

Completing an affidavit (aggrieved)

*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 are used to 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 facts. Try to keep your affidavit to less than 10 pages.

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 Queensland Courts website (www.courts.qld.gov.au) under the *Domestic and Family Violence Protection Act 2012* section.

When do I file the affidavit?

Make sure you file 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 filing.



Completing an affidavit

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 applicant in this Application for a protection order”.
2. Show details of when this application was made and when any temporary protection order was made.
3. Detail past domestic violence applications and orders made, for example: “Police made an application to protect me on 20 October 2017 and a final order with a basic good behaviour condition was made on 24 November 2017.”

Write a subheading: Relationship history

4. Include all the details needed to satisfy the definition of a ‘relevant relationship’, in section 13 of the *Domestic and Family Violence Protection Act 2012* (the Act), including the date of marriage, date of co-habitation, date of separation.
5. If you are relying on a ‘couple relationship’, give examples of how you were a couple.
6. Set out names and dates of birth of children of the relationship or children that reside or spend time in the household.
7. Include details of any family law orders or court cases about the children.

Write a subheading: Incidents leading to this application

8. Set out the most recent incidents, including:
 - a. **when** — the time and date (or reference to external event, e.g. after the rugby finals). This could also be over a period of time, for example: “Over the past six months I have been given an allowance for shopping and told to bring home receipts and questioned if I did not have the exact change”.
 - b. **where** — be specific, for example: “I was in the kitchen at the back of the house”.
 - c. **what** — use active words to describe what happened, for example: “He slapped me across the left side of the face with his open hand”, or “I had to show receipts for every purchase made”.
 - d. If text messages or verbal threats or abuse were made include the exact words used, for example: 1:00pm 15 November 2017 “You stupid cow, you’re a hopeless case, I’m going to make you sorry ever to be alive”.

- e. If emails were an issue, attach copies, for example: “Exhibited and marked ‘A’ is an email dated 1 November 2017 from the respondent”.
- f. **how** — tell the court if there was a weapon involved and if property was damaged, for example: “He threw his hot cup of coffee at me which hit the back sliding door and cracked it”.
- g. **injuries** — what injuries you suffered and whether you received any medical treatment, for example: “He bent my finger right back hard and broke it. I received treatment at the emergency department of the Prince Charles Hospital”. If psychological abuse has occurred you might describe some other symptoms like: “My whole body would shake with nervous tension whenever I heard the car pull in”.
- h. **photographs** — attach copies (colour if possible) with date stamps attached, for example: “Exhibited and marked “B” is a photograph of the broken window he smashed with the baseball bat”.
- i. **witnesses** — include what they saw or what was told to them, for example: “My neighbour Mary Smith told me she saw me run out of the house being chased by the respondent who was yelling at me that he was going to kill me”.

Write a subheading: Violence during the relationship

9. Include a summary of past violent events, for example: “Throughout our five year relationship, he often drank heavily on most weekends or after work. He would often start arguing with me, calling me names like “you lazy bitch”, “you’re a whore”, making me feel so upset I would sleep in the spare bedroom and lock the door”.

Write a subheading if needed: Incidents of violence to the children

10. Include specific details of how the children were exposed to violence including:
 - a. if they were present
 - b. if they witnessed the results of the violence
 - c. how they were affected
 - d. why they need to be protected.

Write a subheading if needed: Incidents of violence to any named persons

11. Set out specific details as described in section 8 above.

Write a subheading: Conditions needed

12. Set out the reasons why certain conditions are needed for your protection and the protection of children or named people.

Write a subheading: Necessary or desirable

13. Outline why the order is needed for your protection.

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 what pages relate to each exhibit

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. Magistrates Courts, shopping centres, or police stations will have JPs available. To find a JP, visit www.qld.gov.au and type “nearest JP” in the search box.

Sign your affidavit where it says ‘the deponent’. A deponent means the person making the affidavit. The qualified witness (JP, commissioner of declarations or solicitor) will then sign their name and give details of their position.

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

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. 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 2016. I lived in the flat above Sally and James when they lived at Unit 12, 451 Ipswich Road, Buranda”.
2. Explain what you have seen or heard. The aggrieved (the person who has experienced domestic violence) cannot tell you what to write in your affidavit.

You should include:

- When — “I remember the date of June 2017”.
- Where — 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 – state what happened on the day. Be as detailed as possible and provide your memory of the incident.
- What was their behaviour towards you?
- How did their action make you feel, for example: “I felt scared for myself and my friend”.

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.

Serving your affidavit on the other person

In some Magistrates Courts, the magistrate will help manage the court process and will require you and the other person to file written material (e.g. an affidavit) by a certain date and set a date for the hearing. 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 on the other person after you have filed it. The other person must be provided with a sealed copy of your affidavit (this is an affidavit with a court stamp). Check with the court about how many copies of your affidavit you need.

If you need to arrange service of a copy of the affidavits to the respondent, you can choose one of the service options below or any other way approved by the court. Options include:

hand — you may arrange for a process server (for a fee) or any other person over 18 to hand deliver the documents for you; process servers are listed in the Yellow Pages

registered post — do not do this unless you are confident the other person will sign for the documents

fax or email — you can do this if the person has given a fax number or email address to the court

service on a lawyer — a document is taken to be served on a person if they have a lawyer representing them and the lawyer has agreed, in writing, to accept service of the document for that person.

Witnesses completing an affidavit

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

You cannot tell your witness what to write in their affidavit. If your witness is not prepared to sign an 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?



We are committed to providing accessible services to Queenslanders from all culturally and linguistically diverse backgrounds. To have this publication 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 on 1800 998 980.

If you are deaf or have a hearing or speech impairment you can contact us using the National Relay Service. Visit www.relayservice.gov.au and ask for 1800 998 980. 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

Level 4, Northern Securities
Building, 22 Walker 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 **1300 650 143**
(Aboriginal and Torres Strait Islander Information Line)

