

4.6 Administering oaths and affirmations

What is an oath?

An oath is a solemn declaration or undertaking that calls upon a faith-based higher power (such as God or another Deity) to witness the truthfulness of the statement a person is making.

A document made under oath is said to be ‘sworn under oath’, as the contents of the document are ‘sworn before God’.

What is an affirmation?

A solemn affirmation is the equivalent of an oath except that it does not call upon God or another Deity to bear witness. It was introduced as a concession to people who object to taking an oath. Some religions do not accept the use of oaths, and the use of affirmations by people with no religious beliefs is now commonly accepted.

Why would a person make an oath?

The reason for a person, also known as the signatory, making an oath is based in the historical significance of religion when swearing an oath before God was a very serious thing. The serious nature of an oath is still evident today, as any false statement under oath is a criminal offence and results in substantial penalties, including heavy fines or imprisonment.

However, today’s law recognises a person’s right to beliefs other than Christianity, and there are various oaths for people with other religious beliefs.

By law, certain statements – such as documents intended for use in court proceedings, oaths of office, requests for the replacement of certain lost documents and some statements of debt – must be sworn under oath or by affirmation.

Why would a person make an affirmation?

The *Oaths Act 1867* (the Act) states the signatory may make an affirmation in lieu of an oath if they regard the taking of an oath as objectionable. The Act also provides that the objection to being sworn may be based on:

- an absence of religious beliefs
- conscientious grounds
- other grounds considered reasonable by the court, a judge, another presiding officer or a person qualified to administer oaths or to take affidavits or depositions.

The law does not allow people to avoid taking an oath in the belief they are under a lesser obligation to tell the truth when making an affirmation.

How do I administer an oath or affirmation?

Following the general procedure for witnessing signatures as outlined in chapter 4.1, you must administer the oath or affirmation before the document is signed. It is advisable to administer the oath or affirmation at the very beginning so the signatory is under oath if you ask any questions.

It is your responsibility to make sure the oath or affirmation is taken correctly.

Before administering the oath or affirmation, be sure to warn the signatory of the necessity to tell the truth, and the consequences if the document is found to be false.


A document to be made under oath is set out as follows:

I [name] of [address], state on oath that [body of document].

A document to be made under affirmation is set out as follows:

I, [name] of [address], do solemnly, sincerely and truly affirm and declare that [body of document].

At the end of the document, before the space for your signature, there is provision for you to indicate if the document was signed under oath or affirmation.

 **Note:** There are many religions not covered in this handbook and some branches of the major religions require variations in the wording. When in doubt, you should use whatever wording the signatory regards as solemn and binding.

Oaths

Christian oath

To administer a Christian oath, you must use a Bible that contains either a full Bible (Old Testament and New Testament together) or an Old Testament or a New Testament alone. A Christian oath cannot be taken without a Bible, and no substitute is allowable.

Ask the signatory to take the Bible in either hand, and repeat the following words after you:

I swear that the contents of this document are true and correct to the best of my knowledge and belief, so help me God.

Or:

I swear that I will [as per the requirements of the documents], so help me God.

Once the oath has been taken, ensure the document is signed and witnessed in accordance with your normal procedure.

Jewish oath

The wording for the Jewish oath is the same as for the Christian oath except the Old Testament, the Torah or Pentateuch is used instead of the Bible. If the signatory wears a hat, this may remain on during the administering of the oath. The Old Testament, Torah or Pentateuch is usually held high in the right hand.

Islamic oath

The Holy Koran, or Qur'an, is used when taking an Islamic oath. Care should be taken when handling the Koran, as some Islamic people believe it is sacrilegious for a non-believer to touch it.

- Ensure the Koran has been wrapped, by a believer, in a piece of plain white material.
- Hand the Koran to the signatory, asking them to take the Koran in either hand and place the other hand on their forehead.
- Ask the signatory to state the following words:

In the name of Allah, the Beneficent, the Merciful. By Almighty Allah, in whose hands are my life, I promise to give the facts completely, truthfully and sincerely to the best of my ability.

- Ensure the signatory kisses the Koran at the completion of the oath.

Buddhist oath

There are no set procedures to follow. Simply ask the signatory to state the following words:

I declare, as in the presence of Buddha, that I am unprejudiced, and if what I shall speak shall prove false, or if by colouring the truth others shall be led astray, then may the three Holy Existences – Buddha, Dhamma and Pro Sangha – in whose sight I now stand, together with the Devotees of the Twenty-two Firmaments, punish me and also my migrating soul.

Chinese oath

- Light a candle or a match.
- Ask the signatory to blow out the flame and state the following words:

I swear that I shall tell the truth, the whole truth, and nothing but the truth. This candle (or match) is now extinguished, and if I do not tell the truth, may my soul, in like manner, be extinguished forever hereafter.

Affirmations

The procedures for administering an affirmation are the same as for an oath, except no holy book is used, and the wording is different. There are also prescribed affirmations under the Act for people of certain religious persuasions.

Secular affirmation

Either ask the signatory:

Do you solemnly, sincerely and truly affirm and declare that the contents of this your [document] are true and correct to the best of your knowledge?

and then instruct the signatory to answer:

I do.

Or ask the signatory to repeat these words after you:

I solemnly, sincerely and truly affirm and declare that the contents of this my [document] are true and correct to the best of my knowledge.

Affirmation by Quakers

I, [name], being one of the people called Quakers, do solemnly sincerely and truly affirm and declare that the contents of this my [document] are true.

Affirmation by Moravians

I, [name], being of the united brethren called Moravians, do solemnly sincerely and truly affirm and declare that the contents of this my [document] are true.

Affirmation by Separatists

I, [name], do in the presence of Almighty God solemnly, sincerely and truly affirm and declare that I am a member of the religious sect called Separatists and that the taking of an oath is contrary to my religious belief as well as essentially opposed to the tenets of that sect and I do also in the same solemn manner affirm and declare that the contents of this my [document] are true.

Things to bear in mind

Be careful: The followers of some faiths believe it is wrong for a non-believer to speak the words of their oath. Before hearing the oath, check whether the signatory objects to you reading the words of the oath for them to repeat. If they do object, hand them a written copy of the oath and ask them to read it out aloud.

Frequently asked questions

Can I use a mobile device to take a religious oath?

Yes. A mobile device containing religious text can only be used if a physical copy is not available. It would be prudent to confirm there is a copy of a religious text open on the device by asking the signatory to show it to you.

Am I precluded from administering a particular oath if it is contrary to my personal beliefs?

No. As a witnessing officer in Queensland, it is your duty to ensure the signatory is provided every opportunity to take an oath in their own way, regardless of your own beliefs.

Can I refuse to administer an oath or affirmation?

No. By law, some documents must be witnessed under oath or affirmation. As a witnessing officer in Queensland, it is your duty to ensure the signatory's document is witnessed according to the law.

However, you should refuse to attest a document where the form of oath or affirmation is not substantially in a format that is authorised by law – that is, as set out in this section.

Who provides the equipment?

The person making the oath or affirmation is expected to provide whatever equipment is necessary. Bibles are supplied to the JPs in the Community program signing sites.

Where can I get more information?

Queensland legislation

www.legislation.qld.gov.au