



SUPREME COURT OF JUDICATURE OF NORTHERN IRELAND

CROWN COURT PRACTICE DIRECTION

EDITING WRITTEN STATEMENTS

1. Where the prosecution proposes to tender written statements in evidence either under Article 33 of the Magistrates' Courts (Northern Ireland) Order 1981 ("the 1981 Order") or Section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 ("the 1968 Act") it will frequently not only be proper, but also necessary for the orderly presentation of the evidence, for certain statements to be edited. This will occur either because a witness has made more than one statement the contents of which should conveniently be reduced into a single, comprehensive statement or where a statement contains inadmissible, prejudicial or irrelevant material. Editing of statements should in all circumstances be done by a solicitor or barrister acting on behalf of the Director of Public Prosecutions for Northern Ireland (or by a legal representative, if any, of the prosecutor if the case is not being conducted by the Director of Public Prosecutions for Northern Ireland) and not by a police officer.

2. Composite statements

A composite statement giving the combined effect of two or more earlier statements or settled by a person referred to in paragraph 1 above must be prepared in compliance with the requirements of Article 33 of the 1981 Order or Section 1 of the 1968 Act as appropriate and must then be signed by the witness.

3. Editing single statements

There are two acceptable methods of editing single statements.

- (i) By marking copies of the statement in a way which indicates the passages on which the prosecution will not rely. This merely indicates that the prosecution will not seek to adduce the evidence so marked. The original signed statement to be tendered to the court is not marked in any way. The marking on the copy statement is done by lightly striking out the passages to be edited so that what appears beneath can

still be read, or by bracketing, or by a combination of both. It is not permissible to produce a photocopy with the deleted material obliterated, since this would be contrary to the requirement that the defence and the court should be served with copies of the signed original statement. Whenever the striking out/bracketing method is used, it will assist if the following words appear on a notice accompanying the statement or statements:

'The prosecution does not propose to adduce evidence of those passages of the attached copy statements which have been struck out and/or bracketed (nor will it seek to do so at the trial unless a notice of further evidence is served).'

- (ii) By obtaining a fresh statement, signed by the witness, which omits the offending material, applying the procedure in paragraph 2 above.

4. In most cases where a single statement is to be edited, the striking out/bracketing method will be the more appropriate, but the taking of a fresh statement is preferable in the following circumstances.

- (a) When a police (or other investigating) officer's statement contains details of interviews with more suspects than are eventually charged, a fresh statement should be prepared and signed omitting all details of interview with those not charged except, in so far as it is relevant, for the bald fact that a certain named person was interviewed at a particular time, date and place.
- (b) When a suspect is interviewed about more offences than are eventually made the subject of committal charges, a fresh statement should be prepared and signed omitting all questions and answers about the uncharged offences unless either they might appropriately be taken into consideration or evidence about those offences is admissible on the charges preferred, such as evidence of system. It may however be desirable to replace the omitted questions and answers with a phrase such as, "We then discussed other matters", so as to make it clear that part of the interview has been omitted.
- (c) A fresh statement should normally be prepared and signed if the only part of the original on which the prosecution is relying is a small proportion of the whole although it remains desirable to use the alternative method if there is reason to believe that the defence might itself wish to rely, in mitigation or for any other purpose, on at least some of those parts which the prosecution does not propose to adduce.

- (d) When the passages contain material which the prosecution is entitled to withhold from disclosure to the defence.
5. None of the above principles apply, in respect of committal proceedings, to documents which are exhibited (including statements under caution and signed contemporaneous notes). Nor do they apply to oral statements of a defendant which are recorded in the witness statements of interviewing police officers, except in the circumstances referred to in paragraph 4(b) above. All this material should remain in its original state in the committal papers, any editing being left to prosecuting counsel at the Crown Court (after discussion with defence counsel and, if appropriate, the trial judge).
6. Paragraph 3(i) above does not apply to trials on indictment under Section 11 of the Northern Ireland (Emergency Provisions) Act 1996.
7. This Practice Direction will come into force on 7 September 1998.

25 June 1998

R. Dearwell