

## The changes in the New PD



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## Who does it apply to?

- All cases in the Business and Property Courts and those in the Business and Property work at Central London (as well as other District Registries).
- Only for trial witness statements, which are signed on or after 6 April 2021.
- Applies to litigants in person as well as represented parties.
- Exclusions including:
  - Insolvency claims,
  - Certain banking and insurance claims under FSMA 2000,
  - Certain claims under the Companies Act 2006 such as restoration applications,
  - Claims under CPR Parts 57 and 64,
  - Claims in the TCC relating to adjudication.

## What must you do?

- Trial statements should be prepared in accordance with the Statement of Best Practice at Appendix A to PD57AC and any relevant court guide.
- Statement of Best Practice:
  - Witness evidence should be prepared to avoid anything which might alter or influence the witness's recollection: para 3.2.
  - Witness statements should be as short as possible: para 3.3.
  - Documents should be referred to only where necessary: para 3.4.
  - Requirement to say how well a matter is recalled and whether the witness's memory has been refreshed: paragraph 3.7.
  - Statements should be based on notes / records from interviews with witnesses, where non-leading questions should be used: paragraphs 3.10 and 3.11.

## Confirmation of compliance from the witness

“I understand that the purpose of this witness statement is to set out matters of fact of which I have personal knowledge.

I understand that it is not my function to argue the case, either generally or on particular points, or to take the court through the documents in the case.

This witness statement sets out only my personal knowledge and recollection, in my own words.

On points that I understand to be important in the case, I have stated honestly (a) how well I recall matters and (b) whether my memory has been refreshed by considering documents, if so how and when.

I have not been asked or encouraged by anyone to include in this statement anything that is not my own account, to the best of my ability and recollection, of events I witnessed or matters of which I have personal knowledge.”

## Legal representatives – beware!

“I hereby certify that:

I am the relevant legal representative within the meaning of Practice Direction 57AC.

I am satisfied that the purpose and proper content of trial witness statements, and proper practice in relation to their preparation, including the witness confirmation required by paragraph 4.1 of Practice Direction 57AC, have been discussed with and explained to [name of witness].

I believe this trial witness statement complies with Practice Direction 57AC and paragraphs 18.1 and 18.2 of Practice Direction 32, and that it has been prepared in accordance with the Statement of Best Practice contained in the Appendix to Practice Direction 57AC.”

# Consequences of non-compliance



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# Thank you for listening

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