

Employment Court Guidelines For Witness Briefs

1. The Court will determine the date by which each party's briefs of evidence must be filed and served. It is important to comply with these timeframes.
2. A brief should begin by identifying the witness by name, residential locality, occupation, and a brief description of the witness's role in the proceeding.

For example: "My Name is Jane Doe. I live at Auckland. I am a bus driver. I am a work colleague of the plaintiff, John Roe".
3. A brief must contain factual information, not opinion.
4. A brief must only contain information that is relevant to the matters that the Court will decide (including the details of any losses claimed).
5. A brief must not contain evidence that is inadmissible. For example, accounts of what happened in mediation in breach of s 148 of the Employment Relations Act 2000 or accounts of what happened at the judicial settlement conference, disclosure of 'without prejudice' offers of settlement etc.
6. The brief must be in the witness's own words. If it is in a language other than English, an English translation, prepared by a recognised translator, is required.
7. The brief must be set out in sequentially numbered paragraphs. Separate topics should be dealt with separately in the brief and may be introduced by an appropriate heading.
8. It is usually helpful to structure the brief chronologically.
9. Briefs must not contain submissions to the Court.

10. Repetition is to be avoided.
11. Briefs should refer to documentary exhibits in a bundle rather than setting out the text of those exhibits except where a short narration is appropriate and necessary in giving evidence.
12. Briefs should not anticipate what other witnesses may say and attempt to respond to these. There will be an opportunity at the hearing to deal with replies to the evidence of other witnesses, or by way of a brief of evidence in reply (if directed by the Court).
13. A brief should not express the witness's views about the merits of the case or other issues that the Court must decide.
14. Witnesses who do not qualify themselves as expert witnesses should not usually give opinion evidence about a matter in issue in the proceeding.
15. A brief for an expert ought to contain a statement that the witness has read the code of conduct for expert witnesses (schedule 4 to the High Court Rules) and agrees to comply with them.
16. Where a witness's evidence is based on a belief or assumption of the witness rather than personal observation, the witness must provide detail about how he or she came to that belief or assumption.

For example: "I believe that there had been an altercation outside the factory because Joe Brown came into my office in an agitated state and told me that he had been punched by Fred Smith who had then got into his car and driven off."
17. If a brief does not comply with these guidelines the Court, prior to or during the hearing, may direct that it not be read in whole or in part, and the Court may make such order as to costs as it thinks fit.