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Official witness statement template

If you have to testify in court, you can avoid mistakes. Mistake in witness statements makes your life harder. They force you to take steps to defend what you say in court. That may be preventable. Getting it right the first time has other benefits. Avoiding mistakes puts you in a position to focus on promoting your own cause. Structure your witness statements properly and cover what needs to be covered. Below we give some suggestions on preparing witness statements. We also give the low down on some of the processes that courts are likely to continue to assess and verify what you say in your witness statement. Below, we've also included a statement from a template tool to help you get started. What are witness statements? Witness statements are formal court documents. They are made by witnesses of: Witness statements: are the main way in which courts can make evidence in order to support a request for interim injunction (such as an injunction) or rely on the process in court disputes have the same general form in civil proceedings in England, whether they are used in disputes relating to contracts , work, car accidents disciplinary procedure. It is important to get the first time (or as good as possible) right, because when they are signed, they are supported by a statement of truth. First, the basics. Then we show how witness statements are tested and challenged. Contents of witness statements Overview If you make a witness statement, that should be: in your own words be written, in the first person state facts within your personal knowledge, and if not the source of the information or belief is not within your direct knowledge do not give any opinions unless you have an expert exhibiting evidence to support the statements follow the chronological sequence of events use numbered paragraphs , so that different parts of it can be referenced quickly and easily. It should also provide all the evidence that you are able to give to the court to help decide the case. More on this later under the heading Testing your Witness Statement. Format wisely, statements should be printed on a single side of A4 paper, and have a left margin of 35 mm. (We've been using 20mm margins for years, and have never been criticized for it). The conclusions and opinions I come up with below come from a wide range of disputes in civil proceedings. I'm not pretending there's only one way to make a deposition. Any testimony will depend on the circumstances in which it is required. What's clear, that you need to think about what you're saying your witness statement, and the confirmation you use to support what you're saying. It will give you more credibility and make it harder to criticize what you say in your testimony. There are at least two ways you prove what you say. Says, can: provide evidence that directly supports what you say. For example, if you say that a company exists, you would exhibit a page from the relevant company registry in your statement, from here: or produce evidence that tends to show what you say is true. Suppose you wanted to prove that you were in a certain place in a certain place. You could provide credit card statements showing that you purchased something from a store near the location, or a WhatsApp call that leaves communication with the person you were about to meet. When are witness statements used? Witness statements are a fundamental tool in the civil justice system. There are only 3 ways to go to court to receive evidence. Witness statements (and affidavits with them), oral evidence (under cross-examination and re-interrogation) and judicial notice. Courts use the submitted evidence to decide issues: during the trial: The trial takes place after all preparations have been completed. All parties, their witnesses, their experts (if any) come to court for the dispute to be heard and decided by the court. During the trial, the witness statements prepared for the trial will almost always contain testimony from witnesses (lay evidence). Evidence is just evidence that is not expert evidence. Expert evidence is given in the form of witness statements by people who are specially qualified to assist the court in deciding technical issues. Experts in one case may include IT experts, doctors, engineers, surveyors or mechanics. They are qualified to give advice on their expertise. interim applications: When an application is submitted, the application announcement (referred to as a point of order in some countries) is supported by evidence. This is known as evidence in support. The evidence may consist of one or more witness statements. The evidence that a batch files in response to the supporting evidence is known as evidence in response. Thereafter, the party submitting the application notice has a further opportunity to submit evidence, to respond to the evidence in response. This is known as evidence in response, and sometimes evidence in response. Typical interim applications are: The form of witness statements First page: Witness statements of the case have a prescribed form. Witness statement must place this information on the first page: the title of the proceedings the name of the person making the declaration, the party in the proceedings on whose behalf the documents were made in connection with the witness statement, the date on which the number of the witness who gave evidence. The title of the case makes clear on the first page of the court proceedings testimony was made for, and who made it. Section: Identifying yourself Following the title of the case comes a statement in which the deposit -- person who signs the witness statement. It has a prescribed form: I, [name], [appeal], of [address] will say as follows: If the witness statement is made in a business capacity, the address must be your working address. Otherwise, it's your home address. If you are unemployed or retired, these words replace the space provided for the person's profession. Why does it say this? Don't I tell you now when I sign it? Good question. The procedure of the court in England changed in approximately 2000. No witness statements were prepared for the trial. The witnesses just showed up and gave a personal oral statement. That would be the first the other party ever heard what the witness would say. Each party had its own witnesses whom they would call to the courts to testify in their favor. Their oral testimony before the party that calls them is known as their evidence in chief. After they gave their evidence in chief, the opposing party would then have a chance to cross them. After cross-examination, the party that called them would have another opportunity to ask them questions. This was done to clarify something that came during cross-examination. This is known as re-examination. This trial still applies, but witness statements replace evidence in chief given by oral testimony. Witnesses are now testifying in the witness statements. When you appear at court, you will be called for cross-examination. Section: Preliminary rounds Source of evidence Well-prepared witness statements begin with a statement confirming the source of the evidence given. And then stick with it. It usually has words like: The facts set out in this statement are within my own knowledge to store where I otherwise stand. Where I refer to facts that do not fall within my own knowledge, I will give the source of my knowledge of those facts. or Except when I indicated otherwise, the facts and matters in this witness statement are within my own knowledge. Where the facts do not fall within my own knowledge, I have identified my sources of information or belief. Different words, the same effect and message. You want to make sure you're in your statement. It serves as a reminder what evidence should be given, and what should not - or cannot be - given. It may sound trivial. It's not. In one case, words similar to those above were used in witness statements. But the witness statements didn't stick to the statement. In Starbucks against British Sky Broadcasting Group, the judge said: Despite [using words similar to the words in blue above], some of [the] statements contained information that, as they acknowledged during cross-examination, was not within her own knowledge, but without this clearly or indicating the source of the information. This is a violation of CPR PD32 18.2 [...]. [I]t inevitably causes causes difficulties for the witness under cross-examination. [...] The blame lies with the lawyers who prepared the witness statements. [...] This slipshod approach to preparing witness statements must stop. Those difficulties translate into the investigation: whether the witness statement as a whole contains the whole truth or whether there are other parts of the witness statement that are not true to get you on the back foot, and unsure of yourself when you are under pressure. When the source of the information or conviction is not provided, it is likely to lead to the evidence provided being (at least) heavily discounted and perhaps excluded from evidence that the court is willing to consider at all. If it's not within your direct knowledge: you haven't seen it or experienced it, it's hearing evidence, and of little weight at all. The purpose of using the wording at the beginning of a witness statement is, in a sense, to remind witnesses of the limits of evidence they can give, and: to protect you from one of the harsh technical aspects of the law, and to maintain your credibility in the witness box. Meet the Deponent - You Next, set yourself up, in short - in one or two sentences. Tell me who you are, and your background. Some people want to start the story (see below) to introduce themselves. Making a short statement here, and then expanding on it in the narrative section (if necessary) would work better. Also this preliminaries section is: a good place to say that you are related to one of the parties, such as I am an employee of the plaintiff or I am the brother of a director of the defendant, if you are, and a convenient place to define terms and abbreviations that will be used in the witness statement, if there is one. Section: Identifying yourself Following the title of the case comes a statement to explain why the statement is made, or the purpose of the witness statement is made early. This is the place to do it. While it may be obvious, your testimony may be one of many in court proceedings. Why the witness statement was prepared. You will also save the court some annoyance by having to work for themselves. This may be a statement that it is done in support of a request message, in response to an application or for the process. Section: Exhibits You will often need to refer to documents you rely on to state the facts you are standing against. If documents are on display, it is a good idea to introduce them at this stage. Also, it is usually a good idea to group exhibitions into categories and create separate exhibitions for each category. If they are dated, put them in date order within each exhibition. See also the section Expositions for guidance to arrange them. If there is one exhibition, it could be introduced with words like: There is now produced and shown to me a pageted bundle of relevant relevant highlighted [exhibition reference] which I will refer to in the course of this statement in the format [exhibit reference] / page number. When there is more than one exhibition, it is a good idea to introduce the content of each exhibition with a summary of its content. More on that later. Section: The Story This is the business end of the deposition. After setting out the context of your witness statement, the reason why it was written, the documents that will be referred, it is time to tell your story. Everyone's making a different statement of witness statements. To make it easy to read: Use short sentences and paragraphs where possible Keep it as concise and to the point as possible Use the correct capitalization and punctuation Avoid huge blocks of text It's OK to introduce and explain documents if they need them, but don't give extensive comments or opinions. That's for arguments to the judge at the hearing. In this story, you tell your story. You only testify to what is in your personal knowledge. It helps to have documents that back up. The exceptions are when someone has told you something, and you believe it. Again, preferably with documents, such as emails or instant message transcriptions, if they exist. It's really hard to understand the importance of making it clear that facts of information and belief (and not within your own personal knowledge), citing the source for all matters of information and belief. It is an important distinction to make, because one is direct evidence, the other is not. Other things to keep in mind: If you are referring to someone, introduce it by giving their full name and position or role with their employer, or any other description to explain why you mention them If you refer to a company or registered legal entity, it stands the full name, address and the type of company it is engaged in (software developers, mechanics, consultants or vendors as may be the case) If you have doubts or reservations about what you say, they state them. You don't want to be accused of misleading the court by leaving the wrong impression. If possible, add answers to questions you are likely to be asked by someone who reads your statement. You are likely to be asked to be cross-examined in due course anyway. Section: The End - The Statement of Truth Witness statements must be signed with a statement of truth. The testimony of truth for witness statements is: I believe that the facts mentioned in this witness statement are true. I understand that contempt of court proceedings can be brought against anyone who makes or makes a false statement in a that has been verified by a statement of truth without an honest belief in the truth. Statements of truth verify that you believe the facts stated in the document true and accurate: you have an honest honest in the truth of what you're saying. You sign and date the witness statement under the testimony of the truth. The status of the person giving evidence must be made clear. For example, when the plaintiff is an individual and signs the statement of truth, it might seem like this: I believe that the facts mentioned in this witness statement are true. I understand that contempt of court proceedings can be brought against anyone who makes or makes a false statement in a document that has been verified by a statement of truth without an honest belief in the truth. Ralph Rogers The Plaintiff [date] If the witness statement is made for a company that says the second statement in the case, it would read as follows: I think the facts stated in this witness statement are true. I understand that contempt of court proceedings can be brought against anyone who makes or makes a false statement in a document that has been verified by a statement of truth without an honest belief in the truth. [signed] Ralph Rogers [Director] [Chief Operating Officer] for the [Second] Defendant [date] The exhibits must be completed, printed and provided for you, with the witness statement at the time you sign it. Of course you can do it electronically. But you want the exhibits in a single document (usually a PDF), pageted and with the exhibition coversheet so that there is no confusion about what the exhibits contain. We prefer to print everything and then scan everything after it's all signed. It is a safer approach to prevent the order of documents from muddling through. Nothing may be changed in the document after you sign it. To make changes, you'll need to re-prepare another version for signing and re-sign it. Before you serve it. The consequences of signing a witness statement or other document verified by a statement of truth - without a real belief in the truth of what it says - are well, serious. Change your witness statement After you complete and sign your statement, your recollection may change. You should consider whether to put another witness statement in order to prevent the other party - and the court - from being misled by your witness statement. The amended evidence must be part of a further witness statement, which is served to the other parties. Statements of truth used for expert evidence differ. The reason for this is that experts owe a compelling duty to the court. More on that below. Preparing for witness statements Documents mentioned in a witness statement are organised in one or more exhibitions. They are part of the witness statement, although exhibits cannot be attached to it. When you sign the witness statement, each exhibition must be: have full pages (bottom right (bottom right (bottom right) 1, 2, 3 and so on), or even better [Exhibit Reference] / [page number], and have an exhibition cover-sheet. On the numbered pages you refer in your witness statement to page numbers of the exhibition. You quickly find the page to the exhibits in your witness statement at hearings. It's better for both you and the judge (that's the person you're trying to impress). An index for exhibitions really helps even if they contain many documents, as it helps to locate individual documents in large exhibitions. If there are many documents and they can be categorized, they really need to be broken down into different exhibitions. Let's say a person named Ralph Rogers testifies. It has 3 exhibits. Let's just say it's his second witness statement. His first testimony had two exhibitions, RR01 and RR02. The exhibits to his second statement would be marked RR03, RR04 and RR05. Each would be staples separately or in a folder where there are many pages that are too big to be stapling. Check out the template exhibition cover sheet below. It's a good idea to exhibit documents in this way, because: the documents support your case, it serves as a reminder of why you said something in your witness statement, it is harder to criticize your witness statement for lack of documentary support that you protect yourself by making sure that what you say refers to a specific document when you refer to a document, you are able to refer to different parts of it, with the context of what you say in your statement if there is anything unusual about the document, you will be able to comment on it the court will be able to see what you are talking about , instead of working it out or guess what you're talking about (and then seeking clarification at the hearing) your cross-examination will be either more difficult or more focused because you've kept yourself what you're saying without sounding like a deleted strange person who draws wild and unsubstantiated conclusions. Also: if one of the pages is illegible because printing is weak, you should type and exhibit a copy with the best copy you make of the poor quality document No point to provide proof that the judge and the other parties cannot read bundles of letters, emails and messages (such as WhatsApp and text messages) should be in chronological order, so that the earliest letter is at the top and the most recent at the bottom. Finally, at the same time that you sign the statement of truth, you must check that each exhibition is authentic. You do this by signing a statement on the cover of the exhibition sign). The statement usually says: I check if this is marked the exhibition [exhibit reference] to my [number] witness statement dated [date]. By the way, it's a good idea to spell the date, rather than use the format 04/05/year. You were supposed to use May 4th. Use. Writing a good witness statement The importance of context In drawing up your witness statement, it is a good rule of thumb to exhibit documents to the witness statement that supports the facts you are setting. Let's say you end up in a case where the other party claims that you misappropriated their confidential information and then used it to make a copy of their invention. In this hypothetical, you don't. You made it yourself, independent of the other party over a period of months or years. To defend yourself, you need a witness statement before the trial. The court will be interested to find out how you developed your own invention. It would make sense to cover the development process, step by step. Turn of Events You could just tell the story that: In a month you did research, then you have the proof of concept in the next month. After that it could come the internal testing and analysis of the results. Then you released the minimal viable product and did marketing, testing and got some feedback. And it was then the first you heard from the plaintiff: when they wrote to you claiming that you had copied their invention. Naked explanations of the facts in which a chronology of events is, well, better than nothing. But it has little weight. There is no independent evidence to support what you say. Documentary Support for witness statements Let's say that after you've prepared that basic chronology, you're going to your archives. You will look for documents and materials that support what you say. Like emails and notes that show the timing of the events in the development. Here's what you're sorry about: notes of your comments from testing, the results of failed tests, notes for improvements performance results from proofs of drafts versions of the invention email communication with potential vendors discussions with others in the market social media posts photos of materials used in your research contracts with vendors involved photos of the trade shows This kind of evidence is relevant because it shows - or the tendency to show - that you have the development of the invention independently of the person who says not. Think about it. If this type of evidence is included, your testimony goes from an unsupported story, to one that is supported by evidence holding its own weight. And a good contestable defense. The documents you have found add credibility and credibility to the witness statement. And it is the same with causes of action other than breach of confidentiality, such as the common claims made in commercial such as: Omissions Often a story can be told and details are omitted for brevity or impact. Witness statements are not the place to do this. If you know something and it's omitted, making what's said in the witness statement false or misleading, you should include the additional information. You have to be able to stand by the statement and tell the truth, the whole truth and nothing but the truth. Crime dramas may have made this sound a little stale, tied up or a little worn out. You need to re-sensitize yourself to the truth as you prepare your testimony. To get an idea of how courts handle misleading information, check out this article about clean hands. In a stand-alone Ideally, the reader of your witness statement does not need to refer to another document to understand your witness statement. This does not mean that copies of documents should be duplicated in multiple witness statements. For example, it's usually quite OK to refer to documents exhibited to someone else's witness statement. Jargon If jargon or industry-specific language is to be used, it should be explained concisely. So if you have to refer to say, software-as-a-service, you add that it services provided by software from a central server in a web browser, where the user does not have a locally installed copy of the software. Proof of your testimony Hopefully you will not be in a position where you must sign and/or submit your witness statement on the same day that you must submit and/or submit it. You're better off if you plan to have a final version ready for proof 7 days before it needs to be submitted and/or served. When you read about your statement, try to spot ambiguities and gaps in reasoning or the flow of the statement. If there are gaps, fill them in so that each step follows logically and sensibly from the previous instruction (or heading). If you've told the story - the story - in the order that they took place (i.e. chronological order), they'll be clear. Don't think that if you mix up the sequence of events the other party won't spend time finding the gaps and inconsistencies. Suppose that effort will be made, because cross-examination is really devastating to the credibility of a witness: that is, credibility. Opinion proof What to talk straight. The court decides facts on the basis of the evidence, based on the balance of probabilities. Witness statements are used to prove facts alleged in statements of case. It is not for witnesses to express opinions or arguments. Definitely explain the evidence presented if it doesn't make sense. One of the unique characteristics of courts is that the judges form their own opinions from the evidence, and decide on the facts. The lawyer - usually a lawyer if the other party is legally represented - present arguments to the court based on the evidence the judge. They also make comments about blatant omissions and inconsistencies in the evidence of witnesses. You're really devaluing your testimony when you give opinions. If a judge needs an opinion, he will receive directions for the parties to receive a qualified expert in the event of management parties and draw up a formal expert report. In that report, the expert may give a reasoned opinion on the basis of the evidence provided in the report. Otherwise, some courts have some tolerance for opinions. You will want to make sure that the advice is supported by what you say in your witness statement. This is so that the view can be objectively demonstrated - or at least demonstrated. So your testimony is not the place for: personal opinions adverse comments criticizing others opinions on the issues in dispute in the court proceedings, which the court must decide. Try to avoid giving advice unless you are formally qualified to give one, and it is objectively demonstrable. The trial: Some context The most important witness statements in court proceedings are used during the trial. There's a lot to think about and do when you represent yourself in court. When you have to appear at the trial as a witness though, you are usually invited to sit in court and listen to the evidence of the other witnesses. However, if an unfair advantage can be obtained - or perceived to be obtained - you could be asked to wait outside court until you are called to testify. Above, we mentioned the old procedure of giving evidence in chief oral. You are in court to be asked questions about what you said in your statement to help the court come to the truth. The truth in witness statements Even if you are a party to the proceedings, it is your overriding duty to tell the unvarnished truth, polite and respectful. If you start to plead your own case or take a side, everyone notices. All the witnesses are still sworn in today. Part of the oath or affirmation are the words, that the evidence you will give will be the truth, the whole truth, and nothing but the truth. Here's break this down: the truth: Simple. Tell the truth. the whole truth: Don't leave anything out that would make your evidence misleading. For example, if you were told something happened and didn't see it yourself, say it. nothing but the truth: Don't turn anything to give the wrong impression. And that's how it should be with your testimony. Witness statements are taken as evidence in the leader of the witness at trial, unless the judge orders otherwise. Evidence in chief is the evidence the witness gives in support of the case of the litigant for whom the deposition was made. During the trial, witnesses are usually limited to speaking about matters referred to in their testimony, unless there is a good reason to expand these cases. Witnesses attend the court for cross-examination by the counterparties in the court if required by the court or the counterparties. When witnesses do not appear for cross-examination, the evidence is treated as evidence of hearsay and of no value or weight. Cross-examination can be any case that the witness is able to deal with regarding the issues in dispute in the process and your credibility. As such, cross-examination is not limited to matters referred to in the witness statement - including statements outside the court that are not consistent with the evidence in the witness statement. When you're questioned in court, the dynamics in the courtroom are this. Lawyers ask you questions. The lawyer is really asking questions on behalf of the judge. So when the lawyer asks you questions, you look at it. When you answer the question, you look at the judge. Once you're done answering the question, look back at the person you're asking the questions to. FAQs: How

witness statements (and witnesses) are reviewed Make you wonder how courts judge witness statements and your performance in court. There are a few established and fundamental principles about how courts go about testing witness statements and evidence from witnesses. Credibility of witnesses One of the central concepts here is credibility. When a witness maintains his credibility, they are more likely to be believed. Witnesses are judged in the same way the evidence presented in their witness statement (i.e. examined to the 3rd degree) and their performance in the witness box under cross-examination. Again, the general duty of the court is to decide the truth. Courts have long recognized that it is difficult to tell whether a witness is telling the truth or not. Courts can take into account all material before the court, and the conduct of the witness in court. Judges do this for a living. They're good at it. Common sense also plays a big role in the assessment of a witness, especially when there is a conflict in the evidence. A witness's motives and the general likelihood of what they say also plays a large role: Robert Goff LJ in *Ocean Frost (Armagas Ltd v Mundogas SA)* [1985] UKHL 11. And then the lawyers in the witness box can comment on the actions of any witness in the witness box, long after the witness has left the court. Basic methods for checking evidence that is likely to take place are: independently proven facts: What you say to them is checked for facts and events that are demonstrable regardless of what you say. You bet that what you say in a witness statement will be checked against all other available documentation, some of which you may not have seen or even know. given the general likelihood of what you say: The more unreal and far-fetched your statement of facts, the better your evidence must be to prove it. The test here is the balance Probabilities. The balance of probability means that the court is satisfied with an event that occurred if the court considers that the event's action on the evidence was more likely than not. Is it more likely that that story (or part of it) took place, or another person's version of events on the available evidence? Or none of them? supporting evidence for serious allegations: This is an extension of what is said above, or a special case. Courts assess the inherent probability or improbability of an event. It is a matter that should be taken into account when weighing the likelihood of what you say against the other available evidence. This does not mean that serious allegations require a higher standard of proof. In short, the more unlikely the event, the stronger the evidence must be to prove it. Much depends on the context in which the events would have happened. In the case of *In Re Dellow's Will Trusts* [1964] 1 WLR 451 it was said: The more serious the claim, the more convincing the evidence is needed to overcome and thus prove the inequality of what is alleged, assessing motives for lying: The courts know that witnesses can lie regularly. This does not mean that all the witness's evidence is thrown away or discounted. Court will probably take into account and/or judge (EPI Environmental Technologies Inc. -v- Symphony Plastic Technologies PLC [2004] EWHC 2945): whether the witness has lied regarding a particular part of the case or all the evidence given it may be that the whole case is a lie witnesses may lie in a stupid attempt to strengthen a case. Cross-examination: Witnesses should be challenged with the case from the other side the other side disagrees with the evidence given. This means that the case is positive, as you knew the traffic light was red, and not green as you say here, right?. Questions like this are just part of cross-examination. The court is testing your version of events. First, it gives you the ability to deal with an opposite view or inconsistency. It gives the court the ability to assess your performance on critical issues in dispute, and your attitude and in the general context of the litigation. For these reasons, if your opinion is inconsistent or in violation of documents before the courts, you are likely to be asked questions about it. This is probably the most important part of cross-examination. The more serious or bizarre the claim, the better the evidence must be. Trivial or insignificant statements in the evidence are less likely to require documentary support. If there is a fact or event at issue (i.e. the parties disagree), documentation is likely to be essential. Then documentation created at the time of the event is almost always more valuable than documentation created after the event. Template downloads: Template: Proof list Make sure you review this to make sure you have it here before you sign the statement. Litigation & Litigation Lawyers We are experienced civil and commercial litigation lawyers, who are charged with drafting witness statements and affidavits for requests for preliminary injunctions and processes in business disputes. We have seen - and orchestrated - the destabilizing of witness evidence, and the disassessability of witnesses in civil cases. As a commercial law firm, we have advised clients on civil lawsuits in many jurisdictions, including intellectual property, commercial contract disputes, trademarks, trade secrets & fraud claims. If you are on your way to trial as a witness in a civil dispute or as an expert to testify, or are likely to receive unwanted questions about what is said in your witness statement, please contact us on +44 20 7036 9282 or contact@hallellis.co.uk for support to seek out your witness statement: help check it before you sign it, minimize the potential of hard cross-examination to assess the credibility of your evidence, and how it can be improved to check if you have gone too far in what you have said, or should recover from a position you would rather not be in. It may be that you prefer to talk by giving evidence, what to watch out for and the tricks of trading cross-examination that you can catch. While we can't tell you what to say or not to a court, a more informed witness is usually a better witness for the party you're testifying to. FAQ: 1. You are forced to give a witness statement? The simple answer is no. But with most things in the law, it's not that simple. A party can ask the court for a witness day. These used to be called subpoenas. A witness day call forces the witness to attend the court to either: provide oral evidence, or submit documents to the court. 2. What can happen if you don't go to court? It would be a contempt of court not to appear on the date set in a witness day. Also, if you still don't show up, you are ordered to pay the costs wasted by the parties for your failure to appear. When the parties are legally represented, the amount is likely to be significant. 3. Are witness statements confidential? Not quite. Once your witness statement has been served, it may only be used for the legal proceedings for which it has been drawn up. This rule applies unless or up to: you give your consent (in writing) for your statement to be used for any other purpose, other than in the proceedings for which it was created the court gives permission for use for any other purpose, or the witness statement is in evidence at a hearing to be in public, i.e. in public court. At that stage, any confidentiality that ever existed in the document is lost. 4. Are witness statements in public? See above. The short answer is: almost. Witness statements are accessible to parties to the proceedings by submitting a request to the court to File. In the High Court, these types of applications are heard by a master. The situation is different with persons who are not parties to the specific procedure. This also applies to interested third parties, newspapers, reporters and journalists. However, there are restrictions on documents that can be obtained from the Court's file. The following are usually able to be obtained without much difficulty, by anyone: Statements of the Case, including the claim forms, details of the claim, Defense, Response to defense, Counterclaim, Defence to Counterclaim, Response to Defense to the Counterclaim and further information and clarification judgments and orders in public are usually able to be obtained without much difficulty. Witness statements, communication between the parties and the parties and third parties are available for production from the public file, subject to the court's consent. In order to obtain that consent, an application must be submitted. A hearing is probably required. A party and/or a person mentioned in a witness statement may request an order to present the witness statement: not available to persons who are not parties to proceedings limited to certain classes of persons or persons who have been removed, editorially or otherwise edited in accordance with the court's pre-production ruling in any case, the court will want to know why the request is made, and most likely which uses for which the witness statement will be placed, if access is granted. 5. Who will see witness statements? First, the party that asked you to prepare the statement will have a copy. If they're legally represented, their lawyers will see. If they have a lawyer, they'll see it, too. If there are any other witnesses, they may have shown your testimony. Then the party that asked you to prepare it will see it. It may be that your testimony is relevant to an expert report that an expert needs to prepare for the trial. The expert would also receive a copy. As part of the preparation of the trial, case management directions are made early in the case. These case management directions set the timetable for different phases, usually up to the test. The trial is when the lawyers, witnesses and expert witnesses appear before a judge so that the case is heard and the court can decide the case. The directions for the management of the case will require the parties to exchange witness statements. A date is set for exchange in case management directions. At that stage the other side a copy. If the other side is represented their lawyers, lawyer and maybe an expert can also see. When you appear on the trial for cross-examination, the judge will also have a copy. The Rules of Civil Procedure also stipulate that a party must have copies of witness statements for members of the This is so that the public are able to follow what is happening in court. So, members of the public can also receive a copy. 6. What if a witness statement is not signed? In our language, the witness statement: would carry no weight because it is not endorsed - or verified - by a statement of truth can be excluded from the evidence that the party is able to fully rely on the process. This means that the statements in the witness statement could not be relied upon for the truth of what is said in the witness statement. Courts also have the power to order the witness to verify the document with a statement of truth. 7. Differences: Affidavits vs. Witness Statements There are several differences between witness statements and affidavits. The most important are: The form of an affidavit is something other than a witness statement. An affidavit begins with the words I, [name], [appeal], say under oath: In witness statements, the witness begins: I, [name], [appeal], will say as follows: Affidavits must be sworn in before a lawyer, legal director or notary statement contains a jurat, while witness statements are endorsed with a statement of truth. Affidavits are used in applications for freezing orders and searches: Freezing orders are court orders that prevent a person from removing or disposing of their assets. Search Orders effectively allow a litigant to search someone's premises for evidence relevant to the proceedings. In all other proceedings, witness statements are perfectly acceptable, unless a judge insensessflames that affidavits are submitted (to the court) and are served (to the other parties). 8. Can a witness statement be signed electronically? The short answer is yes. At least: we have never had a problem with electronic signatures. However, proper procedure must be followed so that if anyone is wondering whether the witness statement has been properly signed. The process must be verifiable – to show that the witness has signed the declaration (rather than someone else). An email trail that shows that the process of signing helps. It goes without saying that if the witness statement is signed, no changes may be made after it has been signed. It needs to be recreated, although there is a procedure to mark operations by hand. It's not a recommended course. We have seen witnesses cross-examined on witness statements that have changed, or revised into further witness statements after they have had a re-think. It's not pretty, if you the other side. 9. You withdraw or withdraw a witness statement? Once a witness statement is approved by signing the statement of truth, it is your witness statement. It is your responsibility as a depositor to ensure that your evidence is truthful. Sticking to the above suggestions can help to steer clear of problems it has in the first place, but but the final analysis of the witness is responsible for what they endorse with a statement of truth. If you have any reservations about your witness statement, it should be reviewed before you sign it. This also applies when there is something misleading in your witness statement. It's the court's job to get to the truth. If you have given a witness statement and no longer wish to testify, see the comments above on witness calls. 10. What is a witness's statement? These are sometimes referred to witnesses of the facts. Although it sounds silly, lay evidence and lay witness statements is evidence given by a person who has not been appointed as an expert witness in the proceedings. To tell the difference between expert evidence and laying evidence, here is the terminology: expert evidence is given by an expert appointed by the court under CPR 35. The evidence is almost always given by testimony (rather by affidavit). The appointment of the expert will take place with the permission of the court. The consent is given in case management directions - these directions are usually made at the first case management conference. leg evidence is provided by a person who is not an expert in the sense of the procedure. A testimony is a witness statement from a person who is not an expert. Let's say you are: a fully qualified and experienced civil engineer, and the plaintiff in your own lawsuit. You are not an expert in your own case regarding work that is the subject of legal proceedings. That's because you'd be seen as biased (even if you didn't). Let's say you have a friend who's a civil engineer. Your friend wants you to testify as an expert on his case. You don't (or at least shouldn't accept the appointment) because you wouldn't be seen to be independent of your friend, because of your previous relationship. 11. What is expert evidence? Lay witnesses have a limited ability to give opinions in their evidence. For the most part, advice is inadmissible. It is likely to be challenged by the other party, simply because lay witnesses are not authorized to give opinions in court. While there might be some leeway on the general rule, sometimes it's best just to omit it. The facts in your statement must speak for themselves. Ask the qualified experts to give their opinion if the judge so wishes. Experts have more and more compelling responsibilities in court when they testify. Although they care for party informing them, experts owe a compelling duty to the court, and should confirm that they have done what they did, in addition to the declaration of referred to. These responsibilities exceed all alleged obligations to the party for which they testify. See *Phillips v Symes* (2004). 12. Is a witness statement a statement of business? Statements of are prepared by parties to assert facts about the case on which they rely to succeed in their legal action: their case of appeal. Witness statements are there to prove the facts of the alleged in the statement of the case. When a statement of the case is signed - endorsed with a statement of truth - the statement of the case can be used as evidence of any of the matters contained in it. If you have worked through what has been set out above, you realize that: witness statements and statements of the case serve fundamentally different purposes the role of a statement of case as evidence is limited. There is very little to decide on the balance of probability based on a statement of the case, because there is little evidence of the allegation in the statement of the case (which would appear in a witness statement) The court rules allow statements of the case (such as details of the claim or a defense) to be used as a matter of convenience. If an issue between the parties is contested, a judge will want to receive independent evidence from the party to meet the burden of proof. Don't trust what's said in a statement. London Litigation Lawyers Do you want to say the right thing, in the right way in a lawsuit? Is there going to be an emergency hearing and you need a hand with a witness statement? We acted for, advised and assisted litigants and witnesses in commercial disputes to: prepare and establish their evidence prior to hearings to check witness statements to iron out weaknesses that will lead to criticism preventing catastrophic errors in litigation that lead to adverse cost orders that must be paid within 14 days advised on the legal requirements to be successful at hearings culled bad arguments that almost certainly do not affect the court's advanced and defended applications for: We know both sides of the story, and how your opponent is likely to come at you. helped prepare witnesses to maintain their credibility in the witness box in cross-examination prepared witness statements before the trial appeared at case management conferences and pre-trial reviews for clients. We are local to the Rolls Building on Fetter Lane and the Royal Courts of Justice on the Strand in London, and the Central London County Court. They are a 5 minute walk away from us. You don't pay lawyers' travel expenses to the court. To speak to one of our London trial lawyers for help with your case, call +44 20 7036 9282 or email us on contact@hallellis.co.uk. contact@hallellis.co.uk.

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