

# Drafting a persuasive skeleton argument

31 August 2022

## What is involved

Skeleton arguments are written documents filed with the court and exchanged with the other side before a hearing or trial. They should enhance your oral advocacy by providing a clear, concise, focused and persuasive summary of your client's case, as well as any legal, evidential or procedural issues.

To draft a persuasive skeleton argument you need to be able to condense potentially complex and detailed points into a clear, logical and succinct argument. This will need to be easily followed by a judge.

As with your case theory, it is likely to be more challenging if your case involves things like complex matters of evidence, law and procedure.

## Your obligations

Drafting a persuasive skeleton argument is a requirement of our [Statement of standards for solicitor higher court advocates](https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/accreditation/higher-rights-of-audience/statement-of-standards-for-solicitor-higher-court-advocates/) [https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/accreditation/higher-rights-of-audience/statement-of-standards-for-solicitor-higher-court-advocates/] but also required in some matters in the lower courts and tribunals.

If a skeleton argument is required then you need to know the time limits for service, restrictions on length and any other formalities. If you are unsure, check the relevant practice direction or seek advice from a colleague or the court.

Drafting a persuasive skeleton argument can help you meet some of the requirements of our Competence Statement including, but not limited to:

- [A4 Draw on sufficient detailed knowledge and understanding of their field\(s\) of work and role in order to practise effectively.](https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#a4) [https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#a4]
- [A5 Apply understanding, critical thinking and analysis to solve problems.](https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#a5) [https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#a5]
- [B1 Obtain relevant facts.](https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#b1) [https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#b1]
- [B2 Undertake legal research.](https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#b2) [https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#b2]
- [B4 Draft documents which are legally effective and accurately reflect the client's instructions.](https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#b4) [https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#b4]



- [archived/continuing-competence/cpd/competence-statement/#b4\]](https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#b4)  
• [B5 Undertake effective written and spoken advocacy.](https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#b5)  
[https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#b5]
- [C1 Communicate clearly and effectively, orally and in writing.](https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#c1)  
[https://qltt.sra.org.uk/solicitors/resources-archived/continuing-competence/cpd/competence-statement/#c1]

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## **Dos and don'ts**

Dos and don'ts to help you draft a persuasive skeleton argument:

### **Do**

- Strip your case down to its essentials, which should be clear from your case theory.
- Proofread your skeleton argument and practise with it before you submit it.
- Make sure the authorities and points of procedure that you cite are relevant, concise and important.
- If needed, include additional information in your oral advocacy or trial bundle.
- Include key quotes from case authorities if they are important to your case.
- Make cross references to your trial bundle, where appropriate.

### **Don't**

- Overload the court with too much detail and include points which are irrelevant or unimportant.
- Use your skeleton argument as a script for your oral advocacy.
- Overwhelm the court by including all results of your legal research.
- Include long quotes or extracts from authorities.

## **Skeleton argument template**

You can use the template shown here to help structure your skeleton argument. However, there is no one size fits all. Advocates often develop their own way of drafting these, particularly as they become more experienced and learn the expectations of different judges.

The case you are involved in can also affect how you approach your argument. For example, appeals focus on the decision that is being appealed.

**IN THE [NAME OF COURT]**

**CASE OR CLAIM NO:**



**BETWEEN:**

**[NAME] Claimant/Appellant**

**-and-**

**[NAME] Respondent/Defendant**

**SKELETON ARGUMENT OF [NAME AND/OR POSITION IN THE CASE]**

**1. Introduction**

- a. A brief overview of the decision or order you are seeking from the court and your reasons for seeking it.
- b. Some advocates list the documents and authorities they will rely on in their introduction. This may be helpful in a complex case.

**2. The issues**

- a. Summarise the issues in dispute, which need to be decided. These will usually relate to the decision or order you are seeking from the court. For example, if you are asking the court to issue damages for breach of contract, the issues in dispute could be the existence or terms of the contract, the breach of contract and/or the value of any damages.
- b. Using subheadings for each issue can improve the structure and clarity of your skeleton argument, particularly in complex cases.

**3. The facts**

- a. Present the key facts which support your case.
- b. Include cross references to relevant documents such as witness statements.
- c. In complex cases the facts are sometimes summarised in a separate document or schedule of facts.

**4. The law**

- a. Identify the important sections of legislation and case authorities, with the most important ones first.
- b. Include short, essential quotes if they are helpful, or cross reference to attached authorities and/or the relevant part of your bundle.
- c. If any case authorities go against your case, include them and outline how you will deal with them.
- d. Tell the court if the law is not an issue in dispute.

**5. Submissions**



- a. Tell the court how you have applied the law to the facts of your case.
- b. Strip your submissions back to the essential points and start with your strongest points first. Remove any weak points or put them last.
- c. Break your submissions down so that each submission is clear, focused and concise.
- d. Make sure the order of your submissions makes sense. This usually means putting the points of your case first, then dealing with those of the other side.

## **6. Conclusion**

- a. Remind the court what you are asking it to order or decide.

Your name

Your role

The date

Your work address

### **Additional tips**

- The Law Society's [Lawdocs service](https://www.lawsociety.org.uk/contact-or-visit-us/law-society-library/lawdocs-document-delivery-service) [https://www.lawsociety.org.uk/contact-or-visit-us/law-society-library/lawdocs-document-delivery-service] is a helpful tool when preparing skeleton arguments and case or trial bundles. It can deliver legal documents such as precedents, cases, articles and legislation by email, fax, post or DX, often within a matter of hours.
- Most judges expect page numbers, 1.5 or double spacing between each point, and margins for note taking.
- Make sure you take at least one spare copy of your skeleton argument to court.
- If you have time, seek feedback from other advocates. For example, about the case law you have chosen to argue a particular point. However, remember to observe confidentiality and privilege. If you are professionally isolated because you are a sole practitioner or the only advocate in a firm, you may be able to seek feedback through a professional network.