

PRACTICE DIRECTION

5/2005

SUPREME COURT OF JUDICATURE OF NORTHERN IRELAND

COURT OF APPEAL (CIVIL AND CRIMINAL DIVISION)

CHANCERY DIVISION

QUEEN'S BENCH DIVISION

FAMILY DIVISION

PREPARATION OF AFFIDAVITS AND EXHIBITS

1. Practitioners and litigants in person are reminded of the need to comply with the requirements of the Rules of the Supreme Court (Northern Ireland) 1980 ("the Rules") as to the preparation and layout of affidavits and exhibits. For convenience, some key requirements of the relevant rules are scheduled to this Direction but the list is not exhaustive.
2. Any affidavit which does not comply with the requirements of the Rules or this practice direction may be rejected by the Court or made the subject of an order for costs.
3. There should be shown at the top right hand corner of the first page of each affidavit and exhibit:
 - (i) the party on whose behalf it is filed;
 - (ii) the initials and surname of the deponent;
 - (iii) the number of the affidavit in relation to the deponent;
 - (iv) the date when sworn,eg 2nd Defendant: A B Smith: 3rd 24.6.05.

4. It is important that a document referred to in an affidavit can be quickly and easily identified. This is especially so when there are several such documents. Where a deponent refers to more than one document, rather than each being exhibited separately a bundle of the documents should be exhibited as one exhibit and referred to, when first mentioned, accordingly (eg "... in the exhibited bundle marked 'AB 1' and signed by me"). The bundle should be paginated (with page numbers being consecutive at the centre bottom of each page) and indexed (with each document being given a particular number). The description of the document in the Index should conform to its description in the body of the affidavit. In the body of the affidavit the deponent, having exhibited the bundle, can either refer to a particular document by reference to its page number(s) in the bundle or by its number in the Index eg "I refer to a copy of the said Mortgage (document number 1 in the Index to the exhibited bundle)".
5. When a deponent makes more that one affidavit to which documents are exhibited, the page numbers in the subsequent bundle and the document numbers in the Index to the subsequent bundle should follow consecutively from the previous bundle and Index thereto.
6. Clearly legible photographic copies of original documents may be exhibited instead of the originals provide the originals are made available to all parties for inspection before the hearing and to the Court at the hearing.
7. Court documents which prove themselves such as probates, letters of administration, orders and affidavits should not be exhibited though copies of such documents (except, where the hearing is before a Master, orders, affidavits and other documents already filed in the same action or

proceeding) should be included in the documents lodged in court for the hearing of the matter. The originals of land certificates, documents of title, and grants of probate or letters of administration should be brought to the hearing and, subject to the direction of the Court, will be handed back immediately after perusal and notation to the party who made them available.

8. Affidavits must be so prepared that there is no likelihood of the pages becoming separated and should be bound safely together in a secure manner which does not hamper filing. If staples are used they should be used only to the extent necessary to secure the pages ie only 1 or 2 staples in the top left hand corner. Treasury tags should be avoided as should binders of a thickness disproportionate to that of the pages they secure or which would otherwise hamper filing.
9. The normal filing clause to be added to an affidavit reads:

“This affidavit is filed by X, Y and Co of (address including postcode) solicitors for the plaintiff (or as the case may be).”
10. The address (not simply the name of the town) at which the affidavit was sworn should be set out clearly in the jurat. If the signature of the person before whom the affidavit is sworn is not decipherable it should be further clarified below by means of a rubber stamp or in block capitals. It should be clearly shown whether such a person is a solicitor or a commissioner for oaths.
11. The certificate of the person before whom an affidavit is sworn must be either endorsed on the document or bundle of documents being exhibited or

if on a separate sheet must be attached to the documents in the same manner as an affidavit should be bound (but without annexing the exhibit to the affidavit).

12. The following is an example of a certificate identifying an exhibit and of the short title permitted by Order 41 rule 1(2) and (3) for affidavits:

“IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

..... DIVISION

BETWEEN

JOHN SMITH & ORS

Plaintiff;

WILLIAM BROWN & ORS

Defendants.

This is the exhibit marked JS 1 referred to in the affidavit of John Smith sworn before me on

(Signature)

A solicitor (or Commissioner for oaths)”

13. There is no need for the deponent to sign the exhibit.

14. Where a deponent wishes to refer to a document already exhibited to some other deponent's affidavit he should not also exhibit it to his own affidavit but refer to the exhibited document or (as the case may be) the appropriate page number in the relevant exhibited bundle of that other affidavit.
15. It is the responsibility of the solicitor or litigant in person by whom any affidavit is filed to ensure that every page of every exhibit is fully and easily legible.
16. Where at the time of the hearing the affidavits or exhibits (whether of single documents or bundles) have become numerous they should be put in a consolidated bundle or file or files and be paged consecutively throughout and indexed. The exhibits should be in a separate bundle or file.

SCHEDULE

Some key provisions of the Rules in respect of affidavits

1. Affidavits may contain statements of information or belief. Any such statements must be accompanied by statements of the sources or grounds of the information or belief and if not so accompanied are inadmissible: Order 41 rule 5; Re J. L. Young Manufacturing Co -v- Young [1900] 2 Ch. 763.
2. Every affidavit must be on A4 S10 paper of durable quality having a blank margin not less than 3.8 cm wide on the left side of the face of the paper and on the right side of the reverse (Order 66 rule 1).

3. Every affidavit must be bound in book form and, whether or not both sides of the paper are used the printed, written or typed side of the page must be numbered consecutively (Order 41 rule 1(5)).
4. Every affidavit must be divided in paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject (Order 41 rule 1(6)).
5. Dates, sums and other numbers must be expressed in an affidavit in figures and not in words (Order 41 rule 1(7)).
6. Every affidavit must be endorsed with a note showing on whose behalf it is filed and an affidavit not so endorsed may not be filed or used without the leave of the court (Order 41 rule 9(2)).
7. An affidavit which has in its jurat or body any interlineation, erasure or other alteration shall not be filed or used in any proceedings without the leave of the court unless the person before whom the affidavit was sworn has initialed the alteration and, in the case of an erasure, has re-written in the margin of the affidavit any words or figures written on the erasure and has signed or initially them (Order 41 rule 7(1)). Where an affidavit is sworn at any office of the Supreme Court, the official stamp of that office may be used instead of such signature or initials (Order 41 rule 7 (2)).
8. Exhibits must not be annexed to the affidavit (Order 41 rule 11(1)).
9. Every exhibit to an affidavit must be marked and labelled with the initials of the deponent followed by a number (rule 11(3)) and identified by a

certificate of the person before whom it is sworn which certificate must bear the same title as that of the affidavit (rule 11(2)).

Dated this 2005

Lord Chief Justice