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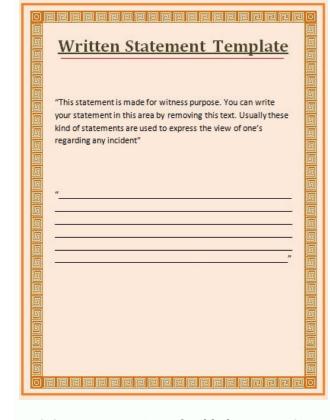
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Section 9 witness statement template

Witness statement example. What is a witness statement. What is a section 9 witness statement. Who can witness a witness statement. What should a witness statement include.

We use some essential cookies to make this website work. We'd like to set additional cookies. You can change your cookie settings at any time. You have rejected additional cookies. You can change your cookie settings at any time. Of Status: Partially open 1.A witness statement is a document recording the evidence of a person, which is signed by that person to confirm that the contents of the statement are true. 2.A statement should record what the witness saw, heard or felt. However, it is also important to record anything that may open up a new line of enquiry or help in corroborating other information1.

Types of witness statements Statements provided voluntarily in compliance with section 9 of the Criminal Justice Act 1967 (LP70s) - "s9 statements" 3. A s9 statements is taken from a person who has voluntarily given the statement uprorts to be signed by the maker; the statement or the statement will be admissible, without the witness statement or give or all evidence, if the following conditions are satisfied: the following conditions are satisfied: the statement proprist to be statement proprist to be statement or the statement or the statement will be admissible, without the witness as the statement proprist to be statement proprist to be statement proprist to be statement or the statement or the statement or the statement or the proprist of the statement or the statement or the statement proprist to be statement or the statement or the statement proprist to be statement proprist to be statement or the statement proprist to be statement proprist to be statement or the statement or the statement proprist to be statement to the statement is advocument as a perjury declaration.) As one of the following or the proprist to the statement to th

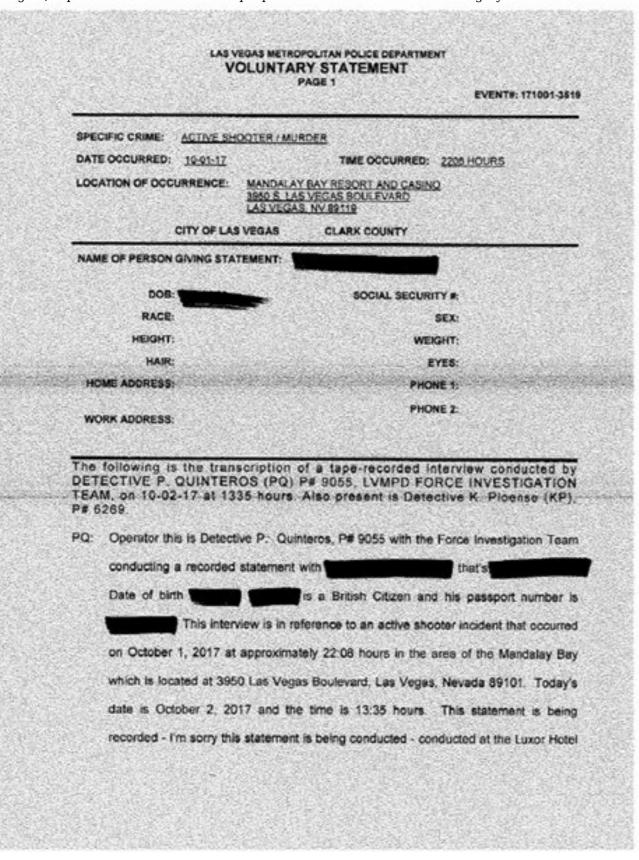


A \$9 CJA statement is preferable because: \$9 statements can, providing they have been accepted by the defence, be relied upon in court as evidence, without the witness attending court to give evidence; Section F20(2)(j) gives you the power to require a person to sign a declaration of truth. This is nelled to be prosecuted if they witness that they are liable to be prosecuted if they witness that they are liable to be prosecuted if they witness that they are liable to be prosecuted if they witness that they are liable to be prosecuted if they witness that they are liable to be prosecuted if they witness that they are liable to be prosecuted if they witness that they are liable to be prosecuted if they witness that they are liable to be prosecuted if they witness that they are liable to be prosecuted if they witness that they are liable to be prosecuted if they witness that they are liable to be prosecuted if they witness that they are liable to be prosecuted if they witness of Information Act 2000] Using compelled statement (where they contain. 2000] Using compelled statement (see Information Act 2000] Using compelled statements (see Information Act 2000] Using compelled statement (see Information Act 2000] Using compelled state

recognises that it may be necessary to target your investigation (eg towards the person best placed to control the risk).

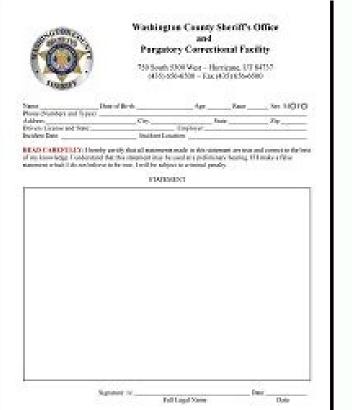
30. Usually, you will only be in a position to decide whether an individual should be interviewed under caution once those lines of inquiry are completed. If, at that stage, you are satisfied that a person in a senior position is not a suspect, then you can, if necessary, request a statement from that person. Other people 31. This category will include managers, supervisors and other similar people who do not fall within the category above. It will also include employees and self-employed people.

to decide corporate policy and strategy3. Whether such a person is a suspect in your investigation will depend on the evidence that you have collected. 29. You are under a duty to follow all reasonable lines of inquiry. This may include investigation will depend on the evidence that you have collected. 29. You are under a duty to follow all reasonable lines of inquiry. This may include investigation will depend on the evidence that you have collected. 29. You are under a duty to follow all reasonable lines of inquiry.



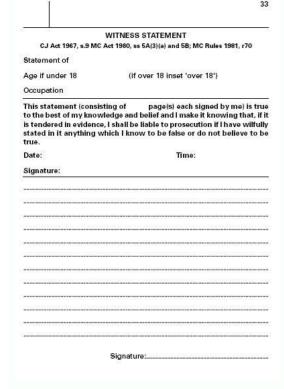
statement voluntarily should you consider exercising your powers under section 20(2)(j) to take a compelled statement. 14.

These people may have knowledge of the particular incident that you are investigating or the unsafe situation that gave rise to the investigating (eg their knowledge of the risk and the ability to avoid the risk, including system of work, training, instructions, supervision etc). 32. Statements taken from people within this category should include details of their employer, together with their position or self-employed, you should record details of their employer, together with their position or and/or section 36. If you have reasonable grounds to suspect that a person has committed such an offence, you should be reasonable grounds to suspect that a person has a right not to incriminate themselves, both under domestic law and under the fair trial provisions contained in Article 6 of the European Convention on Human Rights5. This right presuposes that the prosecution in a criminal case will seek to prove the case against the accused without resort to evidence obtained through coercion or oppression of the accused. Section 20(7) HSWA protects this right by preventing the use of a compelled statement against the maker of the statement (and their spouse or civil partner). Companies and compelled statement taken under section 20(2)(j) is not admissible in evidence of a director who has been compelled to make such a statement, against the company. 37. It may be argued later that the director should be regarded as "the company" and therefore cannot be compelled to give evidence against the company's right against self-incrimination.



	South Yorkshire Poli	ww.
(CJ Ac	Witness Statement 1967, a.W.C. Av. 1982, s. 162, MC F	
Statement of DR EDWARD	C WOLKER	
		patter Doctor
This statement consisting of belief and I make it knowing it	4 typed) 7 pagetts each signed by me) is true Nel, if it is tendered in evidence, I also tich I know to be false or do not belie	ell has lighte to representation of the area
Dated the 20th day of Jul	y 1989	
Signature E.C.Welker		
I am ourselfly working as a	Senior House Officer in Avanaths	elica. I qualified in Medicano in 1986
and since August of 1968.	I have been on the Trent Reg	gonal Health Authority argesthese
rotation.		
General Hospital.		e Anaesthelisi al Retherham Distric
On the afternoon of Saturda	ty April 15th, I was off duty. I not	urned home from walking the dog a
eround 3,00 pm. I turned o	n the television to see crowd dist	arbance at the Hilsborough Footba
Ground. The metch appear	red to have been abandoned, an	nd the television coverage seased.
listened briefly to a local rad	to station, who were also reporting	g a disturbance at the ground.
As I am familiar with the No	rthern General Hospital in Sheffi	eld, I decided to make my way then
in case I could be of assiste	nce in the event of cesualities bar	ng received.
Due to the location of my	house, I almost immediately e	ncountered an ambulance, which
assume was on its way to	the ground. It had its lights & a	siren on, and I followed immediately
behind it, with my headlights	ion	
		219
ignature:E.C.Walker	Signature witnessed by	Aulia Appleton

The Court of Appeal has stated9 that there is a distinction to be drawn between the compulsory production of documents or other material which had an existence independent of the will of the suspect or accused person and statements that they have had to make under compulsion. 41. In other words, it is important to determine whether the material in question is evidence that a defendant has been compelled to create (eg a compelled to create (eg a compelled to create may be protected from subsequent prosecution use by the right not to incriminate oneself. Material that was already in existence, but which the defendant was required to produce, does not have this protection and may be used as part of the prosecution case. Victim personal statements 43. A victim personal statement (VPS) is a statement made by the victim of a criminal offence relating to the effect of the offence on that person. The purpose of such a statement is: to give the victim an opportunity to state how the offence has affected them physically, emotionally, psychologically, financially or in any other way; to provide the victim with a means by which they can request information about, for example, the progress of the case; to give the victim an opportunity to say whether they require further support (for example, from Victim Support), have particular communication needs (such as visual or hearing impairments) or wish to claim compensation in the criminal proceedings; and to provide HSE and the courts with information on these matters and allow them to take account of the consequences of the offence on the victims.



Instructions on the use of victim personal statements in HSE investigations are given in OC130/12 45. A "victim", in relation to HSE's work, is an individual, injured as a result of another person (including a corporate bodyle, ommitting an offence under the relevant statutory provisions or, where there elevant statutory provisions or, where there has been a fatality, the bereaved repatives or partners (including same sex partners). OC130/12 gives further advice on how "victim" is to be defined in practice for the purposes of the VPS scheme. See also Contact with relatives of people killed through work activities a result of a protection of personal statement is to be taken, the victim should be given the HSE VPS leaflet. The opportunity to give a VPS is a valiable during the investigation and prosecution stages and the victim can provide a VPS in the victim can provide victim can be a victim can provide victim

exercise your powers (section 20(2)(1)). This can include facilities to see witnesses in private (subject to a person's right to have another person present if you are requiring information under section 20(2)(j)). You do not have to make appointments to see employees via their employer. However, you should arrange to see potential witnesses at an appropriate time. 53. Witness statements should normally be taken as soon as possible to ensure that: the events are still fresh in the mind of the witness; the evidence is recorded before the witness; the evidence with others. 54. This approach will give you the best evidence from the witness and make it more difficult for the defence to challenge the witness's evidence. 55. In some cases it may be more appropriate to obtain the home contact details of the potential witness and contact them there. (Ensure you follow HSE's personal safety advice in the section Your Health and Safety on the Intranet.) Dealing with the witness 56. All witnesses should be treated with courtesy and every attempt should be made to put witnesses at their ease. It is preferable to speak to witnesses in a private room so that there is a more relaxed environment. At the outset, you should explain to the witness that the primary aim of taking a statement from them is to find out what happened.

57. It is common practice within HSE to use the term witness "interview" when taking or proposing to take a witness statement. Elsewhere in the criminal justice system the term "interview" is used to refer to the questioning of a suspect. It is important therefore to clearly explain to a potential witness that they are not a suspect and you propose to take a statement from them. 58. Any statement should be written and signed in ink. Witness statements should be drafted so that they are concise and to the point. They should only deal with matters within the direct knowledge of the witness's own words.

In many cases, dutyholders will voluntarily assist you with making suitable arrangements to interview witnesses. However, should this not prove to be the case, you have a number of powers to require this under section 20 HSWA, including the power to require any person to afford you such facilities and assistance as are necessary to enable you to

59. You may find it helpful to take notes before beginning to write the statement. Once the statement has been completed, you should read it over to the witness. 60. When questioning the witness, you should ask all relevant questions so as to satisfy your duty under the Criminal Procedure and Investigations Act 1996 to pursue all reasonable lines of inquiry, whether these point towards or away from the suspect (see 'Key requirements' in the relevant section on disclosure of unused material in the Pre-trial Stage). 61. You will be concerned with obtaining the best evidence possible and therefore you will want to know from the witness whether they have discussed their evidence with anyone else (including the solicitor representing any suspect eg a company/employer or another person).

If there is any information relevant to the weight to be attached to a witness's evidence, this should be recorded in your notebook. 62. It is essential that you record each witness's home address, telephone numbers (including their home) and dates to avoid (if known) on the form attached to the statement, so that you can contact the witnesses at any time, if necessary. It is also essential that you record the witness's date of birth on the back of the statement where indicated. This is a legal requirement if the witness and, if required, perform a check for any previous convictions (see the related section in Attendance of witnesses). You should also ask whether or not the witness will consent to the disclosure is received for any

other purpose then you must seek consent for this and again make a written record of the reply. Identification of suspects by witnesses 63.

It may be necessary as part of the investigation for a witness to identify a person as someone they have seen involved in committing an offence. Whilst this occurs relatively rarely in HSE investigations, it could be required in certain circumstances (for example, where evidence is needed that an individual was indeed the person seen to carry out work on a domestic gas appliance). 64. In such a case, identification evidence should only be obtained in accordance with PACE Code D.

You should record the witness's description of the suspect before any identification procedures are carried out11. This record would normally be made in the form of a witness statement. Identification, must then only be carried out in accordance with Code D. In such circumstances, you should seek guidance from Legal Adviser's Office via your legal liaison point. Who can be present when you are taking a witness is not entitled as a matter of law to have a legal adviser present when his/her statement is taken. 68. The situation changes if a

seek guidance from Legal Adviser's Office via your legal liaison point. Who can be present when you are taking a witness is not entitled as a matter of law to have a legal adviser present when his/her statement is taken. 68. The situation changes if a witness turns into a suspect. You must terminate the statement-taking exercise immediately and issue the caution as required by the Police and Criminal Evidence Act 1984 (PACE). The procedures relating to interviewing a suspect are found in the Questioning of Suspects section. Statements complying with section 9 CJA [Section 31 (Law enforcement) exemption Freedom of Information Act 2000] Presence of solicitor/representative who represents a suspect 76. During an investigation into possible breaches of health and safety legislation by an employer, an employee witness providing a statement (whether under s9 CJA or s20 HSWA) may ask for the solicitor, or other representative, of the employer to be present when s/he is interviewed. 77. You should explain to the witness may want, for example, to seek the advice of his/her trade union. 78. The Solicitors Regulation Authority (SRA), the body that regulates solicitors in England and Wales, has published outcomes focused regulation which focuses on the high-level principles and outcomes that should drive the provision of legal services rather than detailed and preservity of such as conflict between them12. 80. The SRA has also issued guidance on whether it is appropriate for the employer's solicitor to be present during the SRA guidance deals with the situation where a solicitor claims to act for both the employer and the guidance of the surface of the span and the guidance deals with the situation where a solicitor claims to act for both the employer and the guidance of the span and the guidanc

The SRA handbook incorporates the SRA Code of Conduct. 4 solicitor must generally not act for two or more clients where there is a conflict of interest or a significant risk of such a conflict between them12. 80. The SRA has also issued guidance on whether it is appropriate for the employer's solicitor must generally not act for both represent the witness. It includes an example to the learn professional duty to tell each party what s/he learns from the other, yet at the same time will be under a similar duty to keep confidential what s/he has learned. 82. Where an employer's solicitor does not claim to represent the witness, the guidance states that "it is difficult to justify the employer's solicitor accompanying the employee to the interview" and that "it is generally inappropriate for the employer's solicitor to attend such interviews as the employee's consent to being present at the end of the interview active to expend the employer's solicitor does attend an HSE interview, s/he should ask to be provided at the end of the interview into a copy of any witness statement taken. You have the discretion to refuse such a request where supplying a copy of the statement would be likely to interfer ewith, or prejudice, the interview of practice for the detention, treatment and questioning of persons by police officers", Code C of the codes of practice, made under section 67 PACE, gives guidance to the Code'14 say that, although certain sections of the code apply specifically to people in custody, those who are present voluntarily to assist with an investigation should be treated with no less considerated with no less considerated with no less considerated or otherwise mentally vulnerable people 15 91. It is important to establish the age of 17, unless you have clear evidence to show that they are older, and any witness who you suspect, or are told, who is not employed by HSE 17. 94. An appropriate adult for a mentally disordered or otherwise mentally vulnerable person is a relative, guardian or other person is bein

The Youth Justice and Criminal Evidence Act 1999 introduced a range of measures that can be used to facilitate the gathering and giving of evidence by vulnerable witnesses are defined as: All child witnesses (under 18); and Any witness whose quality of evidence is likely to be diminished because they: are suffering from a mental disorder (as defined by the Mental Health Act 1983); have a significant impairment of intelligence and social functioning; or have a physical disability or are suffering from a physical disorder 99. The special measures available to vulnerable and intimidated witnesses, with the agreement of the court, include the use of screens, live link and video recorded interviews. 100. If you consider that special measures could apply to your witness who has difficulty in understanding English, you should arrange for an interpreter to attend 22. The interpreter will normally be a member of the National Register of Public Service Interpreters (NRPSI).

The statement should be written in the witness's own language and signed by the witness by the translation, which the interpreter will usually prepare. S/he should complete a witness statement producing the English translation,

certifying that it is a true and accurate translation of the statement given by the witness and stating that s/he is a member of the NRPSI (or other relevant organisation). The translation should be obtained as soon as possible, so as not to delay the investigation. 102. If the case goes to trial and you propose to call a witness who requires an interpreter,

you should notify the court as soon as possible, so that the court can arrange for a suitable interpreter to attend.

Deaf witnesses and people with speech difficulties 103. In such cases you should also arrange for an interpreter to be present24. The interpreter should read the written record and certify its accuracy 25. People with a visual impairment or reading difficulties 104.

Where a witness cannot read the written record was should read it out and ask the written record. You should then take a note that this has accuracy 105.

Where a witness cannot read the written record, you should read it out and ask the witness to sign it as correct. You should not interviewed 105.

You should not interview a person if you believe that they are unfit to be interviewed 27. This can be where conducting the interviewed 27. This can be where conducting the interviewed if they are unfit to be interviewed and they say about their involvement or suspected involvement in the offence might be considered unreliable in subsequent court proceedings because of their physical or mental state or anything that they say about their involvement or suspected involvement in the offence might be considered unreliable in subsequent court proceedings their mental state or anything that they say about their involvement or suspected involvement in the offence might be considered unreliable in subsequent court proceedings because of involvement in the offence anything the interviewed anything the statement for the offence that you have taken a statement from a witness and are likely to call them to give evidence as to suffer the offence that you have taken a statement for the offence that you have a discretion of taking a statement for the offence that you have a vinterviewed in the offence that you have a vinterviewed in the off

witness will pass their statement to a suspect or their representative, you will need to consider whether this may interfere with the course of justice. If so, you may use your discretion to refuse to provide a copy of the statement at that time. 110. For further guidance, see the sections Supplying statements to witnesses and Supplying statements to the defence in the Pre-trial section.

Witness interference and intimidation 111. It is an offence at common law to interfere with a witness by unlawful means, such as violence, bribery, threats or improper pressure 32. Such conduct amounts to an offence of perverting (or attempting to pervert) the course of justice. It does not matter that no criminal proceedings have yet been commenced, provided investigations which could or might bring about proceedings are in progress 33. Interfering with exhibits is also an offence 34. 112. The Criminal Justice and Public Order Act 1994 (CJPOA) contains two further offences of intimidating a witness and taking revenge on a witness 35. 113. The first offence covers acts which intimidate either a witness or a person assisting in the investigation of an offence, intending to cause the investigation of an offence with 36.

114. The second offence covers doing, or threatening to do, an act which harms and is intended to harm a person, knowing or behaviors to be abstracted in period on 37. The harm may be physical or financial, to that person, their family and friends, as well as their property. 115. Where you have taken a later that the person with the person of four the person with a person

statement from a witness who will not give oral evidence at court because of fear, the court may give leave to allow the written statement to be admitted in evidence 38 (see Exceptions to the hearsay rule).

116. The courts have been reluctant to allow a written statement to be admitted in these circumstances, as the witness will not be cross-examined. It also means that the jury will not be able to assess the credibility of the witness. You should therefore consider whether any of the special measures that the court can take to protect witnesses, for example use of screens or video links, will assist the witness to give evidence 39.

117. If you become aware of information suggesting that a witness has been interfered with or intimidated, you should report this information to the police. Footnotes The investigations and Investigations are particular case. Back Available on the Ministry of Justice website.

Back R v Boal (Francis) [1992] 3 All ER 177. Back See OC130/8 on prosecuting individuals for further guidance. Back Saunders v United Kingdom [1997] 23 EHRR 313; approved in numerous subsequent English cases. Back Triplex Safety Glass Company v Lancegaye Safety Glass (1934) Lie R 613, Rio Tinto Zinc Corporation v Westinghouse Electric Corporation [1978] 1 All ER 434. Back Tate Access Floors Inc v Boswell [1990] 3 All ER 303: the directors argued that the company was a mere creature of themselves and therefore any disclosure by them. The court of Appeal state (1907) [2000] 2 WLR 497 (CA) [2000] 2 WLR 412: the Court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the Court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 2 WLR 412: the court of Appeal state (back and another [1997] TLR 497 (CA) [2000] 4 WLR 412: the court of Appeal state (back and anot

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