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Trial Witness Statements: PD 57AC
CITMA Seminar for Litigators

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PD 57AC: Agenda

1. What is PD 57AC and what is the rationale behind it?
2. How does PD 57AC operate?
3. What are the dangers of non-compliance?
4. How should a party deal with non-compliance?

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PD 57AC: What is it?

- Applies to **trial witness statements** in the BPC.
- Does **not** apply to the IPEC.
- But ***Edwards v Boohoo.com UK Ltd & Ors* [2025] EWHC 805 (IPEC)** at [84] and [85].
- Does **not** replace Part 32.
- Does **not** change the rules on admissibility of evidence: ***Mad Atelier International BV v Mr Axel Manes* [2021] EWHC 1899 (Comm); [2021] 1 W.L.R. 5294**.

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PD 57AC: Rationale

- ***Mansion Place v Fox Industrial Services Limited* [2021] EWHC 2747 (TCC)** at [37]: "*to eradicate the improper use of witness statements as vehicles for **narrative, commentary and argument**.*"
- ***Kieran Corrigan & Co Ltd v Onee Group Limited et Ors* [2023] EWHC 649 (Ch)** at [377](5): "*the **reliability** of the evidence, which PD57AC is concerned to protect.*"
- ***Illiquidx Limited v Altana Wealth Limited & Ors* [2024] EWHC 2191 (Ch)** at [133]: "*designed to address the **increasing problem** of trial witness statements being **over-long and over-lawyered** so that they often no longer reflected the evidence in chief that that witness of fact could realistically give.*"

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PD 57AC: How does it operate?

1. Provides further guidance on drafting witness statements, including a statement of best practice.

2. Introduces new confirmations of compliance.

3. Clearly outlines possible sanctions.

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PD 57AC: Drafting, PD

- Paragraph 3:
  - Evidence re. issues of fact which witness would be asked and allowed to give.
  - Personal knowledge.
  - Own words. Caution re. AI: ***Godwin v Godwin* [2026] EWHC 923 (Ch)**.
  - Own knowledge vs matters of information/belief.
- Additional list of documents.
- Must be prepared in accordance with the Statement of Best Practice.
- Use the PD and SoBP as a 'checklist': ***Mansion Place***, [38].

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PD 57AC: Drafting, SoBP

- Principle: vulnerability of memory.
- Practice:
  - Concision.
  - Refer to documents only where necessary.
  - Do not take the Court through the documents/set out a narrative.
  - Do not comment on other evidence in the case.
  - Do not quote at length from any document.
  - Do not argue the case.

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PD 57AC: Drafting, Tensions?

***Thom Browne Inc v adidas AG* [2024] EWHC 2990 (Ch); [2025] E.T.M.R. 4** at [67]:

"…*there is undoubtedly a* ***tension*** *between the provisions of the Practice Direction and the means by which a party in a case such as this should best produce evidence of historic use and reputation to the court.* ***It will often not be possible to find a witness who can give direct evidence about use dating back many years*** *and, absent direct evidence, the Practice Direction leaves little scope for the preparation of witness statements which effectively act as a means by which such evidence can sensibly be placed before the court. Absent an agreed chronology or narrative document bringing the relevant evidence together in one place,* ***one convenient means of collecting relevant documents together is, arguably, in the form of a witness statement****. However, given the terms of PD 57AC, that witness statement will inevitably be* ***non-compliant****…*."

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PD 57AC: Certification 4.1

*"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. "

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PD 57AC: Certification 4.3

"I hereby certify that:

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

*2. 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].*

*3. **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.*

Name: ……

Position: ……

Date:……"

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PD 57AC: Certification 4.3

- ***No. 5 Chambers Limited v Mr Paul Marshall* 2026 WL 00794356** at [38]:

  "*it is important to stress – in general terms – that practitioners must exercise proper judgement over witness statements generally, and those to which PD 57AC applies in particular*. "

- ***Thom Browne v adidas*** at [66]:

  "*aside from the fact that it is non-compliant with the rules, over-lawyering of this nature has the potential to do a significant disservice to the witnesses and, by extension, a party's case. It allows the witness statements to be challenged (as was the case here) on the grounds that they contain little more than argument and it risks the court determining that it can attach no real weight to them for that reason.*".

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PD 57AC: Sanctions

- Full powers of case management.
- Non-compliance? Court may:
  - Refuse/withdraw permission to rely on or strike out all/part of a witness statement (see ***No. 5 Chambers***).
  - Order re-drafting (see ***Illiquidx***).
  - Make an adverse costs order (see ***Kieran Corrigan***).
  - Order some/all evidence in chief to be given orally.
- No certificate of compliance from the legal representative? Court may strike out if it suspects avoidance.

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PD 57AC: Sanctions

***Blue Manchester Limited v Bug-Alu Technic GmbH* [2021] EWHC 3095 (TCC)**: Appendix:

14.	On 1 April 2004, I was copied into an email from Wintech to CCL stating that the test data from Holloway Circus should only be used if it truly reflected the detail at the Beetham Tower project. Wintech also expressed a concern in this email that details may change as a result of drawing audits and that the test data from Holloway Circus may not be relevant which they said could result in a risk that the proposed construction may have defects which would not be detectable by methods other than project testing.	Unnecessary narrative and comment from a document which must be removed.

18.	Testing was one of the agenda items in the early Envelope Design Meetings, generally attended by Helen Trott and/or Nick Fleming alongside representatives of CCL, BUG, Wintech, Beetham and Qubed and the BUG test data was discussed by CCL, Wintech and BUG at these meetings. I did not attend all of these meetings but did attend a meeting on 15 April 2004 when test data was discussed. Whilst I did not attend all of the early Envelope Design Meetings, I did receive copies	Standard first person requirement. Witness must state whether final sentence represented his personal belief at the time and, if not, it must be removed as comment.

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PD 57AC: Objections?

- ***Lifestyle Equities CV v Royal County of Berkshire Polo Club Ltd* [2022] EWHC 1244 (Ch)** at [98]: "*should not be taken as a weapon with which to fillet from a witness statement either two or three words at various points or essentially insignificant failures to comply with PD57AC*".
- Dangers: ***Curtiss & Ors v Zurich Insurance Plc & Anor (Costs)* [2022] EWHC 1514 (TCC)**: "*should not be used as a weapon for the purpose of battering the opposition*."
- Guidance in ***Mansion Place*** at [49]: "*The court does not wish to encourage the parties to engage in satellite litigation that is disproportionate to the size and complexity of the dispute*".