

Completing an affidavit (respondents)

Preparing your evidence for a domestic and family violence hearing

What is an affidavit?

Affidavits are written statements of facts, sworn or affirmed to be true and correct, and filed in court before your hearing. They provide evidence to support court proceedings but they don't replace the need for witnesses to appear in court. Opinions or 'hearsay' (information that can't be proved or rumours) should not be included—only state the facts. Try to keep your affidavit less than 10 pages.

It is recommended you get legal advice about what information to include before you file your affidavit in court.

What are exhibits?

Affidavits can contain attachments, referred to as 'exhibits', which may include documents like letters or reports from doctors, receipts and proof of expenditure, telephone accounts that show the numbers called, photographs, emails etc. It is recommended you limit your exhibits to five.

You should refer to your exhibits in your affidavit as follows:

“Exhibited and marked with the letter ‘A’ (pages 1 – 2) are copies of the photos showing bruising”.

What form do I use?

Form DV25 is the standard form used for affidavits, and can be found on the Courts Queensland website (www.courts.qld.gov.au) under the *Domestic and Family Violence Protection Act 2012* section.

When do I lodge the affidavit?

Make sure you lodge your affidavit on time. The deadline will be in a document called “Trial directions”. If you don't meet the deadline, the court may not consider your evidence or the other person may ask for you to pay their legal costs caused by the late lodgment.



Completing an affidavit as the respondent

You will notice the front page of the affidavit has paragraph numbers. These indicate separate statements and should be continued throughout the document for each statement you make.

1. State who you are in relation to the parties.
For example: "I am the respondent to the application by Constable..."
2. Detail past domestic violence applications and orders made. For example: "I was a respondent to a police application that expired on 15 June 2017. I have complied with the conditions of the protection order and there have been no breaches. I have undertaken a behaviour change program with Centacare, which I completed on 1 June 2017."

Write a subheading: Relationship history

3. Set out if you agree with the relevant relationship details in the application or affidavit.
For example: "I have read the affidavit of Sally filed on 16 June 2017 and I agree with paragraphs 4 (four) to 6 (six) about the relationship history".
4. Provide a copy of the details of any family law orders or proceedings concerning the children. For example: "Sally and I have reached a parenting arrangement for our children at Relationships Australia. Exhibited hereto and marked Exhibit "C" is a true copy of the parenting agreement signed on 25 November 2017".

Write a subheading: Evidence

Examples may include:

5. "Since separation I have moved back with my parents which is 150km away from Sally and I have only contacted Sally to collect my personal property".
6. "Since separation we have reached a parenting agreement and I have complied with the parenting arrangements with changeover occurring at my mother's house".
7. "Since separation I have not spent time with my children but Sally keeps ringing me and texting me, sometimes 3 (three) to 4 (four) times a day, asking me to ring her back and speak to the children. When I call back, Sally sometimes starts yelling at me and says she is going to breach me on the protection order, or other times when I ring back, Sally says she loves me and wants to try again. I have included as an exhibit 5 (five) pages of text messages that were around the dates Sally has stated in her affidavit that she was fearful of me. I have many more text messages and emails that I can show the court on the day.

Write a subheading: Response to applicant's affidavit

Examples may include:

8. "I have read the affidavit of Sally filed on 16 June 2017:
 - a) I agree with paragraphs 4 (four) to 6 (six) about the relationship history.
 - b) I agree with paragraph 6 (six), however I state that I have started a men's behaviour change program. The program takes 16 weeks. Sally and I have booked to attend mediation about the children. I am willing to promise to be of good behavior towards Sally and the children in the future.
 - c) I do not admit to paragraph 7 (seven) to 9 (nine) because the facts are not within my personal knowledge.
 - d) I refer to paragraph 10 (ten) and I state I wasn't at home at the time of the incident; I was at the Woolloongabba Hotel with Joe Brown. Joe Brown is willing to make a statement and be a witness at the hearing".
 - e) I refer to subheading 'Necessary and desirable' in the affidavit of Sally filed on 16 June 2017 and I state that I do not understand why a protection order is necessary or desirable. Sally states in her affidavit she is fearful of me but Sally has visited my house twice a week since she filed the application for protection. Sally has told me she wants to work on the relationship. We are seeing a couple's counsellor at Relationships Australia once a fortnight.

Get legal advice about what information is useful to include in your affidavit before you file your affidavit in court.



Write a heading on a new page: Index to exhibits

- Include the court file number and the words “sworn or affirmed on (date)”.
- Use three columns:
Exhibit number — refers to Exhibits A to Z
Exhibit description — is a description of the evidence
Page number — refers to which pages relate to each piece of evidence.



Index of exhibits

Affidavit of (name of person)
Sworn/Affirmed on (date)

Exhibit number	Exhibit description	Page number
A	Photos	1–2
B	Text messages	3–5
C	Medical certificate	6

- Place Form 047 *Certificate of Exhibit* (www.courts.qld.gov.au) between each exhibit marked with the relevant item of evidence. For example: Exhibit A to the Affidavit... (place the two photos behind the cover page for Exhibit A) followed by a cover page for Exhibit B — Text messages.

Once you have completed the affidavit you need to have it signed and witnessed (certified) by a justice of the peace (JP), commissioner of declarations, or a solicitor before you lodge it in court. Magistrates Courts, shopping centres, or police stations will have JP’s available. To find a JP, visit www.qld.gov.au and type “nearest JP” in the search box.

When you sign your affidavit, you place your signature where it says ‘the deponent’. A deponent means the person making the affidavit. The qualified witness (this is the justice of the peace, commissioner of declarations or solicitor) will then sign their name and title.

You need to sign the bottom of each page and make sure the pages are numbered.

The content of your affidavit must be true and correct on the date you sign the affidavit. There are penalties for making a false or misleading statement.

Get legal advice about your affidavit before you file it in court.

Tear off the section below and give it to your witnesses



Information for witnesses

As a witness you must:

- prepare and file your own affidavit
- be prepared to come to court on the hearing day
- be prepared to be questioned about what you have written in your affidavit.

You must number each paragraph in your affidavit. You should continue numbering the paragraphs throughout the document for each statement you make.

1. State your name and how you know the people in the proceedings. For example: “I have known Sally and James since November 2015. I lived in the flat above Sally and James when they lived at Unit 12, 451 Ipswich Road, Buranda.
2. Set out what you, as a witness, have seen or heard. The respondent (the person who is responding to the protection order) cannot tell you what to write in your affidavit.

3. You should include:

- When things happened — I remember the date of June 2017...
- Where things happened — be specific. For example: “I saw Sally cooking in the flat when I went to visit their unit and asked James to come down to the pub to celebrate me getting a job”.
- What happened — state what happened on the day and then give more details of your memory of the incident.
- What their behaviours were towards you.

The content of your affidavit must be true and correct on the day you sign it. There are penalties for making a false or misleading statement.

Get legal advice before signing the affidavit.

How your affidavit is served on the other party

The court will arrange to serve a sealed copy of your affidavit on the other person as soon as possible. This means the affidavit will have a court stamp on it. Check with your local court about their process. If the court is going to serve the affidavit on the other person, you will need to make sure the court has enough time to serve the affidavit after you've filed it.

Check with the court about how many copies of your affidavit you need.



Witnesses completing an affidavit

Each of your witness's must prepare and file their own separate affidavit. They must also be willing to come to court on the hearing day to give their evidence and be questioned by both people on it.

You cannot tell your witness what to write in their affidavit. If your witness is not prepared to sign the affidavit, their evidence cannot be relied on at the hearing. Please get legal advice about other options.

Do you need extra help accessing our services?



If you would like this factsheet explained in your language, please phone the Translating and Interpreting Service on 13 14 50 to speak to an interpreter. Ask them to connect you to Legal Aid Queensland. If you are deaf or have a hearing or speech impairment you can contact us using the National Relay Service. To make a call, go to the National Relay Service Website and ask for 1300 65 11 88 (Legal Aid Queensland's legal information line). These are free services.

*Acknowledgement to Women's Legal Service Queensland and Western Australia Legal Aid

Your Local Legal Aid Queensland office:

BRISBANE

44 Herschel St, 4000

BUNDABERG

3rd Floor, WIN Tower,
Cnr Quay & Barolin Sts, 4670

CABOOLTURE

Ground Floor, Kingsgate
42 King St, 4510

CAIRNS

Level 2, Cairns Square Complex,
42-52 Abbott St, 4870

INALA

Level 1, Inala Commonwealth
Offices, 20 Wirraway Pde, 4077

IPSWICH

Level 7, 117 Brisbane St, 4305

MACKAY

Ground Floor,
17 Brisbane St, 4740

MAROOCHYDORE

Ground Floor, M1 Building
1 Duporth Ave, 4558

MOUNT ISA

6 Miles St, 4825

ROCKHAMPTON

Ground Floor, 35 Fitzroy St, 4700

SOUTHPORT

Level 2, 7 Bay St, 4215

TOOWOOMBA

1st Floor, 154 Hume St, 4350

TOWNSVILLE

3rd Floor, Northtown
280 Flinders St, 4810

WOODRIDGE

1st Floor, Woodridge Place,
Cnr Ewing Rd & Carmody St, 4114

For more information about our services visit legalaid.qld.gov.au

or phone 1300 65 11 88 or 1800 650 143 (Indigenous Hotline)

