

Witness information for statutory declarations or affidavits

This information is general in nature and cannot be used as a substitute for appropriate professional legal advice about your particular circumstances.

Under the *Oaths Act 1867*, a statutory declaration or affidavit must be witnessed by an eligible witness (you). This fact sheet provides information for the witness (you) about your obligations.

For further information about who can be a witness, please refer to the *Fact Sheet – Who can witness a statutory declaration or affidavit in Queensland*.

General witnessing requirements

You must not sign the statutory declaration or affidavit, to confirm that you witnessed the making of the document, unless you have taken reasonable steps to verify:

- » the identity of the signatory, and
- » that the signatory's name matches the name written on or in the document (sections 13D, 13H, 31T, 31U and 31V of the *Oaths Act 1867*).

Reasonable steps for you to take to verify a document include asking the signatory to produce evidence of identity, such as a government issued identification document.

You must also check the signatory understands the declaration or affidavit and be satisfied the signatory is:

- » freely and voluntarily signing the document, or
- » freely and voluntarily directing another person to sign for them.

For example, a signatory may not be making the document freely or voluntarily if a family member, friend or carer is behaving in a way that is domineering or overbearing towards them. To ensure the signatory is freely and voluntarily signing the document, you could:

- » find a safe place to speak to the signatory alone, or
- » if witnessing by audio visual link (AV link), ask the signatory to show the room where they are signing from, to see if there is anyone off-camera.

Note: If you are not satisfied the signatory understands the content or is not making the document freely and voluntarily, decline to witness the document and explain why.

You must warn the signatory and check that they understand that if they knowingly make a declaration or affidavit, and they know the information is false, they commit an offence.

If you are satisfied of these matters, you must administer the oath, affirmation or declaration before asking them (or the substitute signatory) to sign the document.

Further information about how to witness a statutory declaration or affidavit can be found at www.qld.gov.au/jpandcdechandbook.



Information you must include

Signing on paper and witnessing in person

If a statutory declaration or affidavit is signed on paper and witnessed in person, you must include all the following information on the document:

- » your full name, and
- » what type of witness you are (e.g. lawyer or Justice of the Peace).

If you are a Justice of the Peace (JP) or Commissioner for Declarations (Cdec), you should endeavour to use your 'seal of office' that is issued by the Queensland Government. The seal of office identifies registration details, as a JP or Cdec. Alternatively, you can include these details on or near the signature line of the form.

If you are not a JP or Cdec, you must also include at least one of the following:

- » the name of your place of employment,
- » your employment address or home address,
- » your telephone number, or,
- » your email address.

Signing electronically or witnessing over AV link

If you are a **'special witness'**, the statutory declaration or affidavit can be signed electronically, and you can witness the signature by AV link. You must include all the following information on the document:

- » your full name,
- » that you are a special witness, and,
- » what type of special witness you are (e.g. Australian legal practitioner, or an approved JP or Cdec).

If you are an Australian legal practitioner and an employee of, or a partner in, a law practice, you must also include the name of your law practice (e.g. Jane Doe, Australian legal practitioner, ABC Legal).

If you are not an Australian legal practitioner or an approved JP or Cdec, at least one of the following must be included on the document:

- » the name of your place of employment,
- » your employment or home address,
- » your telephone number, or,
- » your email address.

If there are worries about domestic, family, or sexual violence, you should use your discretion and include the information (from the above options) that minimises the risk of exposing the location of the signatory or another affected person.

For a document witnessed by AV link, you must indicate on the form that you have understood and have complied with the requirements for witnessing a document by AV link (see sections 31T, 31U and 31V of the *Oaths Act 1867*).

Examples of requirements for witnessing a document via AV link include that there is stable internet connection, and microphone and camera quality is sufficient for you to identify the sounds and images required to confirm the document.