Section 3: Representing yourself in court: On the day

Going to court

If you have exhausted all the other options, you might find that you have no choice but to go to court to resolve your dispute. This Section will explain how you should go about it and some key tips to help you along the way.

Before you leave for court

If in doubt, pack it
This is not a day when you can afford to pack light. Whilst you do not need to speak about every piece of evidence in court, you should bring the documents with you in case you are asked for them.

You need to take your 'bundle' of documents, which is what lawyers call the file of documents that they take to court with them. Your bundle should include witness statements, any 'written submissions' you have prepared and any relevant letters or emails from the court or from your opponent. The court will have asked you to send them a copy of the bundle in advance of your court date, which you must do, but it is a good idea to bring several spare copies of all your documents with you, so that you can give them to the judge or the other party (often called the other 'side') should they not have them for any reason. Witnesses will also need a copy of your bundle in case they want to refer to any of the documents during their evidence.

If you have been using any books to help you to understand the law, bring those with you. You might want to look things up during the day.

Check-list:

- Take your bundle of documents
- Bring a laptop and/or stationery to keep notes
- Bring some highlighter pens or post-it notes to keep track of key documents
- Dress for success

You will need to bring stationery or a laptop so that you can keep a careful note of everything that is said during the Hearing. These notes may be important if you decide to appeal against the decision. There is often legal argument during the Hearing about what witnesses have said and what that means for the case. You can use your notes to check that the court has properly recorded the evidence. You may also find it useful to bring post-it notes and highlighter pens to mark key documents.

In the end, this can add up to a lot of kit. Lots of lawyers come to court with a whole suitcase full of materials. You may need to do the same.

Your 'bundle' should contain all the relevant documents the court needs to see. Make multiple copies of the bundle: one for the court; one for the other party; one for yourself; and a spare.

Dress for success

Dress as smartly as you can for court. If you have a suit (including a tie for men), then wear it. If you do not have a suit, there is no need to buy one specially.

Last minute cramming
Before you leave, re-read the most important documents, including your witness statement and any submissions you are planning to make to the court. It is particularly useful to practise saying aloud, either to yourself or to a friend or family member, the key things that you want to tell the court.

Be early
If at all possible, be at least one hour early for court. If you are late, the court might not wait for you. The Hearing may be cancelled, or the court could even go ahead without you. There is also a lot to be done before the Hearing begins.

Bring a friend
If possible, ask someone you know and trust to come to court with you. They may be able to help you keep calm and focused, assist you in keeping your papers together, and help with taking notes. They will normally be able to sit with you in court (although they will not normally be able to speak for you).

Your friend may (and usually will) be as unfamiliar with the law and courts as you are, but you will be able to work things out together, and it is good not to be on your own in what can be such a daunting process.

If you do not have anyone who you can bring with you, there might be a Personal Support Unit (PSU) at the court which can help. Visit the PSU website for more information: www.thepsu.org. You can also bring someone called a 'McKenzie Friend', a non-lawyer who can provide moral support, take notes, help with case papers or advise you on court procedure. More information about McKenzie Friends can be found at: www.judiciary.gov.uk/Resources/JCO/Documents/Guidance/mckenzie-friendspracticeguidance-july-2010.pdf.

Let the usher know when you sign in (see below) that you have brought a friend and who he or she is. They may be asked to complete a short form, and to read a short guide on the things they can and cannot do to help.

Introduce your friend to the other party when you first speak to them, and when you first speak to the judge in the courtroom and introduce yourself, tell him/her you have brought a friend and who he or she is. You will normally be able to speak quietly to your friend in court if there is something relevant, but be very careful to ensure that you are not disturbing the Hearing if you do so; sometimes a written note is better.

When you arrive at court

Sign in
Make sure you sign in at reception when you arrive at court. If you don't, you may not be called when your Hearing begins. Usually, there will be a list at or near reception listing when and where all the different Hearings will be held that day. Check with reception whether there is a list. If there is, note down the time of your Hearing, the room where it will be held and the name of your judge.

Speak to the usher/clerk
Every lawyer knows that the usher (or clerk) can be their best friend at court. If the court has an usher or clerk, make sure you find them as soon as you can. They will usually be coming in and out of the waiting area, often with a clipboard. If you cannot find them, ask at reception.

When speaking to the usher, be polite. You can find out all sorts of information from them. If you are not sure how to address the judge, you can ask the usher. You can check whether the other parties have arrived and, if not, why. You can sometimes find out how long the judge expects the Hearing to take.

If you want to use any documents that the judge does not have already, give them to the usher to give to the judge. This is likely to include a copy of your written submissions. If you hand these in an hour or so before the Hearing, the judge may have time to read them before you begin. If you are not sure if the judge has a document already, give in a copy just in case.

Make sure that all of your witnesses have arrived
If you have witnesses who support your case, make sure that they also arrive early. When you get to court, find them. If they are going to be late, speak to the usher/clerk about this as soon as you can.

Speak to the other 'parties'
Make sure you find all the other 'parties' you are expecting to come to court (usually just the other side in the case). They may be in a separate waiting room from you or they may have found a private corner somewhere in a corridor. If you cannot find them, the usher/clerk may be able to tell you where they are.

Check that all the paperwork is in place
Check with the other parties that they have all the documents that you are planning to rely on, then ask them if they have any additional documents for you. If they do, you may need to try to read those documents quickly before the Hearing begins. You should not be intimidated if you have to speak to the other parties. Just try to deal with them as politely as possible and do not get into an argument. You will have the opportunity to explain your case to the judge, you do not need to discuss it any further with your opponent before you go into court (unless you are both still trying to resolve the problem).


'Make sure you speak loudly, slowly and clearly. Judges find it very frustrating when they cannot hear what you are saying.'

Sometimes, another party will arrive at court with a document that you have not seen. If this document is important to the dispute (the topic of the Hearing) and/or very long, you may feel that it is important for you to have time read it before the Hearing begins. If so, explain what has happened to the usher and ask whether it would be possible for the Hearing to start a little later, to enable you to read the document. The usher will be more sympathetic to this request if you have arrived with plenty of time before the Hearing begins. Only do this if absolutely necessary.

When speaking with the other parties about the management of the case (for example, which documents you will be using for evidence, when you need to hand in documents, etc), these are 'open discussions', which means that they can be referred to in court. This means you should stick to the facts and stick to the point. Do not get dragged into a conversation about how strong you think your case is.

Remember, there is still chance to 'settle'
When having these discussions, remember that this is also a good opportunity to settle the case. A discussion about settlement cannot be referred to in court unless it results in an agreement between you and the other party. It is quite common for parties to come to an agreement immediately before a Hearing begins. If you would be interested in doing this, there is no harm in reminding the other parties that you would still be willing to settle if they would like to make you an offer. If you begin negotiations, make sure you tell the usher what is going on and, if necessary, ask if the Hearing can start late to give you enough time to negotiate.

If you reach an agreement, speak to the usher. You may still need to go into the court to tell the judge what has happened. The judge might want to make an Order that gives more force to your agreement, or might just explain to you how you can agree a 'binding contract' (an agreement which both sides have to stick to).

How to speak at the Hearing

Speaking in court
When the time comes to speak in court, you will probably be very nervous. That is normal, and even barristers can feel nervous before making a big speech. But having put in all the work to get to this stage, you should feel confident that you have done plenty of preparation. Make sure you know what you are supposed to be calling the judge and whether you are supposed to stand up every time you speak (ask the usher beforehand if you are unsure). If you cannot find the usher, just call them 'Sir' or 'Madam'. Always be polite.

Keep it simple
Throughout the Hearing, use simple, non-legal language as much as you can. Speak in short sentences. You might be tempted to speak like lawyers speak on television. Resist this temptation. Lawyers do not really speak like that. Some bad lawyers do, but judges hate it. Judges just want you to say what you mean in plain English.

Make yourself heard
Make sure you speak loudly, slowly and clearly. Judges find it very frustrating when they cannot hear what you are saying.

Speaking slowly is the hardest part. When you are nervous, you will find yourself wanting to speak faster than normal. In fact, you need to speak at about half of your normal speed, leaving pauses in between each sentence. Remember that the judge will usually try to write down what you are saying. They will use these notes at the end of the Hearing, when they decide whether or not you should win your case, so you will want them to be good. A good way to make sure that the judge is keeping up is to keep an eye on their pen. When you finish your sentence, if the judge is still writing, wait. When the judge stops writing, start speaking again.

Use signposts
Where possible, try to give clear 'headings' to what you are talking about, in the same way that we have broken this section down into manageable chunks. In public speaking, these are often called 'signposts'. For example,

if you have four reasons for asking for something, say so. Then, as you explain each reason, say "my first reason is... my second reason is..." etc. This will help the judge to follow what you are saying. It will also mean that it is easier for them to take clear notes.

Only interrupt when you have to
When you come to court for the first time, it can be difficult to know when you are allowed to speak. As a general rule, try not to interrupt the judge or the other parties when they are speaking. However, sometimes the judge will move on to the next part of the Hearing before you have said something very important. If you think this is happening, it is acceptable for you to interrupt.

If you think that you need to interrupt, make sure you do it in the right way. If you are in a court where people stand to speak, just stand silently. The judge will then ask you to speak. If you are in a court where everyone remains seated, address the judge by their title when they come to the end of their sentence.

At the beginning of the Hearing

Check that the judge has all of the papers
Make sure that the judge has all of the papers that you have handed in.

Explain what you want and why
At the beginning of the Hearing, the parties will usually be given a brief opportunity to speak. You are more likely to be given this opportunity if you are the 'claimant' (if you are the one responsible for bringing the case to court). Do not make a long speech. Explain in brief, simple terms what you are asking the court to give you and the key reasons why. For example, in a simple case, you might say something like:

"Madam, I am bringing a claim against Mr Smith for breach of contract. I paid Mr Smith £200 to fix my boiler and he did not fix it to a reasonable standard. I am asking the Court to order Mr Smith to give me my £200 back." Breach of contract is a legal way of saying that Mr Smith did not keep to the agreement you both made.

If your case is more complicated, you should still try to summarise the key points briefly and simply. For example, in a complicated case, you might say something like:

"My Lord, this is a judicial review of the decision of the local authority. On 1 May, the local authority decided to allow a road to be built through my garden. This decision should be overturned for two reasons. First, the local authority did not do a proper consultation before taking this decision. Second, the decision is unlawful according to section 1 of the Roads Through Gardens Act 1985. Therefore, I am asking the court to strike down the local authority's decision."

While you will probably have spotted that this is a made-up law, you should use this as an example of how to structure what you might say in your case.

Judicial Review is explained more fully in Section 4.

Take a note of the timetable set out by the judge
The judge will usually explain the Order in which everyone will speak at the beginning of the Hearing. Usually, the claimant will give their evidence first, because it is their case. The judge will sometimes set out a rough timetable for how long they want each witness or part of the Hearing to take. Listen carefully to this, and try to follow it.

Giving submissions

'Giving submissions' is a technical term to describe making a speech to the court. This is the same as the speech you give at the beginning of the Hearing.

Write down your submissions
It is a good idea to write a summary of your key points to bring to the court and to hand to the judge and to the other party. Lawyers call these 'written submissions' or a 'skeleton argument'. Keep this short. It will not usually need to be longer than two or three pages, double spaced, with numbered paragraphs. For a short Hearing, a page may be enough. Lawyers will often write longer ones, but that does not mean that you should. Just write enough to get your points across.

Opening submissions
As explained above, at the beginning of the Hearing, you will need to explain what you want and why. Often, these will be the only submissions that are required.

Sometimes, the judge may also need to make a decision about an issue that needs to be cleared up before the Hearing can continue. For example, there may be a dispute about whether the claim was brought before the deadline, or whether a particular bit of evidence is required. If this happens, explain your arguments simply and clearly. Once this issue has been decided, you have to accept the judge's decision. If it does not go your way, it can be tempting to bring it up again later in the Hearing. This will not help and will probably annoy the judge.

Closing submissions
At the end of the Hearing, you might be given a chance to talk again about your main arguments and the evidence you presented. As usual, the rule is to keep it simple. Summarise each of your main points in an Order which makes sense. If there was a lot of evidence and a few witnesses, you might want to point out the main bits of evidence which supported each of your main arguments. In a short Hearing of less than a couple of hours, it will not be necessary to talk about the evidence again.

Know your limits
Sometimes, the other side will make arguments about what the law is.

Before the Hearing, you might have tried to understand the law as well as you can. If you feel that you understand it and have a point to make, make it clearly and simply.

However, you are not expected to be a lawyer. The judge will try hard to think about the arguments that you would be making if you were a lawyer. The lawyers for the other side should talk to the judge about any law that is damaging to their case (and supports your arguments). In that way, the judge and the other lawyers will be aware that you are not a qualified lawyer and will make allowances for that.

If you do not understand an argument or a decision, ask the judge to explain it to you. You can ask at any point, and should try to do so sooner rather than later so you do not become more lost, but it is often best to wait until there is a natural pause, so you are not talking over anybody. If you have a question to ask, just say to the judge: "Excuse me Sir/Madam, may I ask a question?"

Presenting your case

The witness box
The next few paragraphs apply to civil claims where there is oral (spoken) evidence from witnesses. Some claims (such as Judicial Review and Statutory Appeals – see 'Public law and Judicial Review' in Section 4) are usually decided on written evidence only.

When it is your turn, you will be asked to give evidence (when you will stand or sit in the witness box and answer questions). When you go into the witness box, you will only be allowed to take your witness statement – if you have one – and the agreed 'bundle' of documents.

Correcting your witness statement
If you have put together a witness statement, you will be asked to confirm that it is correct. If there are any points which you want to correct, tell the judge. If you want to add any points, you should ask the judge if you are allowed to do so. If it something new and important, you should tell the other parties beforehand. You will not usually need to read your statement out to the court, but you might be asked to do so.

Calling your witnesses
If you have brought someone else to give evidence as a witness, they will normally give their evidence straight after you. If you have a witness, make sure the usher (before the Hearing) and the judge (in the Hearing) knows this.

Often the court will previously have asked for your witness's evidence to be written down in a witness statement. If that has happened, when your witness goes into the witness box you will only need to ask them whether their witness statement is true and complete. If it is not, give them the opportunity to say where it needs correction.

Being cross-examined

This means being asked questions by the other side.

Be familiar with your witness statement
If you are cross-examined at the Hearing, the court will usually focus on the evidence you have already given in your witness statement. You need to know your statement well.

Tell the truth, the whole truth and nothing but the truth
This is the oath you will take at the beginning of giving evidence, and it is a good reminder of how you should answer questions. Listen carefully to the questions that you are asked. You do not need to do anything more than give a simple, truthful answer. That answer will often be "yes" or "no". If either of those would be an incomplete or misleading answer, say so. The judge will usually give you an opportunity to give a fuller answer.

If you do not remember something, say so. If you try to blag it, you will be caught out. There is nothing wrong with not having a perfect memory.

Do not make long speeches. Do not talk about other things which do not answer the question. Do not repeat yourself. Do not argue with the person questioning you. Just give simple, truthful answers.

Cross-examining witnesses

Put your case
The most important part of cross-examination (questioning the other side's witnesses) is giving the witness an opportunity to disagree with your version of events. You need to say to them all the relevant facts of what happened, so that they have a chance to respond. Lawyers call this 'putting your case'. For example, this might mean saying "Mr Smith, I put it to you that you deliberately built the wall with sub-standard materials and that is why it collapsed and I am not liable to pay for it." You would then need to allow Mr Smith to agree or disagree with that statement. **The witness always has the last word.**

Keep a careful note
You will not be able to write down everything a witness says but, if you can, write down short notes on the answers they give. If you have a friend with you, it might be easier for them to take notes for you. If the witness says something important, try to write it down word for word. You may want to remind the judge of the words used later or use them to make an argument when making your closing submissions (at the end of Hearing, when you summarise your case).

Do not use cross-examination to make speeches
The purpose of cross-examination is to put your case across. It is not an opportunity for you to make arguments. This means you should not be making any speeches or telling the court what you have concluded from what the witness has said. If they say something helpful to your case, simply write it down. You can make an argument about it in your closing submissions.

Do not comment on the answers given
When the witness has given their answer, move on. It can be tempting to say "Aha!" or "That's right". Remember, you are only supposed to be putting your case.

Ask closed questions

When cross-examining, it is best to ask closed questions. This usually means questions with a yes/no answer, which ensures that you have some control over what the witness says. For example:

Don't ask:
How did you get home?

Do ask:
You drove home, didn't you?

Only ask one thing at a time

Try not to string your questions together into one long question. It is too difficult for the witness to answer lots of questions at once. Only ask about one fact at a time. For example:

Don't ask:
You drove home in a red car, with your daughter, didn't you?

Do ask:

You drove home didn't you?	*Yes*
You were with your daughter?	*Yes*
And you were in a red car?	*Yes*

Ask questions in a sensible order

You should have written down a list of questions in advance to make sure that you are prepared to cross-examine. Make sure that the list is in a sensible order. The best and simplest approach is usually chronological (time) order.

Ask about any inconsistencies

Sometimes the witness will have said things in different statements which contradict each other (suggesting that one of the statements is wrong), or there will be evidence or a document which contradicts their statement. When you are preparing your cross-examination, check all of the other side's documents for mistakes like that. If the contradiction seems important, make sure you ask the witness about it. When you do this, make sure you have written down the page and paragraph numbers of the contradictory statements. Ask them which statement is true. Then say to them why you think one statement must be untrue. For example:

Please look at page nine, in the first paragraph.	*Yes*
You said the van was red, didn't you?	*Yes*
Then look at your statement, in paragraph two.	*Yes*
You said the van was blue, didn't you?	*Yes*
Which one of these was true?	*It was blue*
In fact, you never saw the van, did you?	*I did*

Don't argue with the witness

In the above example, it would tempting to say, "You can't have seen the van, because then you would know what colour it was, wouldn't you?" Do not do this. Save it for your closing submissions. You have made your point already. If you start making arguments to the witness, you will give the witness a chance to come up with a better answer. Stop while you are ahead.

Your witnesses cross-examined by the other party

When the other party cross-examine your witness, they will be testing their evidence by asking them questions. Do not interrupt this process; the judge will make sure it is within the rules.

Once that cross-examination has finished, that is normally the end of the evidence from that witness. You can ask a question or two of the witness if they have left something unclear, but it is rare that this is necessary, and it can make things less clear rather than more.

When judgment is given

Make sure you understand it
When all the evidence has been heard and the judge has had time to think about it all, they will give 'judgment', which is their decision about who wins the case. Some judges give long judgments and you may be unsure of the most important part. If you do not understand what the judge has decided, ask him or her.

Keep a careful note
Write down, as best you can, exactly what the judge says when they give their judgment. This means you should starting writing as soon as you know the judge has made the decision, even if they appear to be talking about the facts of the case. This is all part of the judgment.

Ask how to enforce the judgment
If you have won, you will need to know how to make sure that you actually get whatever the judge has ordered (for example money from the other party). Ask the judge how to 'enforce' the judgment.

Ask about appealing
If you lose and you might want to appeal (have the case heard again), ask the judge if it is possible to appeal and, if it is, what you will need to do next. In particular, make sure that the judge states any deadline for bringing your appeal. There are only certain circumstances in which you can appeal; it is not sufficient that you simply do not like the decision the judge has made.

Costs

In some types of case, the party which wins can ask the court to make the person who has lost make a payment towards their legal costs and expenses.

There are two possibilities:

1. Whether such an Order should be made, and
2. In what amount should an order be made.

The judge may deal with both, or he/she may deal with the former but postpone (or, in legal terms, 'adjourn') the latter for another Hearing before a judge who specialises in legal costs.

If the winning party is successful, the amount awarded should be reasonable and proportionate to the cost of the case. 'Reasonable' in this context might mean having instructed a lawyer who has the right experience for that particular type of case, rather than one who was very senior and much more expensive. The amount may nonetheless be very high, and sometimes more than the amount involved in the case, if it was a dispute over money. This is why it is vital, as soon as you become involved in a legal case, or are thinking about bringing a case, to consider the potential consequences of paying the costs of your opponent, should you lose.

If you have won the case, ask the judge what costs and expenses you can claim. Prepare a note of any expenses in advance.

If you have lost the case, and the other side asks the judge to order that you make a payment towards their legal costs and expenses, you should do the following:

- Ask the judge to confirm that the case is one in which costs can be ordered
- If there were parts of the case that you won, even though you lost overall, ask the judge to take these into account
- Point out any areas where you think the costs might be higher than reasonable and proportionate, and
- Where you will need time to pay any costs, explain the situation to the judge.

We have now explained how a typical legal process will work, but there are lots of different areas of law which have their own rules. In Section 4, we explain in more detail the rules which apply to particularly common areas of law which your case might fall under.