

Delivering an effective opening speech

31 August 2022

What is involved

In civil trials short opening speeches are made on behalf of the claimant before you call the evidence. How short depends on the complexity of the case. If you represent the defendant you can generally make a short speech at the outset as well.

In criminal trials the prosecution has a right to make an opening speech before giving its evidence but may forego this in simple cases. If the defendant has entered no plea or a plea of not guilty then the court may invite the defence to make an opening statement. This is also known as a statement of issues in dispute.

Opening speeches are uncommon in family law matters as the court usually deals with any housekeeping matters before moving swiftly to hear the trial. The court sometimes directs for an opening note to be filed in advance.

If you need to deliver an opening speech it is an opportunity to show the court that you are well prepared and set the tone for the rest of your advocacy.

It should be a succinct and focused summary of the issues that need to be decided and your client's case, with reference to any key documents. Condensing this potentially complex information into a succinct and clear opening speech can be challenging for all advocates and in any case.

Your obligations

Delivering an effective opening speech can help you meet some of the requirements of our Competence Statement including but not limited to:

- B5 Undertake effective written and spoken advocacy.
[<https://www.sra.org.uk/solicitors/resources/continuing-competence/cpd/competence-statement/#b5>]
- C1 Communicate clearly and effectively, orally and in writing.
[<https://www.sra.org.uk/solicitors/resources/continuing-competence/cpd/competence-statement/#c1>]

It is also a requirement of our Statement of standards for solicitor higher court advocates. [<https://www.sra.org.uk/solicitors/resources/continuing->



competence/cpd/accreditation/higher-rights-of-audience/statement-of-standards-for-solicitor-higher-court-advocates/]

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What to include in your opening speech

If you are the first person to make an opening speech, you should start by introducing yourself and the other side to the court. For example, by saying: 'Your Honour, I appear on behalf of the Claimant/Prosecution in this case and my learned friend Mr/Ms [Name] appears for the Defendant.'

This speech should help the court know what to expect and focus on for the rest of the hearing or trial, by providing a straightforward summary of:

- your case theory
- the key facts of your case, in an order which supports your case theory
- the issues that are in dispute and what you will seek to prove
- the burden of proof.

The length of your opening speech will depend on the complexity of your case. However, it should be concise and easy to follow.

Addressing weaknesses in your case as part of your opening speech may give you a tactical advantage. This could take the sting out of the points the other side will make if left to reveal and exploit those weaknesses themselves. This is a judgement call for you as an advocate, which will depend on the specific features of your case.

The style of your opening speech should be engaging and direct. It can help if you:

- avoid reading your opening speech from paper or a screen
- tell the key facts of your case like a story, while remaining concise and easy to understand
- address specific points to the tribunal of fact. For example, by telling them what they are there to decide and explaining why they should decide in your favour.

What to exclude from your opening speech

Although your opening speech should state and support your case, it shouldn't include legal argument. For example, tell the court the facts of the case from your client's perspective, but don't submit legal arguments to disprove the account of the other side.



As stated, your opening speech should be succinct and focussed; including an expansive description of all the legal issues you have researched will not assist the court.

You should also avoid technical or detailed points, particularly if you are speaking to members of a jury who are less likely to understand the law.

Opening speech template

You can use this template to help prepare your opening speech. It is based on a criminal case but can be adapted.

Your Honour and members of the jury, I appear for the prosecution. My learned friend, Ms Doe appears for the defendant, Mr Adam Smith.

You are here to decide if Mr Smith is guilty of the offence of unlawfully and maliciously wounding another person, under Section 20 of the Crimes Against the Person Act 1861. Last year, at around 2:45 in the morning on 22 June, the police arrested Mr Smith outside the Zoo Bar on Borough High Street in South East London. The police and paramedics attended the location after Ms Julie Barnes called 999. She will appear as a witness for the prosecution, along with several other people who were in the vicinity at the time of the alleged offence.

The police and paramedics arrived at the scene to find Mr Brian John, the victim in this case, lying seriously injured on the pavement outside the Zoo Bar. He was bleeding heavily from deep wounds to his scalp and face. He was taken by ambulance to Guy's Hospital. Medical staff at the hospital inserted 52 stitches to six wounds. One of Mr John's cuts was just two centimetres from his left eye. He will have visible scarring to his face for the rest of his life.

Mr Smith had been restrained by two door staff from the Zoo Bar, until the police arrived; both door staff, Mr X and Mr Y, will be called to give evidence.

The police arrested Mr Smith on suspicion of unlawfully and maliciously wounding another person. After being interviewed under caution, he was charged with the offence under Section 20 of the Crimes Against the Person Act 1861.

Since being charged, Mr Smith has pleaded not guilty on the basis that he only acted in self-defence. The defence will argue that Mr John went to physically attack Mr Smith after verbally threatening him. The defence will also argue that Mr Smith then instinctively put his hands in front of him to protect himself from physical harm. And



that the pint glass he was holding broke on contact with Mr John's face.

Mr John's wounds are, undoubtedly, life changing and serious. Mr Smith admits inflicting them – so that is not in dispute – but claims he only acted in self-defence. The prosecution's case is that in fact, Mr Smith was the aggressor. In other words, he did not instinctively use force, genuinely believing that he needed to do so to protect himself from an attack by Mr John. Rather. It is the prosecution's case that Mr Smith launched an unprovoked attack against Mr John because Mr John had recently broken up with Mr Smith's younger sister, Karen Smith.

The prosecution bring this case and it is for the prosecution to prove. To prove guilt, the prosecution must satisfy you, so that you are sure, that Mr Smith inflicted these injuries maliciously and unlawfully. Maliciously means that Mr Smith inflicted the injuries recklessly or intentionally. Unlawfully means that he did not inflict the injuries in self-defence.

In this case, if you are sure that Mr Smith was not defending himself from an attack, but that he aggressively attacked Mr John, then the prosecution will have discharged its burden to prove the case because you will be sure of guilt.