

# STATEMENTS OF TRUTH

## This Practice Direction supplements FPR Part 17

### Documents to be verified by a statement of truth

- 1.1** Rule 17.2 sets out the documents which must be verified by a statement of truth.
- 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 truth.
- 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 25.
- 1.4** In addition, the following documents must be verified by a statement of truth –
  - (a)** an application notice for –
    - (i) a third party debt order (CPR Part 72 as modified by rule 33.24);
    - (ii) a hardship payment order (CPR Part 72 as modified by rule 33.24); or
    - (iii) a charging order (CPR Part 73 as modified by rule 33.25); and
  - (b)** a notice of objections to an account being taken by the court, unless verified by an affidavit or witness statement.
- 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.
- 1.7** In this Practice Direction, 'statement of case' has the meaning given to it by rule 17.1.

### Form of the statement of truth

- 2.1** The form of the statement of truth verifying a statement of case or an application notice should be as follows:  
'[I believe] [the (*applicant or as may be*) believes] that the facts stated in this [*name document being verified*] are true.'
- 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 and court reference for the proceedings. The document being verified should be identified in the statement of truth as follows –
  - (a)** application form: 'the application form issued on [*date*]';

- (b) statement of case: ‘the (application or answer as may be) served on [*name of party*] on [*date*]’;
- (c) application notice: ‘the application notice issued on [*date*] for [*set out the remedy sought*]’;
- (d) 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 or an application notice, the statement of truth must be signed by—

- (a) the party or his litigation friend; or
- (b) the legal representative 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 or her legal representative.

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

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

- (a) 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
- (b) in respect of a corporation which is not a registered company, in addition to those persons set out in (a), the major, chairman, president, chief executive of a local authority 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 –

- (a) any of the partners; or
- (b) a person having the management or control of the partnership business.

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

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

- (a) that the client on whose behalf he or she has signed had authorised him or her to do so;
- (b) that before signing he or she had explained to the client that in signing the statement of truth he or she would be confirming the client’s belief that the facts stated in the document were true; and
- (c) that before signing he or she 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 17.6).

- 3.9** A legal representative who signs a statement of truth must print his or her full name clearly beneath his or her signature.
- 3.10** The individual who signs a statement of truth must sign in his or her own name and not that of his or her 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.

#### *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 importance and nature of the proceedings. 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 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 large 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.

### **Inability of persons to read or sign documents to be verified by a statement of truth**

- 4.1** 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.
- 4.2** An authorised person is a person able to administer oaths and take affidavits but need not be independent of the parties or their representatives.
- 4.3** The authorised person must certify –
- (a) that the document has been read to the person signing it;
  - (b) that the person appeared to understand it and approved its content as accurate;
  - (c) that the declaration of truth has been read to that person;
  - (d) that that person appeared to understand the declaration and the consequences of making a false declaration; and
  - (e) that that person signed or made his mark in the presence of the authorised person.
- 4.4** The form of the certificate is set out at the Annex to this Practice Direction.

## **Consequences of failure to verify**

- 5.1** If a statement of case is not verified by a statement of truth, the statement of case will remain effective unless it is struck out, 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.
- 5.2** 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.
- 5.3** The usual order for the costs of an application referred to in paragraph 5.2 will be that the costs be paid by the party who had failed to verify, in any event and immediately.

## **Penalty**

- 6.1** Rule 17.6 sets out the consequences of verifying a statement of case containing a false statement without an honest belief in its truth. Where a party alleges that a statement of truth is false, the party shall refer that allegation to the court dealing with the proceedings in which the statement of truth has been made.
- 6.2** On a reference under paragraph 6.1 the court may –
  - (a)** exercise any of its powers under the FPR;
  - (b)** initiate steps to consider if there is a contempt of court and, where there is, to punish it;  
(Order 52 of the Rules of the Supreme Court and Order 29 of the County Court Rules (Schedules 1 and 2 to the CPR) make provision where committal to prison is a possibility if contempt is proved.)
  - (c)** direct the party making the allegation to refer the matter to the Attorney General with a request to him or her to consider whether he or she wishes to bring proceedings for contempt of court.
- 6.3** A request to the Attorney General must be made in writing and sent to the Attorney General's Office at 20 Victoria Street, London, SW1H 0NF. The request must be accompanied by a copy of the order directing that the matter be referred to the Attorney General and must –
  - (a)** identify the statement said to be false; and
  - (b)** explain –
    - (i)** why it is false; and
    - (ii)** why the maker knew it to be false at the time it was made; and
  - (c)** explain why contempt proceedings would be appropriate in the light of the overriding objective in Part 1 of the FPR.
- 6.4** The practice of the Attorney General is to prefer an application that comes from the court, and so has received preliminary consideration by a judge or district judge, to one made direct to him or her by a party to the proceedings in which the alleged contempt occurred without prior consideration by the court. An application to the Attorney General is not a way of appealing against, or reviewing, the decision of the judge or district judge.
- 6.5** Where a party makes an application to the court for permission for that party to commence proceedings for contempt of court, it must be supported by written evidence containing the

information specified in paragraph 6.3 and the result of the application to the Attorney General made by the applicant.

- 6.6** The FPR do not change the law of contempt or introduce new categories of contempt. A person applying to commence such proceedings should consider whether the incident complained of does amount to contempt of court and whether such proceedings would further the overriding objective in Part 1 of the FPR.

# Annex

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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 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 or her mark in my presence.