

Guidelines for Self-Represented Claimants on Documents Required for Hearing

A Particulars of Claim

The following information should be included in the final particulars of claim filed to support the claim. If this information has already been filed with the claim documents and does not need changing or adding to there is no need to provide it again. More often however there has been the addition and / or removal of parties or changes to the amounts being claimed. In addition additional information has become available throughout the adjudication process which may need to be included. These changes and additions should be reflected in the particulars of claim and an amended or final claim document should be filed setting out the following information.

1. Claimants details

Include in this section claimants' details and confirmation claimants are the owners of the dwelling.

2. Chronology of Events

Include in this section a chronology of all relevant events known from when development began or from when claimants purchased the property (if prior to construction) until lodging of claim.

3. Construction

Include in this section details of the construction of the complex including how the various respondents were involved in the development and construction and the nature of their engagement or involvement.

4. Water Penetration and Damage

Include in this section:

- Information on when claimants became aware of issues and how they became aware
- Information on steps taken to investigate damage and reports obtained
- Details of steps taken to date including any repairs and remedial work done
- Details of the actual damage or a cross reference to this information in the assessors or other experts reports or witness statements.

5. Details of claim against each respondent

Include in section the claims being made against each respondent including:

- the legal basis indicating, for example, whether it is in contract or tort and specifying the nature of the legal breach alleged; and
- the factual basis of the claims against each respondent, for example, detailing the specific breaches or action or inaction which is alleged were negligent or the contracts that were breached and the nature of the breaches. This section needs to be as specific as possible and provide information of the specific things each respondent did (or failed to do) which have, for example, contributed to the house leaking

6. Amounts sought

Include in this section an itemised summary of the amount sought, including the total amount, being sought.

- Remedial costs need to be supported by receipts, quotes or estimates which should be attached to witness statements or included in experts reports in the bundle of documents filed for the hearing.
- Specific damages such as rental costs, interest etc needs to be supported by witness statements and documentary information such as bank statements, receipts, information supporting estimates for rental, furniture storage etc
- General damages claim needs to be supported by information outlined in witness statements and such things as doctors certificates.

B Witness statements / briefs of evidence required

All evidence a party wants to rely on at the hearing must be provided in accordance with the timetable set by the Tribunal by way of witness statements or reports. The people who provide witness statements or reports are required to be available to attend the hearing to be questioned on the information contained in their statements or reports. They can also be questioned on any other issues within their knowledge or area of expertise that is relevant to the adjudication of the claim.

Claimants should file the following evidence / witness statements:

1. The claimants own witness statement/s confirming the factual matters within their direct knowledge that underpin the claim. This should include the factual matters outlined in the summary of claim above including:
 - A chronology of events. If the claimants purchased the property after construction it should include details of the purchase including any checks done or reports obtained before purchase.
 - Details of how the claimants became aware of the issues with the property
 - Details of maintenance undertaken on the property from time of purchase / construction to time of adjudication
 - Factual information within claimants direct knowledge in relation to various respondents involvement and the claims against the various respondents. For example:
 - If the claimants were the owners when the house was built information as to the parties involved in the construction and the nature of the contracts entered into.
 - If there is a claim based on a pre purchase inspection then details of the contract and the report obtained and the extent to which the claimants relied on the report
 - Details supporting the amounts claimed, including where appropriate:
 - Receipts for rent paid while remedial work was being carried out or basis of calculations for estimates included
 - Confirmation of amounts claimed for interest, bank charges etc
 - Details of information on which claim for general damages is based
 - Details of remedial costs incurred or estimated

2. If remedial work has been completed witness statements or reports from the remedial builder, supervisor or remedial expert covering the work undertaken, costs incurred and photographs taken.
3. If claimants are relying on their own expert in addition to, or instead of, the assessor a witness statement from that expert or the report from that expert. An expert is defined as a person who possesses specialised knowledge, by reason of their skill, training or experience, in the key technical issues that form the basis of, or are in dispute in, a claim.
4. Where the remedial amounts claimed are based on estimates of quotes other than what is contained in the assessors report a witness statement from the person who prepared the estimate, quote or tender price confirming the fact that they prepared the estimate and the basis on which it was prepared.
5. Statements from any other person whose evidence the claimants will be relying on to support their claim

Please Note: Even if the claimants choose not to file a witness statement from those carrying out remedial work or providing quotes, but attach quotes or receipts to their own witness statement, the person who prepared the estimates or quotes, or who carried out the work, may be required to attend the hearing to be questioned if there is any dispute in relation to the amounts claimed.

C Presentation of information

1. Witness statements or briefs should be typed and headings and subheadings should be used where possible. The documents should be typed with numbered paragraphs and pages and 1.5 line spacing. They must also be clear, concise and easy to follow.
2. Any documents referred to in the statements or that may be relied upon or referred to during the hearing should generally be provided in an indexed and paginated (each page numbered) bundle of documents filed in accordance with the timetable set. If a party is presenting a large number of documents, they should be placed in folders and indexed for easy reference. If there are only a few documents being referred to they could be attached to the witness statements and referred to by an appendix number. The pages of appendices should be numbered and the appendices indexed.
3. Documents that have previously been provided as either discovery documents or in procedural applications that may be relied upon at hearing should be re-filed as part of the hearing documents. Affidavits or witness statements filed in relation to procedural applications will generally be transferred to the hearing file and accordingly do not need to be filed again with the hearing documents.
4. All hearing documents (i.e. witness statements, appendices, reports and bundle of documents) outlined above must be provided to the Tribunal in a hard or paper copy. In addition all parties must either serve all other parties with a hard copy of their witness statements and hearing documents or provide the Tribunal case manager with sufficient paper copies for service on all other parties.