



NEW ZEALAND
LAW SOCIETY

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GIVING EVIDENCE

All sorts of court cases can require people to give evidence as a witness to help establish the truth of the claims being made. We are most familiar with the criminal law situation where someone charged with an offence pleads not guilty and a trial is held to try to prove the charge. Witnesses, usually including any complainants involved, provide information about what happened or about some other aspect of the case – either for the prosecution or for the defence.

However, witnesses may also be required in what are known as civil cases. These are cases between individuals or bodies rather than involving the police as in criminal cases. They can involve all sorts of issues such as suing someone for negligence or defamation, a dispute between neighbours, or breach of contract.

Other civil cases may require you to give evidence in the Employment Court, Family Court, Environment Court, a Disputes Tribunal and so on. You may also be asked to give evidence at an inquest (an inquiry into how someone died) at a Coroners Court. Criminal cases in a District Court may be heard before a judge alone or a judge and jury. Those in the High Court are usually heard before a jury, though sometimes a judge alone will hear them. The jury's role is to decide issues of fact on the basis of the evidence presented. The judge decides legal questions that arise in a trial and issues of fact if there is no jury. The judge is also in charge of the court and can rule on what evidence is allowed and make sure proper procedures are followed.

In most cases, each side calls witnesses to outline its version of events. The party that initiates the case – prosecution (for criminal cases) or plaintiff/applicant (for civil cases) – puts their side of the story first, then the defence or respondent replies with their side of the story. If it is a criminal trial with a jury, the lawyers for each side will sum up their cases and the judge will sum up the evidence and advise the jury of the law they must apply in deciding whether the accused person (the defendant) is guilty or not guilty.

This guide answers some questions about being a witness and outlines some of the extra

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rights that victims have. Until a person is convicted, a victim may be referred to as a complainant and the alleged offender will usually be called the accused or the defendant.

WHAT DOES A WITNESS DO?

No matter what kind of court you are to attend or what sort of case it is, your job as a witness is the same. You will have to answer questions put to you by both sides. Usually the people putting the questions will be lawyers, though sometimes a police officer may handle the prosecution in a criminal case and sometimes a defendant or a party to a case may represent themselves.

Giving evidence at a Disputes Tribunal hearing is less formal as this is a low-cost way of settling disputes. No lawyers are present but you must still attend if called to do so, you must still tell the truth and you may be asked questions by the referee. The aim in all cases is to find out all the facts of the situation and to apply the law to those facts.

WHAT IF I DON'T WANT TO BE A WITNESS?

Usually you don't have a choice. If either side considers your evidence is essential, they can ask the court to summon you to attend. If you get such a summons, you must turn up at the court on the day and at the time set out in the summons. If there is some reason why you can't be at court on that day, speak to the person handling the case as soon as possible. You could be arrested if you don't turn up when and where the summons says. Although you can be required to give evidence, you cannot be compelled to answer questions that would incriminate you. If you feel that giving evidence might incriminate you, talk to a lawyer about that.

Usually, a witness gives evidence orally in a courtroom. However, there are other ways in which the judge can permit a witness to give evidence, including:

- giving evidence while screened from the defendant;
- giving evidence-in-chief by video record;
- giving evidence by closed circuit television from another room in the courthouse;
- giving evidence by video link from somewhere else in New Zealand or overseas.

Whether or not the judge will permit a witness to give evidence in an alternative way will depend on a number of factors, including the wishes and needs of the witness. If you would prefer to give evidence in an alternative way, you should raise this with the police or a lawyer for the party calling you as a witness as soon as possible.

In some exceptional circumstances, where there are safety issues, witnesses may be given anonymity in court. If you think that giving evidence could put you in danger, talk about that to the police or the person wanting you to give evidence. You need to discuss this

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when you first speak to the Police because it may be too late to apply for anonymity after your statement has been disclosed to the defence.

It used to be the case that a husband or wife (spouse) could not be made to give evidence against their spouse but this immunity no longer exists. Now a spouse can be compelled to give evidence against their husband or wife and is in the same position as any other witness. If you are a partner and have fears about this, you should raise them with the person calling you as a witness and with the judge.

HOW SHOULD I PREPARE FOR COURT?

The lawyer or prosecutor whose witness you are, or a representative of the party calling you, will probably go over your evidence with you before you appear in court. You don't have to memorise what you are going to say as they ask you questions to draw out your evidence. However, you may find it helpful to think through what happened, the order in which things happened, what other people did, what you did and how you felt.

It can take months for a case to come to court. With criminal matters, if you reported the crime or are a complainant, you should get a copy of any statement you made to the police at the time. If your evidence differs from that statement, you are likely to be questioned about that. You may be given permission to refresh your memory from a statement made when your memory was fresh. You should not make contact with other witnesses.

The prosecutor may prepare a 'brief of evidence' for you. This brief sets out the evidence you will give. Some of the material from your statement may not be in the brief because it is inadmissible for legal reasons. You are usually not entitled to take your brief into the witness box or read from it.

If there are exhibits, like photo booklets or plans, it may be useful to look at these before you give your evidence, so that you can orient yourself.

You should not try to influence anyone else's evidence or allow anyone to influence you. A defendant whose case has yet to be heard will be on remand either in prison or on bail. If the defendant or anyone else tries to contact you or hassles you about being a witness and about your evidence, contact the police or the lawyer handling the case immediately.

Neat dress is expected. If you want more advice on what to wear, ask the lawyer or police prosecutor who wants you to act as a witness.

Make sure that the officer in charge has your up to date contact details.

If employed, you should arrange to take time off work. Make sure you allow plenty of time. Check with the person asking you to appear how long it might take but remember that it is not always possible to know precisely how long it will take for you to give evidence or just when. Your employer has to allow you time off but does not have to pay you, unless you take the day as annual leave or your employment contract provides for you to be paid in such circumstances.

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Similar arrangements should be made for any childcare needed.

You must be prepared to follow any instructions about returning on a later day.

You may be entitled to an appearance fee and reimbursement of some of the expenses associated with being a witness (such as travel, accommodation and meals) – ask the lawyer or police prosecutor who wants you to be a witness or a Court Victim Adviser about this. Keep any receipts you receive for costs associated with being a witness. Some schemes also offer assistance for some witnesses.

A **Court Victim Adviser** is a person employed by the court to provide information victims are entitled to have about cases, and to help them participate in the justice system.

If you are a complainant required to give evidence, a Court Victim Adviser can show you around the courthouse before the hearing and explain the justice system and your rights as well as keep you up to date with progress on the case. Ask at your local court to speak to a Court Victim Adviser if one has not contacted you.

If you are nervous about facing the defendant, you are able to have someone with you in court for support (a family member, friend, Victim Support or other community group worker). Witnesses who are not complainants can have a support person with the judge's permission. Ask about this beforehand so it can be approved. The police can put you in touch with your local Victim Support group or phone 0800 842 846 (0800 Victim). You may also be able to give evidence without having to see the defendant – such as from behind a screen, by closed circuit television or video link-up. If you wish to use one of these systems, talk to the police about it.

If you are not confident speaking English, ask the police or lawyer to organise an interpreter to assist you to give evidence. Tell the police or lawyer if you have difficulty reading or are hard of hearing.

If you are appearing before a Disputes Tribunal, take any documents that support statements you will make as a witness.

WHERE DO I GO WHEN I ARRIVE AT THE COURT?

Any letter or summons you have been sent should say which courtroom you will be needed in, otherwise ask at reception. It is also advisable to let the lawyer or police prosecutor who asked you to appear know you have arrived. Usually witnesses wait outside the courtroom in the lobby of the courthouse or in a special waiting room. This will usually be shared with other witnesses. It is very important that you do not discuss your evidence with any other witness.

Don't talk to strangers about your evidence or the case. If you are nervous about waiting with people involved with the other side of a case, especially if you are a complainant, ask the Court Victim Adviser or the person handling the case if you can wait somewhere else. You should not talk to any member of the jury at any stage – it is important that no one can

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claim any member of the jury has been influenced by an out-of-court discussion.

CAN I WATCH THE CASE?

You are not allowed into the court before you give evidence so the evidence of other witnesses cannot influence you. However, you can stay after you have given evidence.

HOW WILL I KNOW WHEN TO GIVE MY EVIDENCE?

A police officer or court attendant will call you, so you should remain in the witness room or within hearing distance of the courtroom. Once you are called, you will be shown into the witness box.

WHAT IF I KNOW A JUROR?

You should immediately tell the lawyer representing the side that is calling you. If the lawyer takes no action, tell the judge or other presiding officer at the first opportunity.

WHAT HAPPENS IN THE WITNESS BOX?

A court official will ask you to swear to tell “the truth, the whole truth, and nothing but the truth” either on the Bible or some other holy book, or (if you prefer) to affirm that you promise to tell the truth. You stand while you take the oath or affirm but usually you can sit while giving evidence.

There are three stages in giving evidence:

The first stage is called **evidence-in-chief**. The person appearing for “your” side will ask you to state your full name and occupation so the court knows who you are. If you do not want this information published, you must tell the person appearing for your side before you go into the witness box so they can ask the judge to suppress it, but you will need a good reason for that to happen. Witnesses do not usually have to disclose their addresses. In a criminal case, the person appearing for your side will then ask questions to draw out your evidence. In civil cases, most witnesses read their evidence from a prepared statement but additional questions may be asked.

The second stage is **cross-examination** in which the person representing the other side questions you to check your story, to bring out more facts and to test how accurate or reliable you are as a witness. Sometimes cross-examination can be uncomfortable – you may even feel as though you are the person on trial. It may feel less threatening if you remember that in criminal cases the reason the lawyer is questioning you in this way is to make sure the defendant gets a fair hearing. Defence lawyers are required to make sure

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that the prosecution has proved its case properly. Accused people do not have to prove they are innocent; it is for the prosecution to prove they are guilty. The lawyer or person representing your side may object if a line of questioning is improper, unfair or irrelevant. The judge may also intervene. In any proceeding, the judge may disallow, or direct that a witness is not obliged to answer, any question that the judge considers improper, unfair, misleading, needlessly repetitive, or expressed in language that is too complicated for the witness to understand.

The final stage is **re-examination** in which the first person to question you has the opportunity to question you again to clarify points arising out of the cross-examination.

Juries can now ask questions in some circumstances and the judge also may question you. Lawyers call a judge “your honour”; you may do the same, or use either “sir” or, “ma’am”.

WHEN GIVING EVIDENCE

Giving evidence can be slow and tiring. Although digital recording is being introduced to our courts, what you say may have to be typed or written down as you say it. Also, the judge will want to make notes so you may need to speak slowly.

Keep calm. Refuse to be hurried. Speak slowly and clearly – this will help you say exactly what you mean and allow the evidence to be written down.

If you don’t understand a question, ask for it to be explained more fully.

If you don’t know or can’t remember, say so. Don’t guess.

Don’t let a lawyer fluster you. They may try to get you to say something they want you to say. Don’t let them upset you or make you angry. Just tell the truth.

If you get upset, ask the judge if you may have a short break.

Don’t make jokes. They are not appropriate in the courtroom.

Tell the truth. It’s your legal duty to tell the truth. It is a serious crime knowingly not to do so.

A lawyer or police prosecutor may interrupt by saying “objection” while you are giving evidence because they think the rules of evidence or procedure have not been followed. If this happens, wait for the judge to say whether you should answer the question. The judge will tell you when to continue.

In New Zealand, lawyers are not allowed to approach you in the witness box or shout at you in your face as is sometimes shown on television.

ARE THERE SPECIAL RULES FOR CHILD WITNESSES?

Witnesses under the age of 12 are questioned without taking an oath in both civil and

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criminal cases but generally they must make a promise to tell the truth. Before that promise is made, the judge will inform the child of the importance of telling the truth and not telling lies.

A child witness can be screened from the defendant when giving evidence and may be able to give evidence from outside the courtroom by videotape, closed circuit television or video link. Court Victim Advisers have material to assist child witnesses and their caregivers.

CAN THE MEDIA REPORT MY EVIDENCE?

Most courts and court cases are open to the media and the public. The public (but not the media) is excluded when complainants in sexual abuse cases are giving their evidence. On other occasions, the public may be excluded from part of a court case. The media can usually report the names of witnesses and their evidence. This does not apply to the names and identifying details of complainants in sexual abuse cases or witnesses under the age of 17 years, the publication of which is automatically suppressed.

Youth Courts are closed and certain cases in Coroners Courts cannot be reported. In the Family Courts, limited reporting by accredited news media of Care of Children cases may be allowed but usually those involved cannot be identified. Other Family Court matters are closed, though there are proposals to extend the limited reporting to some of these.

There may also be other circumstances in which the judge might grant suppression of your name and/or your evidence. If your name is suppressed, your name and any information that might identify you cannot be printed. If you are concerned about publicity, speak to the police or a lawyer before the hearing but remember that a key principle for most of our justice system is that it is open, so there must be good reason for suppression orders.

COULD I HAVE TO GIVE EVIDENCE MORE THAN ONCE?

Usually a witness will have to give evidence only once but there are some circumstances in which you may have to give evidence more than once.

These are:

- when a committal hearing is held to see if there is a strong enough case to justify a full trial. These can require prosecution witnesses to give evidence so you might have to give evidence at the preliminary hearing and at the main trial;
- if, after a witness has given evidence, a mistrial is declared for some reason and the matter has to be retried;
- when a jury is unable to reach a decision (this is known as a “hung” jury) and the matter has to be retried;

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- when an appeal results in an order for a retrial – otherwise appeals do not usually require you to give evidence again.

WHAT HAPPENS AFTER I'VE GIVEN EVIDENCE?

When you have answered all the questions from both sides, your part in the proceedings will have finished and you will be told to leave the witness box. However, you should remain in the court unless the judge excuses you. Ask a lawyer or court official where you can sit. If you want to leave as soon as you have given your evidence, tell the lawyer or police officer handling your evidence before the case begins so that they can ask permission for you to do so. It is very important that you do not discuss what has been said in court with other witnesses waiting to give evidence.

Once all the witnesses for both sides have given evidence, the lawyers for each side sum up their cases and, in a jury case, the judge sums up the case to the jury. At the end of a criminal case, the judge or jury then decides whether the defendant is guilty or not guilty, with a jury retiring to a separate room to discuss their decision. Most often the verdict will be given the same day but for complex cases it can take longer, even several days. In other courts, such as the Environment Court, a judge may adjourn the case and give the decision at a later date.

WHAT HAPPENS WHEN THE VERDICT IS GIVEN?

If a defendant is found not guilty, they are then free to go and no further action can be taken on that charge, even if new evidence comes to light.

If found guilty, they will usually be remanded for a few weeks (on bail or in custody) for sentencing so that various reports can be prepared and taken into consideration. If you are the victim of sexual abuse or any other serious assault or injury, you have the right to say whether you think the offender should be granted bail. Speak to the police or Court Victim Adviser about this.

WHAT HAPPENS AT SENTENCING

In deciding an appropriate sentence, the judge will consider the various reports, which include a pre-sentence report on the offender's background and circumstances, as well as a victim impact statement and reparation report. The offender's lawyer may put forward reasons why a particular sentence should or should not be imposed.

You are entitled to watch the sentencing. Whether or not a victim attends the sentencing, the officer in charge of the case and the Court Victim Adviser should inform them of the sentence. If you are a victim and you think the sentence is too light, you can talk to the prosecutor who may decide to appeal against it. Similarly, offenders may appeal if they

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think the sentence is too heavy.

ARE YOUTH COURTS DIFFERENT?

Yes. Our justice system aims to keep young offenders (those aged 14 or over but under 17) away from court if possible. If they do go to court, their cases are usually handled in a Youth Court.

If a young person admits an offence, witnesses are not required. If the young person denies the offence, there will usually be a defended hearing (before a judge alone) in a Youth Court, although very serious offending may be dealt with by jury trial in the High Court or in a District Court in the same way as for adults. A defended hearing may require witnesses. Giving evidence in a Youth Court follows the same procedure as in the High Court or a District Court but hearings are not open to the public.

Where an offence is admitted or a charge is found proved after a defended hearing, victims of the offence can choose to attend a Family Group Conference arranged by the Child Youth & Family Services. This allows them to meet the young person, their family and the police, and to participate in deciding how the young person should make amends for their offending, including the issue of reparation for any loss or damage victims have suffered. The victim can have support people with them for this and can have a support person represent them if they are unable or do not want to attend.

When the court has ordered a conference after a defended hearing that proved the charge and the conference has agreed on a plan as to how the young person should be dealt with, the court will usually adopt that plan and monitor its progress. If there is no agreed plan, the judge will decide how the matter should be dealt with and take the effects on any victims into account.

The only offences that children under 14 can be charged with are murder and manslaughter.

Otherwise, children aged 10 to 13 are termed child offenders and may be dealt with by police warning, a police youth aid officer, Child, Youth and Family Services intervention or, where the offending is persistent and beyond parental control, by orders of a Family Court. While they are not held criminally responsible for their offending, they are held accountable and a victim may be able to attend a Family Group Conference for this purpose.

WHO IS CLASSED AS A VICTIM?

A victim is a person who has been physically or emotionally harmed, or who has lost property or had property damaged as the result of a crime. If someone has died as the result of a crime, that person's family are victims.

While the above procedures apply to victim witnesses as well, victims also have some extra rights as well as those already mentioned. Note, some of these rights apply only

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to victims of certain serious offences, not to all victims – check with the police or Victim Support, phone 0800 842 846 (0800 Victim) to see if they apply to you.

Sometimes, the fact that an accused person has certain rights can feel unfair to a victim. It may help to remember that these rights have been developed over many centuries to make sure that people are not arrested or detained without reason, are not forced to incriminate themselves and can have a fair trial with adequate legal representation. Importantly, they are presumed innocent until proved guilty according to law. It is for the prosecution to prove their guilt beyond reasonable doubt; they do not have to prove their innocence. A “not guilty” verdict is not a declaration of innocence – it just means the judge or jury was not sufficiently convinced of their guilt.

WHAT ARE THE SPECIAL RIGHTS FOR VICTIMS?

You must be kept up to date with information about the progress and result of any **court proceedings** – either by the police officer in charge of the case or the Court Victim Adviser.

You may have someone (such as a friend, relative or Victim Support worker) to **support** you in court, at a Family Group Conference, a Parole Board hearing or a restorative justice meeting.

Your **property** should be returned as soon as the police and the court no longer need it as evidence.

Families of murder victims are entitled to **free counselling** administered through Victim Support (phone 0800 Victim, 0800 842 846). ACC may provide counselling for victims of sexual offences.

An **offender levy** was introduced in 2009 to provide funding for services for victims of serious crimes, including discretionary grants, and additional funeral grants for families of homicide victims. For details, see www.victims.info.govt.nz.

Travel and accommodation for victims appearing as witnesses are paid by the police or the court. Also, Victim Support administers a government-funded Court Travel Assistance Scheme that provides serious crime victims (and possibly others associated with the victim), or those on the Victim Notification Register, with financial help to cover travel, accommodation and childcare costs associated with attending a High Court trial. Apply through your local Victim Support group, phone 0800 842 846 (0800 Victim).

The Ministry of Justice administers the **Criminal Justice Assistance Reimbursement Scheme**, which provides compensation for material loss suffered as a result of assisting in the administration of justice (such as giving evidence or reporting a crime). It can cover damage to property, and accommodation and transport costs should your house or vehicle be damaged, and loss of earnings for up to three months. Various criteria apply when making a claim under this scheme. It will not compensate for loss until all other avenues have been exhausted, including private insurance, reparation and ACC. The

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scheme can compensate for losses not covered or only partially covered by other avenues of compensation. For more information, contact your nearest police station or the Chief Administrator, Tribunals Unit, Ministry of Justice, PO Box 5027, Wellington.

The Tribunals Unit also administers the **Victims Special Claims Tribunal**, which handles claims by victims when an offender receives compensation for being treated improperly while in prison.

CAN VICTIMS INFLUENCE THE SENTENCE?

There are several ways in which your views and needs as a victim can be taken into account at sentencing and afterwards. These include:

Name suppression: You are entitled to give your views on whether an offender's name should be suppressed permanently. A person accused or convicted of certain sexual offences may be given name suppression to protect you (as the victim). In this case, you can apply for an order allowing publication of those details if you want the offender identified if you are 18 or older.

Home detention: You are entitled to give your views on whether an offender should be allowed to serve their prison sentence on home detention.

Victim Impact Statement: This is a prepared statement in which you state **how the offence has affected you** (physically, emotionally, psychologically, loss of or damage to property and any other effects), which the judge takes into account at sentencing. It can be written or recorded (tape, videotape, etc) or the prosecutor or you (or someone speaking for you) may relay the information orally to the judge. Let the Court Victim Adviser know if you wish to do this or have someone speak for you. The offender is entitled to know what the statement says but cannot keep a copy. The judge can order part of the statement to be withheld from the offender to protect your physical safety or security but then that part is not taken into account at sentencing.

Reparation: Under the Sentencing Act, courts must order offenders to pay reparation to victims unless there are special circumstances that would make it inappropriate. Unless the court already has sufficient information, the judge will ask for a report on the offender's ability to pay you for any loss or damage to your property or harm you have suffered. The probation officer preparing the report will talk to you about this. If reparation is not ordered, the judge must say why. Reparation cannot be ordered for harm covered by accident compensation, and if you have received insurance for any loss or damage you have suffered, you will need to tell your insurance company about any reparation awarded. Reparation payments are made to the court, which then passes them onto the victim – often this can take some time. For more information about reparation, see www.justice.govt.nz/publications/global-publications/r/reparation-to-victims/publication or talk to your Court Victim Adviser.

Restorative justice: This term is usually used to describe a voluntary meeting between the

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victim and the offender, and any support people for each of them, before sentencing. Its aim is to allow victims to have a say and focus on their needs, and so offenders can take responsibility for what they have done and for putting things right. A report of the meeting and any recommendations goes to the judge and is taken into account at sentencing. Not all courts offer access to restorative justice and it is not suitable for all offences, but if you are interested in this option, ask the Court Victim Adviser about it.

OTHER RIGHTS FOR VICTIMS

If you are a victim of sexual violation or other serious assault, or of an offence resulting in serious injury, incapacity or death, or one that has led to ongoing fears for your or your family's physical safety or security, you have some other rights. These relate to:

Bail: You are entitled to give your views on whether the offender should be released on bail. If you have asked to be notified and given the police your current address, you are entitled to be told when the offender is released on bail and of any relevant bail conditions.

Release from detention: Provided you have asked to be notified and provided your current address, the Department of Corrections or Director-General of Health must tell you when an offender is due for temporary, part-time or final release from custody (including home detention or detention in a hospital), or when an offender has escaped from custody or died in custody.

Deportation orders: You are also entitled to be given notice of any proposal to make a deportation order or any hearing of an appeal against a deportation order, and to make submissions about the order.

Parole hearings: Provided that you have registered on the Victim Notification Register and kept your contact details up to date, you are entitled to be notified of any parole hearing and to put your views to the Parole Board considering releasing a prisoner. You can do this in writing, by phone, by videolink or in person, and, in some circumstances, through another person speaking for you. You may take a support person who may speak in support of you or on your behalf. Without your consent, the offender cannot be present when you put your views to the Parole Board. Your contact details may not be given to the offender. As the victim, you must be notified of relevant conditions of parole and any changes to those conditions. You may qualify for assistance with the expenses of attending a parole hearing – check with Victim Support, phone 0800 842 846 (0800 Victim).

Notification: To be notified of any of these matters, you will need to fill in a form that the police or your Court Victim Adviser can give you. You must let the police know if you change your address or telephone number. A victim who is incapacitated may have someone else exercise these rights on their behalf.

FINALLY

It may be inconvenient for you to act as a witness. You may need to take time off work or to get someone to mind your children. But your job as a witness is so important that society has given courts the power to require you to appear. Discuss any difficulties with the lawyer or police prosecutor who wants you to appear – or with your own lawyer. These could include concern about any risks you feel you run by appearing as a witness. If you feel you need protection from a defendant or their associates, talk to the police.

You can talk to the Court Victim Adviser about arrangements for your comfort, privacy and security at court. Remember, by acting as a witness in a criminal case, you are helping ensure a person is given a fair trial. In a civil case, you are helping ensure that the evidence of both sides is heard.

As a witness, you do not need your own lawyer, but if you are unsure of your legal rights, or being a witness or a victim brings up legal issues for you, you may wish to talk to a lawyer.

DO THE RIGHT THING – SEE YOUR LAWYER FIRST

Lawyers deal with many personal, family, business and property matters and transactions. No one else has the training and experience to advise you on matters relating to the law. If your lawyer can't help you with a particular matter, he or she will refer you to another specialist. Seeing a lawyer before a problem gets too big can save you anxiety and money.

Lawyers must follow certain standards of professional behaviour as set out in their rules of conduct and client care. When you instruct a lawyer, he or she must provide you with certain information, as outlined in our guide *Seeing a lawyer – what can you expect?*

This includes informing you up front about the basis on which fees will be charged, and how and when they are to be paid. The fee, which must be fair and reasonable, will take into account the time taken and the lawyer's skill, specialised knowledge and experience. It may also depend on the importance, urgency and complexity of the matter. There could also be other costs to pay, such as court fees.

Lawyers must have a practising certificate issued by the New Zealand Law Society. You can call the Law Society on (04) 472 7837 or email registry@lawsociety.org.nz to see if the person you plan to consult holds a current practising certificate. You can also check this on the register accessible through the website www.lawsociety.org.nz.

If you have a concern about a lawyer, you can talk to the Lawyers Complaints Service, phone 0800 261 801.

If you don't have a lawyer:

- Ask friends or relatives to recommend one;

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- Look in the Yellow Pages under “lawyers” or “barristers and solicitors”;
- Inquire at a Citizens Advice Bureau or Community Law Centre;

Check these websites:

- www.lawsociety.org.nz/home/for_the_public/find_a_lawyer;
- www.familylaw.org.nz;
- www.propertylawyers.org.nz.

To the best of the New Zealand Law Society’s knowledge, all information in this guide is true and accurate as at the date below. However, the Law Society assumes no liability for any losses suffered by any person relying directly or indirectly on information in this pamphlet. It is recommended that readers consult a lawyer before acting on this information.

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