

---

STATUTORY INSTRUMENTS

---

**2007 No. 3444**

**The Courts-Martial (Royal Air Force) Rules 2007**

**PART 2**

**PROSECUTION OF OFFENCES**

**Conduct of formal preliminary examination**

7.—(1) Subject to paragraph (3), each witness whom the prosecuting authority seeks to examine orally shall be examined by him, after which the accused shall be entitled to cross-examine the witness.

(2) A signed written statement or other record of the evidence of each witness listed under rule 6(2)(d) shall be read out by the prosecuting authority, unless the accused consents to their inclusion in the record of the examination without being read out.

(3) If the case being investigated concerns behaviour of a violent, cruel or sexual nature and the relevant witness is a person under the age of 17, then—

- (a) the prosecuting authority may read out any written statement made by or taken from the witness which would be admissible if given orally; and
- (b) the accused may not cross-examine the witness in person.

(4) During the formal preliminary examination the prosecuting authority may notify any witness to attend the examination and give oral evidence.

(5) After paragraphs (1) and (2) have been complied with, the prosecuting authority shall explain to the accused—

- (a) that he may give evidence if he so wishes, but he is not obliged to do so;
- (b) that he may call witnesses on his behalf.

(6) Any witness for the accused (including the accused himself) may give evidence orally but shall not be subject to cross-examination, except that the prosecuting authority may ask a question where it is necessary to resolve an ambiguity or to enable the evidence to be recorded in a coherent form.

(7) Except where the witness is a person under the age of 14, any evidence given orally during the formal preliminary examination shall be given on oath, administered by the prosecuting authority.

(8) Any evidence given orally during the formal preliminary examination shall be recorded by the prosecuting authority or a court recorder.

(9) Where the evidence is recorded in writing, the record of his evidence shall be read back to the witness at the conclusion of his evidence, corrected where necessary and signed by him.

(10) A copy of any statement read out in accordance with paragraph (2) or (3) and the transcript of any shorthand note or mechanical record shall be included in the record of the examination.