

GUIDANCE FOR INVESTIGATIONS AND ENFORCEMENT

1. GENERAL GUIDANCE

This guidance should be followed from the time that an offence is suspected to have been committed until the time that a prepared prosecution file has been handed to the Deputy Clerk.

Evidence may be classified in various ways:

Direct evidence is that of a witness who saw the defendant commit an act; or the production of a document, say an enforcement notice, which is a fact in issue.

Circumstantial evidence is the evidence of other facts not in issue, from which a fact in issue may be inferred, such as evidence that the defendant purchased petrol and was seen carrying the can into the office immediately before the fire started. It may or may not be more important than direct evidence.

Original evidence – proof of a fact “first hand” e.g. the testimony of a witness who perceived a fact with his/her own senses; or a document or object.

Hearsay evidence – “second-hand” and may be oral or written. It consists of what a “third person” said or wrote which is related to the court as evidence to support or contradict a fact at issue. Statements made by a witness to a third party at the material time, but not made in the presence of the accused, are hearsay. Such evidence is not normally admissible in a trial court, but may be accepted in certain circumstances. It is increasingly acceptable in civil courts by agreement between the parties especially in the context of documents. Hearsay tends to be more admissible in courts of inquiry.

Admissible evidence – Where a statement, deposition or document is admissible in evidence it may be proved by the production of the statement, deposition or document or a copy of it or the material part of it.

Secondary evidence – (e.g. a copy of the original object or document) is less acceptable in Court, however in practice documents held on file are copies, the original being sent to the relevant party. Therefore as a general rule proof of authenticity may be required irrespective of how many removes there are between the copy and the original.

Oral evidence – that given by word of mouth in the witness box and may be divided into testimony (what the witness perceived directly with his/her own senses) and hearsay.

Documentary evidence – that derived from a document produced to the court.

Real evidence – that afforded by the production or examination of material objects. Sometimes the distinction between this and documentary evidence is not clear (e.g. where objects have inscriptions) but the criterion in these circumstances would be the purpose for which the evidence was produced.

Opinion – The opinions and beliefs of ordinary individuals (i.e. non experts) are irrelevant and are not admissible as evidence in court except in special circumstances. Some exceptions to this rule are opinions as to the speed of vehicles, the identification of suspects in photographs or parades, the value of an object and the age or state of an individual (e.g. drunkenness).

You may be asked to give your opinion in court based on your experience. Although fire officers receive training this does not equip them to give “expert” evidence as a witness. Fire Officers may have gained considerable knowledge as a result of their work, and it may occasionally be appropriate for them to give evidence based on fact and experience; but when doing so they should make it clear to the court that this is what they are doing.

What Must be Proved? – Everything that is alleged and beyond all reasonable doubt. A Court will lean towards a defendant if doubt exists. The Court will however allow presumptions of fact e.g. that Tuesday precedes Wednesday, that night follows day. It will also take judicial notice of Statutes, Case Law, the course of nature and matters, which are of common knowledge, removing the need for formal proof in evidence of these factors. There is also a question of negative averments where an allegation is made that a person operated without a necessary licence, etc., it is for the defendant to prove that he/she was so licensed, etc. and therefore the burden of proof moves from the prosecution to the defendant.

How is Evidence of Proof Obtained? – The investigating officer must be capable of recognising certain essential points and proving them by means of admissible evidence. Take for example, an allegation that a fire exit was obstructed in a workplace, the prosecution must prove:

- The premises at the time of the offence were a ‘workplace’ (i.e. used for the purposes of an employees undertaking and made available to an employee or employees as a place of work)
- A specified fire exit was obstructed at the time (photographs will be helpful)
- The requirement to have the fire exit unobstructed was necessary in order to safeguard the safety of employee(s) in the case of fire
- The failure to maintain the fire exit as unobstructed placed one or more employees at risk of death or serious injury in case of fire
- The person being prosecuted is the employer, who has an extent of control over the premises, or is some other person who has an extent of control over the premises and those matters were within their control

It should be remembered that in some cases there may be more than one defendant (the person who is responsible is not necessarily the person who caused the contravention but the person whose duty it is to see that specified circumstances or conditions are complied with). The relevant statute will stipulate the offence and must be consulted.

How Should Evidence be Compiled? – Investigations must be carried out in accordance with the Police and Criminal Evidence Act 1984 (PACE).

Cautions – A person suspected of an offence must be cautioned before any questions about it (or further questions, if it is his/her answers to previous questions that provide grounds for suspicion) are put to him/her for the purpose of obtaining evidence, which may be given to a court in a prosecution. Any information obtained prior to giving a caution may be inadmissible as evidence in court.

A record should be made when a caution is given either in the officer's notebook or in the interview record, as appropriate.

Interviews – It should be remembered that the purpose of any interview is to obtain from the person concerned his/her explanation of the facts, and not necessarily to obtain an admission.

An accurate record must be made of each interview with a person suspected of an offence. The record must state the place of the interview, the time it begins and ends, the time the record is made if different, any breaks in the interview and the names of all those present.

The record should be made during the course of the interview, unless in the investigating officer's view this would not be practicable or would interfere with the conduct of the interview (e.g. when moving from place to place in a building to check exits, fire alarms, etc). The record must constitute either a verbatim record of what has been said or, failing this, an account of the interview, which adequately summarises it.

If an interview record is not made during the course of the interview it must be made as soon as practicable after its completion. Written interview records must be timed and signed by the maker. If an interview record is not completed during the course of the interview the reason must be recorded in the notebook.

Where a contemporaneous record of an interview is made, the person interviewed should be asked to sign each page and/or, if necessary, each question in the record to validate the accuracy of the question and response. Any refusal by a person to sign an interview record must itself be recorded verbatim in the officer's notebook.

If an interview has been recorded contemporaneously and the record signed by the person interviewed, it is normally unnecessary to ask for a written statement. Statements under caution should normally be taken in these circumstances only at the person's express wish. An officer may, however, ask whether or not he/she wishes to make such a statement.

Written Statements Under Caution – It is not practice in this Service for officers to take written statements from persons suspected of an offence because the officer's own statement and documentary file evidence is usually sufficient to secure a successful prosecution. However, there may be exceptions to this rule, (for example where further evidence is required) in which case the following guidelines must be followed.

Statements Written by a Person Under Caution – A person shall always be invited to write down himself/herself what he/she wants to say.

Where a person wishes to write it himself/herself, he/she shall be asked to write out and sign the following before commencing: "I make this statement of my own free will. I do understand that I need not say anything unless I wish to do so and that what I say may be given in evidence".

The statement should also contain a declaration by that person to the effect that it is true to the best of their knowledge and belief and that they made the statement knowing that, if it were tendered in evidence, they would be liable to prosecution if they wilfully stated in it anything which he/she knew to be false or did not believe to be true.

Any person writing his/her own statement shall be allowed to do so, without any prompting except that an officer may indicate to him/her which matters are material or question any ambiguity in the statement.

Statements Written by an Officer – If a person says that he/she would like someone to write it for him/her, an officer shall write the statement, but before starting, he/she must ask him/her to sign the following: "I (name) wish to make a statement. I want someone to write down what I say, I understand that I need not say anything unless I wish to do so and that what I say may be given in evidence."

Where an officer writes the statement he/she must take down the exact words spoken by the person making it, and he/she must not edit it or paraphrase it. Any questions that are necessary (e.g. to make it more intelligible) and the answers given must be recorded contemporaneously.

When the writing of a statement by an officer is finished, the person making it shall be asked to read it and to make any corrections, alterations or additions he wishes. When he/she has finished reading it he/she shall be asked to write out and sign the following: "I have read the above statement and I have been able to correct, alter or add anything I wish. This statement is true. I have made it of my own free will."

Before the visit – In the majority of prosecutions undertaken the decision to prosecute is taken only after failure to heed earlier warnings. Therefore, there is normally time to pre-plan the visit that is being made to obtain evidence. In planning such a visit consideration should be given to the following:

- Decide what the offence is (e.g. illegal storage of petroleum spirit).
- Be clear what legislation is being contravened. Have a reasonable idea of the probable offender. This could be a licensee and/or a responsible member(s) of the company in certain circumstances, owner/occupier etc. Remember that a limited company is a person in law and may itself be the appropriate defendant rather than a managing director or secretary.
- Thoroughly read the file and check whether there are likely to be any problems e.g. doubts as to the correct names of the owner/occupier, company, partnership, licensee, correct name and address of the registered office, etc.
- Check with the appropriate department whether there has been any last minute correspondence that may nullify the purpose of the visit e.g. application for fire certificate/licence, etc.
- Accumulate data relevant to the case in note form e.g. record of previous visits, date of expiry of licence/notice, date of issue of licence/certificate/notice, whether previous letters have been sent.
- Prepare notes of important questions that must be answered to secure a good case. If necessary sketch a plan to assist with identification.
- Check your powers as an inspector and be certain to have the appropriate authorisation card in your possession at the time of inspection.
- If it is intended to take samples, be fully aware of the correct procedure (see HELA PETEL circular 65/7 relating to illegal storage of petrol).
- Take a notebook with numbered pages – see section 2 on pocket note books.

Joint Inspections – Where a prosecution is contemplated visits will be carried out by two officers, and it is important that they confer before making the inspection to determine what roles are to be performed (e.g. who is to be the investigating Officer, who is to be the witness). The investigation officer will:

- Collect evidence.
- Administer caution (where applicable).

- Ask questions (he/she can invite their colleague to ask a question if he/she considers it would be helpful but there must be no double act or else cross purposes can arise losing the thread of the investigation).
- Take notes.
- Prepare the case for prosecution.

The assistant should also take notes, check times and assist in the general collection of evidence as directed by the investigating officer.

The Visit and Collection of Evidence – Conduct of Visit – The following points should be borne in mind when carrying out prosecution procedure.

Although you are carrying out a formal procedure, once the formalities of a caution have been finished, try and relax and encourage the suspected offender to relax. The reasons are two fold; the suspected person is not a felon and therefore should not be treated as such; the suspected person or witness will probably be more forthcoming if encouraged to relax. Both parties should sit and make themselves comfortable whenever possible.

Do not be in a hurry to leave the premises, make sure you have all the required statements, information, samples or other evidence. It may be necessary to make a return visit but this should be avoided if possible as it is time consuming and the evidence you require may no longer be available at a later date.

As far as practicable and appropriate, comply with the guidance given earlier. The overall strategy and procedure should be:

- Identify and confirm the offence.
- Identify and locate the offender.
- Confirm and caution the offender.
- To ask further questions about the offence, recording questions and answers, relevant times and places.

The Visit – Contact the person in charge of the premises. If the occupier is not present attempt to ascertain or confirm who that person is. Give the reason for the visit and ask questions as required. If the answers to the question confirm in your own mind that an offence has been committed and you are talking to a potential offender, give the caution and note the fact and time. Ask further questions about the offence, recording questions and answers, relevant times and place. If it is a joint visit, with a colleague ask the accompanying officer whether he/she has any questions, which he/she wishes to put to the potential offender. If there are no objections, take photographs, where it is considered that it would be useful in evidence (remembering not to take photographs in flammable atmospheres). Record the time of photographs and exact location and item. Later mark the photographs with a signature on the back. Note any relevant information, which may be useful in evidence but could not be successfully photographed. Seize and give a receipt for any item, which may

be useful in evidence so long as the right exists to seize an item under relevant legislation.

Where breaches of legislation have been found, all reasonable attempts to rectify the breaches should be made before leaving the premises. (e.g. ensure locked exits are unlocked, obstructions removed)

People with special needs- where a person is going to be cautioned, interviewed or questioned and it appears to the officer that the person has a special need then this need should be addressed before any caution, interview or questioning takes place. An example of this would be to ensure that the services of a translator are made available where the person does not understand, or has limited understanding of English.

Establishing the correct status of owners/occupiers – When gathering evidence for a prosecution it is essential that information is obtained about the correct status of owners/occupiers/employers of the premises where contraventions have occurred.

In the case of a registered company the name and address of the registered office should be obtained or, in the case of single owners/occupiers/employer or a partnership, the relevant names and addresses.

This information can be obtained from the firms headed notepaper, confirmation of the information required in respect of a registered office and/or names and addresses should be obtained from Companies House, and will be regarded as proper documentary proof. It is also appropriate to obtain documentary proof of ownership/occupation – e.g. copies of leases granted to the occupier, or a copy of the land registry title confirming who the owner is if the owner is to be prosecuted.

Information should also be obtained by questioning a responsible member of the firm, this will usually be someone with management responsibilities. In this case the question “Are you authorised to speak on behalf of the company?” must be asked. If the reply is “yes” then other questions regarding the status of the company may be put.

When it is necessary to question a person in this way both the questions and answers must be entered in the investigating officer’s notebook, along with the time and date of the enquiry, this should be entered at the time of the interview or as soon as possible afterwards.

In this instance a typewritten extract of the officers entry must be included with other documentary evidence submitted for consideration.

Before leaving the premises the officer should have confirmed the following precisely:

- Correct name and address of licensee, company, partnership etc.

- Address of premises.
- Trading name of premises.
- Registered office, where applicable.
- Full names of other responsible person in the case of a company (usually directors or company secretary).
- Check sketch plan and note the time of termination of visit.

NOTE: If the probable offender is not at the premises, the investigating officer should still go ahead with collecting evidence, statements, samples, photographs, etc. as required unless he/she otherwise considers it inappropriate or unnecessary.

Immediately After the Visit – Confer with any accompanying officer at a place away from the premises to enable you to ensure that you have not overlooked anything that may be useful. Check and confirm exact names and addresses of other people that may have accompanied you (e.g. Building Control or Environmental Health Officers). On return to office give a verbal report to your Group Manager. Put any exhibits in a secure place, suitably labelled.

Do not delay over writing the report. It should be done immediately whilst the facts remain fresh in your mind.

Preparation of Case Files – Two case files should be prepared for forwarding to Service Headquarters. One file will contain original documents, this will be forwarded to the Deputy Clerk, whilst the other will contain copies of documents and be retained by the originating department. Each file should be prefaced by an index in date order of correspondence and inspection details. The following should be included:

- Form FP.530 – Prosecution Information Report
- Narrative Report of the Investigating Officer.
- Plans of Premises (where applicable).
- Receipts for samples obtained.
- All documentary evidence (original letters and reports relevant to the offence).
- Witnesses statements.
- Analysis Reports (when available).

- A separate report detailing background information regarding the state of the premises, special hazards, attitude to inspectors and any other matters that may be useful in briefing the Fire Authority's Solicitor.
- Unused material and sensitive material or certificates required of the Disclosure Officer (see section 4 for more detail on the obligations of the Disclosure Officer).

Subsequent Action – For subsequent action reference should be made to sections 5 and 6, which details the various steps up to and including the court hearing. To sum up, it should be remembered that where a prosecution is being considered we should be certain that:

- The correct offence is being contemplated.
- That the correct offender is being contemplated.
- That the recorded evidence will prove all that you are alleging.
- That your case is properly based on law and facts.

2. POCKET NOTE BOOKS

All Inspectors are issued with a notebook containing numbered pages to be used to record the Inspector's first hand knowledge of an occurrence to assist in the completion of a report. It is an official document and may only be used for official entries to record events relating to work.

All entries should be made at the time of, or as soon as is practicable after, the incident/offence or occurrence and the full width of the page should be used.

Such entries are more likely to be accurate, as the events will be fresh in the mind. This is most important and whilst neatness is recommended, it may be sacrificed, if necessary, in the course of thoroughness.

All notes should record the day and date of entry, any names should be entered in BLOCK CAPITALS and the full width of the page to be ruled off immediately after each entry.

If mistakes are made strike out the offending word with a single stroke, the original word must remain legible and initialled and the correct word written in.

Where blank pages or part pages are accidentally left draw a diagonal line through the offending blank area and endorse "omitted in error".

Where contemporaneous notes are made the interviewee should be requested to sign the notebook. Any refusal to do so should be noted.

One set of joint notes may be made at the conclusion of an interview where two or more Inspectors have been interviewing a person and note taking is not desirable at the time because it may inhibit free speech.

It is only necessary for one Inspector to keep an accurate record, however, where a set of joint notes has been made, it is necessary that the officers concerned enter in their pocket book that this has taken place.

Inspectors may record their notes on another format. Each note must be carefully preserved and attached to any report. A note of the existence of the original note should be made in the pocket notebook.

3. CAUTIONING OF OFFENDERS

There are two types of caution:-

- 3.1. A caution under PACE which is discussed in Section 1 of this guidance. This type of caution must be given as soon as an offence is suspected any information obtained prior to this caution may be inadmissible in court.
- 3.2. The second type of caution is a Formal Caution which is issued in place of a prosecution. This type of caution is discussed below.

A formal caution will be cited should the offender commit any subsequent offence and appear in court. It is, therefore, important that the issue of a formal caution should follow a consistently applied procedure, which takes full account of the consequences for the offender and should be utilised where there is:-

- **Admission of the offence by the offender.**
- Evidence of the offender's guilt sufficient to give a realistic prospect of a conviction.
- Understanding of the significance of a caution and informed consent by the offender.

It is important that a formal caution is not issued unless the circumstances of the case are sufficient to justify it and not used as a substitute if there is insufficient evidence to support a prosecution. If not it may be more appropriate to deal with an offender without formal proceedings of any kind, for example, by offering a word of advice or warning in line with the enforcement concordat.

The matter will be referred to the appropriate Group Manager and the Deputy Clerk for consideration. Once a decision is reached the officer will be informed and advised to proceed as appropriate.

There may be instances when a decision has been taken to take more formal action and legal representation is made on behalf of the offender to seek a formal caution as an alternative. That decision should again be referred to the Deputy Clerk and relevant Group Manager.

Once the decision to issue a formal caution is taken then the offender will be invited to attend Service Headquarters with their representative. The offender will be cautioned prior to the commencement of the meeting using the standard

PACE caution. The relevant Group Manager will explain the procedure fully to the offender and the details of the offence and will administer the formal caution. The consequences of further offences will also be explained to the offender.

The offender shall sign 4 copies of the Certificate of Caution (Appendix A) distributed to the offender, the file, the Deputy Clerk and the relevant Group Manager.

A caution must not be given where it appears that a person has a special need until that need has been addressed. An example of this would be to offer the services of a sign language translator where it appears that the person may have a hearing impairment.

Appendix A

CAUTION

Offender's Name: _____

Address: _____

Date of Offence: _____

Place of Offence: _____

Brief Circumstances
of Offence:-

Declaration

I hereby declare that I admit the offence described above and agree to accept a caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings, should I be found to be infringing the law in the future. I further understand that this caution may be cited should I subsequently be found guilty of an offence by a Court of Law.

Signed: _____ Date: _____
(offender)

Signed: _____ Date: _____

[Amendment begins:]

(for and on behalf of Merseyside Fire & Rescue Authority)

[Amendment ends]

Appendix B

Information for a person who has been formally cautioned

You have been formally cautioned under the cautioning system of Merseyside Fire & Rescue Service. The purpose of this form is to give you written advice to the future effect of a caution.

You have been cautioned and not taken to court because we believe that you will not re-offend, and that a caution has been appropriate in the circumstances. We believe it to be in everyone's interest to keep this matter out of court.

However, Merseyside Fire & Rescue Service will keep a written record of the caution. If you re-offend within three years and it is decided to put the matter before the court, the fact that a caution has already been given may be mentioned in court.

A caution is not a conviction for a criminal offence.

4. DISCLOSURE OFFICER

The Criminal Procedure & Investigation Act 1996 and the code of practice issued under the legislation apply to all criminal investigations conducted by the Fire Authority.

Criminal Investigations are investigations conducted by police officers or other persons with a view to it being ascertained whether a person should be charged with an offence, or whether a person charged with an offence is guilty of it and which may include prosecution by way of a summons.

Duty of the Prosecution – The central thrust of the legislation is that the prosecution is under a continuing duty to disclose material to the defendant which in its opinion might undermine the case for the prosecution and which has not previously been disclosed (i.e. unused material). If there is no such material then the prosecution must give to the defendant a written statement to this effect. Where there is undisclosed material the prosecution must give to the defendant a schedule of all the non-sensitive unused prosecution material.

The Disclosure Officer will be a Group Manager from the relevant department who will be responsible for examining material gathered during an investigation. In the case of the Service this will be the prosecution file and any other material gathered in connection with a prosecution. The Disclosure Officer is responsible for revealing material to the prosecutor (The Deputy Clerk) during the investigation and any criminal proceedings resulting from it, and also, for certifying that this has been done. The Disclosure Officer must also disclose material to the accused at the request of the prosecutor.

Material in connection with a prosecution is material of any kind including information and objects, which are obtained in the course of an investigation, which may be relevant to that investigation.

Service Procedure – a prosecution file will be prepared in accordance with Section 1 of this guidance by the Group Manager.

All other material if any, collected during the course of an investigation and not used in the prosecution file must be collated and forwarded to the Disclosure Officer. It is anticipated that there will be very little material of this nature.

If there is no such material the Disclosure Officer must provide a certificate confirming that fact to the Deputy Clerk. If there is any non-sensitive material the material must be disclosed to the Deputy Clerk (see FP534).

NOTE: Sensitive material is material, which the Disclosure Officer in consultation with the Deputy Clerk believes is material which is not in the public interest to disclose.

If there is any material, which the Disclosure Officer believes to be sensitive this must be listed on a separate schedule. The Disclosure Officer must make a statement in the Schedule that he/she believes the material is sensitive and give the reasons for the belief. This will be done in consultation with the Deputy Clerk (see FP535). The Group Manager must forward any unused material with the prosecution file.

5. ISSUE AND SERVING OF SUMMONS

If the Deputy Clerk decides that sufficient grounds exist for a prosecution, the Deputy Clerk will prepare two copies of an 'Information Document' for each offence deemed to have been committed. A member of the Executive Leadership Team will sign both copies.

The Deputy Clerk to the Authority will make arrangements to take the documents to the Clerk to the Justices of the appropriate Petty Sessional Court. (It will not be necessary for receipt of the documents to be acknowledged.)

After considering the presented information, two copies of a Summons document will be signed (issued) by either the Clerk to the Justices or a Magistrate. (The summons may or may not be issued on the same day.)

The Court will retain one copy of the information. Both copies of the Summons and the second copy of the information will be returned to the relevant department who will consult with the relevant Group Manager regarding the method of service.

The method of service of a summons is determined by Magistrates Rules, briefly these are as follows:-

Service on Individuals

- Personal Service (includes all members of partnership)
- Service on persons at their home or business address.
- Service by post (recorded delivery).

Service on Corporations

- By hand to registered office.
- By post to registered office.

From an evidential view it is best that where possible a summons should be served by hand. In this instance it is preferable for the officer chosen for this to be someone who has been involved in the case and likely to be called as a witness anyway.

Where a summons is to be served by post, it will be via Recorded Delivery mail by the relevant department, who will also complete and sign the declaration on the reverse of the second copy of the Summons, or on a declaration drawn up for the purpose, as appropriate.

The enclosed copy of the summons is photocopied before being returned to the Deputy Clerk.

In the event of the Recorded Delivery being returned, “not collected” the summons should, if possible, be delivered by hand and the Deputy Clerk notified to that effect. In this instance, it will be necessary to call the Officer who delivered the Summons as a witness.

The photocopy of the Summons and the second copy of the information will be filed by the relevant department.

On completion of the hearing the case file containing the original documents will be returned to the relevant department for filing.

6. PROSECUTION PROCEDURE – ADVICE TO WITNESSES

When a witness is giving evidence in court he/she occupies an important and responsible position. The following points may help you to give your evidence competently so that justice may be done effectively and the reputation of the Service enhanced.

Speak slowly and clearly. If there is no jury, look at the judge (or bench of magistrates) when answering.

Answer “Yes” or “No” whenever possible and do not qualify your answers with meaningless phrases, such as “I think so” or “Sort of” or “Probably”.

Always speak the truth. You cannot be revealed as a liar if you tell the simple truth and stick to it. If you have forgotten or failed to notice some important fact, admit it, for the court will not be impressed if you try to prevaricate. If you genuinely do not know, say so. This may weaken your evidence, but not to such an extent as would be the case if you said you did know and were then proved wrong.

Listen carefully. Do not attempt to answer until the solicitor or barrister has completed the question; then answer as briefly and clearly as possible. If you do not understand the question, say so and it will be repeated or put differently.

If the judge interrupts your testimony or a lawyer objects, stop speaking immediately, even if in mid sentence.

If the lawyer demands a “Yes” or “No” answer to a question and you feel that it is inadequate, ask the judge or magistrate for leave to explain your answer.

Do not anticipate traps in every question. There are not many trick questions in a real courtroom, and if you look for hidden meanings you will appear stupid or hesitant. Do not attempt to decide whether the answer will help or hinder the case; a considerable knowledge of the law may be necessary to do this.

Remember that it is not enough to tell the truth; the court must also believe it to be the truth. Therefore, your demeanour before the court and your respect for it will affect your “credit” either favourably or adversely.

Distinguish clearly between the roles of witness of fact and expert witness. As an expert you are permitted to give your opinion. However, with this freedom goes corresponding responsibility. By all means be self confident, but beware of being over confident and expressing more expertise than in fact you possess.

Inaccuracy must be avoided at all cost; it could result from lying, but is more likely to come from over confidence or from using your imagination to fill in the gaps between those facts you know for certain. Leave that to the court.

It is possible that when you are called to give evidence you will be allowed to refer to your notebook, report or witness statement in the witness box at the discretion of the court. However, you may not be allowed to refer to it and it is therefore wise to refresh your memory beforehand. Remember that you may not have time to discuss your evidence with your advocate before entering court.

When an officer is called to give evidence, he/she should confine him/herself to “factual” evidence. Current fire service training does not equip an officer to give interpretive “scientific” evidence and he/she should not seek to give, or be drawn into giving such evidence. Notwithstanding this some officers may have gained considerable empiric knowledge of fire matters as a result of their work, and it may, occasionally, be appropriate for them to give such evidence based on fact and experience, but where doing so it should be made clear to the Court that this is what they are doing and they should explicitly disclaim that they are given “expert” evidence of an interpretive scientific nature.