

Guideline: Faculty of Pre-hospital Care

Providing Evidence to the Police, Coroner, Procurator Fiscal, and other External Agencies

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Introduction

Most pre-hospital practitioners attend a number of incidents each year which result in investigations by various agencies, including, but not limited to, the Police (including the Independent office for Police Conduct) , the Coroner, the Health and Safety Executive and regulators the Health Profession (GMC, HCPC, NMC etc.)

It is important that practitioners who are asked to provide statements from the various agencies do so in an accurate and timely manner when it is appropriate to do so.

This guidance:

1. Sets out the process for providing evidence to external agencies
2. Describes a consistent approach to the provision of evidence to agencies such as the Police, Coroners' services and the Procurator Fiscal.
3. Highlights situations in which the patient's consent is required prior to disclosure to external agencies.
4. This guideline was designed for use in England and Wales but we believe that the principles are the same for other jurisdictions.

Confidentiality

There is a common law duty of confidentiality between any healthcare professional and patients they treat. This common law duty continues after death.

Consent is not required when a coroner requests a statement. For other third parties the prevailing assumption *must* be that consent is required before any healthcare information is disclosed to third parties. Organisations and the practitioner must ask themselves: *has specific consent been given to disclose the information?* Standard practice includes agencies, such as the police, seeking consent to disclosure of medical records and medical information. This consent should be presented to the service and to the practitioner asked to provide a statement.

In the event a patient cannot consent, e.g. they are unconscious or have died, the practitioner has to make a best interests decision on whether to disclose without consent. This would include factoring in things such as any information gleaned about the patient's wishes at the scene or information gathered from those closest to the patient, as per any other best interests decision.

There may be (rare) situations where the public interest outweighs the interest of the patient. Some of these are laid out in statute (e.g. public health disclosures). Other occasions may include where a suspect of a serious crime is at large and a danger to the public as can happen with gun and knife crime. In these situations, the practitioner should disclose information proportionate and specific to the purpose.

In situations where the patient regains consciousness, it is good practice to inform them that a statement has been given and explain why and what was included.

In the event a patient specifically refuses to give consent, this should be respected. There are a limited number of occasions when it may be right to disclose *against* the patient's refusal and most are set out in statute as above.

It is critical to understand that there is no statutory obligation to disclose information to the police, even though they may request disclosure. Whilst situations where there is genuine dispute are rare, they can be difficult and advice of senior colleagues, a medical defence organisation, the practitioner's regulatory body or the health organisation legal or information governance department can be invaluable.

The only people who can mandate disclosure without consent are those who hold judicial positions, such as coroners, magistrates and judges.

Requests for Statements

Where a statement is requested on scene, e.g. by the police, this should be politely declined and contact information handed over to the officer. It is helpful to take the officer's name, collar number, police station and contact details.

These requests should be handled by those with responsibility for data governance within the organisation, e.g. the data protection office / Caldicott Guardian. This affords a degree of oversight, allows issues relating to consent to be explored and can filter statement requests to those best placed to provide them.

Where a practitioner is requested to provide a statement, the request should be forwarded onto them without delay.

Data Governance teams are well-placed to ensure that the appropriate request form has been completed by the investigating Police Officer (commonly referred to as the 'DPA form') which details the request, the reason for the request and is countersigned by a senior officer (those with the rank of Inspector or higher). Requests are not formally passed to clinicians until this is in order. This is *not required* when statements are requested by HM Coroner.

Writing Statements

Standard templates are provided as appendices to this guidance, which provide a framework for statements.

The practitioner should check all available information relating to the incident, including any written records, the database entry and information from the CAD to ensure the statement is as accurate as possible

If referencing third hand information it is important to highlight that the information is something you have been told (as opposed to something you observed yourself). This is because such information is known as *hearsay* and is considered in different ways by different courts.

Where possible, provide the name of the person who handed over care to you and the person whom you handed care to.

Write the statement in time order

The statement should be paragraphed, with each paragraph addressing a specific point. Each paragraph must be numbered.

The statement must include a statement of truth, which must be signed.

Coroners' Statements

The coroner is a judicial appointment whose role is to investigate violent or unnatural deaths, any death where the cause is unknown and those deaths which occur in state custody.

A full and factual account of the actions of the practitioner's care should be given.

Where known, use the patient's name within the statement, including how they preferred to be addressed in life. The statement is likely to be read out in court and the family or their representatives will hear it.

Giving Evidence in Court

There are three types of witnesses who may give evidence in writing or as oral testimony. These are: witnesses to fact ("*the car was blue*"), professional witnesses ("*the patient was hypoglycaemic*") and expert witnesses ("*the knife could have easily struck the aorta*"). Practitioner's are almost always called as professional witnesses. It is easy to lapse or be drawn into giving "expert" opinion and this *must* be avoided.

It is appropriate to state observations and how these informed professional judgements, e.g., "*I suspected the blood sugar to be low, based on signs and symptoms and I checked it accordingly*"

Specific professional guidance exists for those acting as expert witnesses, which is beyond the scope of this guideline.

Fees for Evidence

Where Police statements are written in the practitioners spare time, a fee is chargeable to the requesting police force. Expenses can also be claimed from the courts for attendance when giving evidence.

Example CORONER WITNESS STATEMENT

This statement (consisting of XX pages and signed by me) is true to the best of my knowledge and belief. I make it knowing that, if it is introduced in evidence, It would be an offence wilfully to have stated in it anything that I know to be false or do not believe is true.

Dated:

Signed:

Name:

Prepared for [His Majesty's Coroner] conducting an inquest into the death of XXXXXXXX

Name of Witness: **Dr XX**

Occupation of Witness: **Medical Doctor, Consultant, / Registrar working for XXX Service**

Role in Proceedings: **I cared for XXX at X[scene / home address] X and during the transfer**

to hospital

(1) My name is XXX I am a [*Doctor / Nurse / Paramedic xxxx use your title as registered with your professional body*] contracted to [the organisation you responded for], working for the xxxx (e.g. x air ambulance)". My qualifications are MBxxx FRCA, DIMC, DRTM, FIMC . I have been asked to prepare a statement from my personal experience and contemporaneous database entry regarding a person I treated whom I now believe to be called XXXXX.. I have done so at the request of the coroner.

(2) We were tasked to an incident at XX hours on XXXX by XX Ambulance Service NHS Trust who had received a 999 call at XXX hours. We arrived on scene in [XXone of the fast response cars / the helicopterXX] at hours. In this case, the "scene" means XXXX. Our team consisted of Mr/Miss/Mrs XXXXX (paramedic), XXXX (xx) and myself. On our arrival, the patient was in the care of a clinicians from XXX.

(3)[Clinicians from XXX / The patient / the patients relatives / the police] told us that xxxx

(4) XXXXXXXX

(5) Through this statement I would like to offer my deepest sympathies to his relatives, in particular XXX

Example POLICE WITNESS STATEMENT

(CJ Act 1967, s.9; Criminal Procedure Rules 2020, Rule 16.2)

This statement (consisting of XX pages and signed by me) is true to the best of my knowledge and belief. I make it knowing that, if it is introduced in evidence, It would be an offence wilfully to have stated in it anything that I know to be false or do not believe is true.

Dated:

Signed:

Name:

Prepared for XXXPolice force *** conducting an investigation relating to XXXX

Name of Witness:

Occupation of Witness: **Medical Doctor / Nurse / Paramedic**

Role in Proceedings: **I cared for XXX at X[scene / home address] X and during the transfer**

to hospital

(1) My name is XX. I am a [Doctor / Nurse / Paramedic] working for tXXX commonly understood to be the "X Air Ambulance". My qualifications are MBxxx DIMC, FIMC, DRTM. I have been asked to prepare a statement from my personal experience and contemporaneous database entry regarding a person I treated whom I now believe to be called XXXXX.. I have done so at the request of XXX

(2) We were tasked to an incident at XX hours on XXXX by XX Ambulance Service NHS Trust who received a 999 call at XXX hours. We arrived on scene in [XXone of the fast response cars / the helicopterXX] at XXXX hours. In this case, the "scene" means XXXX. Our team consisted of Mr/Mrs / Miss XXXXX (paramedic / nurse / doctor), XXXX (xx) and myself. On our arrival, the patient was in the care of [clinicians from XX / members. the public]

(3)[Clinicians from XX / The patient / the patients relatives / the police] told us that xxxx

(4)XXXX