



JUDICIARY OF
ENGLAND AND WALES
THE ADMIRALTY JUDGE

PRACTICE NOTE: CPR PD 57AC IN ADMIRALTY CLAIMS

1. New CPR Practice Direction 57AC applies to trial witness statements in Part 7 and Part 8 Claims in the Business and Property Courts signed on or after 6 April 2021. Admiralty claims commenced by Form ADM1, Form ADM1A, Form ADM15 or Form ADM20 fall outside the scope of PD 57AC. The question whether PD 57AC should apply has been considered by the Admiralty Court Users Committee. The Committee's recommendation is that it should. A proposal will be made to the Civil Procedure Rules Committee that, if adopted, will apply the requirements of PD 57AC to trial witness statements in such Admiralty claims signed on or after 1 October 2021.
2. A reservation was expressed about applying PD 57AC to certain witness evidence often seen in this Court, namely first hand accounts collected at the time of or immediately after a maritime casualty or incident, taken from ship's crew, engineering staff and/or officers where there may have been language or other difficulties, stressful conditions and/or significant time pressure. Such contemporaneous evidence, if collected sensibly, will tend to be valuable and by nature apt for dispensation to be given under paragraph 4.2 or 4.4 of PD 57AC (if required) to allow it later to be used for trial. The expressed concern is therefore catered for within PD 57AC, so that PD 57AC does not require to be amended or disapplied for Admiralty claims.
3. Any application under paragraph 4.2 or 4.4 of PD 57AC will be judged on its individual merits, but Admiralty Court litigants and their advisers may proceed on the basis that the Court is familiar with the realities of collecting evidence concerning a maritime casualty or incident. Where the application is founded upon such realities, it should be supported by evidence showing how full adherence to all the requirements of PD 57AC would have been impractical and that steps were taken to try to ensure, so far as practicable, that the evidence obtained was no more than the witness's own honest account, set out as they would give it. If an application supported by such evidence is made prior to the date on which trial witness statements are to be served, the Court will generally seek to determine the application without requiring the statement, or its detailed contents, to be disclosed.

Andrew Baker
Mr Justice Andrew Baker
18 Feb 2021