

April 2006

## Witness Statements

### Introduction

- A witness statement is a formal document containing your own account of the facts relating to the issue(s) arising in the dispute. Comments made in the statement should be limited to fact and comments based on opinions should be kept to a minimum
- The purpose of the witness statement is to provide written evidence to support your case that will, if necessary, be used as evidence in court.
- A witness statement is a crucial part of a party's case. It is designed to show your case in its strongest light. It is important therefore to ensure the statement is comprehensive.

### How will it be prepared?

- Typically your lawyer will meet you to discuss the issues on which you can give evidence. This is called taking a proof of evidence. It is likely to involve your lawyer asking you to review documents (either at the meeting itself or before) that relate to the dispute and/or asking you questions about key events, for example, your account of a particular meeting or discussions with the other party about a transaction.
- The statement must be in your words. Therefore, it is important that you understand what is included in your statement and that it reflects accurately your account of the facts.
- Depending upon the complexity of the dispute, the proofing exercise could be relatively short. In some instances it could be very long exercise taking place over several days.
- After the statement has been taken, a draft of the statement will be produced for you to review and amend where necessary. It is often the case that there will be several drafts of the statement. Once you are satisfied with the statement, you will be asked to sign and date it. The statement becomes your 'proof of evidence'. It will

normally be edited further for the purposes of producing a witness statement in court proceedings. In this case, you will be asked to sign a 'statement of truth' contained in the witness statement - see below.

### Who will get to see the witness statement?

- After the witness statement has been signed, a copy of it will normally be disclosed, along with all other witness statements, to the other party who at the same time, will disclose the witness statements in support of its case.
- After exchange of witness statements, you will have the opportunity of reviewing the other party's witness statements which deal with those issues addressed in your evidence. Sometimes, it may be necessary to prepare a supplemental witness statement, for example, where there are factual inaccuracies in the evidence contained in the other party's statements.

### Documents

- If you have any material (including documents, emails, letters, faxes, reports, manuscript notes, photographs, videos etc) which you think are relevant to the issues to be discussed at the meeting, then these should be given to us as soon as possible and preferably before the meeting itself.

### Statement of Truth

- This is a statement at the end of a witness statement, which states that the party believes the facts stated in the witness statement to be true and accurate.
- Proceedings for contempt of court may be brought against a person if he or she makes, or causes to be made, a false statement in a witness statement verified by a statement of truth, where there is no honest belief in its truth.