

Justice of the Peace

Handbook



... I will do right to all manner of people, after the laws and usages of the State of New South Wales, without fear or favour, affection, or ill-will.

Extract from the Oaths of Office for appointment as a Justice of the Peace in NSW

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“We acknowledge the traditional owners of Country throughout NSW. We would like to pay our respects to the Elder’s past, present and pay our respects to all Aboriginal people.”

1	Introduction	3
1.1	Your functions as a Justice of the Peace	4
1.2	Your obligations as a Justice of the Peace	6
1.3	Available support and information	8
1.4	Frequently asked questions: about your authority as a JP	9
2	Performing your functions as a Justice of the Peace	11
2.1	Witnessing a statutory declaration	12
	A) Remote witnessing over an audio/visual link	14
2.2	Witnessing an affidavit	32
	B) Remote witnessing over an audio/visual link	34
2.3	Certifying a copy of an original document	52
2.4	Performing other functions of a JP	63
2.5	Providing services to people from culturally and linguistically diverse backgrounds	70
2.6	Providing services to people with disabilities	91
2.7	Frequently asked questions: about providing JP services	94
3	Important information about your appointment	101
3.1	Justices of the Peace register	102
3.2	Keeping your details up to date: using JP Online	102
3.3	Your term of appointment	105
3.4	Code of Conduct for Justices of the Peace	106
3.5	Complaints about JPs and reviews of JP appointments	107
3.6	When your appointment as a JP ends	108
3.7	Frequently asked questions: about your appointment	109
4	Appendices	111
5	Code of Conduct for Justices of the Peace	123
6	Contacting the NSW Department of Communities and Justice	127

About this handbook

This handbook is for Justices of the Peace (JPs) in New South Wales (NSW).

It has been written to help you understand and perform the functions of a JP. The handbook also explains other obligations, such as keeping your registration details up to date, and following the JP Code of Conduct.

This handbook sets out the guidelines issued by the Attorney General of NSW for the *Justices of the Peace Act 2002* (section 8).

Using this handbook

Read this handbook before performing any functions as a JP.

Follow the procedures and other guidance in this handbook when performing your JP functions. They have been developed to help you comply with the basic requirements of your JP functions, including any duty of care (see **Section 1.2** on page 6).


The procedures use imperative language (such as ‘you must’ or ‘you must not’) to show when a particular step is mandatory (compulsory). They are mandatory because there is a legal requirement. If you are unable to complete a mandatory step, you must decline to witness or certify the document.

This handbook only provides general guidance and does not contain legal advice. Seek advice if you are unsure about exercising a function generally, or in a particular case (see **Section 1.3** on page 8 about the support and information available to JPs in NSW).

An index of key words used in this handbook is on page 120. Page numbers in the index are in **bold** to show that a definition of the word can be found on that page.

Some frequently asked questions have been included with their relevant topics. You can access a full list of frequently asked questions and page references in **Appendix D** on pages 118-119.

Updates and latest news

This handbook was revised in 2022. Visit www.jp.nsw.gov.au  for the latest information and any relevant updates.



1 Introduction

Thank you for serving the people of NSW as a JP.

The Attorney General of NSW acknowledges and sincerely appreciates the important contribution of JPs who volunteer their services to the community.

In this section:

- 1.1 Your functions as a Justice of Peace
- 1.2 Your obligations as a Justice of the Peace
- 1.3 Available support and information
- 1.4 Frequently asked questions: about your authority as a JP

1.1 Your functions as a Justice of the Peace

JPs have three primary functions:

- witness a statutory declaration;
- witness an affidavit; and
- certify a copy of an original document.

As a JP, you can perform these functions once you have taken the oath of office. Remember that it is an offence, punishable by imprisonment, to exercise certain JP functions when not authorised to do so.

You must be physically present in NSW to exercise your functions as a JP unless you are delivering JP functions via audio-visual link (see page 14).

Witness a statutory declaration or affidavit

The law allows certain people, including JPs, to perform these functions. This is so an individual can arrange for independent verification that they have signed a document under oath or affirmation. These documents can be important for courts, government agencies or other organisations that rely on the information provided.

Witnessing a statutory declaration or affidavit involves three key steps:

1. An individual declares under oath or affirmation that a document is true and correct in front of a JP
2. The JP verifies their identity
3. The JP then witnesses the person's signature on the document

Detailed step-by-step procedures are outlined in:

- **Section 2.1** from page 12 for statutory declarations
- **Section 2.2** from page 32 for affidavits

Certify a copy of an original document

Another common function is to certify a copy of an original document. Before certifying, a JP must be satisfied that it is a true and accurate copy of the original. Certified copies can be useful for organisations that need to rely on the information contained in the document. It also means that people won't need to submit their important original documents like birth certificates or academic qualifications.

Detailed step-by-step procedures are outlined in **Section 2.3** from page 52.

Other JP functions

NSW JPs have other functions covered by different NSW Acts. However, you would only be required to perform these functions on rare occasions. They include witnessing other types of legal documents and administering special kinds of oaths.

It is important to note that JPs are sometimes asked to perform tasks which are not JP functions. If a function is not referred to by a NSW Act or Regulation, you are not delivering this function in your capacity as a JP.

It is not possible for this handbook to list every other function of a JP. However, a guideline on how to approach this is included in [Section 2.4](#) from page 63.

Definition: What does a requirement to be 'satisfied' mean?



In legal terms, when legislation requires a person to be '**satisfied**' of a particular matter or fact, this means that the person must be persuaded of its occurrence or existence. The degree of certainty will depend on the nature and consequence of the fact (or facts) to be proved.

For a JP, to be satisfied will depend on the context. This includes the purpose and effect of the document, and the importance of the relevant law.

Guidance about how a JP may be satisfied that a person has a 'legitimate medical reason' to keep wearing their face covering is included in [Section 2.1](#) on page 39.

If you are unsure about a particular situation, seek advice (see [Section 1.4](#) on page 9).

1.2 Your obligations as a Justice of the Peace

Your appointment as a JP means you are trusted to be honest and careful, every time you carry out your functions as a JP.

You must understand how to carry out each function of a JP correctly. To help you in your role, read this handbook and refer to it regularly. The step-by-step procedures for the functions of a JP are detailed in **Section 2** of this handbook, from page 15.

It is recommended that you use a similar procedure every time you exercise a particular JP function. This may help if you are later asked about a specific document which you witnessed or certified. For example, you may be asked to give evidence in court about a document. You may not be able to remember every document you have witnessed. But if you use a similar procedure every time, you can truthfully describe how you usually witness such a document, even if you cannot remember the specific document in question.

Duty of care

You have a **duty of care** whenever you perform a JP function, for every document you witness or certify. This means you have a legal obligation to take reasonable care to avoid causing harm to another person through your actions or omissions.

A person who suffers loss or damage because a JP did not take reasonable care may have cause to take legal action against the JP.

To fulfil any duty of care you must:

- **complete the steps that are required by law, honestly and carefully.**
This includes following any instructions in the document and, for affidavits and statutory declarations, certifying that you have confirmed the person's identity; and
- **take any extra steps which are reasonable in the circumstances.**
This might include seeking advice if you are unsure about what you are required to do, or confirming the person's identity before witnessing documents concerning significant transactions (even if there is no specific requirement to do so).

This handbook has been developed to help you meet your duty of care. However, it only provides general guidance and does not contain legal advice. If you are unsure about a particular situation, seek appropriate advice. See **Section 1.3** on page 8 for support and information available to JPs in NSW.



Example: court finding that a JP owed a ‘duty of care’

In 2001, Mr G, a NSW JP, testified to witnessing Mrs H’s signature on a statutory declaration for a mortgage document. Unfortunately, Mr G did not actually see Mrs H sign the document, and in fact had never even met her. It turned out that Mrs H’s husband had forged her signature on the statutory declaration.

The District Court determined that Mr G owed Mrs H a duty of care to act honestly when performing his function of witnessing her signature on the document.

Because Mr G had attested to Mrs H’s signature without seeing her sign the documents (and without Mrs H even being present), the District Court found that Mr G had breached his duty of care. As a result, Mr G was liable for part of the financial loss caused to Mrs H by the fraudulent mortgage document. Mr G was ordered to pay Mrs H \$54,591.86 in damages.

Code of Conduct

Your appointment as a JP is subject to the Code of Conduct for Justices of the Peace in NSW. The Code of Conduct explains the acceptable standards of conduct for JPs. Your appointment as a JP may be reviewed if you fail to comply. The Code of Conduct is included in **Section 5** on page 123. It is also available at www.jp.nsw.gov.au


Conflicts of interest

You should avoid performing any JP functions where there may be an actual or perceived conflict of interest. More information is available in **FAQ 3** ‘What is a conflict of interest, and how should I avoid one?’ on page 10.

1.3 Available support and information

Alongside this handbook, the Department of Communities and Justice (the Department) provides the following information and support for JPs.

JP Online

JP Online  is a web portal for all JPs (and prospective JPs) to manage your registration. It is a quick and easy way for JPs to keep the Department notified of changes in your circumstances, and check public registration details.


JP Online allows you to:

- check your JP registration number and expiry date;
- apply for reappointment;
- submit changes in circumstances;
- update public register details (like address or phone contact); and
- order the JP handbook and certificate.

More information about how to use JP Online is in **Section 3.2**, on page 102.



JP website

All up-to-date information is published at www.jp.nsw.gov.au  This includes news, policies and procedural advice.



JP email

Email queries can be directed to jp@dcj.nsw.gov.au We aim to respond to email enquiries within five working days.



JP Infoline (02) 8688 0500


JPs can contact the JP Infoline between 8:30-11.30am and 1:30-3:30pm, Monday to Friday. There is recorded information if you ring outside of these hours.



JP News

JP News is the official newsletter sent to all JPs by email. It provides updates on changes to policies and procedural advice, and news relevant to JPs. Let the Department know of any changes to your email address to receive the latest news and updates.

Legislation online

In addition, the NSW Government publishes legislation online at www.legislation.nsw.gov.au  Use this website to check the details of a NSW Act or Regulation about JP functions. Do not rely on any other websites to check legislation, as they do not have the official versions of NSW Acts and Regulations, and may not be up to date.

If you or another person needs legal advice, legal information or other legal support, refer to **FAQ 2** 'What if a person asks me for legal advice?' on page 9.

1.4 Frequently asked questions: about your authority as a JP

Some frequently asked questions about this topic are included below. For a full list of frequently asked questions included in this handbook, see **Appendix D**: list of frequently asked questions .

FAQ 1. Where do I get my authority to perform the role of JP?

NSW JPs are appointed by the Governor of NSW under the *Justices of the Peace Act 2002 (NSW)*.

The functions and authority of a JP are set out in:

- section 8 of the *Justices of the Peace Act 2002*, which gives JPs the authority to exercise functions conferred by or under the Act; and
- sections 21 and 26 of the *Oaths Act 1900 (NSW)*.


You **must be physically present** in NSW to exercise your functions as a JP except in certain circumstances when you are delivering JP functions via audio-visual link (see page 14).

FAQ 2. What if a person asks me for legal advice?

You must never give legal advice in your capacity as a JP, even if you have legal knowledge. If a JP provides legal advice, the JP may be in breach of clause 4(5) of the **Code of Conduct** for JPs in NSW.

If a person relies on any legal advice provided by a JP and suffers loss or damage as a result, a court might find the JP breached their duty of care.

Unless the JP is an Australian legal practitioner, the JP will be committing an offence under section 14(1) of the *Legal Profession Act 2004 (NSW)*.

If you are asked for legal advice, you can refer people to **LawAccess NSW** www.lawaccess.nsw.gov.au  LawAccess NSW is a free government telephone service that provides legal information, referrals and in some cases, advice for people who have a legal problem in NSW. LawAccess NSW can be contacted on 1300 888 529 (for the cost of a telephone call), Monday to Friday during business hours.

FAQ 3. What is a conflict of interest, and how should I avoid one?

A **conflict of interest** occurs when a person tries to serve two or more interests that are not compatible. JPs should avoid any potential conflicts of interest. This includes whether it is an 'actual' or merely 'perceived' conflict.

Your duty as a JP is to be an independent and impartial witness or certifier of documents. The community, the courts and government agencies have an interest in JPs performing those functions impartially (without bias). This is why JPs take an oath of office, promising to undertake the role 'without fear or favour, affection or ill-will'.

An **actual conflict of interest** occurs when you (or your colleague, business partner or other companion) may expect to benefit in some way as a result of delivering a JP function.

Perceived conflicts of interest may still exist where your actions may be seen as delivering some benefit by a third party.

The existence of either an actual or perceived conflict of interest can lead to rejection of the document you have witnessed or certified. This can undermine public confidence in the impartiality and integrity of JPs. In some circumstances, it could also lead to the review of your appointment as a JP.

If the document is part of a process that will lead (or might reasonably be expected to lead) to any income or benefit, **you must not** certify or witness the document. This includes if you – as well as your colleague, associate or companion – might expect to obtain a commission, bonus or any income or benefit that you would not ordinarily receive. Instead, refer the document to another JP.

Examples of conflicts of interest



Examples include if:

- you or your associate* are involved in the court proceedings where the document will be used;
- you or your associate stand to benefit from the transaction to which the document relates;
- the document is about you or your associate; or
- the document contains confidential information that is capable of assisting you or your associate (for example, in your business).

Do not deliver any JP functions where they may pose a conflict of interest (perceived or actual).

*The term **associate** here includes your colleague, business partner, or companion.



2 Performing your functions as a Justice of the Peace

This section details the most commonly exercised functions of a Justice of the Peace. It includes step-by-step procedures for key JP functions.

In this section:

- 2.1 Witnessing a statutory declaration
- 2.2 Witnessing an affidavit
- 2.3 Certifying a copy of an original document
- 2.4 Performing other functions of a JP
- 2.5 Providing services to people from culturally and linguistically diverse backgrounds
 - 2.5.1 Witnessing a statutory declaration of a person who does not speak English
 - 2.5.2 Witnessing an affidavit of a person who does not speak English
- 2.6 Providing services to people with disabilities
- 2.7 Frequently asked questions: about providing JP services

2.1 Witnessing a statutory declaration

What is it?	<p>A statutory declaration is a written statement which a person declares to be true in the presence of an authorised witness. Some organisations ask for information to be provided in a statutory declaration.</p> <p>A person who makes a statutory declaration is called the declarant.</p> <p>The section at the end of the declaration, where the declarant and the witness both sign, is called the jurat. It is also referred to as a 'signature panel' throughout this handbook.</p> <p>The law that governs the making of a NSW statutory declaration for general purposes in NSW is the <i>Oaths Act 1900</i> (NSW).</p> <p>Other Australian states and territories and the Commonwealth of Australia have their own laws which govern statutory declarations.</p>
What can I witness?	<p>You may witness a statutory declaration that is made for use in:</p> <ul style="list-style-type: none">• NSW;• any other Australian state or territory; and• the Commonwealth of Australia. <p>The statutory declaration must be signed and witnessed in NSW, except in certain circumstances when you are delivering JP functions via audio-visual link (see page 14).</p>
What can't I witness?	<p>Some examples of documents that you shouldn't witness include:</p> <ul style="list-style-type: none">• declarations written in a language other than English;• declarations that refer to an annexure, where that document has not been provided. <p>Note: this is not a full list. If you are unsure about a document, please seek advice (see Section 1.3 Available support and information on page 8).</p>

<p>Where can I witness?</p>	<p>You can only witness a statutory declaration when both you and the declarant are physically present together in NSW, except in certain circumstances when you are delivering JP functions via audio-visual link (see page 14).</p> <p>You must see the declarant sign the statutory declaration in front of you. Never witness a signature that was already on the statutory declaration when it was brought to you.</p>
<p>Offences and penalties</p>	<p>It is an offence, and penalties apply, for:</p> <ul style="list-style-type: none"> • a person who makes a false declaration; • a person who witnesses a statutory declaration when not authorised by law to do so; and • an authorised witness in NSW who witnesses a statutory declaration and fails to follow the required steps for identifying the declarant (Step 2, Step 3 and Step 11 of this procedure).
<p>If the client does not speak English</p>	<p>If the client does not speak English and requires an interpreter, follow the procedures outlined in Section 2.5.1 on page 70.</p>
<p>Still unsure?</p>	<p>If you are unsure about what to do when witnessing a statutory declaration, seek advice (see Section 2.1 on page 12).</p>

2.1.1 Remote witnessing over an audio/visual link (AVL)

The Electronic Transactions Act¹ was amended in 2021 to enable remote witnessing of documents. The JP may witness statutory declarations and affidavits remotely in accordance with this Act.

This imposes several requirements on JPs, including that:

- The JP must see the signatory signing the document in real time over the audio-visual link;
- The JP must sign the document, or an exact copy of the document, signed by the signatory as evidence that they witnessed the signature;
- The JP must be reasonably satisfied that the document they sign is the same document, or a copy of the document, signed by the signatory.

The remote witnessing scheme allows a NSW JP to remotely witness a statutory declaration or an affidavit for a person located outside of NSW over a video link. And, the JP may also be outside of NSW at the time of witnessing a statutory declaration or affidavit provided that:²

- the document is required to be signed under a NSW Act or law or,
- the governing laws for the document are the laws of NSW.

1 See Electronic Transactions Amendment (Remote Witnessing) Bill 2021.

2 See Section 14i and 14j of the Electronic Transactions Amendment (Remote Witnessing) Bill 2021 [NSW].

**QUICK REFERENCE:****Witnessing a statutory declaration**

STEP 1	Check the document is a statutory declaration
STEP 2	See the client's face
STEP 3	Confirm the client's identity
STEP 4	Look for any blank spaces or alterations
STEP 5	Look for any annexures (and make sure they have been appropriately referred to)
STEP 6	Check that the client understands the purpose, effect and contents of the statutory declaration
STEP 7	Warn the client about their responsibilities
STEP 8	Ask the client to declare the contents are true and correct
STEP 9	Watch the client sign the statutory declaration in front of you
STEP 10	Sign and print your full name, JP registration number and other details
STEP 11	Certify identity requirements have been met
STEP 12	Complete and sign the statement on each annexure (if any)
STEP 13	Certify the client understood (for clients who are blind or illiterate only)


Step-by-step procedure

STEP 1

Check if the document is a statutory declaration

You can identify a statutory declaration because it will contain:

- the words ‘statutory declaration’; and
- the name of the relevant state, territory or Commonwealth law. A list of those laws is in **Appendix A** on page 112.

A NSW statutory declaration is made under the *Oaths Act 1900 (NSW)*. There are two alternative formats, which are set out in the Eighth Schedule and the Ninth Schedule of the Act. Either of those two formats may be used for a NSW statutory declaration. Examples of completed NSW and Commonwealth statutory declarations are found below and at www.jp.nsw.gov.au 

Sometimes a statutory declaration will be incorporated into an application form. In these cases, you should check to see if the form contains any extra instructions for the JP. If so, you should follow those instructions, as well as this step-by-step procedure.

Some NSW laws create extra statutory declarations requirements for specific purposes (for example, section 169 of the *Conveyancing Act 1919*, about property transactions). **Section 2.4** of this handbook on page 63 has more guidance about how to meet these requirements.

A statutory declaration may be either hand-written or type-written, but must be written in English.

STEP 2

See the client’s face

You must see the face of the person making the statutory declaration.

If the person is wearing a face covering, you should politely ask them to remove as much of the face covering so it is possible to see their face.

Definition of face and face covering

Face means a person’s face from the top of their forehead to the bottom of their chin, and between (but not including) their ears.

Face covering means an item of clothing, helmet, mask or any other item that is worn by a person and prevents the person’s face from being seen (whether wholly or partly).

For example, a face covering includes sunglasses that cover the eyes, or a hat that covers the forehead.

However a face covering does not include a scarf that is covering only the person’s hair.



More information on legitimate medical reasons



Exceptions can be made to seeing a person's face, if you are satisfied that they have a legitimate medical reason.

It is preferable that the person shows you a recent medical certificate stating that they cannot remove their face covering for medical reasons. However, in certain circumstances, you may be satisfied the person has a legitimate medical reason based on what you can see or what the person tells you.

Examples of legitimate medical reasons include:

- obvious injury to their face;
- wearing a face mask as they are frail or at risk in the community due to medical conditions.

Examples that are not legitimate medical reasons:

- refusing to remove dark sunglasses because of a hangover;
- refusing to remove a face mask worn for air pollution.

How much information you need in order to be 'satisfied' will also depend on the context. For example:

- the purpose and effect of the document in question;
- the possible consequences for you as a JP, as well as for any other person. For example, if the document were to be fraudulently signed by a person other than the person named; or
- the person's behaviour or what they have said, if that causes you to suspect they might be lying about their supposed medical condition.

If you cannot truthfully certify that you are satisfied the person has a legitimate medical reason, you must decline to witness the document.

You do not have any authority to make a person remove their face covering. If the person chooses not to remove their face covering, you must decline to witness the statutory declaration, unless you are satisfied that the person has a legitimate medical reason. See below. Religious beliefs or cultural practices are not a special justification for a person not removing their face covering. However, when you ask a person to remove their face covering, you should make reasonable efforts to accommodate the person's beliefs. More information about accommodating the person's beliefs is in **Section 2.5** on page 70.

If the person does not have a legitimate medical reason, and you are unable to see the person's face, it is an offence for you to witness the statutory declaration.

STEP 3

Confirm the client's identity

You must confirm the identity of the person who is making the statutory declaration, and make sure that it matches the name written at the start of the declaration.

You can confirm the person's identity in one of two ways:

- you have known the person for a period of at least 12 months; **or**
- you have sighted an approved identification document, or a certified copy of an approved identification document.

A list of approved identification documents is in **Appendix B** on page 113. This also includes a list of people who may certify a copy of an identification document for the *Oaths Act 1900*.

Definition of 'known the person for a period at least 12 months'



The definition of '**known the person for a period at least 12 months**' is not clearly defined by NSW legislation. To assist JPs, this handbook provides the following as a general guide.

You can validly state that you have known a person for at least 12 months if all three statements below are true.

- You recall learning the person's given name and family name at least 12 months ago, and you are confident that it is their true identity (As a guide, you should feel confident that you could identify the person again about their statutory declaration or affidavit);
- You now recognise the person in front of you as that same person; and
- The document you are being asked to witness is made out in the same name.

If you are not sure you can meet those conditions, you should instead confirm the person's identity using an approved identification document.

STEP 4**Look for any blank spaces or alterations**

You must never witness a statutory declaration that is blank or missing information in a space where information is required.

If the statutory declaration contains any alteration or deletion (**including changes made with correction fluid, correction tape or any similar product**), it is recommended that you:

- write your initials next to each change; and
- re-write (in the margin) the words that have been inserted, and sign or initial the words you have written in the margin.

If no words have been written over the correction fluid, it is recommended that you draw a line over the correction fluid as if crossing out words. Then, initial it and make a note in the margin such as 'Deletion using correction fluid - no words written on erasure' (or similar) and sign or initial your note.

Any blank space at the end of the declaration should be crossed out. Cross out the blank space by drawing lines in the shape of a 'Z' over the entire blank area.

If for some reason you are unable to meet these requirements, you should decline to witness the statutory declaration.

STEP 5**Look for any annexures**

An **annexure** is an attachment of more pages. If an annexure is attached, it must:

- be referred to in the statutory declaration; and
- include a written statement by the JP that identifies it as an annexure. If a written statement is not already on the annexure, you will need to add it, either by hand or using an appropriately worded stamp.

If the statutory declaration refers to an annexure but it is not present, you must not witness the statutory declaration in that form. See **FAQ 25** on page 98 ('What if I haven't been provided with the annexures referred to in a document?') for details on what to do if an annexure is not present.

More information on requirements for annexures



Use an appropriate naming system for the annexures. If there is more than one annexure, they must all be marked in alphabetical or numerical order. For example, Annexure 'A' or '1', Annexure 'B' or '2' and Annexure 'C' or '3'.

- The marking should be placed in a conspicuous position on the annexure. For instance, at the top of the page.
- Number the annexures consecutively. For example, from the first page of the first annexure to the last page of the last annexure.

For a single-page annexure, the following statement must also be included:

This is the annexure marked [insert 'A' or '1', or 'B' or '2', or 'C' or '3' as appropriate] referred to in the [insert 'statutory declaration' or 'affidavit' as appropriate] of [insert client name, [declared/sworn/affirmed] before me this [insert date] day of [insert month, year].

[insert your signature, full name and JP registration number]

For multiple page annexures, the following statement must be included on the cover page (not on a separate page). Preferably, this is placed at the bottom, if space allows.

This and the following [insert number of pages] pages is the annexure marked [insert 'A' or '1', or 'B' or '2', or 'C' or '3' as appropriate] referred to in the [insert 'statutory declaration' or 'affidavit' as appropriate] of [insert client], [declared/sworn/affirmed] before me this [insert date] day of [insert month, year].

[insert your signature, full name and JP registration number]

The statement should not cover or obscure the contents of the annexure. The statement can be written by hand or added using a stamp. If you use a stamp, cross out any words that do not apply (for example, crossing out 'sworn' if the annexure is attached to a statutory declaration).

STEP 6**Check the client understands**

You should check that the client understands the purpose, effect and contents of the statutory declaration. Do this by asking open-ended questions, such as:

- Why do you need to complete this document?
- What is this document about?
- What will you use this document for?
- Who wrote this document?

If the client is not familiar with the contents

If the client is not familiar with the contents of the statutory declaration, you should give them an opportunity to read the document. Once they have read it, ask them some questions about the contents (see above). If, based on their answers, it appears to you that the client understands the contents, proceed to witness the statutory declaration.

If the client does not understand the purpose and effect

It appears to you that the client does not understand the purpose and effect of the statutory declaration, you must decline to witness it. For more information about this issue, see **Appendix C** on page 114.

Do not try to explain the purpose and effect of the document to the person (see **FAQ 2** on page 9: ‘What if a person asks me for legal advice?’).

If the client is blind or cannot read

If it appears that the client is blind or illiterate (cannot read), either you or another person in your presence, must read aloud the entire contents of the statutory declaration. For privacy reasons, if possible, you should offer the option to have the statutory declaration read aloud in a place where others cannot overhear.

After the contents of the statutory declaration have been read aloud, you must check that the client has understood the declaration. Do this by using the suggested questions above. If the client does not appear to you to have understood, you must decline to witness the statutory declaration.

STEP 7

Warn the client

You must warn the client that:

- it is a serious criminal offence to make a false declaration; and
- the penalties include imprisonment.

You should ask appropriate questions to make sure that they have understood the warning.

STEP 8

Ask the client to declare the contents are true and correct

You must ask the client to make the declaration required by the statutory declaration form. For an ordinary NSW statutory declaration under the *Oaths Act 1900* (often called an 'Eighth Schedule' or 'Ninth Schedule' declaration), you can ask the following question:

Do you solemnly and sincerely declare the contents of this declaration to be true and correct, to the best of your knowledge and belief?

If it is a statutory declaration under some other law, you should check the form carefully to see if there is any special wording required. If so, you will need to use that wording. If not, you can use the same wording as above.

It is sufficient if the client responds with words which show an affirmative answer (for example, 'Yes' or 'I do'), or an alternative non-verbal affirmative response (such as nodding) if the person cannot speak.

STEP 9

Watch the client sign the statutory declaration in front of you

If the client has agreed the contents are true and correct, ask them to sign and date the document at the end of the statutory declaration. The client **must** sign in your presence.

Generally a black or blue ink pen should be used, but you should check whether the document specifies that a particular colour must be used. The ink must be permanent and erasable pens must never be used.

If the client has already signed

If the client has already signed the document before bringing it to you, you must not witness that signature. The client **must** sign in your presence.

However, you can watch the client place a fresh signature on the document. To do this:

- rule a line in ink through the signature that was already on the document;
- write your initials next to the ruled-out signature (both yourself and the client); and
- watch the client add their fresh signature as close as possible to the space provided.

If the client is unable to sign

A client who is unable to sign (because of a visual or physical impairment, or is illiterate) may make a mark instead. Instructions for making a mark, including extra wording that the JP is required to add, are in **Section 2.6** on page 92.

If the statutory declaration comprises more than one page

If the statutory declaration is more than one page, it is recommended that the client signs each page of the declaration, in addition to the signature panel. The client's signatures should be placed at the foot of each page, or if there is no space, elsewhere on the page.

If there are two or more declarants (people)

If a statutory declaration is made by two or more people, you must:

- confirm that all their names appear in the declaration;
- confirm each person's identity: you must see each person's face and confirm against a form of identity (Steps 2 and 3 above);
- check that each person understands and warn each person (Steps 6 and 7 above);
- receive a declaration from each person that the contents are true and correct (Step 8 above);
- watch each person sign the signature panel separately (Step 9); and
- watch each person sign the preceding pages of the declaration (Step 9).

You must only witness the statutory declaration of people who are present before you at the time of signing. If one of the declarants is not present, you must record in writing, in or below the signature panel, the words:

This statutory declaration has **not been declared before me by [insert name(s) of the person(s) not present].**

It is acceptable for individuals to sign a joint statutory declaration at different times and before different authorised witnesses.

STEP 10

Sign and print your full name, JP registration number and other details

After you have seen the client sign or make a mark (including on any extra pages), you should immediately sign, print your full name, your qualification (NSW JP), and your JP registration number in the space provided.

Your signature should always be handwritten in ink, and never added with a stamp, label or sticker.

You should also sign any extra pages, near the signature of the client on each page.

You **must** include any additional information required as instructed by the statutory declaration form.

If you are unsure about the requirements of a particular form, seek advice (see [Section 1.3](#) on page 8).

If the form requires your address

Some forms require you to state your address. Either a home, business or postal address **where you can be reliably contacted** will usually be sufficient (unless the form states that a particular kind of address is required). Unless the form allows, an email address will usually **not** be sufficient.

If you do not have a business or postal address and you do not wish to use your home address, you can give the address of a JP association (if you are a member) or the address of the Department. Contact details for the Department are at the back of this handbook, on page 127.

STEP 11**Certify identity requirements have been met**

If the document is a statutory declaration under the law of NSW (or any other Australian state or territory), you **must** also certify in writing that you saw the person's face and confirmed their identity (as in Steps 2 and 3 above) **before** you witness the statutory declaration.³

It is a criminal offence punishable by a fine for an authorised witness (including a JP) to witness a statutory declaration if these requirements have not been satisfied.

A NSW statutory declaration can be identified because it will contain a reference to the *Oaths Act 1900*. Statutory declarations of other Australian states and the territories can be identified because they will contain a reference to the relevant legislation, as listed in **Appendix A** on page 112.

Many NSW statutory declarations have the wording of the required certificate pre-printed. You will only need to fill in the blanks and cross out text that does not apply.

In some cases, such as when an old form has been used, you will have to add the wording of the certificate, either by hand or with a stamp (but not with an adhesive label). See the appropriate wording on the following page.

If you relied on an identification document to confirm the person's identity, it is sufficient to write the type of identification, such as 'NSW driver licence' or 'Australian passport'. You should not record on the statutory declaration any unique details of the identification document, such as the document's number or the person's date of birth (unless the statutory declaration requires it). You should not keep a copy of the identification document.

³ You do not have to certify that identity requirements have been met if you are witnessing a statutory declaration made under the Commonwealth Statutory Declarations Act 1959.

More information on certifying identity requirements



Use the following wording when a statutory declaration does not contain pre-printed wording:

I, , a NSW JP , certify:
[full name of JP] *[JP registration number]*

[include only the text that applies]*

***I saw the face of the declarant OR**

***I did not see the face of the declarant because they were wearing a face covering, but I am satisfied that they had a special justification for not removing it, and**

***I have known the person for at least 12 months OR**

***I confirmed the person's identity with**

.....
[describe identification document relied on]

.....
[signature of JP]

.....
[date]

Hand write or stamp the wording anywhere on the document where there is space, preferably on the same side of the page as the other text appears.

If there is no space on the front, it is acceptable to place the certification on the back of the document. The identity certification must be 'on' the statutory declaration - do not place it on a separate piece of paper.

When adding the wording of the identity certification, you have to sign the document twice. Once to witness the client's signature, and again for the certification.

STEP 12**Complete and sign the statement on each annexure**

After you have signed the signature panel and preceding pages of the statutory declaration, complete and sign the statement on each annexure (if any). Detailed instructions on how to do this are in Step 5 on page 19.

STEP 13**Certify the client understood (for clients who are blind or illiterate only)**


If the client is blind or illiterate, you must also certify in writing, below the signature panel, that:

- the statutory declaration was read to the declarant in your presence;
- it appeared to you that the declarant understood the statutory declaration; and
- the declarant signed or marked the statutory declaration in your presence.

This step is necessary to meet the requirements of section 24A of the *Oaths Act 1900*, which governs declarations by people who are unable to read.

Sample: NSW statutory declarations

NSW statutory declaration - Eighth Schedule

An editable template can be downloaded from the JP website www.jp.nsw.gov.au 

Statutory Declaration
OATHS ACT 1900, NSW, EIGHTH SCHEDULE

I, Susan Smithson, do solemnly and sincerely declare that
[name of declarant]

I have applied for 12 months maternity leave from 16 October 2021 until 15 October 2022.
I am currently 8 months pregnant and my baby is due 11 November 2021.
I will be the baby's primary care giver for the majority of the leave period.
My husband is planning four week's leave from when the baby is born.
While on maternity leave I will not engage in any conduct that may be contrary to my employment contract.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at: Parramatta on 1 October 2021
[place] [date]

Susan Smithson
[signature of declarant]

in the presence of an authorised witness, who states:

I, Derek Jones, a NSW JP No 269856,
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [* please cross out any text that does not apply]

1. *I saw the face of the person ~~OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and~~

2. *I have known the person for at least 12 months ~~OR I have confirmed the person's identity using an identification document and the document I relied on was~~
[describe identification document relied on]

Derek Jones 1 October 2021
[signature of authorised witness] [date]

NSW statutory declaration - Ninth Schedule

An editable template can be downloaded from the JP website
www.jp.nsw.gov.au

Statutory Declaration
OATHS ACT 1900, NSW, NINTH SCHEDULE

I, Jacqueline Irene Brown, of 2 Elizabeth Street, Auburn NSW 2144
[name of declarant] [residence]

do hereby solemnly declare and affirm that

I am a retired customer service officer - date of birth 2 February 1952.
I am the registered owner of a white 1970 Holden Torana, registration plate number JIB-522.
I was issued with a traffic infringement notice on 7 August 2021. The offence listed was 'make unlawful u-turn' on 27 July 2021 at Rookwood Road, Regents Park at 3.30pm.
I was not in Sydney on the date of the infringement. I did not drive the Torana on that date.
On 25 July 2021 I travelled by plane to Mackay to visit my mother-in-law on the occasion of her 90th birthday. I returned to Sydney by plane on Monday 29 July 2021. As far as I am aware, the Torana remained in the driveway during my absence.

[the facts to be stated according to the declarant's knowledge, belief, or information, severally]

And I make this solemn declaration, as to the matter (or matters) aforesaid, according to the law in this behalf made – and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Declared at: Lidcombe on 16 September 2021
[place] [date]

Jacqueline Brown
[signature of declarant]

in the presence of an authorised witness, who states:


I, Harry Wilson, a NSW JP No 233749,
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [** please cross out any text that does not apply*]

- ~~*I saw the face of the person~~ ~~OR~~ ~~*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering,~~ and
- ~~*I have known the person for at least 12 months~~ ~~OR~~ ~~*I have confirmed the person's identity using an identification document and the document I relied on was~~ NSW Driver Licence
[describe identification document relied on]

Harry Wilson 16 September 2021
[signature of authorised witness] [date]

Commonwealth statutory declaration

An editable template can be downloaded from the JP website
www.jp.nsw.gov.au 

Commonwealth of Australia
STATUTORY DECLARATION
Statutory Declarations Act 1959

1 Insert the name, address and occupation of person making the declaration

1, ¹ Lynne Gibson
Clerical Officer
83 Lavinia Street, Bankstown NSW 2200

2 Set out matter declared to in numbered paragraphs

make the following declaration under the *Statutory Declarations Act 1959*:

²

1. I have never been convicted of any crime in any state of Australia or any other country
2. I have not been charged with any offence that is awaiting legal action
3. I am of sound mind and have never been acquitted of any offence on the grounds of unsoundness of mind. _____

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

3 Signature of person making the declaration

³ Lynne Gibson

4 Place Declared at ⁴ Bankstown 5 Day on ⁵ 17th 6 Month and year of ⁶ October 2021

Before me,

7 Signature of person before whom the declaration is made (see over)

⁷ James Ireland

8 Full name, qualification and address of person before whom the declaration is made (in printed letters)

⁸ James Ireland
NSW JP No 244117
81 Lavinia Street, Bankstown NSW 2200

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the *Statutory Declarations Act 1959*.

Note 2 Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* — see section 5A of the *Statutory Declarations Act 1959*.

Frequently asked questions: about statutory declarations

Some frequently asked questions about this topic are included below. For a full list of frequently asked questions included in this handbook, see [Appendix D](#) on page 118.

FAQ 4. Can I ask a person to remove their face mask to confirm their identity?

You can't force any client to remove their face mask.

If you are satisfied that they have a 'legitimate medical reason' to keep the face mask on, you may proceed with witnessing the document. For more information about legitimate medical reasons, see Step 2 in this section on page 16.

However, if you are unable to see a person's face to verify their identity, you must not witness that document.

2.2 Witnessing an affidavit

What is it?	<p>An affidavit is a written statement for use as evidence in court proceedings.</p> <p>The person who makes an affidavit is called the deponent. They are also referred to as clients (or people) in this handbook. When witnessing an affidavit, a JP must hear the deponent swear an oath or make an affirmation.</p> <p>An oath is a binding promise, based on the person's religious or spiritual beliefs, to tell the truth.</p> <p>An affirmation is a binding and solemn promise to tell the truth. It has the same legal effect as an oath, but does not refer to God or another sacred being or object. Anyone may choose to take an affirmation instead of an oath.</p> <p>After the oath or affirmation, the deponent and the JP complete the section at the end of the affidavit. This section is called the jurat or signature panel.</p>
What can I witness?	<p>You may witness an affidavit that is required for:</p> <ul style="list-style-type: none">• any Australian court or tribunal;• the registration of any instrument in Australia; or• any arbitration in Australia. <p>The affidavit must be signed and witnessed in NSW, except in certain circumstances when you are delivering JP functions via audio-visual link (see page 34).</p>
What can't I witness?	<p>Some examples of affidavits that you shouldn't witness include:</p> <ul style="list-style-type: none">• Those for use in an overseas jurisdiction <p>Note: this is not a full list – if you are unsure about a document, please seek advice (see Section 1.3 on page 8).</p>

Important tips

You should **check that the client understands** the purpose, effect and contents of the affidavit. You can do this by asking open-ended questions outlined in Step 6 on page 43.

If the client does not speak English and requires an interpreter, follow the procedures outlined in **Section 2.5.2** on page 82.

It is an offence, and penalties apply, for:

- a person who makes a false affidavit; or
- an authorised witness in NSW who witnesses an affidavit and fails to follow the required steps for identifying the person (Step 2, Step 3 and Step 11 of this procedure).

An affidavit may be made by **two or more people**. In these cases, you must undertake certain steps in the procedure for each person.

2.2.1 Remote witnessing over an audio/visual link (AVL)

The Electronic Transactions Act⁴ was amended in 2021 to enable witnessing requirements to be performed remotely via an audio-visual link. This scheme imposes several requirements on witnesses, including that:

- The witness must see the signatory signing the document in real time over the audio-visual link;
- The witness must sign the document, or an exact copy of the document, signed by the signatory as evidence that they witnessed the signature;
- The witness must be reasonably satisfied that the document they sign is the same document, or a copy of the document, signed by the signatory; and
- The witness may witness statutory declarations and affidavits remotely pursuant to this scheme.

The remote witnessing scheme allows a NSW JP to remotely witness a statutory declaration or an affidavit for a person located outside of NSW over a video link, and, the JP may also be outside of NSW at the time of witnessing a statutory declaration or affidavit provided that:


- The document is required to be signed under a NSW Act or law or,
- The governing laws for the document are the laws of NSW.

For further information on remote witnessing, check

www.jp.nsw.gov.au 

4 See Electronic Transactions Amendment (Remote Witnessing) Bill 2021.

Sample: NSW affidavits

More information on affidavits can be accessed via a link from the JP website www.jp.nsw.gov.au 

Form 40 (version 3)
UCPR 35.1

AFFIDAVIT OF GEORGE JONES 16 OCTOBER 2021

COURT DETAILS

Court	Supreme Court
Division	Equity Division
List	Family Provision List
Registry	Sydney
Case number	2013/12345

TITLE OF PROCEEDINGS

First plaintiff	George Jones
Second plaintiff	Betty Jones
First defendant	NSW Trustee & Guardian
Second defendant	

FILING DETAILS

Filed for	George Jones, Plaintiff
Filed in relation to	Plaintiff's claim
Legal representative	Barry Smith, Barry Smith & Associates
Legal representative reference	56976
Contact name and telephone	Barry Smith, (02) 9999 1111
Contact email	barry@barrysmith.com.au

Continues next page

AFFIDAVIT

Name George Jones
 Address 123 Park Street, Parramatta NSW 2150
 Occupation Engineer
 Date 16 October 2021

I say on oath:

- 1 I am the plaintiff.
- 2 I am the only child of the late Mr Kevin Jones, formerly of 11/22 Treetop Drive, Parramatta.
- 3 I was not listed as a beneficiary in the estate of Mr Kevin Jones and have commenced legal action to make a claim against the estate. The estate Trustee is the NSW Trustee & Guardian.

SWORN at Parramatta
 Signature of deponent George Jones
 Name of witness Rhonda Jackson
 Address of witness 10 Kurrajong Road, Parramatta NSW 2150
 Capacity of witness NSW JP No 278943

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent. ~~[OR, delete whichever option is inapplicable]
 +did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.]~~
- 2 ~~I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]~~
 I have confirmed the deponent's identity using the following identification document:
Australian Passport
 Identification document relied on (may be original or certified copy)[†]

Signature of witness Rhonda Jackson

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

[* The only "special justification" for not removing a face covering is a legitimate medical reason (at November 2021).]

[[†] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or JP Ruling 003 - Confirming identity for NSW statutory declarations and affidavits, footnote 3.]



QUICK REFERENCE: Witnessing an affidavit

STEP 1	Confirm that the document is an affidavit
STEP 2	See the client's face
STEP 3	Confirm the client's identity
STEP 4	Look for any blank spaces or alterations
STEP 5	Look for any annexures or exhibits (and make sure they have been appropriately referred to)
STEP 6	Check that the client understands the affidavit
STEP 7	Warn the client
STEP 8	Ask the client to swear an oath or make an affirmation
STEP 9	Watch the client sign the affidavit in front of you
STEP 10	Sign the signature panel and each page of the affidavit
STEP 11	Certify identity requirements have been met
STEP 12	Complete and sign the statement on each annexure
STEP 13	Certify the client understood (for blind or illiterate clients only)

Step-by-step procedure

STEP 1

Check if the document is an affidavit

You can identify an affidavit because it will contain:

- the word 'Affidavit' in the title;
- the name of the court or tribunal; and
- other details that **might** include the court or tribunal case number, the title of the proceedings and the names of the parties.

Affidavits can be made under a number of state, territory and Commonwealth laws. These are listed at [Appendix A](#) on page 112. There are many different affidavit forms.

You should look for any special requirements that are stated on the affidavit form or its attached instructions. For example, the various affidavits used in a divorce have special requirements. These are described below.

STEP 2

See the client's face

You must see the face of the person making the affidavit.

If the person is wearing a face covering, you should politely ask them to remove as much of the face covering as possible to see their face.

Definition of face and face covering

Face means a person's face from the top of their forehead to the bottom of their chin, and between (but not including) their ears.

Face covering means an item of clothing, helmet, mask or any other item that is worn by a person and prevents the person's face from being seen (whether wholly or partly).

For example, a face covering includes sunglasses that cover the eyes, or a hat that covers the forehead.

However a face covering does not include a scarf that is covering only the person's hair.



You do not have any authority to make a person remove a face covering. If the person chooses not to remove their face covering, you must decline to witness the affidavit, unless you are satisfied that the person has a 'legitimate medical reason' (see page 39).

Religious beliefs or cultural practices are not a special justification for a person not removing their face covering. However, when you ask a person to remove their face covering, you should make reasonable efforts to accommodate their beliefs. Guidance about accommodating the person's beliefs is outlined in **Section 2.5** on page 70.

If the person does not have a legitimate medical reason, and you are unable to see the person's face, it is an offence for you to witness the affidavit.

More information on legitimate medical reasons



Exceptions can be made to seeing a person's face, if you are satisfied that they have a legitimate medical reason.

It is preferable that the person shows you a recent medical certificate stating that they cannot remove their face covering for medical reasons. However, in certain circumstances, you may be satisfied the person has a legitimate medical reason based on what you can see or what the person tells you.

Examples of legitimate medical reasons include:

- obvious injury to their face;
- wearing a face mask as they are frail or at risk in the community due to medical conditions

Examples that are not legitimate medical reasons:

- refusing to remove dark sunglasses because of a hangover;
- refusing to remove a face mask worn for air pollution

How much information you need in order to be 'satisfied' will also depend on the context. For example:

- the purpose and effect of the document in question;
- the possible consequences for you as a JP, as well as for any other person. For example, if the document were to be fraudulently signed by a person other than the person named; or
- the person's behaviour or what they have said, if that causes you to suspect they might be lying about their supposed medical condition.

If you cannot truthfully certify that you are satisfied the person has a legitimate medical reason, you must decline to witness the document.

STEP 3

Confirm the client's identity

You must confirm the person's identity in one of two ways:

- you have known the person for a period of at least 12 months; or
- you have sighted an approved identification document or a certified copy of an approved identification document.

Guidance about the meaning of 'known the person for a period of at least 12 months' is at [Section 2.1](#), on page 12.

A list of approved identification documents is in [Appendix B](#) on page 114.

Once you have confirmed the identity of the person who is making the affidavit, make sure that it matches the name written at the top of the affidavit.

Definition of 'known the person for a period at least 12 months'



The definition of '**known the person for a period at least 12 months**' is not clearly defined by NSW legislation. To assist JPs, this handbook provides the following as a general guide.

You can validly state that you have known a person for at least 12 months if:

- you recall learning the person's given name and family name at least 12 months ago in circumstances where you are confident that it is their true identity (As a guide, you should feel confident that you could identify the person again about their statutory declaration or affidavit);
- you now recognise the person in front of you as that same person; and
- the document you are being asked to witness is made out in the same name.

If you are not sure you can meet those conditions, you should instead confirm the person's identity using an approved identification document.

STEP 4**Look for any blank spaces or alterations**

You must never witness an affidavit that is blank or is missing information in a space where information is required.

If the affidavit contains any alteration or deletion (including changes made with correction fluid, correction tape or any similar product), it is recommended that you:

- write your initials next to each change, and
- re-write (in the margin) the words that have been inserted, and sign or initial the words you have written in the margin.

If no words have been written over the correction fluid, it is recommended that you draw a line over the correction fluid as if crossing out words, initial it and make a note in the margin such as 'Deletion using correction fluid - no words written on erasure' (or similar) and sign or initial your note.

Any blank space at the end of the affidavit should be crossed out. Cross out the blank space by drawing lines in the shape of a 'Z' over the entire blank area.

If for some reason you are unable to meet these requirements about alterations or deletions, you should decline to witness the affidavit.

STEP 5**Look for any annexures or exhibits**

An annexure is an attachment of extra pages. An exhibit is a paper, document, or piece of physical evidence provided to the court at a trial or hearing or as part of an affidavit.

If an annexure is attached, or an exhibit is to be provided in court, it must:

- be referred to in the affidavit; and
- include a written statement by the JP that identifies it as an annexure or exhibit. If a written statement is not already on the annexure or exhibit, you will need to add it, either by hand or using an appropriately worded stamp.



More information on requirements for annexures

If the affidavit refers to an annexure, but the annexure is not present you must not witness the affidavit in that form. See **FAQ 24** on page 98 ('What if I haven't been provided with the annexures referred to in a document?') for details on what to do if an annexure is not present.

Use an appropriate naming system for the annexures. If there is more than one annexure, they must all be marked in alphabetical or numerical order. For example, Annexure 'A' or '1', Annexure 'B' or '2' and Annexure 'C' or '3'.

- The marking should be placed in a conspicuous position on the annexure, for instance at the top of the page.
- Number the annexures consecutively. For example, from the first page of the first annexure to the last page of the last annexure.

For a single-page annexure, the following statement must also be included:

This is the annexure marked [insert 'A' or '1', or 'B' or '2', or 'C' or '3' as appropriate] referred to in the [insert 'statutory declaration' or 'affidavit' as appropriate] of [insert client name], [declared/sworn/affirmed] before me this [insert date] day of [insert month, year].

[insert your signature, full name and JP registration number]

For multiple page annexures, the following statement must be included on the first page (not on a separate page). Preferably, this is placed at the bottom, if space allows.

This and the following [insert number of pages] pages is the annexure marked [insert 'A' or '1', or 'B' or '2', or 'C' or '3' as appropriate] referred to in the [insert 'statutory declaration' or 'affidavit' as appropriate] of [insert client name], [declared/sworn/affirmed] before me this [insert date] day of [insert month, year].

[insert your signature, full name and JP registration number]

The statement should not cover or obscure the contents of the annexure. The statement can be written by hand or added using a stamp. If you use a stamp, cross out any words that do not apply (for example, crossing out 'sworn' if the annexure is attached to an affidavit).

Requirements for exhibits

Exhibits should be numbered with the client's initials and a number (for example, 'Exhibit "JD 1" in the affidavit of John Doe', "JD 2" in the affidavit of John Doe' for the second exhibit).

The witness to the affidavit should sign the cover page, with words like:

Exhibited to me at the time of swearing this affidavit and marked [client's initials and a number] is [describe item, for example 'a folder of documents' or '10 photographs'].

If an exhibit has pages, you also need to number the pages.

If the exhibit is an object (for example portable data storage device or similar), it should be bagged and tagged and labelled as above.

STEP 6

Check the client understands

You should check that the client understands the purpose, effect and contents of the affidavit. You can do this by asking open-ended questions such as:

- Why do you need to complete this document?
- What is this document about?
- What will you use this document for?
- Who wrote this document?

If the client is not familiar with the contents

If the client is not familiar with the contents of the affidavit, you should give them an opportunity to read the document. Once they have read it, ask them some questions about the contents (see above). If, based on their answers, it appears to you that the client understands the contents, you may proceed to witness the affidavit.

If the client does not understand the purpose and effect

If, based on the answers to your questions or some other circumstance (such as the person's age or intellectual impairment), it appears to you that the client does not understand the purpose and effect of the affidavit, you must decline to witness it. For more information about this issue, see [Appendix C](#) on page 114.

You should not try to explain the purpose and effect of the document to the person (see [FAQ 2](#) on page 9: 'What if a person asks me for legal advice?').

If the client is blind or cannot read

If it appears that the client is blind or illiterate (cannot read), either you or another person in your presence, must read aloud the entire contents of the affidavit. For privacy reasons, if possible, you should offer the option to have the affidavit read aloud in a place where others cannot overhear. After the contents have been read aloud, you must check that the client appears to have understood the document. You can do this by using the suggested questions above.

If the client does not appear to you to have understood, you must decline to witness the affidavit.

STEP 7

Warn the client

You must warn the client that:

- it is a serious criminal offence to make a false affidavit; and
- the penalties include imprisonment.

You should also ask the client appropriate questions to make sure that they have understood the warning.

STEP 8

Ask the client to swear an oath or make an affirmation

The client may choose between swearing an oath or making an affirmation.

It is important that you, and the client, understand that an oath or affirmation is not a mere formality. If an oath or affirmation is not properly taken or made, a court might refuse to admit the affidavit into evidence. It is also an offence for a deponent to falsely swear or affirm things that are untrue.

If you are not satisfied that the client sufficiently understands what it means to swear or affirm an affidavit, or you are not satisfied that they are mentally and physically able to, you should decline to witness the affidavit.

For more information, see [Appendix C](#) on page 114.

If the client chooses an oath

If the client chooses to take an oath, it is recommended that the word 'swear' is used. An oath may also (but does not have to) refer to the person's religious or sacred beliefs (for example 'God' or 'Buddha'). It is not necessary for the client to hold a holy book when swearing their oath, but they may choose to do so.

Acceptable forms of words for an oath include:

JP: Do you swear that the contents of this your affidavit are true and correct to the best of your knowledge and belief?

The client must give an affirmative response such as 'So help me God', 'I do', 'Yes' or (if unable to speak) a physical sign such as nodding.

or:

Client (before the JP): I swear that the contents of this my affidavit are true and correct to the best of my knowledge and belief.

If the client chooses an affirmation

If the client chooses to make an affirmation, two acceptable forms of words are:

JP: Do you solemnly, sincerely and truly declare and affirm that the contents of this your affidavit are true and correct to the best of your knowledge and belief?

The client must give an affirmative response such as 'I do', 'Yes' or (if unable to speak) a physical sign such as nodding.

or:

Client (before the JP): I solemnly, sincerely and truly declare and affirm that the contents of this my affidavit are true and correct to the best of my knowledge and belief.

STEP 9

Watch the client sign the affidavit in front of you

After the client has sworn an oath or made an affirmation, ask them to sign in the space provided in the signature panel. The client **must** sign the affidavit in your presence.

Generally, a black or blue ink pen should be used, but you should check whether the document specifies that a particular colour must be used. The ink must be permanent and erasable pens must never be used.

If the client has already signed

If the client has already signed the signature panel before bringing the document to you, you must not witness that signature. You must never witness a signature that was already on the document when it was brought to you. The client **must** sign in your presence.

However you can watch the client place a fresh signature on the document. To do this:

- rule a line in ink through the signature that was already on the document;
- both you and the client should write your initials next to the ruled-out signature; and
- after following all the other requirements of the relevant procedures in this handbook, you should watch the client write their fresh signature as close as possible to the space provided.

If the client is unable to sign

A client who is unable to sign may make a mark instead (for example, if they have a visual or physical impairment, or are illiterate). Instructions for making a mark, including extra wording that the JP is required to add, are in [Section 2.6](#) on page 92.

If the affidavit includes more than one page

If the affidavit is more than one page, the client must also sign each preceding page of the affidavit. The client's signatures should be placed at the foot of each page, or if there is no space, elsewhere on the page.

If there are two or more deponents (people)

If an affidavit is made by two or more people, you must:

- confirm that each name appears in the signature panel;
- confirm each person's identity: you must see each person's face and confirm against a form of identity (Steps 2 and 3 above);
- check that each person understands and warn each person (Steps 6 and 7 above);

- receive an oath or affirmation from each person (Step 8);
- watch each person sign the signature panel (Step 9); and
- watch each person sign the preceding pages of the affidavit (Step 9).

You must only witness the affidavit of people who are present before you at the time of signing. If there is more than one deponent (person) and one of them is not present, you must record in writing, in or below the signature panel, the words:

This affidavit has *not* been sworn before me by [insert name(s) of the person(s) not present].

It is acceptable for individuals to sign a joint affidavit at different times and before different authorised witnesses.

STEP 10

Sign the signature panel and each page of the affidavit

After you have seen the client sign or make a mark (including on any extra pages), you should immediately sign, print your full name, your qualification (NSW JP), and your JP registration number in the space provided.

Your signature should always be handwritten in ink, and never added with a stamp, label or sticker.

You **must** also:

- sign any extra pages, near the signature of the client on each page;
- cross out either the words 'I swear' or 'I affirm' at the beginning of the affidavit, as appropriate;
- cross out either the word 'sworn' or 'affirmed' in the signature panel, as appropriate; and
- include any more information required or any other instructions in the affidavit. If you are unsure about the requirements of a particular affidavit, you should seek advice (see [Section 1.3](#) on page 8).

If the form requires your address

Some forms require you to state your address. Either a home, business or postal address **where you can be reliably contacted** will usually be sufficient (unless the form states that a particular kind of address is required). Unless the form allows, an email address will usually **not** be sufficient.

If you do not have a business or postal address and you do not wish to use your home address, you can give the address of a JP association (if you are a member) or the address of the Department (at the back of this handbook, on page 127).

STEP 11

Certify identity requirements have been met

You **must** also certify in writing that you saw the person's face and confirmed their identity (as in Steps 2 and 3) **before** you witness the affidavit.⁵

It is a criminal offence for a JP to witness an affidavit if these requirements have not been satisfied. This is punishable by a fine.

Most affidavits used by NSW courts have the wording of the required certificate pre-printed. You will only need to fill in the blanks and cross out text that does not apply.

In some cases, such as when an old form has been used, you will have to add the wording of the certificate, either by hand or with a stamp (but not with an adhesive label). See detail on the right for the appropriate wording.

If you relied on an identification document to confirm the person's identity, it is sufficient to write the type of identification, such as 'NSW driver licence' or 'Australian passport'. You should not record any unique details of the identification document, such as the document's number or the client's date of birth (unless the affidavit requires it). You should not keep a copy of the identification document.

If an affidavit is made by two or more people, you must complete a separate certificate for each person who has sworn or affirmed the affidavit before you.

5 You do not have to certify that identity requirements have been met if the affidavit is a Commonwealth affidavit (i.e. an affidavit for proceedings in a Commonwealth court, for the purpose of or in connection with a law of the Commonwealth, or in connection with the administration of a Commonwealth department or agency).



More information on certifying identity requirements

Use the following wording when an affidavit does not contain pre-printed wording:

I, , a NSW JP , certify:
[full name of JP] *[JP registration number]*

[include only the text that applies]*

***I saw the face of the deponent OR**

***I did not see the face of the deponent because they were wearing a face covering, but I am satisfied that they had a special justification for not removing it, and**

***I have known the person for at least 12 months OR**

***I confirmed the person's identity with**

.....
[describe identification document relied on]

.....
[signature of JP]

.....
[date]

Hand write or stamp the wording anywhere on the document where there is space, preferably on the same side of the page as the other text appears.

If there is no space on the front, it is acceptable to place the certification on the back of the document. The identity certification must be 'on' the affidavit - do not put it on a separate piece of paper.

When adding the wording of the identity certification, you have to sign the document twice. Once to witness the client's signature, and again for the certification.

STEP 12

Complete and sign the statement on each annexure (if any)

After you have signed the signature panel and each preceding page of the affidavit, you must complete and sign the statement on each annexure (if any). Detailed instructions on how to do this are in Step 5 on page 41.

STEP 13

Certify the client understood (for clients who are blind or illiterate only)

If it appears to you that the client is blind or illiterate (cannot read), you must also certify in writing, in or below the signature panel, that:

- the affidavit was read to the deponent in your presence
- it appeared to you that the deponent understood the affidavit, and
- the deponent signed the affidavit (by signature or mark) in your presence.

Instructions for making a mark, including extra wording that the JP is required to add, are in [Section 2.6](#) on page 92.

Frequently asked questions: about affidavits

A frequently asked question about this topic is included below. For a full list of frequently asked questions included in this handbook, see page 118.

FAQ 5. What special requirements should I look out for in affidavits about divorce?

There are various affidavits used in a divorce application, and they have some special requirements. The affidavits are:

- Affidavit in the Application for Divorce;
- Affidavit of Service (by Post or by Hand);
- Affidavit Proving Signature; and
- Affidavit for eFiling Application (Divorce).

Affidavit in the Application for Divorce

An applicant can only sign the Affidavit in the Application for Divorce after they have been separated for at least twelve months. If you become aware that this requirement has not been met, you may inform the applicant that they should obtain legal advice, but you are not required to decline to witness the affidavit.

If only one of them is applying for divorce as a sole applicant, they do not both need to sign the affidavit. Only the sole applicant needs to sign, in the space provided, as appropriate.

If both parties are applying for divorce as joint applicants, each party must sign their part of the Affidavit. Both parties can sign at different times and before different JPs or before the same JP at the same time.

Affidavit of Service (by post or by hand)

At a later stage, a sole applicant will need to complete an Affidavit of Service (by post) or an Affidavit of Service (by hand). A separate document titled Acknowledgment of Service (divorce) must be attached as an annexure to prove that the Applicant's spouse has been served with the divorce application.


If you are witnessing an Affidavit of Service that has such an annexure, you must also complete the Annexure Note at the bottom of the Acknowledgment of Service.

Affidavit Proving Signature

If the applicant has completed an Affidavit of Service (by hand), they will also need to swear or affirm an Affidavit Proving Signature. This must also have a copy of the Acknowledgement of Service (divorce) annexed (this doesn't need to be certified).

Affidavit for eFiling Application (Divorce)

Applicants have the option of completing a divorce application online. In this case, an Affidavit for eFiling Application (divorce) will be needed. A JP can witness this type of affidavit by following the usual procedure in this handbook. The applicant then scans the document and lodges it online.

More information for applicants as well as downloadable forms are at the website www.fcfoa.gov.au  under 'Divorce forms and kits'.

2.3 Certifying a copy of an original document

What is it?	<p>Sometimes, a certified copy may be accepted instead of the original document. This can be where an organisation needs to rely on information contained in the original.</p> <p>This practice came about because it may be inconvenient or unreasonable to require people to give the original of important documents, like birth certificates or academic qualifications.</p> <p>If satisfied that a copy is a true and accurate copy of the document reported to the JP to be the original, the JP may print a certification to that effect on the copy.⁶</p> <p>See definition of 'copy' and 'original document' on the following page.</p>
What can I certify?	<p>There is no law in NSW that specifies or restricts the types of original documents that may be certified as true copies, or when a certified copy is acceptable in place of the original.</p>
What can't I certify?	<p>Some examples of documents that you shouldn't certify include:</p> <ul style="list-style-type: none">• a laminated copy of a citizenship certificate• that a photograph is the true likeness of a person <p>Note: this is not a full list – if you are unsure about a document, please seek advice (see Section 1.3 on page 8).</p>

6 In this context, **certify** means to vouch for in writing.

Important tips

You must never certify a copy unless you have both the original and the copy physically in front of you.

You must never certify a copy **unless you are satisfied that the copy is a true and accurate copy** of the document reported to you to be the original.

You **must use the certification words specified in this procedure** (or words substantially the same). This is required by law, and also helps to clarify that you are not certifying the original document is authentic.

The owner of the original document does not need to be present when you certify a copy of the document.

When the only function you are performing is to certify a copy of an original document, you do not need to sight identification or confirm a person's identity.

You may certify a copy even if the original document was not produced in Australia, or is to be used for a purpose outside Australia.

You are not expected to give advice about whether or not an organisation will accept a certified copy of a particular document. People should make their own enquiries directly with the relevant organisation.

Definition of 'original document', 'electronic document' and 'copy'



The *Justices of the Peace Act 2002* does not define what is meant by an 'original document' or a 'copy'. The following definitions are provided as a guide, to assist JPs in their decisions about certifying copies.

Original document

An **original document** is the actual record of text or images made directly by the author or issuer of the document, which is later used to make a copy. An original document can be either printed or in electronic form.

An issuing authority may produce more than one version of a document, and each version is considered 'original'. For example, a person's birth certificate issued shortly after their birth by the NSW Registry of Births, Deaths and Marriages is an original document. If many years later the Registry produces a duplicate birth certificate to replace one that was lost, that document is also an original, because it is also an 'actual record' made 'directly by the issuer'.

A paper original is usually different from a photocopy or other printed reproduction (although it may be difficult to tell the difference between an original and a copy if a JP is shown a high-quality photocopy). Indicators that a printed document is an original are that it:

- appears on official letterhead;
- contains an official logo, seal or watermark; or
- includes a handwritten signature or inked stamp of the issuing authority.

Copy

'**Copy**' means a reproduction (of the original document) on paper or similar. It is made by a photocopier or other machine with similar copying and printing functions. It does not include a reproduction of the document that is handwritten or hand-drawn, or a mere transcription of the content of the original.

Electronic document

An 'electronic document' is any electronic file format that contains writing, numbers, images, symbols, marks, drawings, maps or plans, and which can be reproduced on paper or similar.

**QUICK REFERENCE:****Certifying a copy of an original document**

STEP 1	Have the original document and copy in front of you
STEP 2	Check that the copy is a true copy
STEP 3	If satisfied, add your certification in writing
STEP 4	Add your details to the certification (name, JP registration number, date)
STEP 5	Sign your certification

Step-by-step procedure

STEP 1

Have the original document and the copy physically in front of you

You must have both the original document and the copy physically in front of you.⁷

You can be satisfied that a document is an original, if the client shows it to you and states that it is the original.

However, if it is immediately and obviously apparent to you that the document could not be an original, you should decline to certify the copy. For example, this might occur where the document presented as the original is very obviously a reproduction, or contains changes that are very obviously not made by the issuing authority.

Your role as a JP is limited to ensuring that the copy is a true and accurate copy of the original. Your role **does not** involve certifying that:

- the document presented as the original is authentic;
- the content of the original is accurate; or
- the original was correctly and validly issued.

You should not certify a copy of a certified copy. Only certify a copy of a document reported to you to be the original document.

7 Viewing a paper original document remotely, such as by video telephone call or video over the internet, does not meet the requirement to have the original document and the copy physically in front of you. However, if an original document is in electronic form and you are using a computer or similar to view the document live on an official website that is under the control of the document's issuing authority, then you are considered to have that original document physically in front of you.

Example: certifying copies of electronic documents

EXAMPLE A: A JP observes Ms A print her bank statement directly from the official website of Ms A's bank. The JP may then certify the printout as a true copy of the original.

EXAMPLE B: Mr B prints his electronic payslip, and his employer endorses the printout with the organisation's official stamp. As this document has certification from the original authority, this is considered an original copy and does not require certification from the JP. However, if this original is then copied following the steps outlined in Step 1, the JP may certify the copy of the original.

EXAMPLE C: Ms M requests that a printed copy of her university transcript is certified and shows the JP the email received from the university. The JP **should not** certify this copy, as it can't be verified as a true copy as per the three options in Step 2.

STEP 2

Check the copy is a true copy

If the original is on paper

You can be satisfied that the copy is a true and accurate copy of the original by either:

- carefully comparing both the copy and the original in front of you; or
- watching the copy be made by a copying machine in front of you (such as a photocopier or other machine with similar copying functions).

If the document is in a language other than English, you must watch the copy being made by a copying machine in front of you (instead of simply comparing the copy with the original). This is because, if you cannot read the other language, you may not notice a tiny difference on the copy that changes the meaning of the original.

Sometimes a copying machine may produce a poor quality copy. Even if you watched the copy being made by a copying machine, you should still check that the copy is true and accurate before certifying it.

If you are not satisfied that the copy is a true and accurate copy of the original (by using one of the above two methods), you must decline to certify the copy.

You may certify a copy as a true and accurate copy when:

- the copy is a different size to the original. For example, this may occur if a copying machine has produced an enlarged or a reduced copy of the original;
- the copy is in black and white only, but the original contains colour; and
- the original is laminated. Some issuing authorities prohibit the laminating of their original documents, because lamination makes it difficult for them to authenticate the original. For example you are not able to certify a laminated citizenship certificate. However JPs are not required to authenticate original documents, so there is nothing to prevent a JP from certifying a copy of a laminated original.

You must not certify a copy if it contains an alteration that is not present on the original document as produced by the issuing authority. This is because the copy would not be a true and accurate copy.

If the original is in electronic form

Only certify a copy of an electronic original document if you have used one of the following methods.

- You saw the paper copy printed directly from an official website that is under the control of the document's issuing authority;
- You saw the paper copy printed directly from a computer that is under the control of the document's issuing authority; or
- The electronic original is displayed live in front of you on an official website or mobile application, under the control of the document's issuing authority.

Compare every item of information in the electronic original with its counterpart on the paper copy, and confirm that every item of information is the same. The screen of the mobile phone, computer or other device must be readable despite any cracks or chips.

If you are not satisfied that the copy is a true and accurate copy of the original (by using one of the above methods), you should decline to certify the copy.

Outside of these three reasons, there is some risk that the document presented to you could have been altered at a prior stage, using computer editing software. This includes where the document has been transmitted by email, fax or other electronic communication (even when that communication appears to have come from the issuing authority).

More information on alternatives to a certified copy of an electronic original document



In some circumstances, this handbook recommends against certifying a copy of an electronic original document (see page 62). However there may be alternatives to a certified copy.

The person could instead make a statutory declaration.

They can declare that it is a true copy of the original, and that it exists only in electronic form. The copy can be included as an annexure. You could witness the person making that declaration, but would still be prohibited from certifying the copy.

The person could forward the electronic original, if it is an email or attached to an email. The person could forward the email directly to the organisation that requested the certified copy. It would then be a matter for that organisation to decide whether or not to accept the forwarded email, or to make its own enquiries about it.

To avoid wasted time and effort, the person should first discuss the proposed alternative with the organisation that requires the certified copy.

STEP 3

If satisfied the copy is true and accurate, add your certification in writing

If you are satisfied that the copy is a true and accurate copy of the document, you may add your certification. You must always use the following words, or words substantially the same as the following:

I certify this to be a true and accurate copy of the document reported to me to be the original document.

Use of this wording (or substantially the same wording) is required by law, and also helps to clarify that you are not certifying the document is authentic. This may be important if someone who relied on your certification sought to have a court impose such a duty of care on you.

Your certification must be printed on the copy either using a stamp or handwritten in ink. A certification that has been added with a label or sticker is not sufficient.

If the document is more than one page, you may add your certification to the first page only, and then just sign or initial each subsequent page. In this case, the certification on the first page should read:

I certify this document, comprising this and the following [insert number of pages] pages, each of which I have signed or initialled, to be a true and accurate copy of the document reported to me to be the original document.

More information on what to do if the certification wording differs on the form you are completing



Many organisations will give detailed instructions on how to certify copies of original documents. At times, the suggested wording is different from what has been provided in this handbook. This may be as the organisation has specific needs for their situation.

As long as the words are substantially the same, following the instructions provided by the requesting organisation is recommended. Some examples are listed here.

Wording recommended by **NSW Education** for certified copies:

I certify this is a true and unaltered copy of the original.

The **Australian Health Practitioner Regulation Agency** (AHPRA) recommend the text below for copies of original documentation:

I have sighted the original document and certify this to be a true copy of the original.

STEP 4**Add your details to the certification**

Add the following details underneath or alongside the wording of the certification:

- your full name;
- your qualification (NSW JP);
- your JP registration number; and
- the date.

Your details should be added by a stamp or handwritten in ink.

STEP 5**Sign your certification**

Your signature must always be handwritten in ink, and never added with any kind of stamp, label or sticker.

Frequently asked questions: certifying copies

Some frequently asked questions about this topic are included below. For a full list of frequently asked questions included in this handbook, see **Appendix D** on pages 118-119.

FAQ 6. What interstate or overseas documents can NSW JPs certify?

JPs can **certify copies of documents** from other states, territories and the Commonwealth. NSW JPs can also certify copies of original documents from overseas.

FAQ 7. Can JPs certify copies of documents that are not in English?

Yes, you may certify copies of documents in any language. This is regardless of whether or not you may be able to read that language.

It is important to remember that your role as a JP is limited to ensuring that the copy is a true and accurate copy of the original. See Step 2 on page 57 of this section for more details.

If the document is in a language other than English, you should watch the copy be made by a copying machine in front of you (instead of simply comparing the copy with the original). This is because, if you cannot read the other language, you may not notice a tiny difference on the copy that changes the meaning of the original.

FAQ 8. I've been asked to certify a copy of an electronic document. How do I know if I am not looking at the electronic original?

There are only three acceptable ways to accept a copy of an electronic document, as explained in Step 2 of this section on page 58.

1. You saw the paper copy printed directly from an official website that is under the control of the document's issuing authority;
2. You saw the paper copy printed directly from a computer that is under the control of the document's issuing authority; or
3. The electronic original is displayed live in front of you on an official website or mobile application, under the control of the document's issuing authority.

Compare every item of information in the electronic original with its counterpart on the paper copy, and confirm that every item of information is the same. The screen of the mobile phone, computer or other device must be readable despite any cracks or chips. If you are not able to confirm by one of the above options, you should decline to certify the copy. This is because you can't be sure you are looking at a true copy.

FAQ 9. When should a JP decline to certify a copy of an electronic document? And what are the alternatives if I must decline?

EXAMPLE A: Mrs C asks a JP to certify a copy of her electricity bill. Mrs C opens her own laptop computer and displays an electronic image of the bill, which she says she downloaded from the web earlier.

In this instance, the JP is unable to confirm the electronic image original was sourced from the issuing authority's official website or a computer under its control. The JP must decline to certify the copy.

Alternative: Mrs C could instead make a statutory declaration. The declaration can note that it is a true copy of her original electricity bill, which exists only in electronic form. The copy of the electricity bill should be attached as an annexure. A JP could witness Mrs C making that declaration. Mrs C should check first that the relevant organisation will accept her statutory declaration in place of a certified copy.

EXAMPLE B: Mr D asks a JP to certify a copy of a building certificate issued by Fairfield City Council. Mr D logs into his own email account and shows the JP the certificate, which is attached to an email that was sent from service@fairfieldcity.com.au.

As an electronic copy sent via email, there is some risk the email was not genuinely sent from the issuing authority. The JP must decline to certify the copy.

Alternative: Mr D could instead forward the email to the person or organisation that requested the certified copy of the building certificate. It would then be a matter for that person or organisation to decide whether or not to accept and rely upon Mr D's emailed copy, or to make their own enquiries with the certificate's issuing authority.

2.4 Performing other functions of a JP


What is it?	<p>As a JP, you can only perform functions that are given to a JP by or under a NSW Act or NSW Regulation.</p> <p>Apart from the functions described in Section 2, other functions may include witnessing various kinds of legal documents and administering special kinds of oaths.</p> <p>You will probably only be called upon to perform these other functions of a JP on rare occasions.</p>
What functions can I perform?	<p>It is not possible for this handbook to list every other function of a JP.</p> <p>However official forms often state the name of the relevant NSW Act or NSW Regulation.</p> <p>In general, you are not authorised to perform functions under Commonwealth, interstate, territory or overseas laws (other than those described in Section 2).</p>
Important tips	<p>You should first check which NSW Act or NSW Regulation gives a JP the function that you have been asked to perform.</p> <p>If you cannot identify a relevant NSW Act or NSW Regulation, you should decline to perform the function.</p> <p>If the function is given by a NSW Act or NSW Regulation, you should follow the instructions for the JP on the relevant document. If you cannot comply with those instructions or any special conditions that must be met, then you must decline to perform the requested JP function.</p>

It is not possible for this handbook to list a procedure for every function that may be given to a JP by a NSW Act or NSW Regulation. The following steps are suggested as a guide.

STEP 1

Check which NSW Act or NSW Regulation confers the function

You should first check which NSW Act or NSW Regulation gives a JP the function that you have been asked to perform.

The relevant NSW Act or NSW Regulation will usually be named somewhere on the document. You can also look up a complete version of all NSW Acts and Regulations online at www.legislation.nsw.gov.au 

If you cannot identify any relevant NSW Act or NSW Regulation, then you must not perform that function in your capacity as a JP.

If you decide to perform the requested task anyway, you will be doing so only in your personal capacity. This means that you should not record on the document your JP registration number or any reference to your status as a JP (for example, you should not include the initials 'JP' after your name).

Never feel obliged to perform a function that is not given to a JP under a NSW Act or NSW Regulation, simply because you have been asked.

STEP 2

Follow the instructions on the document

You should carefully read the instructions on the document, including the wording of any jurat or signature panel, to understand what you are required to do.

You should also look for any conditions you are required to meet, for example, that you have known the person for a period of 12 months or more. If for any reason you cannot comply with those conditions, you must decline to perform the requested JP function.

Guidance about the meaning of 'known the person for a period of at least 12 months' is in **Section 2.1** on page 18. Some documents may require you to check a person's identification and confirm their age, or NSW address. Sometimes the document may require you to sight a specific type of identification. When required to sight a person's identification, you must always sight the original, unless the document states you may sight a certified copy.

If there are no specific instructions for how to satisfy yourself about the person's identity, you should follow a procedure similar to the one set out in Steps 2 and 3 of **Section 2.1** on pages 16 and 18.

STEP 3**Make sure you understand the purpose and effect of the document**

You should make sure you understand the purpose and the intended effect of the document.

This will affect the scope of any duty of care that a court might impose on you, and any reasonable steps that you might be expected to take before performing the function (see Step 5 on the next page). For example, your duty of care may be greater where the document involves a substantial transaction (such as a mortgage or sale of land).

STEP 4**Check that the person understands**

You should always check that the person understands the purpose and effect of the document, and is familiar with its contents.

Do this by asking open-ended questions, such as:

- Why do you need to complete this document?
- What is this document about?
- What will you use this document for?
- Who wrote this document?

You must decline to witness a document if you are not satisfied that the person has capacity to execute it. More information about capacity is in **Appendix C** on page 114.

If the person does not understand or speak English adequately, it is advisable that you:

- use an interpreter who is accredited and independent (see **Section 2.5** on page 71);
- read the document aloud to the person, allowing the interpreter to repeat your words in the person's language; and
- check that the person understands the purpose, effect and contents of the document by asking open-ended questions through the interpreter, as above.

STEP 5

Do anything else that is necessary and reasonable in the circumstances

In general terms, to fulfil any duty of care that you might owe, you should at least:

- carefully follow the instructions and complete all the steps in the document;
- clarify any instructions or steps that you are not sure about;
- take steps to be satisfied of the person's identity (as in Step 2 above), even if that is not a specific requirement on the document (and particularly if the document relates to a substantial financial or property transaction);
- ask appropriate questions to make sure that the person understands the purpose, effect and contents of the document (as in Step 4 above);
- make other enquiries as needed in the circumstances. For example, by checking the relevant legislative provision or seeking advice if you are unsure about exercising the function (see **Section 1.3** on page 8 about the support and information available to JPs in NSW); and
- always act honestly when performing JP functions, particularly when signing that you have witnessed a person's signature on a document or been 'satisfied' of a specific matter or thing (see **Section 1.1** on page 5: 'Definition: What does a requirement to be 'satisfied' mean?'). For example, you must not sign the document if you have not completed all the relevant steps. You must never witness a signature that was not made in front of you.

Other general information about the concept of duty of care is in **Section 1.2** on page 6, however, this handbook provides only general guidance and does not contain legal advice. If you are unsure about a particular situation, seek advice (see **Section 1.3** on page 8).

STEP 6

Sign and print your full name, JP registration number and other details

After you have seen the person sign, you should immediately sign, print your full name, your qualification (NSW JP), and your JP registration number in the space provided.

Your signature should always be handwritten in ink, and never added with a stamp, label or sticker.

Generally a black or blue ink pen should be used, but you should check whether the document specifies that a particular colour must be used. The ink must be permanent and erasable pens must never be used.

If the client has already signed

If the client has already signed the document before bringing it to you, you must not witness that signature. You must never witness a signature that was already on the document when it was brought to you. The client **must** sign in your presence.

However you can watch the client place a fresh signature on the document. To do this you must:

- rule a line in ink through the signature that was already on the document;
- write your initials next to the ruled out signature (both you and your client); and
- watch the client writing their fresh signature as close as possible to the space provided.

Frequently asked questions: performing other functions

Some frequently asked questions about this topic are included below. For a full list of frequently asked questions included in this handbook, see [Appendix D](#) on pages 118-119.

FAQ 10. Can JPs witness documents from interstate?

NSW JPs are authorised under NSW law to take **statutory declarations** and **affidavits** for use in other states and territories and the Commonwealth.

JPs can also **certify copies** of documents from other states, territories and the Commonwealth.

FAQ 11. Can JPs witness land title documents from another state?

JPs are authorised under the Oaths Act 1900 to witness the **execution of other interstate documents**, such as land titles documents from another state or territory, where this is also permitted by the law of the other state or territory.

There are some important clarifications to note however.

NSW JPs need to **exercise caution when asked to witness property transactions**.

While NSW JPs are authorised to witness the execution of other interstate documents, there are some important considerations to remember.

JPs **should not be involved** in the verification of identity processes required for online conveyancing matters. 95 per cent of conveyancing transactions are now conducted online, and are governed under the Electronic Conveyancing National Law (NSW). As most of the documentation is held online, a JP does not have access as an authorised subscriber. This means that you cannot verify the document as an original document.


Also, JPs would not usually hold the appropriate insurance or relevant identity certification required under the eConveyancing participation rules.

However, for paper applications the NSW Conveyancing rules allow for a certificate to be used that is signed by an eligible witness.

In this context, an eligible witness is someone who is at least 18 years of age, and has either known the applicant for more than 12 months, or has taken reasonable steps to verify the identity of that person. If you do certify this form, you are not acting in your capacity as a JP. As you are not delivering this function as a JP, you should not use your JP number.

FAQ 12. Can JPs witness documents from overseas?

NSW JPs **are not authorised** under NSW law to witness the execution of documents for use overseas. This is because there may be requirements for overseas documents that are governed by overseas laws, rather than NSW law.

In Australia, Public Notaries are able to witness signatures on overseas documents. You can find out more information about Public Notaries at <https://notarynsw.org.au> 

For example, NSW JPs **cannot** witness:

- overseas proof of life forms for claiming overseas pensions;

However, NSW JPs **can**:

- **witness** the Commonwealth of Australia's Life Certificate form; and
- **certify copies** of overseas original documents such as a birth certificate, if satisfied that the document is a true and accurate copy.

Example: Proof of Life forms

Mr John Doe, who lives in Sydney NSW, has asked you to witness a Dutch proof of life form, to support his overseas pension application. However, NSW JPs are not authorised to witness these overseas documents, as they are governed by international laws.

You **must** decline to witness this proof of life form.

Instead, you can either refer Mr Doe to a Public Notary, or the International Services Branch of Centrelink. This branch provides support for people seeking to claim a pension from countries where Australia has a reciprocal aged pension agreement.

International Services Branch, Centrelink
Ph: 131 673

www.servicesaustralia.gov.au/individuals/services/centrelink/international-services 

FAQ 13. Can JPs witness wills and general powers of attorney?

Any person over the age of 18 **who is not** a beneficiary of the will, or an attorney under that power of attorney, can witness a will or general power of attorney.

If you do witness a will or general power of attorney, you are not acting in your capacity as a JP (but as a general member of the public). As you are not delivering this function as a JP, **do not** use your JP number.

Note: there are no circumstances where JPs can witness enduring powers of attorney. They may only be witnessed by specially qualified witnesses.

2.5 Providing services to people from culturally and linguistically diverse backgrounds

The Code of Conduct for JPs in NSW states that a JP must treat all people seeking JP services with courtesy, dignity and respect. This includes people whose first language may not be English, or have different religious beliefs. It is recommended that some adjustments be made to support people from diverse backgrounds.

Supporting people who do not speak English

Before witnessing any statutory declaration or affidavit, you must be satisfied that the person understands the purpose, effect and contents of the document. If a person does not speak English, you should use an interpreter. You need to be able to rely on the interpretation being accurate, independent and impartial.

You do not need to use an interpreter if:

- the client can read and understand written English; and
- both you and the client communicate in Auslan (or another recognised English-language based sign language).

Even if you speak the same language as the client, you should use an interpreter. This is because you should not perform the functions of a JP in a spoken language other than English. If you interpret for the client, a court might impose a duty of care on you about your language and interpreting skills. A court might also find that you were not acting in your capacity as a JP if you deliver your functions in a language other than English.


However, you may communicate in a language other than English **before or after** the step-by-step procedure outlined. For example, to arrange a time and place to meet, or to answer questions about the process.

For non-English speaking clients, extra steps are recommended for the procedures outlined in **Section 2.1** Witnessing a statutory declaration, and **Section 2.2** Witnessing an affidavit. These extra steps are on the following pages.


Provision of interpreter services

An **accredited** interpreter is recommended for:

- **statutory declarations** about substantial financial or property transactions, or a mortgage, borrowing or guarantor transaction; and
- **affidavits.**

The interpreter should be accredited at a suitable level of proficiency, through the National Accreditation Authority for Translators and Interpreters (NAATI). NAATI's 'Professional Interpreter' is the recommended minimum level of competence for interpreting in most work settings. This includes banking, law, health, and social and community services. An online directory of NAATI-accredited interpreters is available on a fee-for-service basis at www.naati.com.au 


NSW Government agencies fund interpreter services when dealing with clients. Where a NSW Government agency requires a statutory declaration, enquiries about booking an interpreter should be directed to that agency.

In other instances, Multicultural NSW may provide interpreter services on a fee-for-service basis. More information is available at www.multicultural.nsw.gov.au  or by calling the Commission's Language Services Division on 1300 651 500.

Supporting people from different religious affiliations

The Code of Conduct for JPs in NSW states that a JP must treat all people seeking JP services with courtesy, dignity and respect. You should never treat a person less favourably because of their religious affiliation when performing JP functions.

You may sometimes need to accommodate a person's religious affiliation. When doing so, keep in mind that you are still required to fulfil the legal requirements of the relevant JP function.

If you would like to learn more about the practices and beliefs of particular religious affiliations, read Section 4 of the 'Equality Before the Law Bench Book'. Although aimed at judicial officers, it contains helpful general information and guidance. You can access a copy of the publication on the Judicial Commission's website at www.judcom.nsw.gov.au  under 'Bench Books'.

Seeing the person's face - statutory declarations and affidavits

You must see the face of the person making a statutory declaration or affidavit (see Step 2 of **Section 2.1** on page 16 or **Section 2.2** on page 38, as applicable).

Religious beliefs or cultural practices are not special justifications for a person not removing their face covering. However, you should make reasonable efforts to accommodate the person's beliefs, as far as it is reasonably practical.

Examples of reasonable efforts to accommodate religious beliefs



- Ask the person to remove their face covering only to the amount needed. You need to see the whole of the person's face (see Step 2 of **Section 2.1** on page 16).
- Allow the person to replace their face covering as soon as you have confirmed their identity.
- Make reasonable efforts to allow some privacy when they remove their face covering.
- If the person is reluctant to show their face because they are of the opposite gender, let them know that they can have the document witnessed by another JP who is the same gender.

If the above suggestions are not possible, then either the person must show you their face, or you must decline to witness the document.

Oaths and affirmations - affidavits

When making an affidavit, the person can choose between swearing an oath or making an affirmation. For more information, see Step 8 in **Section 2.2** on page 44.

If the person chooses to swear an oath, they may choose to hold a holy book or other religious text when swearing the oath. However, this is not essential.

It is not necessary for you to have copies of holy texts available. When a person contacts you about witnessing their affidavit, it is a good idea to ask if they choose to swear an oath or make an affirmation. If they wish to swear an oath, you can suggest that they bring their own holy text.

If it is impractical for a person to swear an oath or if the person cannot decide or refuses to decide, you can suggest that they make an affirmation. For example, if the person wishes to use a holy book, but did not bring it with them.



QUICK REFERENCE:

Witnessing a statutory declaration of a person who does not speak English

STEP 1	Check if you need an accredited interpreter
STEP 2	Confirm that the interpreter is independent and impartial
STEP 3	Follow the usual first five steps for witnessing a statutory declaration: <ul style="list-style-type: none"> • confirm that both documents are set out as a statutory declaration; • see the faces of both the interpreter and the non-English speaking client; • confirm the identity of both the interpreter and the non-English speaking client; • verify any blank spaces or alterations; and • look for any annexures and make sure they have been appropriately referred to in the statutory declaration.
STEP 4	Check the wording of the interpreter's declaration
STEP 5	Check the client understands
STEP 6	Warn the client
STEP 7	Ask the client to declare the contents are true and correct
STEP 8	Warn the interpreter about the penalties for making a false declaration in their interpretation
STEP 9	Ask the interpreter to declare the contents are true and correct
STEP 10	Follow the final steps for the interpreter's declaration <ul style="list-style-type: none"> • watch the interpreter sign the statutory declaration in front of you; • sign and print your full name, JP registration number and other details; • certify identity requirements have been met; and • complete and sign the statement on each annexure (if any).

STEP 11

Follow the final steps for the declarant's declaration

- watch the declarant sign the statutory declaration in front of you;
- sign and print your full name, JP registration number and other details;
- certify identity requirements have been met;
- complete and sign the statement on each annexure (if any); and
- certify in writing that the statutory declaration was read to the non-English speaking declarant, and understood.

STEP 12

Follow the final steps for the declarant's declaration

- watch the declarant sign the statutory declaration in front of you;
- sign and print your full name, JP registration number and other details;
- certify identity requirements have been met;
- complete and sign the statement on each annexure (if any); and
- certify in writing that the statutory declaration was read to the non-English speaking declarant, and understood.

2.5.1 Witnessing a statutory declaration of a person who does not speak English

<p>What is it?</p>	<p>Before witnessing any statutory declaration, you must be satisfied that the declarant understands the purpose, effect and contents of the statutory declaration.</p> <p>If the client does not speak English, you should use an interpreter to communicate with them during the step-by-step procedure in this section.</p> <p>Both the interpreter and the client should each make a statutory declaration. The interpreter's statutory declaration must contain the appropriate wording as included in Step 12.</p> <p>The non-English speaking client needs to supply an unsigned copy of their statutory declaration to the interpreter, as this has to be annexed to the interpreter's declaration.</p>
<p>What can I witness?</p>	<p>You may witness a statutory declaration that is made for use in:</p> <ul style="list-style-type: none"> • NSW; • any other Australian state or territory; or • the Commonwealth of Australia. <p>The statutory declaration must be signed and witnessed in NSW, except in certain circumstances when you are delivering JP functions via audio-visual link (see page 14).</p>
<p>Important tips</p>	<p>The important tips listed in Section 2.1 on page 33 also apply here.</p> <p>You need to be able to rely on the interpretation being accurate, independent and impartial.</p> <p>A statutory declaration must be written entirely in English. All communication between the JP and the declarant must be in English during the entire step-by-step procedure.</p> <p>You should use an interpreter, even if you speak the same language as the client. However, you may communicate in a language other than English before or after the step-by-step procedure in this section (for example, to arrange a time and place to meet, or to answer questions about the process).</p>

STEP 1

Check if you need an accredited interpreter

Before meeting with your client, check to see if an interpreter is required, and make arrangements if needed. Information about the provision of accredited interpreter services is included on page 71.

If at any time during this step-by-step procedure it appears that a client may not understand the purpose and effect of the statutory declaration, you should decline to witness it and advise the client to arrange an accredited interpreter.

STEP 2

Confirm that the interpreter is independent and impartial

The interpreter should not have a conflict of interest in, or receive any benefit (financial or other) from, the client's statutory declaration. The only appropriate exception is payment for professional interpretation services.

For information about conflicts of interest, see **FAQ 3** on page 10, 'What is a conflict of interest, and how should I avoid one?'.

If you rely on an interpreter who is not accredited, ideally that interpreter should not be a relative or friend of the client. If they are, make sure that this is clearly stated in the interpreter's declaration.

STEP 3

Follow the usual first five steps for witnessing a statutory declaration

For both the interpreter and the non-English speaking client, follow the usual steps for witnessing a statutory declaration (Steps 1 to 5 in **Section 2.1**).

This includes:

- checking if both documents are set out as statutory declarations;
- seeing the faces of both the interpreter and the non-English speaking client;
- confirming the identity of both the interpreter and the non-English speaking client;
- looking for and dealing with any blank spaces or alterations on each statutory declaration; and
- looking for any annexures and checking that they are correctly referred to in each statutory declaration.

STEP 4**Check the wording of the interpreter's declaration**

The statutory declaration of the interpreter should use specific wording, which confirms that the interpreter:

- has checked that the language spoken by the interpreter is the appropriate language for the non-English speaking person;
- is fluent in both that language and English;
- is competent to interpret between both those languages (for accredited interpreters);
- correctly interpreted the exchanges between the people present, before the relevant documents were signed; and
- has no conflict of interest.

Recommended wording for the statutory declaration of an interpreter is included in this section on page 80.

Note: the non-English speaking client needs to supply an unsigned copy of their statutory declaration to the interpreter. This has to be annexed to the interpreter's declaration.

STEP 5**Read the statutory declaration aloud to the non-English speaking client**

You must read the statutory declaration aloud to the client in English. Then, allow the interpreter to repeat your words in the client's language.

STEP 6**Check the client understands**

After you have finished reading the statutory declaration aloud, check that the client understands the purpose, effect and contents of the statutory declaration. Try asking the client open-ended questions (through the interpreter) such as those listed in Step 6 of [Section 2.1](#) on page 21.

STEP 7**Warn the client**

You must warn the client that:

- it is a serious criminal offence to make a false declaration; and
- the penalties include imprisonment.

You must allow the interpreter to repeat your words in the client's language.

You should also ask appropriate questions (through the interpreter) to make sure that they have understood the warning.

STEP 8

Ask the client to declare the contents are true and correct

You must ask the client to make the declaration required by the statutory declaration form, allowing the interpreter to repeat your words in the client's language.

For an ordinary NSW statutory declaration under the *Oaths Act 1900* (often called an 'Eighth Schedule' or 'Ninth Schedule' declaration), you can ask the following question:

Do you solemnly and sincerely declare the contents of this declaration to be true and correct, to the best of your knowledge and belief?

If it is a statutory declaration under some other law, you should check the form carefully to see if there is any special wording required. If so, you will need to use that wording. If not, you can use the wording as above.

It is acceptable if the client responds with words which show an affirmative answer (for example, 'Yes' or 'I do'), or if the person cannot speak, alternative non-verbal affirmative response (such as nodding).

Note: the non-English speaking client does not sign their declaration at this step. They sign at Step 12.

STEP 9

Warn the interpreter

You must warn the interpreter that there are penalties for making a false declaration in their interpreter's declaration. The penalties include imprisonment.

STEP 10

Ask the interpreter to declare the contents are true and correct

You must ask the interpreter the same question in Step 8 above, about their interpreter's declaration:

Do you solemnly and sincerely declare the contents of this declaration to be true and correct, to the best of your knowledge and belief?

STEP 11**Follow the final steps for the interpreter's declaration**

For the **interpreter's declaration**, these steps as shown in **Section 2.1** are:

- watch the interpreter sign their statutory declaration in front of you;
- sign and print your full name, qualification (NSW JP), JP registration number and other details;
- certify identity requirements have been met (for a statutory declaration under the law of NSW or any other Australian state or territory); and
- complete and sign the statement on each annexure. The interpreter's declaration will have at least one annexure, which will be an unsigned copy of the non-English speaking client's declaration.

STEP 12**Follow the final steps for the non-English speaking client's declaration**

These steps as shown in **Section 2.1** are:




- watch the client sign their statutory declaration in front of you, and also any preceding pages of the document;
- sign and print your full name, qualification (NSW JP), JP registration number and other details, and also sign next to the client's signature on any preceding pages;
- certify identity requirements have been met (for a statutory declaration under the law of NSW or any other Australian state or territory); and
- complete and sign the statement on each annexure (if any).

You must also certify in writing, below the signature panel, that:


- the statutory declaration was read to the non-English speaking client in your presence;
- it appeared to you that the client understood the statutory declaration; and
- the client subscribed the statutory declaration (by signature or mark) in your presence.

More resources to support people from diverse backgrounds

Some useful websites and resources are listed below:

- Multicultural NSW www.multicultural.nsw.gov.au 
- National Accreditation Authority for Translators and Interpreters (NAATI) www.naati.com.au 
- Section 4 of the '*Equality Before the Law Bench Book*'. Access a copy of the publication on the Judicial Commission's website at www.judcom.nsw.gov.au  under 'Bench Books'

Suggested wording for declaration by an interpreter

An editable document can be downloaded from the JP website www.jp.nsw.gov.au 

Declaration by accredited interpreter



I am a qualified interpreter in [name of language].
My qualification to interpret is [relevant qualifications].
I am competent to interpret between the English language and the [other] language.

On [date] I attended at [premises] with [name of JP] (the Justice of the Peace) and [name of declarant] (the declarant) for the purpose of providing interpreting services to enable the declarant to make a statutory declaration.

I spoke to the declarant in the [name of language] language and I established that this is their customary language.

Before the declarant signed the statutory declaration, I truly interpreted, to the best of my skill and ability:

- the contents of the statutory declaration (annexed and marked 'A') which were read aloud to the declarant by the Justice of the Peace;
- the warning provided to the declarant by the Justice of the Peace; and
- the questions that the Justice of the Peace asked the declarant.

Before the declarant made the statutory declaration, I truly interpreted, to the best of my skill and ability, the declarant's responses from the [declarant's language] to the English language.

I do not have a personal relationship with the declarant.

Other than payment for professional service, I receive no financial or other benefit from the matters to which the declarant's statutory declaration relates.



Suggested wording for declaration by other interpreter

I understand and I am fluent in the English language and the [name of language] language.

I spoke to the declarant in the [name of language] language and I established that this is their customary language.

Before the declarant signed the statutory declaration, I truly interpreted, to the best of my skill and ability:

- the contents of the statutory declaration (annexed and marked 'A') which were read aloud to the declarant by the Justice of the Peace;
- the warning provided to the declarant by the Justice of the Peace; and
- the questions that the Justice of the Peace asked the declarant.

Before the declarant made the statutory declaration, I truly interpreted, to the best of my skill and ability, the declarant's responses from the [declarant's language] to the English language.

I do not have a personal relationship with the declarant [or] My relationship with the declarant is [insert nature of relationship].

I receive no financial or other benefit from the matters to which the declarant's statutory declaration relates.

2.5.2 Witnessing an affidavit of a person who does not speak English

What is it?	<p>Before witnessing any affidavit, you must be satisfied that the client understands the purpose, effect and contents of the affidavit.</p> <p>If the client does not speak English, you must use an interpreter during the step-by-step procedure in this section.</p> <p>Both the interpreter and the client must each swear or affirm a separate affidavit. The non-English speaking client needs to supply an unsigned copy of their affidavit to the interpreter, as this copy has to be annexed to the interpreter's affidavit.</p>
What can I witness?	<p>You may witness an affidavit that is required for:</p> <ul style="list-style-type: none">• any Australian court or tribunal;• the registration of any instrument in Australia; and• any arbitration in Australia. <p>The affidavit must be signed and witnessed in NSW, except in certain circumstances when you are delivering JP functions via audio-visual link (see page 34).</p>
Important tips	<p>The important tips listed in Section 2.2 on page 33 also apply here.</p> <p>You must be able to rely on the interpretation being accurate, independent and impartial. This is necessary to exercise your JP functions and to fulfil any duty of care you may owe when witnessing an affidavit by a client who does not speak English.</p> <p>You should use an interpreter, even if you speak the same language as the client. However, you may communicate in a language other than English before or after the step-by-step procedure in this section (for example, to arrange a time and place to meet, or to answer questions about the process).</p> <p>The affidavit of the interpreter must be sworn or affirmed first before the affidavit of the non-English speaking client.</p> <p>The interpreter's affidavit must contain the wording set out on page 90.</p>

**QUICK REFERENCE:****Witnessing an affidavit of a person who does not speak English**

STEP 1	Check that the interpreter is accredited
STEP 2	Confirm that the interpreter is independent and impartial
STEP 3	Follow the usual first five steps for witnessing an affidavit <ul style="list-style-type: none"> • confirm that the document is an affidavit; • see the faces of both the interpreter and the non-English speaking client; • confirm the identity of both the interpreter and the non-English speaking client; • look for and deal with any blank spaces or alterations in both affidavits; and • look for any annexures and check that they are correctly referred to.
STEP 4	Check the wording of the interpreter's affidavit
STEP 5	Ask the interpreter to swear an oath or make an affirmation
STEP 6	Read the affidavit aloud to the client
STEP 7	Confirm that the client understands
STEP 8	Warn the client
STEP 9	Ask the client to swear an oath or make an affirmation
STEP 10	Warn the interpreter
STEP 11	Ask the interpreter to swear an oath or make an affirmation
STEP 12	Watch the interpreter sign the affidavit
STEP 13	Watch the client sign their affidavit

STEP 14

Follow the final steps for the interpreter's affidavit

- cross out either the words **I swear** or **I affirm** at the beginning of the affidavit;
- cross out either the word **sworn** or the word **affirmed** in the signature panel;
- add your full name, qualification (NSW JP), and JP registration number;
- sign the signature panel in the space provided;
- sign any extra pages (if any), near the signature of the interpreter on each page;
- certify identity requirements have been met; and
- complete and sign the statement on each annexure.

STEP 15

Follow the final steps for the client's affidavit

- cross out either the words **I swear** or **I affirm** at the beginning of the affidavit;
- cross out either the word **sworn** or the word **affirmed** in the signature panel;
- add your full name, qualification (NSW JP), and JP registration number;
- sign the signature panel in the space provided;
- sign any extra pages (if any), near the signature of the interpreter on each page;
- certify identity requirements have been met; and
- complete and sign the statement on each annexure.

STEP 1

Check that the interpreter is accredited

For all affidavits by a client who does not speak English, **you must use an interpreter**. The interpreter **should be accredited** at a suitable level through the National Accreditation Authority for Translators and Interpreters (NAATI). Information about the provision of accredited interpreter services is on page 71.

It is not advisable for you to rely on an interpreter who is not accredited at a suitable level of proficiency when witnessing an affidavit by a client who does not speak English.

You do not need an interpreter if the client can read and understand written English, **and** both you and the client communicate in Auslan (or another recognised English-language based sign language).

STEP 2**Check that the interpreter is independent and impartial**

The interpreter should not have a conflict of interest in, or receive any financial or other benefit from, the client's affidavit. The only appropriate exception is payment for professional interpretation services.

The interpreter should not be a friend or relative of the client.

For information about conflicts of interest, see **FAQ 3** on page 10: 'What is a conflict of interest, and how should I avoid one?'

STEP 3**Follow the usual first five steps for witnessing an affidavit**

For both the interpreter and the non-English speaking client, you must follow the usual steps for witnessing an affidavit as set out in Steps 1 to 5 in **Section 2.2**. This includes:

- checking if both documents are set out as affidavits;
- seeing the faces of both the interpreter and the client;
- confirming the identity of both the interpreter and the client;
- looking for and dealing with any blank spaces or alterations in their respective affidavits; and
- looking for any annexures and checking that they are correctly referred to in each affidavit.

STEP 4**Check the wording of the interpreter's affidavit**

The affidavit of the interpreter requires specific wording, which confirms that the interpreter:

- has checked that the language spoken by the interpreter is the appropriate language for the non-English speaking client;
- is fluent in both that language and English;
- is competent to interpret between both those languages;
- correctly interpreted the exchanges between the people present, before the relevant documents were signed; and
- has no conflict of interest.

The recommended wording of the interpreter's affidavit is on page 90.

STEP 5

Ask the interpreter to swear an oath or make an affirmation

Interpreters must swear an oath or make an affirmation, where they state they are interpreting for the client to the best of their ability, and in accordance with the law. The interpreter's oath or affirmation should say:

I swear/affirm that I will truly interpret the contents of the affidavit to the deponent [client name] and also the oath/affirmation about to be administered to them and all other matters and things required of me in connection with this affidavit, according to the best of my skill and ability.

STEP 6

Read the affidavit aloud to the client

You must read the affidavit aloud to the client in English. Then, allow the interpreter to repeat your words in the client's language.

STEP 7

Check the client understands

After you have finished reading the affidavit aloud, check that the client understands the purpose, effect and contents of the affidavit.

Do this by asking open-ended questions, such as:

- Why do you need to complete this document?
- What is this document about?
- What will you use this document for?
- Who wrote this document?

STEP 8

Warn the client

You must warn the client that:

- it is a serious criminal offence to swear or affirm a false affidavit; and
- the penalties include imprisonment.

You must allow the interpreter to repeat your words in the client's language.

You should also ask the client appropriate questions (through the interpreter) to make sure that they have understood the warning.

STEP 9**Ask the client to swear an oath or make an affirmation**

If you are satisfied the client understood and agreed with the contents of the affidavit, you must administer the oath or affirmation to the client.

You can do this by using the wording specified in the procedure for witnessing an affidavit at Step 8 in [Section 2.2](#) on page 45.

The client must repeat the oath or affirmation in their own language, and the interpreter must interpret the client's response for you.

Note: the client does not sign their affidavit at this step. They sign in Step 13.

STEP 10**Warn the interpreter**

You must warn the interpreter that:

- it is a serious criminal offence to swear or affirm a false affidavit; and
- the penalties include imprisonment.

You should also ask the interpreter appropriate questions to make sure that they have understood the warning.

STEP 11**Ask the interpreter to swear an oath or make an affirmation**

If you are satisfied the interpreter understood and agreed with the content of their affidavit, you must administer the oath or affirmation to the interpreter.

You can do this by using the wording specified in the procedure for witnessing an affidavit in this section.

STEP 12**Watch the interpreter sign the affidavit**

The interpreter must sign their separate affidavit first, confirming that they have interpreted the contents of the client's affidavit and oath or affirmation.

The interpreter must sign in your presence.

If the interpreter's affidavit comprises more than one page, in addition to completing the signature panel, the interpreter must also sign each preceding page. The interpreter's signatures should preferably be placed at the foot of each page, or if there is no space, elsewhere on the page.

STEP 13

Watch the client sign their affidavit

After the interpreter has signed their affidavit, ask the client to sign the document. The client must sign in your presence.

If the client's affidavit includes more than one page, in addition to completing the signature panel, the client must also sign each preceding page. The client's signatures should preferably be placed at the foot of each page, or if there is no space, elsewhere on the page.

STEP 14

Follow the final steps for the interpreter's affidavit

For the interpreter's affidavit, you must:

- cross out either the words **I swear** or **I affirm** at the beginning of the affidavit, according to whether the interpreter has sworn an oath or made an affirmation;
- cross out either the word **sworn** or the word **affirmed** in the signature panel, according to whether the interpreter has sworn an oath or made an affirmation;
- add your full name, qualification (NSW JP), and JP registration number
- sign the signature panel in the space provided;
- sign any extra pages (if any), near the signature of the interpreter on each page;
- certify identity requirements have been met (see Step 11 in [Section 2.2](#) on page 48)⁸; and
- complete and sign the statement on each annexure (see Step 12 in [Section 2.2](#) on page 50). The interpreter's affidavit will have at least one annexure, which will be an unsigned copy of the non-English speaking client's affidavit.

8 You do not have to certify that identity requirements have been met if the affidavit is a Commonwealth affidavit (i.e. an affidavit for the purpose of proceedings in a Commonwealth court, for the purpose of or in connection with a law of the Commonwealth, or in connection with the administration of a Commonwealth department or agency).

STEP 15**Follow the final steps for the client's affidavit**

For the client's affidavit, you must:

- cross out either the words **I swear** or **I affirm** at the beginning of the affidavit, according to whether the client has sworn an oath or made an affirmation;
- cross out either the word **sworn** or the word **affirmed** in the signature panel, according to whether the client has sworn an oath or made an affirmation;
- certify in writing, in or below the signature panel, that the affidavit was read to the client in your presence, that it appeared to you that the client understood the affidavit, and that the client subscribed the affidavit (by signature or mark) in your presence;
- add your full name, qualification (NSW JP), and JP registration number;
- sign the document in the space provided;
- sign any extra pages (if any), near the signature of the client on each page
- certify identity requirements have been met (see Step 11 in [Section 2.2](#) on page 48)⁹; and
- complete and sign the statement on each annexure, if any (see Step 12 in [Section 2.2](#) on page 50).

You **must** also include any information or instructions included in the affidavit. If you are unsure about the requirements of a particular affidavit, you should seek advice (see [Section 1.3](#) on page 8).

If the affidavit requires your address

Some affidavit forms require you to state your address. Either a home, business or postal address **where you can be reliably be contacted** is usually enough (unless the form states that a particular kind of address is required).

An email address is usually **not** acceptable (unless the form allows).

If you do not have a business or postal address and you do not wish to give your home address, you can use the address of a JP association (if you are a member) or the address of the Department (at the back of this handbook, on page 127).

9 You do not have to certify that identity requirements have been met if the affidavit is a Commonwealth affidavit (i.e. an affidavit for proceedings in a Commonwealth court, for the purpose of or in connection with a law of the Commonwealth, or in connection with the administration of a Commonwealth department or agency).

Suggested wording for affidavit by an interpreter



I am a qualified interpreter in [name of language].
My qualification to interpret is [relevant qualifications].
I am competent to interpret between the English language and the [other] language.

On [date] I attended at [premises] with [name of JP] (the Justice of the Peace) and [name of deponent] (the deponent) for the purpose of providing interpreting services to enable the deponent to make an affidavit.

I spoke to the deponent in the [name of language] language and I established that this is their customary language.

Before the deponent signed the affidavit, I truly interpreted, to the best of my skill and ability:

- the contents of the affidavit (annexed and marked 'A') which were read aloud to the deponent by the Justice of the Peace;
- the warning provided to the deponent by the Justice of the Peace; and
- the questions that the Justice of the Peace asked the deponent.

Before the deponent made the affidavit, I truly interpreted, to the best of my skill and ability, the deponent's responses from the [deponent's language] language to the English language.

I do not have a personal relationship with the deponent.

Other than payment for professional service, I receive no financial or other benefit from the matters to which the deponent's affidavit relates.

2.6 Providing services to people with disabilities

The Code of Conduct for JPs in NSW states that a JP must treat all people seeking JP services with courtesy, dignity and respect. When delivering services for people with disabilities, you should focus on the person rather than the disability.

Follow the procedures and services required of you as a JP, while offering extra support. When you first meet the person, you should determine the type of disability and to what degree, if any, it will affect their ability to complete the presented documentation. Most people will be forthright and let you know at the outset what their disability is and if they need support.

Some general recommendations for supporting people with disability include:

- being conscious of the volume and pace of your speech;
- confirming your language and terminology is understood;
- being patient and not completing their statements, sentences or questions. Let them finish speaking in their own time;
- addressing your remarks directly to the person with disability, even if they are in the company of a carer or support person;
- *(if the carer is acting as an interpreter)* listening to the carer and maintaining eye contact with the person with the disability;
- paying attention to non-verbal signals, and clarifying with the person if you are unsure;
- giving time to process and being considerate of the extra time it might take for a person to do or say something; and
- remembering that a person's personal space can include their wheelchair and crutches. Do not touch or push a person's wheelchair or move their crutch without permission.

Supporting people with vision impairment

JPs need to be satisfied that people with vision impairment understand the documents that they are signing, particularly for statutory declarations and affidavits. An extra step is recommended for people with vision impairment and has been included in the step-by-step procedures. This is included on the following page for reference.

Certify the client understood (for people with vision impairment)

If it seems the client is vision impaired or cannot read, it is recommended that you, a carer or support person, reads the entire document to the client.

You must then certify in writing, in or below the signature panel, that:

- the declaration/affidavit was read to the declarant/deponent in your presence;
- it appeared to you that the declarant/deponent understood the declaration/affidavit; and
- the declarant/deponent signed the declaration/affidavit (by signature or mark) in your presence.

Supporting people to make a mark

Statutory declarations and affidavits

In some instances, you may encounter a person who may not know how to write their name, or is unable to write it because of a visual or physical impairment. If the person is unable to sign, you can ask the person to make their mark on the document.

Usually a mark is made in the form of a cross ('X'), but it can be in any form that is visible on the page. For example, if a person starts to sign their name but is physically unable to complete it, the partial signature (or even a partial letter) is sufficient.

It is preferable (but not essential) that the person makes a mark in the place for their signature.

After the client has made the mark:

- write the words **This is the mark of [full name]** next to or underneath the mark. Do not write over or obscure the mark; and
- make a note on the document of any unusual circumstances that occurred in signing or marking the document (Preferably next to or beneath the signature panel.) This will give more information about the mark to others who may need to rely on the document.

If the document has more than one page, it is preferable for the person, if they are able, to place their mark at the bottom of each page (see Step 9 in **Section 2.1** on page 23 or **Section 2.2** on page 46, as applicable).

Making a guided mark or guided signature

If the client is physically unable to sign or make a mark on the document, another person (not the JP) can physically assist them. This can be done by guiding their hand to make a signature or mark on the document in your presence.

For a guided signature or guided mark to be valid, it is important that the client has requested this help. When asked, the person needs to either say, or positively show (verbally or non-verbally), that they would like the other person to help them sign or make a mark.

After the client has made their guided signature or guided mark, you should make a note on the document to the effect that:

The declarant/deponent was physically unable to sign the declaration/affidavit (you can state a reason if you wish)

The declarant/deponent said/agreed when asked (state the words or describe the physical sign used) that they wished for [name of other person] to help them to sign/make a mark

[name of other person] then [describe how the other person helped the deponent/declarant to sign or make a mark] in my presence.




Documents other than statutory declarations and affidavits

Often, if a document needs to be 'signed' by a person, it is sufficient if the person makes their mark on the document (instead of signing their name). However, some legislation provides detailed rules about making marks and how a mark (and, in some cases, an ordinary signature) must be witnessed by the JP.

If you are unsure about the requirements for a particular document, you should check the relevant legislation (see **Appendix A** on page 112). Alternatively, seek advice (see **Section 1.3** on page 8 about the support and information available to JPs in NSW).

More resources to support people with disabilities

Some useful websites and resources are listed below:

- Australian Federation of Disability Organisations www.afdo.org.au 
- Australian Network on Disability www.and.org.au/pages/inclusive-language.html 
- Disability Advocacy Resource Unit www.daru.org.au 

2.7 Frequently asked questions: about providing JP services

Some frequently asked questions about this topic are included below. For a full list of frequently asked questions included in this handbook, see [Appendix D](#) on pages 118-119.

FAQ 14. Can I witness or certify documents for myself, or my family members?

You **cannot** witness or certify a document for yourself.

For example:

- ✘ you must not act as the witness for a statutory declaration or affidavit that you yourself are declaring, swearing or affirming;
- ✘ you must not certify a copy of your own original document, such as your own birth certificate.

It is not recommended to witness or certify a document for a member of your family. This is because of the potential actual or perceived conflict of interest (see [FAQ 3](#) on page 10). There is a risk that the document may be rejected on that basis by the organisation that requires it.


If rejected, your family member would then need to complete the document again, and find another JP to witness or certify it. Avoiding the risk of such delay and inconvenience is another reason you should decline to perform JP functions for your family members.

FAQ 15. Can I accept a form of identity if it is shown in an app on a mobile phone?

Currently, JPs can accept the NSW digital driver licence as a form of identification. The licence must be shown live from the Service NSW app for it to be valid. The screen of the mobile phone must be readable despite any cracks or chips.

The following **are not acceptable**:

- photograph of a driver licence; or
- screenshot of the digital driver licence.

The Department recognises that changes in the digital space are frequent. For the most up-to-date guidance on acceptable forms of identification (including changes to acceptable forms of digital identification), please visit the JP website at www.jp.nsw.gov.au .

FAQ 16. The form that I am completing accepts forms of identity that are different to those usually accepted by JPs. What can I do?

JPs are required to carefully read and follow the instructions on the forms that they are certifying or witnessing. If the organisation requesting the information has noted that they accept differing forms of identification, then it is appropriate for you to follow those instructions.

FAQ 17. Do I need to keep a log book of the services I give as a JP?

No, there is no requirement that you keep a log book of JP services. However, it is a good idea to do so, especially if you frequently witness the signing of statutory declarations or affidavits.

If you choose to keep a log book, you should not record any personal information other than the name of the client (or if it differs, the name of the person on the document itself).

Information that you **should not** include in any log book includes:

- other personal information such as address, contact details, date of birth;
- any other information or opinion about the person; or
- details about the identification document (such as a unique document number).

If you choose to keep a log book, you may record some or all of the following details about your JP services:

- the date, time and location you performed the JP function;
- the type of JP function you performed (for example 'NSW statutory declaration');
- the name of the client;
- the type of identification document the client showed you (for example 'NSW driver licence' or 'Australian passport');
- any extra steps you took or checks you made, aside from the procedures outlined in this handbook; and
- other general comments or observations to assist your memory.

You must not intentionally give or use personal information that you have or had access to in the exercise of your JP functions, unless it is in connection with the lawful exercise of your JP functions. This duty continues to apply even after you no longer hold office as a JP.

You should make sure that your log book is kept safely and securely at all times, and cannot be accessed by unauthorised persons.

Whether or not you decide to keep a log book, it is important for you to follow the procedures in this handbook every time you deliver JP services. If you are asked to give evidence in court, but you cannot recall the particular document in question, you will be able to truthfully describe how you witness or certify such a document.

FAQ 18. Can I use a stamp to save time when performing JP functions?

Yes, many JPs purchase a stamp for themselves to save time handwriting certain information. This includes their full name and JP registration number. However, you must never use a stamp to place your signature on a document.

The Department is unable to supply stamps for JPs to use. There is no obligation to purchase or use any stamp when performing JP functions.

For various uses

If you choose to purchase a stamp for various uses, the following wording is recommended:

[your full name]

NSW JP [your JP registration number]

For certifying a copy of an original document

If you choose to purchase a stamp for certifying a copy of an original document, the following wording is recommended:

I certify this to be a true and accurate copy of the document reported to me to be the original document.

[your full name]

NSW JP [your JP registration number]

It is not recommended that you use a stamp to insert clauses when witnessing documents. This is because some legislative provisions might require you to use a particular form of words. An exception is the clause required to be inserted and signed by the JP on annexures to affidavits and statutory declarations (see [Section 2.1](#) on page 12).

FAQ 19. How should I deal with requests to witness or certify a very large number of documents?

When a person contacts you for JP services, it is a good idea to ask how many documents (and pages) are involved. If a large number is involved, it can be helpful to explain that your time will be limited. You could suggest that the person can either schedule more than one appointment, or make alternative arrangements if they prefer.

If you are dealing with a queue of people waiting for your JP services, it can also be helpful to specify at the outset how many documents you can witness or certify for each person. This means that others in the queue do not have to wait for an excessive amount of time. If a person has more documents than the specified limit, they would need to re-join the queue or return at another time to have the remaining documents witnessed or certified.

The Code of Conduct for JPs states that a JP must not unreasonably refuse to give JP services. A refusal may or may not be unreasonable, depending on the particular circumstances. If a complaint is made to the Department about a JP's refusal, the Department considers the circumstances before making a decision about the complaint.

FAQ 20. Where should I give my JP services?

You can give JP services at your workplace or another appropriate public place, at a mutually agreed time. You are not expected to give clients your home address or to invite them into your home.

A number of JP associations coordinate the provision of JP services in public places. This includes shopping malls, courthouses and libraries, at scheduled times and locations across NSW. If you would like to deliver JP services for the community on a regular basis in this way, you can make enquiries with one of the JP associations listed in [FAQ 32](#) on page 110: 'Is there a JP club or association I can join?'

FAQ 21. Can I help someone prepare a document that I witness or certify?

If you wish to help someone prepare a document, you **must not** witness or certify that document. In particular, consider whether you might have a conflict of interest (see [FAQ 3](#) on page 10: 'What is a conflict of interest, and how should I avoid one?').

Instead, ask the person to have the document witnessed by another JP.

FAQ 22. How can I place my signature on documents? Do I need to use a specific pen or can I use adhesive labels? Can I place an e-signature remotely?

Your **signature must always be handwritten** in ink, on the document. Your printed name or JP registration number may be either handwritten in ink or added with an inked stamp.

Using pens

Generally a black or blue ink pen should be used, but you should check whether the document specifies that a particular colour must be used. You do not need to use the same pen as the client. The ink must be permanent and erasable pens must never be used.

Using adhesive labels

Never use an adhesive label when performing JP functions. This includes to place your signature, or any other details such as your name or JP registration number.

This is because it may be possible for another person to remove the adhesive label and add it to another document, which you have not witnessed or certified. It may also be possible for someone to add a fresh label on top of your label, to disguise your details as the witness, and use the details of another person.

FAQ 23. Do I have to read the contents of each document I witness?

You are not required to read the contents of every document in detail.

However, you should keep in mind the following points:

- You will need to read enough to understand the purpose and effect of the document. You also need check for and carry out any special instructions, and to carry out other specific steps in the procedures outlined in this handbook.
- You must carefully read the wording of the signature panel in the document. Make sure that you have complied with all of its requirements before you sign the document
- If the person is blind or illiterate or an interpreter is being used, **the whole document must be read aloud to the person**. See page 91 for more information about supporting people with vision impairment.
- There might be other circumstances where, for some reason, you need to read more. For example, if by signing the signature panel you are agreeing that you have sighted a number of attachments, you would need to carefully read the list of attachments. Then, check the attachments to make sure that they are all present and correctly listed.

FAQ 24. What if I haven't been provided with the annexures referred to in a document?

If a statutory declaration or affidavit refers to an annexure, but the annexure is not present, you **must not** witness the document in that form.

The client can elect to alter the document by crossing out the references to the annexure (see instructions for making alterations in Step 4 on page 41 or **Section 2.2** on page 32, as applicable). You can then witness the document without the annexure.

Otherwise, if the client does not wish to remove the references to the annexure, you must decline to witness the document.

FAQ 25. Should I keep a copy of documents I have witnessed or certified?

No, you must not keep a copy. It is not necessary or appropriate for you to do so.

FAQ 26. What if I cannot comply with a requirement set out in the document?

If you cannot meet a particular requirement for witnessing or certifying a document, you must decline to witness or certify it. This is because the document may be rejected, which may cause delay, inconvenience and/or expense for the person requesting JP services. It could also be a breach of your duty of care.

Depending on the relevant legislation, you might also be committing an offence.

FAQ 27. Can I leave out some details required by a document, such as my address?

No, you must give all the information required by the document. If the document requires details which you do not have, you should decline to witness or certify the document.

If the document requires your address, either a home, business or postal address **through which you can be reliably contacted** is usually enough (unless the document states that a particular kind of address is required). An email address is usually **not** acceptable (unless the document allows).

If you do not have a business or postal address and you do not wish to give your home address, you can use the address of a JP association (if you are a member) or the address of the Department (at the back of this book on page 127).

FAQ 28. What if someone tries to intimidate me about my JP functions?

Most members of the community appreciate the voluntary services provided by JPs. On rare occasions, a person may try to intimidate a JP into witnessing or certifying a document in a way that is contrary to the law or the procedures in this handbook.

It is important that JPs do not accept such intimidation. Generally, it is best to give a polite refusal, explain why you cannot meet the request, and remain firm but calm on that point. You should avoid confrontation that may escalate.

You should report the matter to police, if you believe that the attempted intimidation was deliberate and intentional (even if you do not believe that the person will carry out the threat).

You can contact the police on the below details:

NSW Police Assistance Line

131 444 (for non-emergencies)

24 hours, 7 days a week

www.police.nsw.gov.au 

In NSW, threatening a person with intent to influence the person's conduct as a public official is an offence. It carries a maximum penalty of ten years imprisonment. Stalking or intimidating another person with the intention of causing the other person to fear physical or mental harm is also an offence, with a maximum penalty of five years imprisonment. Other offences may apply, and it would be a matter for the NSW Police Force to determine the appropriate charges to be laid (if any).

FAQ 29. Can I refuse to witness or certify a document? For example, if it contains offensive language or seems otherwise inappropriate? Or, if it conflicts with my own beliefs or opinions?

Generally, you do not need to be concerned with the content of a document. A JP must treat all people seeking JP services with courtesy, dignity and respect. This includes delivering JP services regardless if the document conflicts with your own beliefs or opinions.

However, you do need to be assured that it is complete and undertake the other steps needed to perform the relevant JP function. See also **FAQ 24** on page 98: 'Do I have to read the contents of each document I witness?' and the procedures in **Section 2**. The role of a JP does not involve verifying the truthfulness or appropriateness of the content of documents.

The procedures outlined in this handbook include a step where you warn a client about the penalties for making a false declaration, and swearing or affirming a false affidavit.

If you are asked to witness a document and you know or believe that it contains false information or that it may be a forgery, you should decline to witness it. An exception would be if you believe that declining would create an immediate risk to your personal safety.

If you know, or later become aware, that a document you witnessed contains false information, you should report the matter to the Department as soon as possible. The Department's contact details are at the back of this handbook on page 127. This is because, if the client has committed an offence, you may have a legal obligation to tell the NSW Police Force. The Department can assist you in determining whether or not the matter has to be reported and making any report that is necessary.

Similarly, if you have no reason to doubt the contents of a document but something else about the circumstances causes you to be suspicious, you should report the matter to the Department so that it can assist in determining what steps (if any) need to be taken.

You must never misuse your position as a JP to participate in deliberate fraudulent or other criminal behaviour. If you do so, you may be prosecuted for criminal offences and you may be removed from office as a JP.



3 Important information about your appointment

This section provides important information about your appointment as a Justice of the Peace, including the public register of JPs and how to apply for reappointment.

In this section:


- 3.1 Justices of the Peace Register
- 3.2 Keeping your details up to date: using JP Online
- 3.3 Your term of appointment
- 3.4 Code of Conduct for Justices of the Peace
- 3.5 Complaints about JPs and reviews of JP appointments
- 3.6 When your appointment as a JP ends
- 3.7 Frequently asked questions: about your appointment

You are responsible for your JP registration, so please read this section carefully.

It is important that you know:

- how the JP public register works;
- about the reappointment process; and
- how to tell the Department if your details change.

3.1 Justices of the Peace register


The Justices of the Peace register (**JP register**) is an online public listing of all current JPs in NSW. Take a moment to familiarise yourself with the JP register at www.jp.nsw.gov.au 


The JP register allows members of the public to search for a JP who is available in their local area. JPs may nominate the locations where they usually perform their functions as a JP, and the telephone numbers that they can be reached on.

You can also use the JP register to check if a person is appointed as a JP by entering the JP's name or registration number.


3.2 Keeping your details up to date: using JP Online

The Code of Conduct for JPs requires you to keep your contact details up to date with the Department. This helps maintain an accurate JP register. This also means that you receive important communication from the Department about your registration, including reappointment reminders and updates to procedures.

We protect the privacy of your personal information according to the law governing public sector agencies in NSW. More information is in our 'Privacy policy for the administration of JP appointments', available online at www.jp.nsw.gov.au  or on request to the Department.

All JPs can maintain their registration details at [JP Online](#) . JP Online allows you to:

- check your JP registration number and expiry date;
- notify changes in your name, address or contact details;
- apply for reappointment;
- submit changes in circumstances;
- update public register details; and
- order the JP handbook and certificate.

Detailed instructions on how to use JP Online are available at www.jp.nsw.gov.au 

If you require assistance in applying for reappointment you can email the Appointment Services Team at jp@justice.nsw.gov.au or you can visit your local Service NSW centre.

At Service NSW centres, prospective and existing JPs are able to:

- access the internet;
- obtain assistance with establishing a JP Online account; and
- obtain assistance with establishing an email account (if necessary).

All Service NSW centres are equipped with hard copies of the JP Handbook to assist with the completion of the JP Knowledge Test.

To find your nearest service centre, visit www.service.nsw.gov.au/service-centre  or call 13 77 88.

If you require further assistance with the JP Knowledge Test over the phone, you may contact the JP Infoline on (02) 8688 0500 and a staff member will assist with your enquiry or make an appointment to help you later.


If you are unable to access JP Online and wish to manage your registration, please contact the Department directly.

JP registration numbers

Each JP in NSW is issued a unique six-digit **registration number**. This registration number is found on JP Online. Keep your JP registration number where you can locate it and refer to it as needed. The Code of Conduct for JPs states that a JP must clearly record their JP registration number (with their full name and signature) on the document when providing JP services.

Seven and nine-digit registration numbers, which were issued to JPs in the past, are no longer valid and should not be used.

Changing your address or other contact details

You can keep your personal details and contact details up to date by updating your [JP Online profile](#) . This allows you to update:

- email, postal or residential address;
- home, work or mobile telephone numbers;
- telephone number that members of the public can use to contact you for JP services; and
- the location where you usually perform your functions as a JP.


Detailed instructions are available at www.jp.nsw.gov.au .

Changing your name

You are required to notify the Department if your name has changed under the Code of Conduct for JPs. You can only deliver JP services using the name that appears on the JP register. You should not perform JP services in your new name until you have received confirmation from the Department that it has been updated on the register.


When advising the Department of a change of name, you must provide:

- a certified copy of the change of name document. For example, a marriage certificate, or change of name document from Births, Deaths and Marriages; and
- another document which proves that you use the new name. For example, a certified copy of your driver licence, Medicare card or Seniors Card.

You can change your name by logging into JP Online and using the 'Log a change' option. Detailed instructions are available at www.jp.nsw.gov.au 


Changing your profile listing on the JP Register

A JP can opt out of having their location and telephone numbers listed on the JP register. This may be useful for employment-based JPs. This is selected on the application form for appointment or reappointment.

You can also change these details at any time through JP Online. Detailed instructions are available at www.jp.nsw.gov.au 

Moving interstate or overseas

If you permanently move interstate or overseas, you should resign your appointment as a JP in NSW. This is because you are not authorised to act as a NSW JP while you are in another state, territory or country. You would also no longer meet the criteria as an employment or community based need for JP appointment. Your appointment is not transferable to another state, territory or country.

You can resign as a JP by logging into JP Online using the 'Log a change' option. Detailed instructions are available at www.jp.nsw.gov.au 

3.3 Your term of appointment

Criteria for appointment

A person must meet the following criteria to be appointed as a JP:


- be at least 18 years of age;
- be nominated by a NSW Member of Parliament;
- be an Australian citizen or a person who is entitled to vote at a general election for the Legislative Assembly;
- be of good character;
- not be an undischarged bankrupt;
- meet an employment- or community-based need for appointment; and
- pass the JP Knowledge Test on JP Online.

Five-year terms

All JP appointments are for five-year terms. The start and end dates of your term are included in your letter of appointment and available to view on JP Online. Record these dates somewhere easy for you to locate for future reference.


Five-year terms help the Department maintain an accurate public JP register and an up-to-date database of JP contact details. It also means that only JPs who remain eligible and willing to hold the office continue to do so.

Applying for reappointment

If you have a continuing need for your appointment as a JP, you must apply for reappointment **before** the end of your five-year term. The Department will send you a reminder email notice up to 12 months before the end of your term. More information about the reminder process is at www.jp.nsw.gov.au 

To make sure you receive your reminder, keep your details up to date on JP Online. It is essential that you tell the Department as soon as possible of any changes to your email address, postal address or telephone numbers.

The reappointment process requires you to confirm your personal information and answer questions about your eligibility to continue as a JP. You must also successfully pass the JP Knowledge Test. You do not need to be nominated for reappointment by a Member of the NSW Parliament.

You can apply for reappointment through JP Online from 12 months before the end of your term of appointment. Detailed instructions are available at www.jp.nsw.gov.au 


Lapsed appointments

If you do not apply for reappointment before your five-year term ends, your appointment will automatically lapse. If your appointment lapses and you wish to continue as a JP, you must submit an application for a new appointment.

Unfortunately there is no provision in the legislation to reappoint a JP once their appointment has lapsed. This means the Department is unable to take into account personal circumstances and requires all JPs whose appointment has lapsed to apply for a new appointment. You will be able to retain your existing JP number once successfully appointed.

You must not carry out JP functions at any time while you do not have a current appointment as a JP. If you do, it is possible that any functions you perform are invalid. Exercising JP functions without holding a valid appointment may also be an offence in some circumstances.

3.4 Code of Conduct for Justices of the Peace

Your appointment as a JP is subject to the Code of Conduct for Justices of the Peace in NSW. The Code of Conduct is at **Section 5** on page 123 at the back of this handbook. It is also available at www.jp.nsw.gov.au 

The **Code of Conduct** establishes acceptable standards of conduct for JPs. It clarifies standards for those JPs who may be uncertain of their obligations. It is also useful for members of the public who are unsure about what to expect when using JP services.

It is important that you understand and comply with the Code of Conduct. Your appointment as a JP is reviewed if you do not comply with the Code of Conduct.

3.5 Complaints about JPs and reviews of JP appointments

The Attorney General has issued the Department with 'Guidelines on the appointment of JPs: handling complaints and reviewing appointments'. A copy is available at www.jp.nsw.gov.au  or on request to the Department.

Complaints about a JP

A complaint about a JP can be made in writing to the Department. To help the Department in processing the complaint, it should include information specified in the **Guidelines**.


The Department will generally focus on matters about the eligibility of the JP to continue to hold the office, or conduct of a JP when providing JP services. The response may include issuing the JP a reminder or warning letter, or reviewing the JP's appointment.

Reviews of JP appointments

A person's appointment as a JP may be reviewed at any time if questions arise about their suitability to remain a JP. This is prescribed by the *Justices of the Peace Act 2002* and the *Justices of the Peace Regulation 2020*.

This may include cases where the JP:

- is alleged to have breached the Code of Conduct for JPs;
- no longer satisfies the criteria for appointment; or
- meets the grounds for removal from office.

If a person no longer satisfies the criteria for appointment, or meets grounds for removal, they are obliged to notify the Department. This can be done through JP Online using the 'Log a change' option. Detailed instructions are available at www.jp.nsw.gov.au .

This notice must be given as soon as possible after the JP becomes aware of the matter concerned. A penalty applies if you do not notify the Department. If a person's appointment as a JP is to be reviewed, they will be notified and given the opportunity to respond to the concerns raised.

3.6 When your appointment as a JP ends

Your appointment as a JP ends if you:

- complete a 5-year term without being reappointed;
- resign as JP; or
- are removed from office by the Governor of NSW.


Completing a term of office without reappointment

Your term of appointment as a JP will automatically end after five years if:

- you did not apply for reappointment before the end of your five-year term; or
- your application for reappointment was unsuccessful.

More information about applying for reappointment see page 105.

Resigning from office

You can resign from your appointment at any time by logging into JP Online using the 'Log a change' option. Detailed instructions are available at www.jp.nsw.gov.au 

You can also resign your appointment by writing to the Attorney General c/- the Department of Communities and Justice. Contact details are at the back of this handbook.

Retiring from office

People who are granted the 'JP (Retired)' title will be able to keep it for life. They will not appear on the NSW public register of Justices of the Peace and will not be authorised to exercise JP functions.

To apply for the JP (Retired) title, JPs must:

- be of good character;
- no longer be a JP;
- be 65 years or older when their JP appointment ended; and
- have been a JP for at least 10 consecutive years.

To maintain the integrity of the JP office, people using the JP (Retired) title will still need to meet good character criteria. If you do not meet this requirement, it may result in removal of the title.

To register your interest in applying for the title, please send an email to jp@dcj.nsw.gov.au or, alternatively, call the JP Infoline on (02) 8688 0500.

Removal from office

The Governor of NSW may remove a JP from office at any time, on the recommendation of the Attorney General.

Criteria for removal from office include:

- if the person becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with their creditors or makes an assignment of their remuneration for their benefit;
- if the person becomes a mentally incapacitated person;
- if the person is convicted in NSW of an offence that is punishable by imprisonment for 12 months or more, or is convicted elsewhere than in NSW of an offence that, if committed in NSW, would be an offence so punishable;
- if the person fails to take the oaths of office within four months of the date of their appointment and according to the requirements of the Oaths Act 1900;
- if the Attorney General is of the opinion that the person has failed to properly carry out their functions as a JP; and
- if the Attorney General is of the opinion that the person does not satisfy or no longer satisfies the criteria for appointment as a JP.

3.7 Frequently asked questions: about your appointment

Some frequently asked questions about this topic are included below. For a full list of frequently asked questions included in this handbook, see [Appendix D](#) on pages 118-119.

FAQ 30. Can I obtain a Certificate of Appointment as a Justice of the Peace?

You can purchase a Certificate of Appointment once you have received confirmation of your appointment. Purchasing a certificate is optional and is not required to perform JP services.




This can be purchased through JP Online at www.jp.nsw.gov.au 

FAQ 31. Is there a JP club or association I can join?

Yes, there are a number of JP associations in NSW that you can join. These are private associations, and offer a range of services including events and education. A number of JP associations also organise JP community desks in public spaces, such as shopping malls, libraries and courthouses across NSW.

Membership is generally charged at a nominal fee. There is no obligation for a JP to join any association.

JP associations in NSW include:

- NSW Justices Association www.nswja.org.au 
- Northern NSW Federation of JPs www.nnswfjps.org 
- Tweed Valley Justices Association www.tweedvalleyjp.com.au 

FAQ 32. I can't access my JP Online account (due to incorrect password or username). What can I do?

If you are having trouble logging into JP Online, you can reset your password online.

At the JP Online log in page, select the **Trouble logging in?** option and follow the instructions on screen. You can choose to reset your password or email your username to your registered email address.

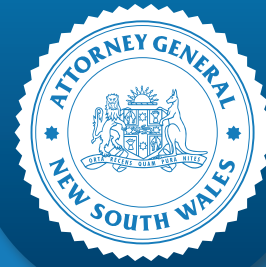
If you cannot reset your password or access your registered email address, contact Appointment Services. Details are at the back of this handbook on page 127.

FAQ 33. I'm having difficulty with the JP Knowledge Test. What can I do?

This handbook has all the information needed to successfully pass the JP Knowledge Test. Remember that you can take the test as many times as you need.

If you have been unsuccessful in passing the test, you can view your results at the end of each attempt. From the end of the test, select **view results** and for each question, you will be shown a reference to the relevant section of the JP Handbook.

The JP Knowledge Test is necessary to make sure that JPs are familiar with the roles and responsibilities of a JP as outlined in JP Handbook. This is a requirement of the JP Code of Conduct.



4 Appendices

Appendix A: state, territory and Commonwealth laws

The following is a list of the state, territory and Commonwealth laws under which a statutory declaration or affidavit may be made, in or for the relevant jurisdiction:¹⁰


Commonwealth	<i>Statutory Declarations Act 1959</i> (for statutory declarations) <i>Evidence Act 1995</i> (for affidavits)
NSW	<i>Oaths Act 1900</i>
Victoria	<i>Evidence (Miscellaneous Provisions) Act 1958</i>
Queensland	<i>Oaths Act 1867</i>
Western Australia	<i>Oaths, Affidavits and Statutory Declarations Act 2005</i>
South Australia	<i>Oaths Act 1936</i> (for statutory declarations and affidavits) <i>Evidence (Affidavits) Act 1928</i> (for affidavits)
Tasmania	<i>Oaths Act 2001</i>
ACT	<i>Statutory Declarations Act 1959 (Cth)</i> (for statutory declarations) <i>Oaths and Affirmations Act 1984</i> (for affidavits)
Northern Territory	<i>Oaths, Affidavits and Declarations Act 2010</i>

The following NSW Acts and Regulations are also relevant:

Justices of the Peace Act 2002

JP Regulation 2020

Oaths Regulation 2017

A complete version of all NSW Acts and Regulations in force is at the website www.legislation.nsw.gov.au  This is the official NSW Government website for online publication of legislation. It is recommended that you do not rely on any other websites to check legislation, as they do not have the official versions of NSW Acts and Regulations, and may not be up to date.

¹⁰ This is not a full list, because other legislation may be relevant to affidavits, such as various court rules.

Appendix B: approved identification documents

Any one of these approved identification documents is acceptable, as long as it has not expired. The only exception is for an Australian passport, which is acceptable if it expired no more than two years ago. **You must not accept any identification document that has been cancelled.**

- A **driver licence or permit** with a photograph of the person in whose name the licence is issued, whether issued in Australia or another country, including a digital driver licence
- A **NSW photo card** issued under the *Photo Card Act 2005*
- An **Australian proof of age card**, which contains the photograph of the person in whose name the card is issued
- An **Australian passport** (either current or expired less than two years ago)
- A **passport or similar document** with the person's photograph and signature issued by another country or by the United Nations (with an English language translation if not in English)
- A **national identity card** issued by another country or the United Nations for identification with the person's photograph and signature (with an English language translation if not in English)
- An Australian citizenship certificate
- A **foreign citizenship certificate** (with an English language translation if not in English)
- A **birth certificate**, whether issued in Australia, another country or by the United Nations (with an English language translation if not in English)
- A **birth extract** issued by an Australian state or territory
- An **integrated birth certificate** as issued by the state of NSW
- A **pension card** issued by Centrelink that entitles the person in whose name the card is issued to financial benefits
- A **credit card or passbook** from a bank, building society or credit union
- An **account or statement of account** from a bank, building society or credit union, up to one year old
- A **Medicare card, pensioner concession card, Department of Veterans' Affairs entitlement card** or other entitlement card issued by the Federal or any State Government
- An **electoral enrolment card** or other evidence of enrolment as an elector, up to 2 years old
- A **student identity card** or a **certificate or statement of enrolment** up to two years old from an educational institution and including a photograph.
- In the case of an inmate, an **inmate identification card**, or other document containing information identifying the inmate and including a photograph, prepared or used by the correctional centre in which the inmate is held

- In the case of a forensic patient, a **residential identity card**, or other document containing information identifying the patient and including a photograph, prepared or used by the mental health facility, correctional centre or other place in which the patient is detained
- In the case of a mental health patient other than a forensic patient, a **residential identity card**, or other document containing information identifying the patient and including a photograph, prepared or used by the mental health facility to which the patient is admitted
- A **police identification card** issued to a police officer by the Commissioner of Police

A copy of one of the above identification documents is acceptable if the copy has been certified as a true copy. The following people are authorised to provide certification:

- Justice of the Peace;
- Public Notary;
- Commissioner of the Court for taking affidavits;
- Australian legal practitioner authorised to take and receive any affidavit;
- the NSW Registrar-General;
- a Deputy Registrar-General; or
- other person authorised by law to administer an oath.

However, the person who certified the copy must not be the same person who is witnessing the statutory declaration or affidavit.

You must not accept a certified copy of an identification document if the copy shows that the original has expired (except for an Australian passport, which is acceptable if it expired no more than two years ago) or that the original has been cancelled.

Appendix C: capacity and competence

You can and should always assume that a person has capacity and is competent. However, situations may arise where you need to query a person's legal capacity and legal competence in delivering your JP functions.

Definition of capacity and competence in a legal sense

A person has **capacity** if they sufficiently understand the general nature of the decision they are being asked to make or the act they are being asked to perform.

A person is **competent** if they are mentally and physically able to do it.



Circumstances where a person may lack capacity include:

- where the person is a minor (under 18 years of age);
- is elderly or infirm; or
- appears to have an intellectual or cognitive impairment.

Circumstances where a person may lack competence include:

- where the person has a cognitive impairment or
- if the person has difficulty communicating in English.

If you are concerned that a person might not have capacity or might not be competent, take the following steps before witnessing the person's signature.

Capacity

If you are concerned about a person's capacity, ask open-ended questions about the purpose, effect and contents of the document.

Statutory declarations

In the case of a statutory declaration, ask questions to check that the client understands the following:

- the purpose for the statutory declaration (for example, to 'tell my story' or 'give information' to the organisation that requires the declaration);
- the purpose that an organisation is likely to use the declaration (for example, to issue a licence or cancel a fine);
- what they have said in their declaration (its contents);
- that it is important to tell the truth in the declaration; and
- what can happen to the person if they don't tell the truth in their declaration (that it is a serious criminal offence to make a false statement, and that the penalties include imprisonment).

If you are satisfied that the person understands these things, you may witness the statutory declaration in the usual way (see [Section 2.1](#) on page 12). If you are not satisfied, you must decline to witness the statutory declaration.

Affidavits

In the case of an affidavit, ask questions to check that the client understands the following:

- the purpose for the affidavit (for example, to 'tell my story to the court');
- what they have said in their affidavit (its contents);
- what it means to swear an oath (for example, 'promising [name of religious deity] that I am telling the truth') or to make an affirmation (for example, 'promising that I will tell the truth'); and
- what can happen to the person if they don't tell the truth in their affidavit (that it is a serious criminal offence to make a false statement, and that the penalties include imprisonment).

If you are satisfied that the person understands these things, you may witness the affidavit in the usual way (see **Section 2.2** on page 32).

There may be instances where a person doesn't understand what is meant by 'swearing' or 'affirming' their affidavit. However, if the person can respond rationally to your questions and understand the difference between a truth and a lie, you may use the following modified procedure:

1. Tell the person that it is important to tell the truth in their affidavit.
2. Ask the person to declare that they will not tell lies in their affidavit.
3. If the person agrees that they will not tell lies, you should cross out 'Sworn' or 'Affirmed' in the signature panel and instead write 'Declared pursuant to s.32 of the *Oaths Act 1900*'.
4. The person signs the affidavit in the usual way.
5. You can then sign your name in the signature panel and on each page in the usual way (if there are any annexures, you should amend each annexure certificate by crossing out 'Sworn/Affirmed' and instead write 'Declared' before you sign the certificate).

However, you must decline to witness the affidavit if the following applies:

- the person does not understand the difference between the truth and a lie;
- the person is not able to respond rationally to questions; or
- if you are concerned for some other reason that the person does not have capacity.

Other documents

If the document relates to a transaction of some kind, it is important to ask appropriate questions to satisfy yourself that the person understands:

- the **general nature of the transaction** (for example, 'selling my house');
- the **main choices involved** (for example, the person chose between selling or not selling and chose to accept the sale price offered); and
- the **consequences of the transaction for the person** (for example, the person will receive money from the sale and the house will not belong to them anymore).

The greater the consequences of the transaction for the person, the more care you need to take to make sure that the person understands.

If you are satisfied that the person understands these things, you may witness the document in accordance with the instructions on the document.

If you are not satisfied that the person has capacity, you must decline to witness the document.

More information about capacity

You can read more about legal capacity in the following publications:

- ‘When a client’s capacity is in doubt: A Practical Guide for Solicitors’, which is published by the Law Society of NSW. A copy is available on the Law Society’s website at www.lawsociety.com.au under ‘Resource Centre’, ‘Areas of Law’, then ‘Elder Law’.
- ‘*Capacity Toolkit*’, which is published by the NSW Department of Communities and Justice. A copy is available on the Department’s Diversity Services website
- ‘*Equality Before the Law Bench Book*’, which is published by the Judicial Commission of NSW. A copy is available on the Judicial Commission’s website at www.judcom.nsw.gov.au. The Bench Book provides guidance about capacity to swear or affirm, and about the kinds of adjustments that can be made for, and tips to assist communicating with:
 - people with disabilities (especially Sections 5.3.1 and 5.4.2 of the Bench Book);
 - children and young people (especially Sections 6.3.2 and 6.3.4 of the Bench Book);
 - Aboriginal and Torres Strait Islanders (especially Section 2.3.3 of the Bench Book); and
 - people from non-English speaking backgrounds (especially Sections 3.3.1, 3.3.3 and 3.3.5 of the Bench Book).

Competence

If you are concerned about a person’s capacity, consider whether this can be addressed by providing reasonable help. For example:

- reading documents aloud to a person who has a visual impairment;
- using simpler language to communicate with a child or with a person who has a cognitive impairment;
- allowing a person who has difficulty communicating in English to be assisted by an interpreter (see **Section 2.5** on page 71); or
- having someone physically assist the person to sign the document (see **Section 2.6** on page 91).

Appendix D: list of frequently asked questions

This is a list of all frequently asked questions included in this handbook, and their page reference.

	Page
FAQ 1	Where do I get my authority to perform the role of JP? 9
FAQ 2	What if a person asks me for legal advice? 9
FAQ 3	What is a conflict of interest, and how should I avoid one? 10
FAQ 4	Can I ask a person to remove their face mask to confirm their identity? 31
FAQ 5	What special requirements should I look out for in affidavits about divorce? 50
FAQ 6	What interstate or overseas documents can NSW JPs certify? 61
FAQ 7	Can JPs certify copies of documents that are not in English? 61
FAQ 8	I've been asked to certify a copy of an electronic document. How do I know if I am not looking at the electronic original? 62
FAQ 9	When should a JP decline to certify a copy of an electronic document? And what are the alternatives if I must decline? 62
FAQ 10	Can JPs witness documents from interstate? 67
FAQ 11	Can JPs witness land title documents from another state or territory? 67
FAQ 12	Can JPs witness documents from overseas? 68
FAQ 13	Can JPs witness wills and general powers of attorney? 69
FAQ 14	Can I witness or certify documents for myself, or my family members? 94
FAQ 15	Can I accept a form of identity if it is shown in an app on a mobile phone? 94
FAQ 16	The form that I am completing accepts forms of identity that are different to those usually accepted by JPs. What can I do? 95
FAQ 17	Do I need to keep a log book of the services I give as a JP? 95

		Page
FAQ 18	Can I use a stamp to save time when performing JP functions?	96
FAQ 19	How should I deal with requests to witness or certify a very large number of documents?	96
FAQ 20	Where should I give my JP services?	97
FAQ 21	Can I help someone prepare a document that I witness or certify?	97
FAQ 22	How can I place my signature on documents? Do I need to use a specific pen or can I use adhesive labels? Can I place an e-signature remotely?	97
FAQ 23	Do I have to read the contents of each document I witness?	98
FAQ 24	What if I haven't been provided with the annexures referred to in a document?	98
FAQ 25	Should I keep a copy of documents I have witnessed or certified?	98
FAQ 26	What if I cannot comply with a requirement set out in the document?	99
FAQ 27	Can I leave out some details required by a document, such as my address?	99
FAQ 28	What if someone tries to intimidate me about my JP functions?	99
FAQ 29	Can I refuse to witness or certify a document? For example, if it contains offensive language or seems otherwise inappropriate? Or, if it conflicts with my own beliefs or opinions?	100
FAQ 30	Can I obtain a Certificate of Appointment as a Justice of the Peace?	109
FAQ 31	Is there a JP club or association I can join?	109
FAQ 32	I can't access my JP Online account (due to incorrect password or username). What can I do?	110
FAQ 33	I'm having difficulty with the JP Knowledge Test. What can I do?	110

Index

Subject	Page
affidavit	32-52, 115-116
affidavit, for a person who does not speak English.....	82-93
affirm, affirmation	44-47, 72, 82, 84, 86-89
alterations	15, 19, 41, 73, 76, 85, 98,
annexure.....	12
appointment (as a JP).....	101-110
blind.....	21, 27, 44, 50
illiterate.....	21, 27, 44, 50
CALD (culturally and linguistically diverse backgrounds)	70
certificate of appointment.....	109
certify (a copy).....	10, 17, 25-27, 39, 48-62, 67-68, 73-74, 79, 84, 88-92, 94-100
Code of Conduct for JPs in NSW	123-126
competence	114-115, 117, 125
complaints	107
conflict of interest.....	10, 76-77, 85, 94, 97
conveyancing matters	68
copy.....	52-54, 56-62, 77, 82, 88, 94, 96, 98, 104
declare.....	22, 78, 116
declarant.....	12-13, 23, 27, 74-75, 92
deponent.....	32, 46-47, 50, 90, 92
disability.....	91-93
divorce.....	50-51
duty of care.....	6-7
electronic documents.....	54, 62, 94
face coverings, masks, niqab, burka	16-17, 38-39, 71-72
identity, confirming of	4, 68, 72-76, 79, 85, 88-89, 94-95, 125
identification documents	94, 113-114
interpreter	65, 70-90
interstate	61, 63, 67, 104
JP register	102, 104
JP registration number	103
jurat (signature panel).....	12, 84, 87-89, 92, 98, 116

Subject	Page
log book.....	95
personal information.....	95, 102, 105
oath	32, 4, 10, 44-47, 72, 86-89, 114-115
original document.....	4, 6, 53-56, 58-59, 68, 94, 96
overseas documents.....	61, 68-69, 104
proof of life form	69
reappointment.....	105-106, 108
retiring.....	108
remote witnessing.....	14, 34
satisfied, to be satisfied	4-5, 14,17, 31, 34, 39, 44, 48, 52-53, 56-59, 65-68, 75, 115-116, 125
signature panel.....	12, 84, 87-89, 92, 98, 116
subscribed.....	79, 89
stamp.....	97-98, 2-25, 47-48, 59, 61, 66
statutory declaration	12-14, 16-27, 34, 42, 59, 62, 70-71, 75-79, 115
sticker (adhesive label)	24-25, 47-48, 59, 61, 66, 97-98
support for JPs	8
vision impairment.....	27, 44, 50
wills.....	69
witness, witnessing.....	4, 10, 12-13, 16-25, 39, 48, 51, 59, 62-63, 65-69, 72-75, 79, 84, 88-92, 94-100, 125
witnessing (remote).....	14, 34



5 Code of Conduct for Justices of the Peace

1 Access to services

- 1) A Justice of the Peace must not unreasonably refuse to provide Justice of the Peace services and must treat all persons seeking such services with courtesy, dignity and respect.
- 2) A Justice of the Peace must deal with requests for Justice of the Peace services in a timely manner.


2 Conduct and integrity

- 1) A Justice of the Peace must not engage in dishonest activities or conduct themselves in such a way as to bring the office of Justice of the Peace into disrepute.
- 2) A Justice of the Peace must keep safe and must not reveal information which is private, confidential or commercially sensitive and which the Justice of the Peace has obtained when providing Justice of the Peace services, unless authorised by law.
- 3) A Justice of the Peace must remain independent and impartial when providing justice of the peace services.
- 4) If a Justice of the Peace has a personal, family, financial or business interest in a matter before them and is satisfied that there is a conflict of interest, the Justice of the Peace should decline to provide such services in that matter.
- 5) If the term of appointment of a Justice of the Peace expires and the person has not been reappointed or if the Justice of the Peace has been removed from office by the Governor, the person must immediately cease providing Justice of the Peace services.

3 Financial and personal benefit

- 1) A Justice of the Peace must not charge a fee or accept a gift for providing Justice of the Peace services.
- 2) A Justice of the Peace must not use the title of Justice of the Peace to advance or appear to advance their business, commercial or personal interests, but a Justice of the Peace may use the title of a Justice of the Peace after their name on a business card or letterhead (whether in hard copy or electronic form).


4 Knowledge and competence

- 1) A Justice of the Peace must be familiar with and follow the provisions in the Department of Community and Justice's publication Justice of the Peace Handbook and in any guidelines issued by the Minister with respect to the exercise of specified functions by Justices of the Peace under the Act.
Note. The Handbook is available at www.jp.nsw.gov.au 
- 2) When providing Justice of the Peace services, a Justice of the Peace must clearly record their Justice of the Peace registration number together with their full name and signature on the document.
- 3) A Justice of the Peace must never witness a document unless they are satisfied as to the identity of the person and has seen the person sign the document.
- 4) Where an Act of Parliament provides that a declaration or instrument be signed or attested by a Justice of the Peace, the Justice of the Peace must do so in accordance with any instructions under that Act and any instructions on the declaration or instrument.
- 5) A Justice of the Peace must not offer legal advice in their capacity as a Justice of the Peace.

5 Notifications

- 1) A Justice of the Peace must, as soon as practicable after:
 - a) being convicted of a criminal offence, or
 - b) being found to have acted dishonestly by any court, tribunal, inquiry, regulatory agency, complaint handling or dispute resolution body or professional, business, trade or industry association, or
 - c) becoming bankrupt or making any debt agreement or personal insolvency agreement under the *Bankruptcy Act 1966* of the Commonwealth, or
 - d) being disqualified from being involved in the management of any company under the *Corporations Act 2001* of the Commonwealth, or
 - e) being suspended or disqualified from holding any licence, registration, certificate or membership in relation to any profession, business, trade or industry,notify the Department of Justice in writing of that matter.

- 2) A Justice of the Peace must notify the Department of Justice in writing of any of the following changes as soon as practicable after that change:
 - a) a change to the name of the Justice of the Peace,
 - b) a change to their postal or email address,
 - c) a change to the telephone number on which the Justice of the Peace can be contacted in relation to Justice of the Peace services.



6 Contacting the NSW Department of Communities and Justice

Appointments and Applications

Department of Communities and Justice
Locked Bag 5000
Parramatta NSW 2124

www.jp.nsw.gov.au 
jp@dcj.nsw.gov.au

Phone: (02) 8688 0500

You can send any mail to the Attorney General c/- the Department of Communities and Justice at the details above.



