

## 2.4 Record keeping and logbooks

### Why keep records?

JPs and Cdecs assist members of the community with many different documents. At times, the contents of documents, or the capacity of a person to sign a document, are challenged in a court of law. You may be called to a court or tribunal to give evidence about what occurred when the documents were witnessed.

Therefore, it is important you make and retain thorough and consistent records of all the documents you witness and any action you may take. You should advise the signatory you must record certain information in case there are ever any questions about how the document was witnessed.

### What information should I record?

You should keep accurate and consistent records, develop a standard procedure for dealing with a particular document and not deviate from this practice. That way if a document you witnessed is challenged in court but you have no specific recollection of it, you can honestly state you have a witnessing practice which you do not deviate from and show evidence of your consistent records for that type of document.

The information you record may vary depending on the type of document witnessed. Your logbook should contain the following information:

- date
- name of the signatory
- type of document witnessed
- type of identification sighted
- location where the document was witnessed
- whether there were any special requirements you needed to take to ensure compliance with the document
- any questions asked and answers given to clarify the document contents and the signatory's understanding of the document
- if the signatory took an oath, affirmation or declaration.

You should also keep detailed records when the document to be witnessed is unusual or there are circumstances where it is wise to keep more detailed records. These may include:

- applications for warrants
- documents under the *Powers of Attorney Act 1998*
- if an interpreter or translator was used, the language and dialect used, and the oath or affirmation of interpreter
- Titles Registry forms.

If you decline to witness a document, you should note the reasons for refusal in your logbook.

### Confidentiality and recording personal information

Any information you record as a result of witnessing a document must remain confidential. You should never include specific details about the contents of a document as this may breach confidentiality between yourself and the signatory.

You are not permitted to record in your logbook any specific numbers appearing on the signatory's identification. This includes but is not limited to passport, driver licence or credit card numbers.

All documents should be treated as confidential. However, there may come a time you are required to disclose information to a court or tribunal about a document you have witnessed. In these instances, you must follow the direction of the court or tribunal.

## **When should I make my records?**

You should make your records at the time of the witnessing or as soon as practicable after.

A court will not normally allow reference to records made a long time after the event.

## **Can I keep copies of documents that I witness?**

No, maintaining confidentiality of the documents you witness is paramount. You do not have any authority to request, retain, photocopy or photograph any documents you witness. Your logbook should only contain details of the type of documents you witnessed.

You do not have any authority to request, make or retain a copy of any document that will be or has been lodged in a court or tribunal. This includes but is not limited to:

- land title documents
- enduring documents
- applications to extend detention periods
- warrants
- complaints and summonses
- matters before the courts where the named person is a juvenile.

However, JPs may retain copies of documents such as applications for warrants and applications for external body searches.

## **Storage and security of retained documents**

You should keep your records in a secure place where you control access.

## **Retention and destruction of records**

There is no specific legislation that stipulates how long you should keep information obtained in exercising your duties of office.

An exception to this is recording of Titles Registry transactions. There is a mandatory requirement for you to keep a written record of how you verified the signatory's identity and their entitlement to sign the form for a period of seven (7) years from the date of witnessing, as outlined in chapter 4.11.

If you are no longer able to perform your official duties and resign from your role as a JP or Cdec you can contact us for information on how to best dispose of your reference material.

Never dispose of any documents or logbooks in household bins, business bins or public refuse disposal areas.