

PRACTICE DIRECTION

STATEMENTS OF TRUTH

THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 22

DOCUMENTS TO BE VERIFIED BY A STATEMENT OF TRUTH

- 1.1** Rule 22.1(1) sets out the documents which must be verified by a statement of truth. The documents include:
- (1) a statement of case,
 - (2) a response complying with an order under rule 18.1 to provide further information,
 - (3) a witness statement,
 - (4) an acknowledgment of service in a claim begun by the Part 8 procedure,
 - (5) a certificate stating the reasons for bringing a possession claim or a landlord and tenant claim in the High Court in accordance with rules 55.3(2) and 56.2(2),
 - (6) a certificate of service.
- 1.2** If an applicant wishes to rely on matters set out in his application notice as evidence, the application notice must be verified by a statement of truth¹.
- 1.3** An expert's report should also be verified by a statement of truth. For the form of the statement of truth verifying an expert's report (which differs from that set out below) see the practice direction which supplements Part 35.
- 1.4** In addition, the following documents must be verified by a statement of truth:
- (1) an application notice for –
 - (a) a third party debt order (rule 72.3),
 - (b) a hardship payment order (rule 72.7), or
 - (c) a charging order (rule 73.3);
 - (2) a notice of objections to an account being taken by the court, unless verified by an affidavit or witness statement;
 - (3) a schedule or counter-schedule of expenses and losses in a personal injury claim, and any amendments to such a schedule or counter-schedule, whether or not they are contained in a statement of case.
- 1.5** The statement of truth may be contained in the document it verifies or it may be in a separate document served subsequently, in which case it must identify the document to which it relates.
- 1.6** Where the form to be used includes a jurat for the content to be verified by an affidavit then a statement of truth is not required in addition.

FORM OF THE STATEMENT OF TRUTH

- 2.1** The form of the statement of truth verifying a statement of case, a response, an application notice or a notice of objections should be as follows:
- '[I believe][the (*claimant or as may be*) believes] that the facts stated in this [*name document being verified*] are true.'

¹ See rule 22.1(3).

2.2 The form of the statement of truth verifying a witness statement should be as follows:
'I believe that the facts stated in this witness statement are true.'

2.3 Where the statement of truth is contained in a separate document, the document containing the statement of truth must be headed with the title of the proceedings and the claim number. The document being verified should be identified in the statement of truth as follows:

- (1) claim form: 'the claim form issued on [date]',
- (2) particulars of claim: 'the particulars of claim issued on [date]',
- (3) statement of case: 'the [defence or as may be] served on the [name of party] on [date]',
- (4) application notice: 'the application notice issued on [date] for [set out the remedy sought]',
- (5) witness statement: 'the witness statement filed on [date] or served on [party] on [date]'.

WHO MAY SIGN THE STATEMENT OF TRUTH

3.1 In a statement of case, a response or an application notice, the statement of truth must be signed by:

- (1) the party or his litigation friend¹, or
- (2) the legal representative² of the party or litigation friend.

3.2 A statement of truth verifying a witness statement must be signed by the witness.

3.3 A statement of truth verifying a notice of objections to an account must be signed by the objecting party or his legal representative.

3.4 Where a document is to be verified on behalf of a company or other corporation, subject to paragraph 3.7 below, the statement of truth must be signed by a person holding a senior position³ in the company or corporation. That person must state the office or position he holds.

3.5 Each of the following persons is a person holding a senior position:

- (1) in respect of a registered company or corporation, a director, the treasurer, secretary, chief executive, manager or other officer of the company or corporation, and
- (2) in respect of a corporation which is not a registered company, in addition to those persons set out in (1), the mayor, chairman, president or town clerk or other similar officer of the corporation.

3.6 Where the document is to be verified on behalf of a partnership, those who may sign the statement of truth are:

- (1) any of the partners, or
- (2) a person having the control or management of the partnership business.

3.6A An insurer or the Motor Insurers' Bureau may sign a statement of truth in a statement of case on behalf of a party where the insurer or the Motor Insurers' Bureau has a financial interest in the result of proceedings brought wholly or partially by or against that party.

3.6B If insurers are conducting proceedings on behalf of many claimants or defendants a statement of truth in a statement of case may be signed by a senior person responsible for the case at a lead insurer, but –

- (1) the person signing must specify the capacity in which he signs;

¹ See Part 21 (children and patients).

² See rule 2.3 for the definition of legal representative.

³ See rule 6.4(4).

- (2) the statement of truth must be a statement that the lead insurer believes that the facts stated in the document are true; and
- (3) the court may order that a statement of truth also be signed by one or more of the parties.

3.7 Where a party is legally represented, the legal representative may sign the statement of truth on his behalf. The statement signed by the legal representative will refer to the client's belief, not his own. In signing he must state the capacity in which he signs and the name of his firm where appropriate.

3.8 Where a legal representative has signed a statement of truth, his signature will be taken by the court as his statement:

- (1) that the client on whose behalf he has signed had authorised him to do so,
- (2) that before signing he had explained to the client that in signing the statement of truth he would be confirming the client's belief that the facts stated in the document were true, and
- (3) that before signing he had informed the client of the possible consequences to the client if it should subsequently appear that the client did not have an honest belief in the truth of those facts (see rule 32.14).

3.9 The individual who signs a statement of truth must print his full name clearly beneath his signature.

3.10 A legal representative who signs a statement of truth must sign in his own name and not that of his firm or employer.

3.11 The following are examples of the possible application of this practice direction describing who may sign a statement of truth verifying statements in documents other than a witness statement. These are only examples and not an indication of how a court might apply the practice direction to a specific situation.

Managing Agent

An agent who manages property or investments for the party cannot sign a statement of truth. It must be signed by the party or by the legal representative of the party.

Trusts

Where some or all of the trustees comprise a single party one, some or all of the trustees comprising the party may sign a statement of truth. The legal representative of the trustees may sign it.

Insurers and the Motor Insurers' Bureau

If an insurer has a financial interest in a claim involving its insured then, if the insured is the party, the insurer may sign a statement of truth in a statement of case for the insured party. Paragraphs 3.4 and 3.5 apply to the insurer if it is a company. The claims manager employed by the insurer responsible for handling the insurance claim or managing the staff handling the claim may sign the statement of truth for the insurer (see next example). The position for the Motor Insurers' Bureau is similar.

Companies

Paragraphs 3.4 and 3.5 apply. The word manager will be construed in the context of the phrase 'a person holding a senior position' which it is used to define. The court will consider the size of the company and the size and nature of the claim. It would expect the manager signing the statement of truth to have personal knowledge of the content of the document or to be responsible for managing those who have that knowledge of the content. A small company may not have a manager, apart from the directors, who holds a senior position. A large company will have many such managers. In a larger company with specialist claims, insurance or legal departments the statement may be signed by the manager of such a department if he or she is responsible for handling the claim or managing the staff handling it.

In-house legal representatives

Legal representative is defined in rule 2.3(1). A legal representative employed by a party may sign a statement of truth. However a person who is not a solicitor, barrister or other authorised litigator, but who is employed by the company and is managed by such a person, is not employed by that person and so cannot sign a statement of truth. (This is unlike the employee of a solicitor in private practice who would come within the definition of legal representative.) However such a person may be a manager and able to sign the statement on behalf of the company in that capacity.

INABILITY TO PERSONS TO READ OR SIGN DOCUMENTS TO BE VERIFIED BY A STATEMENT OF TRUTH

- 3A.1** Where a document containing a statement of truth is to be signed by a person who is unable to read or sign the document, it must contain a certificate made by an authorised person.
- 3A.2** An authorised person is a person able to administer oaths and take affidavits but need not be independent of the parties or their representatives.

3A.3 The authorised person must certify:

- (1) that the document has been read to the person signing it;
- (2) that that person appeared to understand it and approved its content as accurate;
- (3) that the declaration of truth has been read to that person;
- (4) that that person appeared to understand the declaration and the consequences of making a false declaration; and
- (5) that that person signed or made his mark in the presence of the authorised person.

3A.4 The form of the certificate is set out at Annex 1 to this Practice Direction.

CONSEQUENCES OF FAILURE TO VERIFY

- 4.1** If a statement of case is not verified by a statement of truth, the statement of case will remain effective unless it is struck out¹, but a party may not rely on the contents of a statement of case as evidence until it has been verified by a statement of truth.
- 4.2** Any party may apply to the court for an order that unless within such period as the court may specify the statement of case is verified by the service of a statement of truth, the statement of case will be struck out.
- 4.3** The usual order for the costs of an application referred to in paragraph 4.2 will be that the costs be paid by the party who had failed to verify in any event and forthwith.

PENALTY

- 5** Attention is drawn to rule 32.14 which sets out the consequences of verifying a statement of case containing a false statement without an honest belief in its truth, and to the procedures set out in paragraph 28 of the practice direction supplementing Part 32.

¹ See rule 22.2(1).

Annex

Certificate to be used where a person is unable to read or sign a document to be verified by a statement of truth

I certify that I [*name and address of authorised person*] have read over the contents of this document and the declaration of truth to the person signing the document [*if there are exhibits, add 'and explained the nature and effect of the exhibits referred to in it'*] who appeared to understand (a) the document and approved its content as accurate and (b) the declaration of truth and the consequences of making a false declaration, and made his mark in my presence.