

## A CHECKLIST OF THE FORMAL REQUIREMENTS FOR WITNESS STATEMENTS

1. The witness statement **must** have the heading of the proceedings.
2. The top right hand corner **must** contain
  - (i) details of the party;
  - (ii) initials and surname of the witness;
  - (iii) the number of the statement;
  - (iv) the identifying initials and number of each exhibit and
  - (v) the date the statement is made.
3. The statement **must** contain:
  - (1) The full name of the witness.
  - (2) Address.
  - (3) Occupation or description.
  - (4) Whether they are party to the proceedings or the employee of a party.
4. The statement **must** indicate the whether it is made from the witness's own knowledge **and** the source of any matters of information or belief.
5. The witness statement **must** state the process by which it is obtained.
6. Any exhibit **must** be verified and identified.
7. The witness statement:
  - (i) Produced on durable A4 paper with a 3.5cm margin.
  - (ii) Must be fully legible and typed on one side of the paper.

- (iii) Be bound in a manner that does not hamper filing.
- (iv) Have pages numbered consecutively.
- (v) Be divided into numbered paragraphs.
- (vi) Have all numbers, including dates, expressed in figures.
- (vii) Give the reference to any document or documents mentioned in the margin or in bold text in the body of the statement.

8. The witness statement should follow the chronological sequence of events or matters.

9. Each paragraph of a witness statement should be confined to a distinct period of the subject.

10. The witness statement ***must*** be verified by a statement of truth and signed by the witness.

11. Any alteration to a witness statement must be initialled by the person making the statement or the authorised person.

## **THE RULES**

The rules are succinct:

### **“Form of witness statement**

**32.8 A witness statement must comply with the requirements set out in Practice Direction 32.**

**(Part 22 requires a witness statement to be verified by a statement of truth)”**

However note the obligation. The witness statement ***must*** comply with the requirements in the Practice Direction. So litigators must know the requirements intimately. (If you haven't read the Practice Direction yet, read it now).

## **THE PRACTICE DIRECTION**

Note the mandatory requirements for the form of a witness statement

### **“WITNESS STATEMENTS**

## Heading

**17.1** The witness statement should be headed with the title of the proceedings (see paragraph 4 of Practice Direction 7A and paragraph 7 of Practice Direction 20); where the proceedings are between several parties with the same status it is sufficient to identify the parties as follows:

Number:

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A.B. (and others)

Claimants/Applicants

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C.D. (and others)

Defendants/Respondents

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(as appropriate)

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**17.2** At the top right hand corner of the first page there should be clearly written:

- (1) the party on whose behalf it is made,
- (2) the initials and surname of the witness,
- (3) the number of the statement in relation to that witness,
- (4) the identifying initials and number of each exhibit referred to, and
- (5) the date the statement was made.

## Body of witness statement

**18.1** The witness statement must, if practicable, be in the intended witness's own words, the statement should be expressed in the first person and should also state:

- (1) the full name of the witness,
- (2) his place of residence or, if he is making the statement in his professional, business or other occupational capacity, the address at which he works, the position he holds and the name of his firm or employer,
- (3) his occupation, or if he has none, his description, and

(4) the fact that he is a party to the proceedings or is the employee of such a party if it be the case.

(5) the process by which it has been prepared, for example, face-to-face, over the telephone, and/or through an interpreter

**18.2** A witness statement must indicate:

(1) which of the statements in it are made from the witness's own knowledge and which are matters of information or belief, and

(2) the source for any matters of information or belief.

The statement **must** indicate the whether it is made from the witness's own knowledge **and** the source of any matters of information or belief.

**18.3** An exhibit used in conjunction with a witness statement should be verified and identified by the witness and remain separate from the witness statement.

**18.4** Where a witness refers to an exhibit or exhibits, he should state 'I refer to the (description of exhibit) marked '...''.

**18.5** The provisions of paragraphs 11.3 to 15.4 (exhibits) apply similarly to witness statements as they do to affidavits.

**18.6** Where a witness makes more than one witness statement to which there are exhibits, in the same proceedings, the numbering of the exhibits should run consecutively throughout and not start again with each witness statement.

Format of witness statement

**19.1** A witness statement should:

(1) be produced on durable quality A4 paper with a 3.5cm margin,

(2) be fully legible and should normally be typed on one side of the paper only,

- (3) where possible, be bound securely in a manner which would not hamper filing, or otherwise each page should be endorsed with the case number and should bear the initials of the witness,
- (4) have the pages numbered consecutively as a separate statement (or as one of several statements contained in a file),
- (5) be divided into numbered paragraphs,
- (6) have all numbers, including dates, expressed in figures, and
- (7) give the reference to any document or documents mentioned either in the margin or in bold text in the body of the statement.

**19.2** It is usually convenient for a witness statement to follow the chronological sequence of the events or matters dealt with, each paragraph of a witness statement should as far as possible be confined to a distinct portion of the subject.

## **Statement of Truth**

**20.1** A witness statement is the equivalent of the oral evidence which that witness would, if called, give in evidence; it must include a statement by the intended witness that he believes the facts in it are true

**20.2** To verify a witness statement the statement of truth is as follows:

‘I believe that the facts stated in this witness statement are true’.

**20.3** Attention is drawn to rule 32.14 which sets out the consequences of verifying a witness statement containing a false statement without an honest belief in its truth.

(Paragraph 3A of Practice Direction 22 sets out the procedure to be followed where the person who should sign a document which is verified by a statement of truth is unable to read or sign the document.)

## **POINTS TO NOTE**

Paragraph 18 is often overlooked. Particularly the obligation to give the occupation of the witness and the source of the witnesses information or belief.

## **SIGNATURE OF THE WITNESS**

The witness statement **must** be signed by the witness. An electronic signature appears to suffice.

