

Witness Statement Workshop

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What are we going to cover today?

- Formal requirements for witness statements
- Practice Direction 32 – Civil Procedure Rules
- Format of a Witness Statement
- What makes an effective witness statement
- Questions

Formal Requirements for Witness Statements

- CPR 32.8 – A witness statement must comply with the requirements of Practice Direction 32
- https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part32/pd_part32
- CPR Part 22 – requires a witness statement to be verified by a Statement of Truth

Practice Direction 32 of the CPR

- The witness statement should be headed with the title of the proceedings (para 4 of PD 7A and para 7 of PD 20)
- Where the proceedings are between several parties with the same status it is sufficient to identify the parties as follows – A.B. (and others)
- At the top right hand corner of the first page there should be clearly written:
 - The party on whose behalf it is made
 - The initials and surname of the witness
 - The number of the statement in relation to that witness
 - The identifying initials and number of each exhibit referred to; and
 - The date the statement was made

Practice Direction 32 of the CPR – Body of the witness statement – 18.1

- The witness statement must, if practicable, be in the intended witness' own words, the statement should be expressed in the first person and should also state:
 - The full name of the witness
 - 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;
 - His occupation, or if he has none, his description; and
 - The fact that he is party to the proceedings or is the employee of such a party if it be the case.

Practice Direction 32 of the CPR – Body of the witness statement – 18.2

- A witness statement must indicate:
 - Which of the statements in it are made from the witness' own knowledge and which are matters of information or belief; and
 - The source for any matters of information or belief
- *"The Courts have regularly reminded parties that the purpose of witness statements is to replace oral testimony. It is not to rehearse arguments, it is not to set out a case and whilst it necessarily has to be drafted with the collaboration of lawyers, it should not be a document created in the language of lawyers, because the lawyers do not go into the witness box and defend it. This is unfair to defendants and to witnesses."*

Practice Direction 32 of the CPR – Body of the witness statement

- 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 (description of exhibit) marked ...'
- 18.5 – The provisions of paragraphs 11.3 and 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.

Practice Direction 32 of the CPR

- *"It might lengthen cases as regards preparation, but for every hour spent on preparation it has huge saving times in the trial and, of course, if positive first-hand evidence is provided the defendants will know what they have to meet and it might well lead them to conclude that they cannot contest it and it might well lead to more consensual resolution of these cases."*

Practice Direction 32 of the CPR ...(cont'd)

- However, it is important that cases have to be prepared not on the basis that it is assumed they will capitulate but on the basis that they might fight and if they are going to be prepared on that basis they must be properly prepared:
 - So that the accumulation of documents is not oppressive
 - So that the witnesses are given a fair opportunity to present their evidence properly according to the contemporaneous documents; and
 - The defendants are given a fair opportunity to contest the allegations made against them by witnesses.

Format of a witness statement – 19.1

- A witness statement should:
 - Be produced on durable quality A4 paper with 3.5cm margins
 - Be fully legible and should normally be typed on one side of the paper only
 - 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.
 - Have the pages numbered consecutively as a separate statement (or as one of several statements contained in a file)
 - Be divided into numbered paragraphs
 - Have all numbers, including dates, expressed in figures; and
 - Give the reference to any document or documents mentioned either in the margin or in bold text in the body of the statement.

Format of a witness 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 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.”**
- CPR 32.14 sets out the consequences of verifying a witness statement containing a false statement without an honest belief in its truth
- Paragraph 3A of PD22 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.

What is Good Evidence?

- Statement signed by tenant/witness
- Phone call from someone relaying what another person told her
- Correspondence with tenant
- Statement from complainant
- Diary sheets
- Certificate of conviction
- Rent statement
- Photographs taken with a databack camera
- Tenancy agreement
- Viewing checklist signed by Housing Officer
- Medical Records/Report from GP

And finally ...

Any questions?