

Sheffield Law Centre. *Employment Law Factsheet No 11*

Preparing a witness statement.

To help you present your case most effectively to the employment tribunal you should prepare what you want to say beforehand in writing. This is called a 'witness statement', and the tribunal will want you to read this out at the hearing. This factsheet is to help you in the preparation of your statement. Please read the whole of this factsheet before you start on your statement.

What is a witness statement?

A witness statement is a written statement by a witness giving evidence at an employment tribunal, which is usually read out to the tribunal. It contains what you want to say to the tribunal about what happened to you. If you are going to ask anyone else to give evidence about your case you should try and prepare a witness statement for them also. If a witness statement is produced at a tribunal hearing but the witness does not attend the hearing then a tribunal will not pay much attention to the written witness statement.

It is quite normal for you to be the only 'witness' giving evidence about your case.

Why do I need a written statement?

There are a number of reasons for having a written statement.

- The tribunal sometimes sends you a letter before the hearing saying that they want you to swap (the technical term is 'exchange') your witness statement(s) with the other side's witness statements before the hearing.
- If you have got everything down in writing beforehand you won't forget to mention something on the day.
- It will make you more confident if you have thought about everything beforehand.
- It will make it easier for the tribunal to understand what your claim is about.
- The tribunal hearing will be much quicker because the Employment Judge of the tribunal won't have to write down everything you say because it will all be in your statement.

Points to bear in mind when writing your statement.

1. The first thing to do is to make a list, on a rough sheet of paper, of the points you want to make in support of your claim.
2. If at all possible, you should prepare your statement on a computer. This is because as your case progresses (for example when you get the employer's response back) you will almost certainly need to make changes to your statement. If you aren't able to do your statement on a computer, it just means that you will have to write it out again if you want to change anything.
3. It is usually much better to tell your story in strict chronological (i.e. date)

order. In other words you've got to tell your story in the order that it happened. This makes it easier for the tribunal to follow your story.

4. Whenever you mention anything in your statement you have to explain how you came by this knowledge. For example, you should write: - My manager, Fred Bloggs, told me to go home. You should not write: - I was told to go home.
5. Sometimes, to make the story make sense you need to put in a bit of background. For example, if the story is about whether you are entitled to full pay when you are off sick you might need to mention if you have a written contract which states you are entitled to sick pay. If you never got a written contract you might need to explain what happened last time you were off sick.
6. If you are going to refer to a document (for example a letter of dismissal) you don't need to repeat in the statement what's in the document you simply need to refer to the document in your statement. If there is a short part of the document you want to emphasise you could repeat that.
7. When describing something that you said or something that was said to you, try and use the exact words. If you can't remember the exact words you need to say this. For example: - "I can't remember exactly what was said but it was words to the effect..."
8. Give the dates of when things happened (and the time if that is important). If something happened in a meeting (e.g. you were dismissed) say who was at the meeting and how long it lasted.
9. Leave plenty of space in between lines and paragraphs so the tribunal can write things onto your statement when you are giving evidence. This makes life easier for the tribunal. It is best to double-space your statement.
10. Number the paragraphs in your statement. This makes it easier if you need to refer to a particular point. If you are not sure when to start and finish a paragraph don't worry just start a new paragraph every 4 or 5 sentences.

How do I go about writing my statement?

- Start off with your name and address.
- Briefly describe your job and duties - probably a couple of sentences are sufficient.
- Cover any background information you need (only relevant matters).
- Describe the events when the problem occurred. Remember to do it in the order in which things happened.

What happens to my statement next?

This is the starting point for your application to the tribunal. The application form is called an ET1 and is simply a brief summary of your statement. You don't usually need to put lots of details into it.

When you get the employer's response (Form ET3) you will probably find that there are things in it that you disagree with. There may be other points in it you hadn't thought about or had left out of your statement because you didn't realise they were important. You will probably now need to amend your statement to include what you want to say about the employer's response. Remember, your statement still needs to be kept in date order.

If there are documents which you get from the employer that you want to comment on, you will also need to make sure you've included the comments in your statement.

The tribunal may write to you and tell you to exchange your statement with the other side. If so, you need to follow the instructions on the letter from the tribunal.

Whether you exchange statements beforehand or not, you need to have 6 copies of your statement at the tribunal (5 if you exchange with the other side beforehand). I.e. one for you, one for the witness table, one for the employer and three for the tribunal members.

A final point.

The work on your statement can take a long time. If you add up all the time you spend preparing and amending the statement, it could easily be a couple of days' work. It will take a lot less time if your claim is straightforward. It's worth spending this time preparing beforehand. If you do, you'll be in a stronger position on the day of the tribunal. Even if you go to pieces on the day, what you want to say is all down in writing and the tribunal will be able to understand your case. If there is anything they are not clear about they will ask you questions about it.

Example of a statement.

Below is a (fictitious) example of a very brief statement about an attempt to change a term of the contract reducing a worker's pay. Yours is likely to be much longer.

1. *My name is Ken Woodhouse. I work as an advice worker at Sheffield Law Centre. Briefly, my duties involve giving advice to employees who have had difficulties at work. When I started at work I signed a written contract that is dated 1/9/94. Point 7 of my contract related to bank holidays. It states, "You will be paid for all bank holidays".*

2. *The week before Christmas all the workers at the Law Centre got a memo from our boss, Helen, asking us to attend a meeting. The memo didn't say what the meeting was about. I went to the meeting at 4pm on 23rd December 2007. All the other workers were there and the boss, Helen, was there too. Helen said that we weren't going to get paid for Boxing Day this year because the Centre needed to make savings. She said, "If you don't like it, tough". I said, "You can't just alter the contract like that". She replied, "that's the way it's going to be." The meeting lasted about 5 minutes.*

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3. *Nothing more was said about it. I wrote a grievance letter to Helen dated 2/1/08 saying I wouldn't agree not to be paid for Boxing Day. In the next pay cheque I got there was no payment for Boxing Day. I believe this amounted to an unauthorised deduction from my wages.*

Once you've had a go at preparing a statement we will be happy to look at it to see if it's OK or if you need to do any further work on it.

You can contact the Law Centre for help by phoning 0114 2731888. When you phone remember to have any documents you might want to refer to with you.

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