

## How To Take A CPR Compliant Foreign Language Witness Statement

What is now paragraph 3A.1 of PD 22 CPR, no longer applies to signing of witness statements where the witness is unable to read or sign the document in English by reason of language.

As such, the old style CPR translations (i.e. translating the contents verbally and counter-signing the English language document) are no longer the correct way in which to deal with translations of witness statements.

## What Do The Rules Say?

As to the correct requirements found in PD 22 CPR. By reference thereto:

- paragraph 2.2 states that the statement of truth verifying a witness statement should be provided in the language of the witness statement;
- paragraph 2.4 states that the statement of truth verifying a witness statement must be in the witness's own language;

As to the correct requirements found in PD 32 CPR. By reference thereto:

- paragraph 18.1 states that the witness statement must be drafted in the witness's own language;
- paragraph 18.1(5) states that the witness statement must include the process by which it has been prepared;
- paragraph 19.1(8) states that the witness statement should be drafted in the witness's own language;
- paragraph 20.1 states that the witness statement must include a statement of truth in the witness's own language;
- paragraph 23.2 states that where the signed witness statement is in a foreign language, the party wishing to rely on it must (a) have it translated; (b) file a foreign language witness statement with the court; and (c) the translator must sign the original witness statement and certify that that the translation is accurate.

In addition, CPR r32.8 states that the witness statement must comply with requirements set out in PD 32 CPR.

## What Does This Mean In Practice?

In practice, what this means is that where a witness is unable to speak English, or is unable to speak English with sufficient proficiency so as to fully understand his evidence, the following steps must be taken:

- the solicitors should take the statement from the witness with the help of the interpreter. Noting the solicitor is likely to be English speaking, it is expected the draft witness statement will be prepared in English;
- the witness statement must include details as to how the witness statement was taken, here it would be expected that it will state that it was taken by telephone/in person with the help of an interpreter;
- the draft statement (and any exhibits as well as the statement of truth) should then be translated in the to the witness's own language;
- the witness should sign the foreign language witness statement;
- the translating authority should then translate the signed foreign language witness statement into English, signing both language versions and certifying that the translation into English is accurate;
- the party should file both, the certified translated and the foreign language witness statement with the court.

Failure to comply with the above requirements is likely to result in the witness statement being struck out for failure to comply with the requirements.

## What Is The difference between an interpreter and a translator?

- a translator deals with the written word;
- an interpreter deals with the spoken tongue.

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