

## During my hearing or trial

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When they represent you, your solicitor needs to:

- explain and argue your case, which might include asking questions on your behalf
- answer questions from the judge or the other side
- respond to arguments against your case from the other side.

Your solicitor might also need to:

- question you if you are giving evidence
- question any witnesses who are giving evidence for your case or the other side.

To do these things properly, your solicitor needs to provide good standards of spoken legal advocacy. It can be hard to tell if your solicitor is doing this, because it is a technical skill. Read the information below to help you decide.

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### **Being well prepared**

To provide good standards of spoken legal advocacy, your solicitor needs to be [well prepared](https://indemnity.sra.org.uk/consumers/instructing/legal-advocacy/before-hearing-trial/) [https://indemnity.sra.org.uk/consumers/instructing/legal-advocacy/before-hearing-trial/].

During your hearing or trial, you may be able to tell that your solicitor is well prepared. For example, they:

- get to the court or tribunal in time for your hearing or trial, or for a meeting you arranged with them before it starts
- can answer questions about your case quickly and clearly
- can answer questions about the law that applies to your case quickly and clearly
- seem organised when they refer to information about your case.

If your solicitor has not prepared properly, they might:

- arrive late for your hearing or trial, or for a meeting you arranged with them
- be criticised by the judge for not being able to answer questions
- be criticised by the judge for failing to follow the rules of the court or tribunal
- seem to forget important points about the case, such as the details of an important event



- seem unsure about the decisions you have made about your case (your instructions).

It's normal for judges to criticise lawyers and for difficult issues to come up during a hearing or trial. Solicitors also need to deal with a lot of information, so they might need to remind themselves of things like the exact date of an event. However, your solicitor needs to have a very good reason for being late for your hearing or trial or for missing deadlines.

Find out [what to do \[https://indemnity.sra.org.uk/consumers/problems/\]](https://indemnity.sra.org.uk/consumers/problems/) if you think your solicitor hasn't prepared your case properly.

## **Following your instructions**

During your hearing or trial, your solicitor must follow the instructions you have given them about your case.

Your solicitor might need to take instructions from you during your hearing or trial, for example, if a new issue comes up and needs a decision from you.

Examples of failing to follow instructions include:

- asking the judge to make an order or decision without your permission
- accepting an offer from the other side without your permission.

Find out [what to do \[https://indemnity.sra.org.uk/consumers/problems/\]](https://indemnity.sra.org.uk/consumers/problems/) if you think your solicitor hasn't followed your instructions.

## **Being clear**

To provide good standards of spoken legal advocacy, your solicitor needs to be clear. This means they need to:

- avoid too much detail
- avoid technical terms when they can
- be accurate
- organise what they say in a way that people can understand
- adapt what they say and how they say it to the needs of the people they're speaking to or questioning.

Your solicitor might take specific steps to be clear if the hearing is conducted over the phone or in a video conference call. Examples include:

- asking shorter questions
- checking that people can hear things and that there aren't any technical problems



- taking more breaks. Some people find it harder to concentrate in a video call or telephone call than in person.

Use these questions to help you identify if your solicitor's spoken advocacy is clear:

1. Can I understand what my solicitor is saying?
2. Is my solicitor using lots of technical terms that I don't understand?
3. Has my solicitor explained any technical terms or asked if people understand them?
4. Do my solicitor's points seem well organised, for example, because they follow the timeline of my case?
5. Has the judge criticised my solicitor for making mistakes, going into too much detail, using complicated language or being hard to understand?
6. Has my solicitor said anything I think is wrong?
7. Are people confused by what my solicitor is saying, for example, has a witness said they don't understand a question?
8. Has my solicitor done what they said they would do to help me take part in my hearing or trial? This could include steps that are specific to a video conference or telephone hearing.

Remember these points when you think about the above questions.

- Your solicitor might have a good reason for organising their points in a way that seems confusing to you.
- Your solicitor might need to take specific steps to be clear in a video or telephone hearing, such as asking shorter questions or checking that people have heard and understood things.
- Some technical terms might be needed, for example, when talking about the law that applies to your case.
- The language your solicitor uses when they speak to the judge in your case might be more technical than the language they use when they speak to you or a witness.
- Small mistakes can be normal. It's difficult to represent someone in a court or tribunal and your solicitor may have to process difficult information very quickly.
- Judges have a duty to manage cases. As part of this duty, they might call out any mistakes made by your solicitor or a failure to be clear.

During your hearing or trial, if your solicitor says something or asks you a question that you don't understand, let them know so they can help.

You can also speak to your solicitor about anything said during your hearing or trial that you don't understand.

Find out [what to do](https://indemnity.sra.org.uk/consumers/problems/) [https://indemnity.sra.org.uk/consumers/problems/] if you think your solicitor has been unclear.



## Being persuasive

To provide good standards of spoken legal advocacy, your solicitor needs to be persuasive by using legal argument skills to try to win your case.

Being persuasive doesn't always mean winning a case. Every case has strengths and weaknesses which depend on its facts, the evidence and the law. A solicitor with good legal argument skills could lose a weak case and a solicitor with poor legal argument skills could win a strong case.

To be persuasive during your hearing or trial, your solicitor needs to:

- be well prepared and clear
- organise facts to show the weak points of the case of the other side
- respond effectively to questions about the case
- point out the weaknesses of the arguments made by the other side.

These skills are technical, so it can be hard to tell if your solicitor is delivering them to the right standard. Use the questions below to help you decide if they are:

1. Is my solicitor presenting my case in the ways we discussed before my hearing or trial?
2. Is my solicitor focusing on the strengths of my case, which we discussed?
3. Is my solicitor focusing on any points they said earlier they would avoid, for example, because they aren't relevant or don't support my case?
4. Has the judge criticised my solicitor for failing to understand a question or answer it properly??
5. Has the judge criticised my solicitor in any other way for how they're arguing my case, for example, their understanding of the law or the relevance of what they say?
6. Does the way my solicitor is arguing my case seem well prepared and clear?
7. Has my solicitor pointed out weaknesses in the case of the other side, including any we discussed before my hearing or trial?

When you think about how persuasive your solicitor is being during your hearing or trial, it's important to understand the following:

- Legal arguments can be very different from normal arguments. They are normally calm. People aren't allowed to shout at or insult each other in courts and tribunals.
- Lawyers have different ways of using legal argument skills to be persuasive. This doesn't mean one way is better or worse than another.
- Your solicitor might use different legal argument skills at different stages of your hearing or trial, for example, when they're questioning a witness and when they're speaking to a judge.



- The approach your solicitor takes to arguing your case can be affected by the area of law it's in, the court or tribunal that is dealing with it and decisions made by the judge.

Find out [what to do](https://indemnity.sra.org.uk/consumers/problems/) [https://indemnity.sra.org.uk/consumers/problems/] if you think your solicitor hasn't provided acceptable standards of spoken advocacy.

## **Dealing with witnesses**

During your hearing or trial, your solicitor might need to question:

- you. if you're giving evidence
- any witnesses who are giving evidence for your case
- any witnesses who are giving evidence for the other side.

Solicitors must deal with all witnesses appropriately. They have a duty to help the court or tribunal make sure that people can take part in a hearing or trial.

This means that solicitors must treat all witnesses with courtesy and respect. They must never:

- bully, intimidate or harass a witness
- be rude or hostile to a witness, even if the witness is being rude and hostile to your solicitor.

Solicitors also need to communicate clearly with witnesses and provide information in a way they can understand.

Solicitors also need to take reasonable steps to adapt their communication to witnesses' needs, abilities and characteristics. Some witnesses find it hard to understand information or need to have it provided in a different way, for example, because:

- they are a child
- they have a disability or condition that makes it hard for them to understand information or means they need it provided in a certain way
- they find it hard to understand spoken English
- they cannot read or write
- they're giving evidence on a sensitive or upsetting issue.

There are lots of ways solicitors can adapt how they communicate with witnesses who have specific needs. Your solicitor might agree some adaptations with the court and the other side:

- before your hearing or trial, if it is clear that a witness needs help to take part
- during your hearing or trial, if it becomes clear that a witness is finding it hard to give evidence.



Some examples of adaptations that can be made to help witnesses take part in a hearing or trial include:

- arranging breaks when the witness is giving evidence, for example, if they have a condition that affects their concentration.
- using special equipment to help a witness communicate, such as a hearing loop if they're deaf or hard of hearing.
- questioning a witness through an interpreter if they find it hard to understand spoken English.
- using screens so a witness can't see someone, for example, because they're scared of them.
- arranging for a witness to give evidence in private, for example, if their evidence is about something traumatic such as sexual assault.
- questioning a witness through another person, called an intermediary, if they need help to understand things.
- letting a witness give evidence with communication aids, such as drawings or dolls to represent people or actions.

Solicitors might make other adaptations on the spot during a hearing or trial, for example:

- offering to repeat information or a question
- rephrasing information in plain English
- breaking information down into smaller chunks
- asking if a witness would like a break if they seemed confused or upset.

Find out [what to do \[https://indemnity.sra.org.uk/consumers/problems/\]](https://indemnity.sra.org.uk/consumers/problems/) if you think your solicitor hasn't dealt appropriately with a witness.

## **Making sure your needs are met**

Throughout your case, your solicitor needs to take reasonable steps to identify and meet your needs. If you're disabled, they have a legal duty to make reasonable adjustments so you can use their services.

They also need to help you take part in your hearing or trial. This duty is shared by the court or tribunal that is dealing with your case and any other lawyers who are involved. The court or tribunal must also make reasonable adjustments if you're disabled.

During your hearing or trial, your solicitor should make sure any arrangements you need are provided and that your needs are met. This could include:

- reminding the court or tribunal, and the other side, of your needs and any arrangements to help meet them
- telling the court or tribunal if the other side is failing to meet your needs



- or is treating you unfairly, for example, by being rude or asking questions you can't understand
- asking the court or tribunal for a break if you're finding it hard to take part in your hearing or trial, for example, because you're upset.

Find out [what to do \[https://indemnity.sra.org.uk/consumers/problems/\]](https://indemnity.sra.org.uk/consumers/problems/) if you think your solicitor hasn't made sure your needs are met.