



**Birmingham Peoples
Centre**

Putting People First

Witness cannot attend the hearing

As mentioned previously once you send the other side the details of your witnesses and their statements the other side has the right to cross examine their account during the hearing. As a result you may find yourself in a situation where your witness cannot attend the tribunal on the date that the hearing is scheduled. Your witness will have to have a very good reason for not being able to attend. It is important therefore, that once you are aware of your hearing date you let your witness know the date.

If there is a very good reason for your witness not attending and their version of events is very important to your case you should contact the tribunal as soon as you become aware that there is a problem. You should do this either by letter or e-mail. When you do this you should also send the tribunal a copy of that person's witness statement, this will allow the tribunal to determine the importance of that person's evidence. In the letter or e-mail you will need to outline the reason someone cannot attend and why that person is so important to your case. Finally you will need to ask the tribunal to reschedule the hearing to another date.

Depending on how strong the witness is to your case the other side will probably make a big deal about this and object. The tribunal judge will decide ultimately what should be done. Postponing the hearing has to be for a good reason. If it turns out that the witness cannot attend because they have booked a holiday, the judge will want to know when the holiday was booked. If it was booked after the witness was made aware of the date of the hearing, you will have to show that you told the witness the date of the hearing and so this is not your fault.

If the witness cannot attend because of an illness, the illness has to be serious enough to stop them from attending. A cough, cold, headache is not going to be good enough. More than likely you will need a letter (not a sick note/fit note) from a doctor explaining the condition and why the witness cannot attend the hearing.



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