



## Defence Statements

<b>Purpose:</b>	To draw barristers' attention to practical points relating to failure to draft defence statements
<b>Scope of application:</b>	All self-employed, criminal barristers
<b>Issued by:</b>	The Ethics Committee
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<b>Status and effect:</b>	<b>Please see the notice at end of this document. This is not "guidance" for the purposes of the BSB Handbook I6.4.</b>

1. Defence statements are of fundamental importance in criminal trials. Defendants are liable to be cross-examined about their contents. Comment can be made about them by other parties and the judge. Inferences against the interests of a defendant might be drawn if the document is not served or, if served, is deficient.
2. In defined circumstances there is a statutory obligation upon a defendant to serve a defence statement. The content of the document must comply with express statutory requirements.
3. You must not advise your client not to serve a defence statement nor to omit something which the statute requires to be included. The statutory duties must be explained as well as the consequences which follow from non-compliance.
4. You cannot, and should not, draft a defence statement without adequate instructions. These should take the form of a signed proof of evidence or a note of instructions taken in conference. Such a note should also be signed by the defendant.
5. If it is not possible to obtain the defendant's signature (eg because contact has been via prison video link, or due to literacy issues, or for some other reason), the content of the defence statement should be read out to them and their approval (and/or amendments) should be recorded in writing contemporaneously.

### **Important Notice**

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