Expenses').

There are no separate nursery or childcare facilities at Court and children are not allowed into the Courtroom unless they are directly involved in the proceedings, as a witness or defendant. If you need to bring a child to Court, please check in advance with the Witness Care Officer who will be able to advise further. Otherwise we may be able to assist you with childcare expenses, as set out in 'Help with Expenses'.

Accessibility

HM Courts and Tribunals Service has a 'reasonable adjustments' policy. Therefore, if you think you may need reasonable adjustments to enable you to access Court premises or information at Court, please contact the Witness Care Officer in advance. You can also consult the HM Courts and Tribunals Service contacts page on the Ministry of Justice website which has helpful contact details: <https://www.justice.gov.uk/contacts/hmcts>.

Your duty to attend Court as a witness

If you are asked to go to Court to give evidence, you must do so.

If you have to go to Court but the Court does not think that you will go voluntarily, or you fail to attend without good reason, the Court may issue a witness summons for your attendance. If you still fail to go to Court without good reason, the Court could find you 'in contempt' and issue a warrant for your arrest.

If you are unwell

If you are feeling unwell in the run-up to your appearance at Court and you think you may not be well enough to attend as requested, it is very important to tell someone immediately, ideally your Witness Care Officer. We can sometimes change the date of your appearance.

If you are too ill to go to Court on the actual day you have been called to give evidence, please phone your Witness Care Officer or the person in the SFO who asked you to give evidence. If you cannot reach them, please phone the Court as soon as possible. The phone number is listed on the internet at <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service>.

If you are too unwell to make contact yourself, please ask a relative or friend to do so on your behalf. You will be asked to provide medical evidence, so you should ask your GP for a Fit Note and send it to your Witness Care Officer or the person in the SFO who asked you to come to Court. If you obtain the Fit Note on the day you are due to attend, you should call the Witness Care Officer, who will advise you on what to do next.

Please remember that if you do not attend Court without good reason (such as illness) a summons could be issued by the Court to ensure your attendance.

ON THE DAY

Arrival at court

If you are delayed on the way to court please contact the Witness Care Officer, or the Court General Office, to let them know how late you are likely to be.

On arrival at court, as with other court users, you will be required to undergo standard security checks before you are allowed in the building. This is similar to the security procedure at airports.

Your Witness Care Officer will have informed you of where to go, however if you are in any doubt, please make your way to the designated Witness Service waiting room or Witness Service reception desk, which will be clearly sign posted.

Your Witness Care Officer will be expecting you and will find you in the waiting room, which is not accessible to the defendant, their lawyers or supporters. Our representative will be happy to answer any of your questions about court procedure. They will also have a copy of your witness statement if you wish to read it again. Please note that the law does not allow them to discuss the details of your statement with you.

It is best not to discuss your evidence with others before you go into the witness box. This includes publishing statements about a trial on social media (such as Facebook or Twitter) and/or contacting other witnesses or defendants through social media. This can be a serious matter, amounting to a criminal offence under certain circumstances.

Members of the public are not allowed to take photographs in the court building or record the proceedings.

Giving evidence

Shortly before the Court is ready to hear your evidence, you will be taken to the lobby or corridor outside the Courtroom.

It is very important that you do not go into the Courtroom until you are told to. Generally speaking, witnesses are not allowed to observe any part of the trial until after they have finished giving their evidence.

When your name is called to give evidence as a witness, an usher will show you to the witness box. This usually faces the jury.

You will then be asked to swear an oath or affirm ('promise') that the evidence you are about to give is the truth. If you elect to swear an oath, the usher will give you the holy book of your religion, to hold. Whether you swear or affirm, the usher will give you a card so that you can read the words aloud. The usher will say the words aloud to guide you if you prefer. Please feel free to discuss this with your Witness Care Officer in advance if you have any concerns about this.

Witnesses are normally expected to stand up while giving evidence, but the judge may allow you to sit. Your Witness Care Officer will be happy to discuss this with you too.

You are appearing as a witness for the prosecution, so the prosecution advocate (lawyer) will ask you questions first. This is called 'examination-in-chief'. Then, the defence advocate will ask you questions about your evidence. This is called 'cross-examination'.

If there are a number of defendants, each one may have a separate advocate, and each may ask you questions. Finally, the prosecution advocate may ask you further questions. The judge may ask you questions at any time.

As a witness, you are not expected to be familiar with Court procedure or to know, for

example, what to call everyone. The best approach is to listen carefully to instructions given to you, and to treat everyone in Court with respect. If you have any difficulties giving your evidence (for example you feel unwell or have to leave the Court), do not feel nervous about telling the judge.

If you do, at any point, become unwell, there are trained medical staff who will be able to assist you within the Court building.

If, for some reason, your evidence is not complete at the end of a Court session or the Court day, you will be told by the judge that you may not speak to anyone about your evidence or the case until you go back into the witness box. This is quite normal. If you unexpectedly need accommodation or travel arrangements, because your evidence is unfinished at the end of the Court day, the Witness Care Officer will arrange this for you.

AFTER YOU HAVE GIVEN EVIDENCE

What happens next

You will know when your evidence has finished because the judge will say you are 'released' which means that you can leave the Courtroom.

Please do not discuss the case with any other witnesses who have not yet given their evidence.

If you would like to stay and listen to the trial, please ask the Witness Care Officer, who will be able to advise you. This is inadvisable if there is a chance that you will be recalled as a witness at a later stage in the trial.

It is unusual to be asked for a second time to give evidence in the same case, but it can sometimes happen if, for example, there needs to be a re-trial or something you said in evidence needs to be clarified. If so, the same procedures apply on the subsequent occasion.

Before you leave Court you will have an opportunity to speak with the Witness Care Officer and raise any queries you may still have. This is the point at which you may want to claim your expenses although you can send your completed form in to the SFO later.

If you feel you need some support relating to the effect the case or the trial has had on you, your Witness Care Officer will be able to refer you to specialist services provided by a third sector agency such as Victim Support, although we will only refer you if you want this to happen.

Some time after you have given evidence you may also have the opportunity to read (or have read for you) your Victim Personal Statement to the Court, or, if a company is a victim, your Impact Statement for Business. This only happens if the defendant is found guilty, before the Court passes sentence. These statements give victims an opportunity to explain how the crime has affected them, physically, emotionally, psychologically, financially or in any other way.

After the trial has finished

If you wish to know the outcome of the trial, please contact your Witness Care Officer, or consult the SFO website. Our Victim and Witness care standards in accordance with the Code of Practice for Victims of Crime (October 2015) require that subject to any order of the Court and the need to maintain information security, we will let you know:

- whether the defendant is found guilty or not guilty,
- what the sentence is,
- whether the defendant has been ordered to pay any compensation for which you may be eligible, and what the process is, and
- whether there is to be an appeal, and the outcome of any appeal.

Compensation

If you think you may be entitled to compensation because you have lost out as a result of the crime, please contact your Witness Care Officer who will advise you on what to do next.

Compensation relates to the loss suffered as a result of the crime, and is not related to being a witness.

Where a defendant has been convicted, and where it is appropriate to do so, the SFO will make an application to the Court for compensation for the victims in a case. This application takes place at the conclusion of a confiscation investigation, which may take a considerable time after conviction to complete.

An application may be made for some or all of the loss directly resulting from the offences of which the defendant is convicted. This will take into account the specific facts of the case and all the circumstances, including whether or not you have received compensation from another source. There may be cases where it is not appropriate to apply for compensation. The final decision on whether to grant compensation lies with the Court.

The amount of any compensation order made is also a matter for the Court, and anything payable to you in compensation will be dependent on the defendant paying the compensation order. The defendant may also be given time to pay, which means the money may come through in instalments.

In view of this, we suggest that you take independent legal advice on the loss you believe you have suffered. Guidance may also be available from Citizens' Advice or your local Law Centre.

Your feedback

We welcome all feedback. We are committed to following the Victims' Commissioner's standards for complaints handling (www.victimscommissioner.org.uk).

If you are unhappy about any aspect of the level of service you have received, you can give feedback to us or make a complaint via the SFO website here (www.sfo.gov.uk). This does not cover the decisions or verdicts made by the Court.

If you prefer to speak to someone, you may speak to the Witness Care Officer. Alternatively, you may provide any other feedback by e-mailing us at public.enquiries@sfo.gov.uk.

Links to further information

This information can also be found on our website www.sfo.gov.uk which has dedicated victims and witnesses pages.

The Code of Practice for Victims of Crime can be accessed here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/470212/code-of-practice-for-victims-of-crime.PDF

This document is available in Welsh.

CONTACT DETAILS

Name of witness care officer or officer dealing with your case:

Name: _____

Phone Number: _____

Email Address: _____

Case Reference Number: _____

Please keep these details somewhere safe for future reference.



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v1.4 08.05.19
Designed by the SFO Graphics Unit