如何準備聆訊或審訊

How to prepare for a hearing or trial

- This leaflet is designed to provide you with a brief outline of the practice and procedure of the High Court and the District Court on preparation for a hearing or a trial.
- You should read the relevant provisions in Rules of the High Court or Rules of the District Court and Practice Directions for full details.
- The Civil Justice Reform has come into effect on 2nd April 2009. You should also note those transitional arrangements that may be applicable to your case. For further information on transitional arrangements, please refer to Leaflet 12 "Civil Justice Reform: Transitional Arrangements" of this series.
- This publication is for general reference only and should not be treated as a complete or authoritative statement of law or court practice. Whilst every effort has been made to ensure that the information provided in this leaflet is accurate, it does not constitute legal or other professional advice. The Judiciary cannot be held responsible for the content of this publication.
- You may approach the Resource Centre for Unrepresented Litigants at LG1 High Court, 38 Queensway, Hong Kong for further information. However, you should note that the assistance provided at the centre is confined to procedural matters only and the staff there will not give legal advice or make any comments on the merits of your case.

How to prepare for a hearing or trial

General notes

1. This leaflet deals with preparations for court hearing or trial. The guidance here is subject to the Practice Directions issued by the court from time to time. You should also pay attention to the Practice Directions.

2. The guidance applies to civil proceedings in the High Court and in the District Court.

3. *Interlocutory applications*

The evidence for the hearing of interlocutory applications (such as applications for summary judgment, striking out of pleadings, security for costs, discovery of documents etc.) is usually contained in affidavits or affirmations and the exhibits annexed to them.

4. *Hearing of originating summons*

The evidence for the hearing of originating summons is usually also contained in affidavits or affirmations and the exhibits annexed to them.

5. *Trial*

Preparations of evidence for a trial include preparing lists of documents, witness statements, expert reports and trial bundles for the trial.

6. Preparations for affidavits / affirmation, lists of documents, witness statements, expert reports, hearing bundles, trial bundles, skeleton arguments for interlocutory applications and written openings and submissions for trials are described in more details below.

Affidavits / affirmations

7. When you issue a summons, you normally need to file an affidavit or affirmation in support. In the paragraphs below, references to affidavit shall include affirmation as well.

8. Alternatively, if you are served with a summons and you wish to oppose it, you have to file an affidavit setting out the evidence in support of your oppositions.

9. The purpose of an affidavit is to set out the facts on oath in support of or in opposition to the application stated in the summons.

10. The facts must be those of which you have personal knowledge. If you do not have personal knowledge, you should state the source of your knowledge, information or belief and state whether or not you believe in the truth of those facts. Alternatively, you can ask the person who has personal knowledge to make the affidavit.

11. For details about the contents, the format and the filing and service of affidavits, please refer to the "sample court forms" file available at the Resource Centre for Unrepresented Litigants at LG1, High Court Building.

Lists of documents

12. After the pleadings are closed (i.e. parties having set out all their facts and disputes in the statement of claim, defence and reply, supported by a statement of truth respectively), the parties should within 14 days prepare their own list of documents and exchange it with the other party to the action.

13. The purpose of a list of documents is to inform the opposite party what documents relevant to the issues in the case are in your possession, or can be obtained by you from any third party (e.g. a bank) or had once been in your possession, and what documents you object to produce.

14. For details about the contents, the format and the service of list of documents, please refer to the "sample court forms" file available at the Resource Centre for Unrepresented Litigants.

Witness statements

15. A witness is a person having personal knowledge of facts relating to the matters in dispute in a case. A witness statement is a statement of facts given by the witness for the legal proceeding. The maker of the witness statement has to take the personal responsibility for the contents of his statement. He may be liable for perjury for deliberately making false statements. A witness is required to verify the truth of his witness statement by making a statement of truth. Please refer to Leaflet 6 "What are statements of truth" of this series for details.

16. For details about the contents, the format, the filing and service / exchange of witness statements, please refer to the "sample court forms" file available at the Resource Centre for Unrepresented Litigants.

Expert reports

17. Where the evidence involves technical opinions from experts, parties may have to obtain the assistance of experts.

18. A party who seeks to adduce expert evidence at the trial has to obtain permission from the court first. The application for permission to call expert witness is usually made after close of pleadings. The application may be made by filling in the relevant section in the timetabling questionnaire. See Appendix A to Practice Direction 5.2 for the timetabling questionnaire.

19. In making the application, you should set out the areas of the expertise and the issues on which you require the expert evidence.

20. You should also consider agreeing with the other parties to appoint a single joint expert. The single joint expert will compile the expert report. The report can be adduced as evidence without having to call the expert to give oral evidence at the trial. In this way, time and costs of the trial can be saved.

21. If there is no agreement for the appointment of a single joint expert, the court will, when giving permission to adduce expert evidence at trial, also give directions for the parties to exchange the expert reports within a specified period of time.

22. The expert is required to verify his report by making a statement of truth. See Leaflet 6 "What are statements of truth" of this series for details.

Hearing bundles for interlocutory applications

23. For contested interlocutory applications listed for 30 minutes or more before a judge or master, the parties should place before the court a set of hearing bundles, a chronology of the relevant events and where a number of companies, firms or individuals may be referred to in submissions, a *dramatis personae*. Parties should try to agree on and jointly prepare the hearing bundles, the chronology and *dramatis personae*.

24. The hearing bundles should be paged consecutively on the top right-hand corner. They should contain only documents relevant to the particular application to which the parties will need to refer to at the hearing. The hearing bundles should include:

- Bundle of copies of court documents (pleadings, summons, order for directions, affidavits/ affirmations etc);
- Bundle of copies of the exhibits to the affidavits/ affirmations that are relevant to the particular application; and
- Bundle of copies of correspondence between the parties (if any).

25. The hearing bundles, chronology and *dramatis personae* should be lodged with the court and served on the other parties at least 3 clear days before the hearing (i.e. excluding Saturdays, Sundays and general holidays).

26. You should refer to Practice Direction 5.4 for details on the requirements for preparations of interlocutory hearings and of interlocutory applications to be disposed of by master on the papers. Failure to comply with the Practice Directions may result in costs penalty.

Trial bundles

27. Before trial, parties should prepare bundles for the trial, which usually consist of :

- Bundle of pleadings and relevant court documents;
- Bundle of witness statements and expert reports; and
- Bundle of documents.

28. The bundle of documents should be prepared based upon the lists of documents filed by the parties. Parties should seek to agree on a bundle of documents. If they cannot come to an agreement, each party will have to prepare his bundle of documents.

But this will cause delay in the trial and incur more costs. Any party who has unreasonably refused to agree the bundle of documents for the trial may be penalized for costs.

29. Documents in the bundle of documents need not be the original documents. The original documents, if available, should be made available for the court's inspection at the trial.

30. The bundle of documents for trial should be put in lever-arch files or ring-binders and must be:

- firmly secured (not stapled);
- arranged in chronological order from the front;
- paged consecutively on the top right-hand corner; and
- fully and easily legible (typed copies if necessary).

31. You should refer to Practice Direction 5.6 for details on the requirements for documents for use at trial.

32. There should be several identical sets of trial bundles, one set for each party, one set for the court and a spare bundle for the witnesses to refer to at the trial.

33. Trial bundles must be lodged with the court at least 3 clear days before the date fixed for the trial.

Skeleton arguments for interlocutory applications

34. Parties to a contested interlocutory application should prepare skeleton submissions in support of or in opposition to the application. The skeleton argument should be concise and succinct, but at the same time include all the arguments that the party intends to take. You should refer to Practice Direction 5.4. for the detailed requirements for a skeleton argument.

35. The skeleton argument should be lodged with the court and served on the other parties at least 3 clear days before the hearing.

Written openings and submissions for trials

36. You may prepare written introduction of your case and submit it to the trial judge for the opening of your case. In general, a written opening should give a succinct outline of:

- the party's own case and arguments;
- the opposite party's case and arguments; and
- the issues that require the court's determination.

37. The written opening should be sent to the court at least 3 clear working days before the trial or hearing. You have to send a copy of it to the other party as well.

38. If you want to give your written conclusions to the court at the end of the trial or hearing, you may do so after the court has heard the evidence.

39. As far as it is practicable, you should cause the written opening or conclusion to be typed. Otherwise, you must ensure that the handwriting is fully and easily legible.

Judiciary
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