

4.4 Witnessing a statutory declaration for an application made under the *Domestic and Family Violence Protection Act 2012*


What is the *Domestic and Family Violence Protection Act 2012* (the Act) for?

The main objectives defined in the Act are:

- to maximise the safety, protection and wellbeing of people who fear or experience domestic violence, and to minimise disruption to their lives
- to prevent or reduce domestic violence and the exposure of children to domestic violence
- to ensure people who commit domestic violence are held accountable for their actions.

This Act deals with prescribed behaviours committed or threatened to be committed by a person towards another person who are in a ‘relevant relationship’, which include:

- a family relationship – two relatives (by marriage or blood), including a child over 18, parent, stepchild, step-parent, brother, sister, grandparent, aunt, uncle, nephew or niece, as for some community groups, a person who is not related by blood or marriage but is considered a relative
- an informal care relationship – one person who is, or was, depending on another person for help with daily living activities

 **Note:** It is not considered domestic violence when a person is a paid carer under a commercial arrangement.

- an intimate personal relationship – two people (regardless of gender) who are/were a couple, engaged, married, in a de facto relationship, the parents of a child or in a registered relationship (a legally recognised relationship).

Who can make an application under this Act?

An application can be made by:

- the person experiencing domestic and family violence (the aggrieved)
- a police officer
- an aggrieved person’s guardian appointed under the *Guardianship and Administration Act 2000*
- an attorney for the aggrieved appointed under an enduring power of attorney under the *Powers of Attorney Act 1998*
- any person 18 years of age and over who is authorised to appear by the aggrieved person (an authorised person). This person can be authorised in writing. If the authority is not in writing – such as for a person who has a disability and can’t write – then oral authority can be given.

Why would someone make an application under this Act?

Regardless of age, culture, sexuality or gender identity, everyone has the right to live without fear. A person can make an application for a protection order if they are experiencing emotional, financial, psychological, physical or sexual abuse in a relevant relationship.

What is domestic and family violence (DFV)?

The Act provides for a broader definition of domestic violence and the relationships that are protected by it.

Domestic violence means behaviour by a person (the first person) towards another (the second person) with whom the first person is in a relevant relationship that –

- is physically or sexually abusive
- is emotionally or psychologically abusive
- is economically abusive
- is threatening
- is coercive
- is causing them to fear for their own or someone else's safety and wellbeing.

How do I witness a statutory declaration in a protection order application?

Follow the general procedure for witnessing signatures as outlined in chapters 4.1 and 4.2.

Take your time with the signatory. Start by asking them if they feel safe and comfortable in the location where you are witnessing their declaration. If possible, move to a quiet space out of the presence of others. This will allow the signatory to speak freely without being overheard.

Also let the signatory know they can stop the witnessing process at any time without explanation.

A signatory may withhold information in a document, such as an address or other personal details, if they have concerns it may jeopardise their safety if disclosed to another party. This information will be supplied to the receiving agency or court at the time of lodgement.

Things to bear in mind

The decision to leave a domestic violence situation is often a difficult one, and the person in front of you may lack self-esteem and self-confidence.

Take your time going through the witnessing steps with the signatory. Avoid language/ tone that may make a person going through this process feel scared, judged or not believed.

If needed, reassure them you are impartial and cannot provide any advice or opinions about the matter or the contents of their application or the process for obtaining a protection order.

Frequently asked questions

The declaration in the application has 'Queensland' prepopulated on the form should I change this to the location of signing?

No. Do not cross out Queensland and enter the town or suburb you are located in.

Inserting a location other than Queensland has the potential to disclose to another party the signatory's general whereabouts, which could jeopardise their safety.

Can additional pages be submitted with the application?

Yes. Additional pages can be submitted with the application. If there are attached statements, they should be prepared as statutory declarations or annexures to the original declaration and should be witnessed accordingly.

A domestic and family violence safety form may also accompany the application. If the person has concerns for their safety, this form should be completed by the aggrieved or a representative. It is important to note the safety form does not form part of the application or the statutory declaration.

Are there other applications under this Act I can witness?

There are several forms under this Act you may be asked to witness where you will need to take the signatory's declaration or place them on oath or affirmation to take their affidavit.

Where can I get more information?

DFV information, services and support

www.qld.gov.au/domesticviolence

Queensland Courts

www.courts.qld.gov.au/dfv

Forms

Application for a protection order (DV1) online – statutory declaration

www.qld.gov.au/dfvorders

For help and advice

If the signatory asks you for help in completing an application, you should refer them to their nearest Magistrates Court, or alternatively you can provide them with the contact details of the following helplines:

1800RESPECT

1800 737 732

Womensline

1800 811 811

Mensline

1800 600 636

Kids Help Line

1800 55 1800

www.kidshelpline.com.au

Elder Abuse Helpline

1300 651 192

www.eapu.com.au

DVConnectv

www.dvconnect.org


4.4 Quick guide

Witnessing a statutory declaration for an application made under the *Domestic and Family Violence Protection Act 2012*


Follow the general procedure for witnessing signatures as outlined in chapters 4.1 and 4.2 then:

-
- ① Check the requirements for the statutory declaration have been met.


 - ② Warn the signatory that if they knowingly make a false declaration they commit an offence.

 - ③ Check the signatory understands the declaration.
 **Note:** The signatory must make the declaration, not the substitute signatory.

 - Ask them to show you each page of the application, ensuring:
 - they cross out or answer any unanswered questions
 - any changes are initialled by both you and the signatory.

 - ④  **Note:** A signatory may withhold details if they have concerns for their safety. These will be supplied to the receiving agency or court at the time of lodgement.

 - ⑤ Ask the signatory to make their declaration.

 - ⑥ Have the signatory sign the document and witness their signature.
 **Note:** Ensure you do not change or modify the location listed on the document. If there is no location listed, insert 'Queensland'.

 - ⑦ Record all relevant information in your logbook as outlined in chapter 2.4.
-