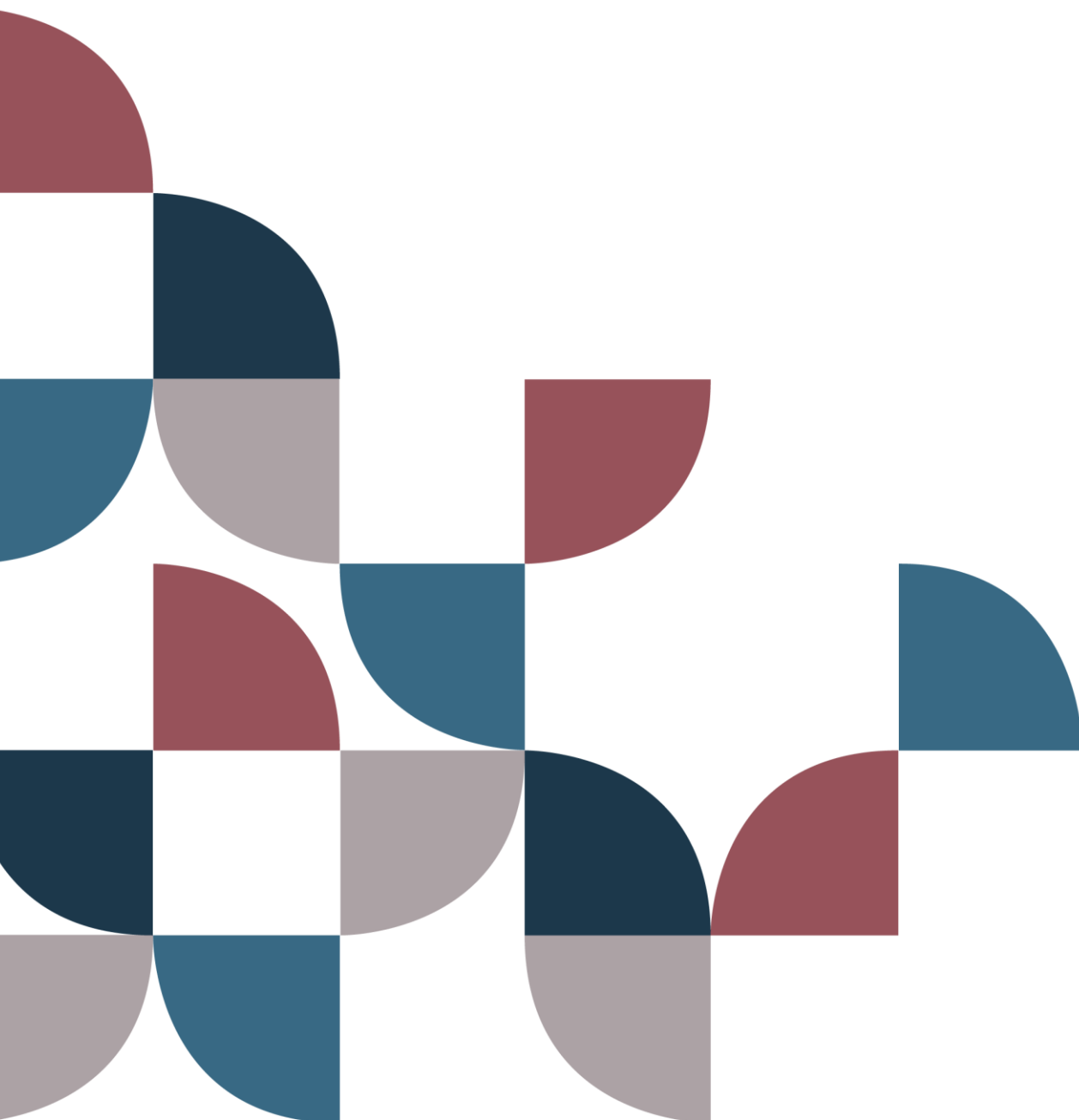


Handbook for Justices of the Peace

A guide for Justices of the Peace in Tasmania

August 2026 | Version 6



Disclaimer

The Tasmanian Department of Justice developed this Handbook for Justices of the Peace – A guide for Justices of the Peace in Tasmania (the Handbook). All reasonable care has been taken to provide accurate information. It is believed to be up to date at the time of publication in August 2026. Readers should be aware that changes may be made to the law after that date. The Department of Justice will periodically review the Handbook and make updated copies available on its website.

Acknowledgments

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- Tasmanian Magistrates and Supreme Courts
- Tasmania Police
- Tasmanian Association of Justices of the Peace Inc

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1. How to use this Handbook

This Handbook is designed to help you in your role as a Justice of the Peace (which will be referred to as JP throughout the Handbook). The Handbook provides information about the functions of a JP in Tasmania and explains how to perform your duties. If you are asked to perform a duty not covered in the Handbook and need information on how to deal with it, you can contact the Department of Justice (the Department) by emailing jp@justice.tas.gov.au.

You should read the Handbook and familiarise yourself with each section so you can easily access the information you need. The table of contents will help you find the information you need to guide you in performing your duties.

Whether you are a new JP or have been a JP for many years, the Handbook will provide you with a useful reference tool.

2. Brief history of JPs

2.1 The origin of JPs

JPs have existed since the thirteenth century. They were first known as Conservators of the Peace and were responsible to the King of England for ensuring that the law was upheld. The *Justices of the Peace Act of 1361* bestowed a judicial function to the Conservators and from then they became known as Justices.

JPs were recognised in the Australian colonies from 1788 under British law and were added to Australian law by the *Australian Courts Act 1828*.

2.2 JPs in Tasmania

Today there are around 800 JPs in Tasmania and new JPs are appointed as required. New JPs are only appointed where there is a specific need, for example, because of a person's employment or where there are very few JPs in a particular area. There are no national JPs in Australia. Each state and territory has its own legislation to regulate the appointment, powers and functions of JPs.

In Tasmania, the Department is responsible for the administration and processing of applications for appointment of JPs. The Governor makes the appointments on the recommendation of the Attorney-General. The Department also provides information about JPs to the Tasmanian public.

The Department keeps the contact details of all JPs. Only the name, telephone number and suburb of JPs is available to the public. Contact details can be obtained by visiting the [Department's website](#).

3. Obligations and conduct of JPs

3.1 Appointment obligations and conditions

The Governor of Tasmania appoints JPs. They are appointed under the *Justices of the Peace Act 2018* (the Act).

The Act sets out the powers and duties of JPs. A copy of the Act can be found on the [Tasmanian Legislation website](#).

Once appointed, you remain a JP until you are 75 years of age, unless you no longer meet the requirements of the Act or your term is terminated by the Governor due to serious misconduct.

The Act makes provisions for JPs who are 75 years or older to seek reappointment for a period of 2 years. Reappointments are outlined in section 7 of the Act. A JP must seek reappointment either 6 months before they attain the age of 75 or within 6 months after their appointment ends. If a JP does not seek reappointment within these periods, their appointment expires and they can no longer seek reappointment.

The Department recommends all JPs lodge their application for reappointment within the 6 month period before their appointment ends.

A JP may continue to seek re-appointment every 2 years until they reach an age of 84 years and 6 months. A JP is responsible for ensuring they seek reappointment in line with their individual expiry dates. The Department does not take responsibility for ensuring a JP remembers to apply for reappointment. You may seek reappointment by completing the [on-line form](#).

You may resign as a JP by completing the [on-line resignation form](#) or by writing to the Secretary of the Department of Justice at GPO Box 825 Hobart Tasmania 7001.

Once you become a JP your name, suburb and telephone number are displayed on a publicly available register. You must use your registration number, which is given to you when you are appointed as a JP, each time you perform JP duties. The public can check the registration number of a JP by contacting the Department.

3.2 Ex officio appointments

Magistrates are appointed as a JP by virtue of their office. These are called ex officio appointments.

3.3 The judicial oath

After appointment, but before performing any of the functions of a JP, you are required to take the judicial oath. In taking the oath, you swear or affirm that you will 'faithfully execute the office of Justice of the Peace and do equal right and justice to all persons to the best of your judgment and ability according to law'.

3.4 The use of JP title

You may use the title Justice of the Peace or the initials JP. You should not use your status or title as a JP for private or business interest, for example, on business stationery, cards and letters, business advertisements or business signage.

This is so the standing of this public office is not diminished. However, you may put the initials JP following your name in the phonebook.

3.5 Change of contact details

If your name, address, or other contact details change during your term of office as a JP, you must notify the Secretary of the Department in writing within 21 days. You may do this by [email](#) or by post to GPO Box 825 Hobart Tasmania 7001 or by completing the [on-line form](#).

3.6 Protection of JPs in the execution of their office

As long as you perform your JP duties justly and fairly, and without malice, you are protected against criminal or civil proceedings for any mistakes you may make or any erroneous decision you may give. Generally, you are only liable if you act corruptly (for example, by accepting bribes).

3.7 Ethical issues

It is critical that you maintain the integrity of the office of a JP by:

- acting impartially without bias or prejudice
- guarding against conveying an impression of holding a position of influence
- not giving legal advice (even if you are legally trained)
- not accepting gifts of money or kind in the performance of judicial or administrative duties
- maintaining strict confidentiality.

3.8 Code of Conduct

JPs are bound by the Code of Conduct contained in the *Justices of the Peace (Code of Conduct) Regulations 2019*. This Code sets out the standards JPs in Tasmania are expected to uphold. A copy of the Regulations can be found on the [Tasmanian Legislation website](#), and the Code is included in section 15 of the Handbook.

3.9 Professional development

Section 18 of the Act provides that appointed JPs must undertake any training or professional development prescribed by regulations or required, by notice in writing, by the Secretary of the Department.

The JP Association regularly hold seminars on different aspects of the legal system, e.g. on the introduction of new legislation. Contact details for further information are available on the Department's website under [JP Resources](#).

3.10 Further assistance

The Department is available to provide assistance for appointment and administrative matters. The Department can be contacted via [email](#).

Magistrates Court registry managers are also available to assist you in performing your duties. The [Court website](#) has contact details for each court registry with useful information about court procedural matters.

Common questions

Can I transfer my appointment to another state?

No. JPs are appointed under different Acts in each state and territory. If you move interstate and are interested in being a JP, you can enquire at the Justice of the Peace Office of that state. You must also resign from your position in Tasmania in writing. A resignation form can be completed [online](#) or you can write to the Secretary, Department of Justice GPO Box 825 Hobart Tasmania 7001.

Am I exempt from jury duty?

No, you are not exempt because you are a JP. Only bench justices who perform bench duties are exempt.

Must I disclose my contact details to the Department of Justice?

Yes, you must provide all contact details. However, only your name, phone number and suburb will be made available to the public. All other personal details (such as your street address) are kept confidential.

Do I have to conduct JP duties from home?

No. You do not have to conduct your duties from home. You can arrange with the other person to meet in another appropriate location.

Can I sign documents electronically?

No. Tasmanian law currently has no legal way to electronically witness or certify documents.

What happens if someone complains about a JP?

The Department has complaint guidelines specifically for complaints against a JP. You can find this under [JP Resources](#) on the Department's website.

Can I decline to exercise my powers as a JP?

Yes. There may be occasions where it is personally inconvenient or inappropriate, for example, where a relative or friend is involved in the matter(s) being dealt with. This will depend on each individual situation. The JP must decide if in the future, their role could be perceived as not 'acting impartially without bias or prejudice'. A JP can also decline if they are unsure if they have the legal power to act in the circumstance.

Do I need to be available to the community 24/7?

The Department has developed specific guidelines for JPs to be able to understand the requirements under the Act in relation to availability. These can be found on the Department's website under [JP Resources](#).

It is an expectation that all JPs will be reasonably available out of normal hours for matters that are urgent. Examples may include attending interviews involving children and young people at a police station in the middle of the night or signing urgent search warrants. Whilst these are uncommon occurrences, it is expected that a JP is willing to be available at any time to serve the community even out of normal hours for urgent matters.

4. JPs and the justice system

JPs have become an increasingly vital part of the justice system in Australia. JPs perform a range of administrative duties that are intertwined with the structures and process of the justice system.

4.1 Separation of powers

The separation of powers doctrine says that the 3 arms of government – legislative, executive and judicial – should be kept separate so power is not concentrated in any one arm. Each arm checks and balances the others.

It is important for JPs to be aware of the separation of powers because their duties can straddle across the administrative and judicial divide. The requirements on each side vary and are mostly prescribed by relevant legislation.

While this is a greater risk for bench justices, this could still occur with JPs. For example, a JP could issue a search warrant to a police officer (an executive or administrative duty) and later be asked to witness an affidavit for another party in the same case (a judicial duty). In this case, the JP should decline to witness the affidavit to maintain the separation of powers.

4.2 Legislation

JPs must be familiar with the following laws which are available on the [Tasmanian Legislation website](#).

Justices of the Peace Act 2018 (Tas)

This sets out the obligations, powers and duties of JPs in Tasmania.

Justices of the Peace (Code of Conduct) Regulations 2019 (Tas)

This is important subordinate legislation that sets out the Code of Conduct for JPs.

Oaths Act 2001 (Tas)

This deals with one of the fundamental duties of JPs – the administration of oaths and affirmations in affidavits. It regulates how the oath or affirmation is to be taken. Further information on how to administer an oath is provided in section 7 of the Handbook.

Search Warrants Act 1997 (Tas)

You may be asked by a police officer to issue a search warrant, so it is important that you are familiar with this Act. Further information in relation to issuing search warrants is provided in section 11 of the Handbook.

4.3 Difference between JPs and bench justices

JPs hold office under the Act to perform a range of administrative duties, primarily relating to the witnessing of documents. The Chief Magistrate may call on JPs who have completed a special course to perform particular bench duties, such as hearing and dealing with certain cases in the Magistrates Court in Tasmania. Bench Justices are drawn from a pool of JPs and appointed by the Chief Magistrate.

JPs who go on to be Bench Justices should also have a more detailed knowledge of the structures and processes of the justice system. They should know the division of power between the states and Commonwealth. They should know the separation of powers among various parts of government and be familiar with how laws are made, the hierarchy of the courts and the concept of precedent within the courts.

4.4 Notaries public

JPs are not notaries public. If you are asked to undertake duties as a notary you must decline, as it is not within your capacity as a JP, and to do so is a breach of the Code of Conduct.

A notary public is an officer of the law whose function is somewhat like that of an International JP. Notaries are appointed by the Supreme Court of Tasmania under the provisions of the *Notaries Public Act 1990* (Tas). Prior to the introduction of the *Notaries Public Act 1990*, notaries were an historical appointment by the Archbishop of Canterbury.

All notaries public in Tasmania are (or have been) senior lawyers. Their most common function is notarising documents that are required in foreign countries. Each notary has a unique official seal.

A list of notaries may be found in the Yellow Pages or on the [Supreme Court](#) website.

5. Main role and duties of JPs

Your main role as a JP is to act as an independent and objective witness to documents people use for official or legal purpose. The duties you will perform most of the time are:

- witnessing documents
- taking an affidavit for use in court
- taking a statutory declaration
- certifying a true copy of an original document.

Other functions you will perform less frequently are:

- witnessing wills
- witnessing applications for probate
- witnessing applications for letters of administration
- witnessing enduring power of attorney
- witnessing family law documents
- witnessing applications under the *Family Violence Act 2004* (Tas)
- witnessing applications for restraint orders
- witnessing Police Family Violence Order applications
- certifying a person's identity
- issuing search warrants
- making and issuing complaints
- issuing witness summonses
- attending interviews involving children and young people.

Further information on how to perform all these duties is provided in the Handbook.

6. Witnessing

Although there are many documents that can be signed by a witness with no specific qualifications, JPs are often called upon to carry out this duty. This is probably because of the regard in which JPs are held in the community and the belief that their witness may carry more weight.

It is a good idea to follow a set procedure each time you witness a document, unless the law requires you to do something different. Following a set procedure will help you perform your duties correctly. It will also help you ensure you have covered everything. After witnessing many signatures and documents, you may not remember exactly what happened in a particular case. It is unlikely, but possible you may be asked to give evidence in court about a case and, if you know that you always use the same procedure, you can tell that to the court.

It is also a good idea to keep diary notes of when you have performed your duties as a JP. You may find it useful to maintain more detailed records in a simple logbook, particularly when identification is required or the circumstances are unusual. While such record keeping is not a legal requirement, clear and consistent notes can assist if enquiries arise about the witnessing process. If you choose to keep a logbook, you should inform the signatory that you are make a note of the details for future reference.

A [logbook template](#) is available on the Department of Justice website under 'Record keeping' on the JP Resources page.

Following is a guide to proper witnessing, with a suggested procedure. You may wish to use it as a basis for your own procedure, to ensure you have covered everything. Usually, you will have to rely on your own experience and the Handbook to witness a document.

Sometimes the person seeking your JP services will bring special instructions from a solicitor, agency or document producer.

6.1 Making the appointment

Although many JPs allow people to come to their homes, it is preferable not to do so unless the JP knows the person.

Make sure you arrange to meet in a private but safe place. A person's documents and dealings with a JP are confidential and it is not appropriate to see a person in a place where others can see the documents or overhear the conversation. The person might have a suitable meeting room at his or her workplace or elsewhere.

Otherwise, make enquiries for a venue where you can see the person in a private office. Such places include your local community centre, council buildings, public library that has a meeting or discussion room or a JP signing centre. Some councils offer, on a roster system, a JP service to the public. The JP Association also operates document signing centres. Further details about the location and opening times of document signing centres are available directly from the JP Association or from the [Department's website](#).

If you agree to see people in their home, take extra care about your safety.

When making the appointment it is a good idea to ask what type of document you will be witnessing. This way, you can both be prepared and allow sufficient time for the appointment.

6.2 Witnessing procedure

1. Identify the person

When witnessing, the person must identify they are the one signing the document.

Unless the type of identification you are required to sight is specified on the document, the onus is on the JP to be satisfied as to the person's identity. Ask for identification, preferably photo ID (e.g. a driver's licence or passport). If photo ID is not available, other forms of ID are acceptable — e.g. birth certificate, Medicare card, concession card, Australian bank issued credit or debit card showing the person's name.

2. What type is the document?

Some documents you will be asked to witness are straightforward while others will be more complex. Further information on witnessing specific types of documents, such as affidavits, is provided in the Handbook.

3. Do you have authority to witness this document?

You have authority to witness documents that can be signed by a witness with no specific qualifications or documents that list JPs as authorised witnesses. This may be stated in the 'witness' section of the document. Other legally authorised witnesses for some purposes are lawyers or police officers empowered by statute to administer oaths. To ensure you are an authorised person, check that the document lists a JP as an authorised witness or that the document can be witnessed by an individual with no specific qualifications.

There are some documents that you may not witness a signature for. Overseas documents require other official witnesses, such as a notary public. Documents from other countries or for overseas purposes usually say who is an official witness. Do not witness these documents unless they state that an Australian JP is an authorised witness. In most cases, the country where the document will be used will not accept a JP as a witness. A notary public or a consular or embassy official can often witness these documents.

Some documents require you to witness a person signing a document. In this case you must hear the person declare that the document is true and correct or ask the person to take an oath or affirmation that the contents of the document are true and correct. Statutory declarations and oaths are legally binding, if they are false the person commits a criminal offence, therefore it is important for you to witness them correctly. Never witness an affidavit or statutory declaration that has no content – in other words, never witness any blank document or any pre-signed document. Further information on affidavits and statutory declarations is provided in sections 7 and 8 of the Handbook.

Some documents require the witness to be just an independent adult. Other documents may need the witness to know the signatory for a period of time or vouch for their identity. In these instances, the witness does not have to hold any official position. When you witness this type of document, you do not have to sign as a JP, but just as an adult witness. These are some examples:

- Land transfer documents, wills and electoral enrolment forms need the witness to know the signatory personally or need to be satisfied by evidence (such as a driver's licence) as to the signatory's identity.
- Australian passport applications need the witness to have known the applicant for 12 months.

If you are not sure, check the instructions on the document or the Act or department that creates the document. You can find [Tasmanian Acts online](#). If still in doubt, refer the person to a legal centre or the Department. Contact information is provided in section 14 of the Handbook.

4. Is it correctly completed?

You are not expected to know whether a document is in a form that makes it legally effective. The person making the document, not the witness, must ensure it is in proper form and, if necessary, get legal advice for this. A JP should never give legal advice. If it is obvious to you that the form is not the right one, you may suggest that the person obtains a standard form before having it witnessed.

Information about where people can obtain forms is included in the Handbook under each type of document, for example, statutory declarations, affidavits.

5. Are there special requirements?

Some documents have special requirements, and it is important to be clear about which ones apply to each document. Sometimes the form will contain instructions for the witness. Make sure you have checked and complied with any special requirements before you witness. The Handbook also provides information about the specific requirements for witnessing a statutory declaration, an affidavit, and enduring power of attorney. Special requirements for witnessing a document can also be found in the Act that governs when or how the document is to be used.

6. Who signs the document?

The rule is that the person named in the document must be the person who signs it. The exception to this rule is when another person has been appointed to act on behalf of the named signatory.

Before you witness this type of document, ask for proof of identity with a photograph such as driver's licence or passport. You must also ask for proof of authority, for example, a current power of attorney.

7. What is the legal age for making the document?

The legal age is 18, but there are some documents that can be executed by a person under 18. For example, a document to be witnessed for an insurance claim or a change of name form. If you are in doubt about the person's age, ask for proof. If you do not know the legal age requirement for the specific document, check instructions on the document or the Act that governs the document.

8. Can a child make a document?

A child can make a document if allowed by the law. If you are asked to witness a document made by a child, go through the same questions as you would with an adult, and check that the child understands the nature and effect of the document.

9. Does the person understand what they are doing?

Before witnessing a person's signature to a document, always ask if they have read the document and fully understand what they are signing. Only a person who is able to understand what they are doing can make a valid legal document.

A JP is not expected or qualified to make a detailed assessment. You can ask open-ended questions, such as 'What kind of document is this?' 'What does it mean?' These questions require more than a simple 'yes' or 'no' answer.

Signs that might indicate that the person does not understand the meaning of signing the document are when they:

- give inappropriate answers
- have difficulty answering questions or have memory lapses during the conversation
- have limited, or no, English language
- have a restricted vocabulary.

However, these signs might indicate that the person is ill, or has a disability, or speaks little or no English or does not understand the Australian legal system, but they do not necessarily mean that the person does not understand the document being signed. Remember that you are checking the capacity of the person to make this particular document, not for anything else. An inability to read does not necessarily mean they cannot understand the document. They may fully understand it if it is read to them.

Equally, an ability to read does not mean a person can understand a complicated legal document. You may rely on a letter from the person's doctor stating that they have the capacity to understand.

If you have resolved any initial doubts about the person's capacity to understand, you should write down some notes. If questions arise later about the appropriateness of your agreeing to witness the document, it will show how you made your decision.

However, if you still have doubts, do not witness the document and explain your position to the person.

10. Is the person signing of their own free will?

Even if a person has legal capacity and fully understands what signing the document means, the document may be ineffective at law if the person does not sign voluntarily. Before witnessing a document, you should be satisfied that the person is signing of their own free will and is not under pressure or being coerced into signing the document.

If you have any doubts about whether the person is under duress or being pressured to sign the document, do not witness it until you are satisfied that the person is signing of their own free will. If you continue to have doubts, refuse to witness and suggest the person seeks legal advice. Again, keeping a record of what you did in that situation can help, if later there are enquiries about it.

11. Should you read the document to check for false material?

No, as a JP you are not expected to check the content of the document. Your responsibility is to be sure that the document is in the correct form, for example, if it is a statutory declaration the correct wording of the relevant Act is included.

However, if the document is a search warrant you must read it. You must be satisfied that it should be issued (see section 11 of the Handbook for further information).

12. Is the document dated correctly?

The date the document is signed must be the same as the date it is witnessed. The date you record as a witness must be the same as the date each signs the document. It is acceptable for different signatories to a document to sign it separately on different dates and before different authorised witnesses.

13. Are there any alterations or blank spaces or erasure marks in the document?

All alterations (including those made with liquid paper) should be initialled by both you and the signatory. This shows that the alteration was not made later. The signatory should also place a 'Z' or an 'X' across blank spaces so that nothing else can be added to the document after it is signed and witnessed.

14. Are all the questions answered?

If they are not, ask the person to answer them. If a question is irrelevant, ask them to cross it out or write 'not applicable' next to it. Both you and the signatory must initial any crossing out.

15. Are there any exhibits, annexures or attachments?

These are documents attached or related to the main document and contain information that supports it. Affidavits and statutory declarations often have attachments. Each of these attachments must be identified in the main document:

- annexures are usually marked with consecutive numbers or letters of the alphabet, for example, annexure A, annexure B
- exhibits to an affidavit are usually marked with the initials of the person making the affidavit and a consecutive number, for example, PM1, PM2.

Make sure each attachment is presented, marked and identified correctly. The date on each attachment should be the same as the date the document is witnessed.

The name and date of the main document should be included in the attachment.

This is an example of how an exhibit, annexure or attachment to an affidavit made by John Michael Smith should be marked:

This is Exhibit marked JMS1 [or 'a copy of Exhibit JMS1'] referred to in the affidavit of John Michael Smith sworn/affirmed

Before me this day of 20.....

.....

Signature of JP / Signature of Deponent

[Your full name, JP initials, JP number and the words: 'Justice of the Peace']

If the annexures are attached to documents other than affidavits, use the same marking, but replace the words 'sworn/affirmed before me' with the words 'signed in my presence this day of 20.....' and so on.

For statutory declarations insert the words 'declared in my presence this day of 20.....' and so on.

If a document refers to attachments but they are not with the document, you must not witness the document. If you are not able to see all exhibits, annexures or attachments, you should explain to the person that your interest is not in the content, but rather to ensure that the pages have been numbered and correctly executed. If the person still declines to produce the attachments, you will need to tell them that you are not able to assist.

16. Ensure the document is signed in your presence

If the document is already signed, ask the person to cross out the signature and sign it again in your presence. Both you and the signatory must initial and date the crossing-out.

If there are attachments to the document (see 15 above), you must sign and date each page, having ensured they are correctly marked. If they are not marked, ask the signatory to mark them correctly before you sign.

If the main document is an affidavit, the signatory must also sign each exhibit in your presence.

17. When to sign and add your JP details

After the person has signed the document in your presence, you witness by signing and dating the document.

Clearly print your full name, JP initials and registration number. Underneath or next to your signature write the words, A Justice of the Peace. If you have a stamp, place it close to your signature. Do not place it over your signature or sign over your stamp.

If there is more than one place on the document that requires signing, witness each signature separately.

If there are several pages to the document, first ask the signatory to initial each page (other than the final page) and then put your initials beside the signatory's and both you and the signatory must sign the final page.

You may be asked to sign documents with red seals or rubber stamps with the word 'seal' attached to the jurat (the memorandum at the end of the document stating the place, date and person before whom a document is made).

You should ask the person to identify the seal alongside their signature as their seal or confirm that they are authorised to apply the seal on behalf of a company or organisation. You should then sign in the place provided.

Common questions

Should I read the document?

No, do not read through the contents of the document. Your duty is to ensure that the document has been correctly executed and all parts of the document have been completed. You are not certifying that the information is correct. However, there are different requirements if you are requested to approve a search warrant (for additional information refer to section 11 of the Handbook).

How do I witness multiple-page documents?

Ask the person to number each page 'page 1 of 4', 'page 2 of 4' and so on. Both you and the person must initial each page and sign and date the final page.

Whose signature can I witness?

You can only witness the signature of the person who signs the document in your presence. If the document is to be signed by several people and not all are present at the same time, state on the document that you are witnessing only the signature of the person or persons present. For example: The signature of John Smith only witnessed.

Do I have to make a JP stamp?

You may decide to have a stamp made up with your name and registration number, although this is not necessary. They can be made at most stationers. You might have two stamps: a general one, and a certifying one.

The general stamp should have your full name, the initials JP, your registration number, and the words Justice of the Peace underneath your name. Some JPs also include the words 'for Tasmania' or 'in Tasmania'.

Here is an example of a general stamp:

John Michael Smith, JP # 1234
Justice of the Peace for Tasmania

Here is an example of a certifying stamp:

I certify this to be a true and correct copy of the original sighted by me
at on the day of 20.....

'At' means the location where the witnessing is done.

If you use the certifying stamp, use your general one after it. Place your signature near your stamps (but not over them). It may be more practical to consider having a certifying stamp that incorporates your JP details to streamline the process.

Some JPs who sign large numbers of Australian Health Practitioner Regulation Authority (AHPRA) related documents may want to consider the following example for their stamp. It aligns with the specific requirements required by AHPRA for the certification of originals:

at on the day of 20.....
I have sighted the original document and certify this to be a true copy
..... JP number

What type of proof of identify is suitable?

This is entirely up to you, so long as you are satisfied that the documents produced are sufficient to properly identify the person. Notwithstanding this, there will be some matters where specific forms of identity are required, and these will be specified in the document itself or in the relevant Act. A driver's licence, passport, health care card, birth certificate, or any other document issued by an authority that checks the person's identity, is generally sufficient.

Are the documents confidential?

You must treat all documents you witness as confidential. You can disclose information about a document only if the person who signed the document asks you to or if the law requires you to (for example, if you are ordered to give evidence about your witnessing in court).

Can I keep copies for my records?

No, because the documents you witness are confidential, you may not keep copies. The exception relates to search warrant applications, covered in section 11 of the Handbook.

Can I be a witness for friends or relatives?

Though it is not unlawful to witness a document signed by a friend or relative, it is not recommended. You could risk being accused of having an interest and lacking independence as a witness. In some cases, it could make the document invalid.

Can I help complete the documents?

You should not both witness and help complete documents for the same person. You are an independent, unbiased witness, therefore, if you wish to help someone complete a document, it is better not to witness that document. Refer them to another JP.

What if someone is a sovereign citizen?

People have identified as sovereign citizens in Australia for decades, traditionally they believe they are not subject to Australian law because the laws are incorrect and therefore not valid.

A sovereign citizen may intersect with a JP when they need documents witnessed. The sovereign citizen is like any other person requiring the services of a JP. Therefore, they are going to need to meet the usual identification and witnessing requirements expected of all members of the public. See section 6 on witnessing requirements to ensure you are following the correct procedures with all persons requiring witnessing services of a JP.

7. Affidavits

7.1 What is an affidavit?

An affidavit is a written statement, made on oath or affirmation, and is used as evidence in court proceedings.

The person making the affidavit swears or affirms in your presence that they made the statement and that the statement is true to the best of their knowledge and belief.

An affidavit is the written equivalent of the oath or affirmation that a person takes when giving evidence in a court of law. It has the same legal consequences, and it may be used as evidence in court proceedings.

A person lying under oath or affirmation (whether orally in court or in writing in an affidavit) is committing perjury.

Only a person who can understand the implications of giving sworn evidence can take an oath or affirmation. Young children may not have sufficient grasp of the meaning of an oath, so you should make sure they understand the difference between the truth and a lie before asking them to sign. The same might apply for people with an intellectual disability. If you come across a situation where you believe the person does not understand the implications of giving sworn evidence, do not witness the affidavit. Refer the person back to their lawyer or, if they do not have one, to a legal service (see section 14 – Information and referral contacts).

7.2 Where can people get affidavits?

Usually someone will bring you an affidavit that either they or their legal representative has prepared.

They will ask you to administer the oath or affirmation and complete the jurat or the signing clause at the foot of the affidavit.

7.3 What are oaths and affirmations?

These are legally binding promises that the person is telling the truth:

- an oath is a solemn promise based on religious or spiritual beliefs, and someone making this promise is called a deponent
- an affirmation is a non-religious, verbal declaration of the truth of a statement, and it is an alternative to an oath for people who object to taking an oath for religious or conscientious reasons. Someone making this promise is called an affirmant.

People are free to choose an oath or an affirmation and they do not need to give you a reason for this choice.

The main purpose of an oath or affirmation is to emphasise the seriousness of the requirement that the information contained in the sworn or affirmed document is the truth.

If the person takes an oath, it must be one that they consider binding on their conscience. It may be sworn on a sacred book they regard as significant. It is useful to check with the person when making the appointment whether they will take an oath. The person should bring their own sacred book.

You may only administer oaths or affirmations if the person is located within Tasmania at the time of swearing.

An affidavit taken on oath

The document starts with these words:

I, [full name, address and occupation of deponent], make oath and say:

.....

The person's statement follows and at the end of the document is the jurat with these words:

Sworn at by

this day of20.....

Before me

.....

[Signature of JP]

[Your full name, JP initials, JP number and the words: Justice of the Peace]

An affidavit taken on affirmation

The document starts with these words:

I, [full name, address and occupation of affirmant], do solemnly and sincerely declare and affirm:

.....

The person's statement follows and at the end of the document is the jurat with these words:

Affirmed at by

this day of20.....

Before me

.....

[Signature of JP]

[Your full name, JP initials, JP number and the words: Justice of the Peace]

If a person refuses to take an oath or affirmation

If the person refuses to take an oath or affirmation by arguing that their religion forbids them from doing so, or by saying they would rather merely state 'it is true' or words to that effect, then you should advise that you are unable to sign the document. Suggest that the person seeks legal advice.

How to administer an oath

To administer an oath, ask the person: *do you want to take an oath or affirmation?* If the person says *'to take an oath'*, ask: *have you read and understood the contents of your affidavit?* They may choose to hold the sacred book they regard as significant. The reply should be *'yes'*.

Then ask: *do you swear that the content of this affidavit is true to the best of your knowledge, information and belief, so help you God?* The reply should be *'I swear'* or *'I do'*.

Make sure you hear this response before you:

- identify the deponent of the affidavit using their driver's licence or other valid identification
- confirm whether the deponent is taking an oath or affirmation and ensure that the opening statement of the affidavit and jurat correctly reflect this choice
- administer the oath
- have the deponent sign the jurat and initial the bottom of each page of the affidavit, except for the last
- if there are any amendments to the affidavit have the deponent initial each amendment
- complete the jurat by filling in the date and place, then sign it and endorse it with your JP stamp (name and JP registration number)
- initial and date the bottom of each page of the affidavit other than the last, beside the deponent's initial
- initial all amendments to the affidavit beside the deponent's initials.

How to administer an affirmation

To administer an affirmation, ask the person: *have you read and understood the contents of your affidavit?* The reply should be *'yes'*.

Then ask: *do you solemnly and sincerely declare and affirm that the content of this affidavit is true and correct to the best of your knowledge, information and belief? If this is the case, please respond with the words I affirm.* The reply should be *'I affirm'*.

Make sure you hear this response before you follow the same procedure as an oath, but ensure:

- the jurat says *'affirmed'* not *'sworn'* (cross out and initial if needed)
- the affidavit body states *'declared and affirmed'* instead of *'make oath and say'* (initial any corrections).

Affidavit by more than one person

If there is more than one deponent to an affidavit, they may both swear/affirm the affidavit as long as the jurat has been prepared for this case as follows:

Sworn by the above named Deponent John Smith

At [town/city] in Tasmania

On the day of 20.....

.....

Signature of Deponent

Before me

.....

[Your full name, JP initials, JP number and the words: Justice of the Peace]

Sworn by the above named Deponent James Brown

At [town/city] in Tasmania

On the day of 20.....

.....

Signature of Deponent

Before me

.....

[Your full name, JP initials, JP number and the words: Justice of the Peace]

The deponents or affirmants can come to you at different times, or they can go to 2 (or more) different JPs, as long as the jurat allows the recording of the location and date of each swearing. When one party wants to swear and the other wants to affirm the affidavit, separate affidavits are necessary.

Annexure to affidavits

If there are attachments or annexures to the affidavit, check that they are all attached, and that each separate annexure has these words on their first page:

This page and the following pages comprise Annexure 'A' / 'B' [etc] to the affidavit of [Name of deponent]

Sworn/Affirmed before me

this day of 20.....

.....

Signature of JP

[Your full name, JP initials, JP number and the words: Justice of the Peace]

While it is not mandatory to initial each page of an annexure, it is considered best practice, as doing so helps prevent later substitution. If you are ever required to appear in court to give evidence about the document, having initials on each page of the annexure makes it easier to verify its integrity.

Annexures to affidavits filed in the Supreme Court

Affidavits filed in the Supreme Court must have an annexure certificate for each annexure, as required by section 501(h) of the *Supreme Court Rules 2000*. A template annexure certificate is available on the Supreme Court of Tasmania website at the following link: [Annexure Certificate to an Affidavit - Supreme Court of Tasmania](#).

The JP must check and complete the details on the annexure certificate, including the name of the deponent and the number of pages in the annexure. The JP must then sign, date and apply their JP stamp to each annexure certificate.

Illiterate or blind deponents

Where the deponent is either illiterate or blind, you should read the contents of the affidavit to them and be sure they understand it and agree with the contents.

The person then makes their signature or mark. You must note on the jurat that you have followed this procedure with these words:

As the deponent is unable to read/or is blind, I have read this affidavit to him/her and he/she has stated that he/she knew of, understood and approved of the contents of the affidavit and the deponent then signed this affidavit.

Sworn/Affirmed by the above named deponent

At [town/city] in Tasmania

On the day of 20.....

.....

Signature of Deponent

Before me

.....

[Your full name, JP initials, JP number and the words: Justice of the Peace]

Competence of deponent

You may be advised, or you may form the opinion, that the person is not competent to take an oath or affirmation.

If you feel the person does not understand the difference between the truth and a lie or is not able to respond rationally to your questions, then the affidavit is not allowed.

In a case where a JP is satisfied that a person is not competent to take an oath or affirmation, the person may still make an affidavit provided special requirements are met. In such a case, section 7 of the *Oaths Act 2001* states that the JP must tell the person that it is important to tell the truth, and that person must declare that the affidavit does not contain any lies.

However, if the JP is satisfied that the person does not understand the difference between the truth and a lie and is not able to respond rationally to questions, the JP may not be satisfied and may not permit the affidavit to be made. This may occur, for example, where the person has cognitive decline and the JP cannot be satisfied that he or she understands what they are attesting to. If in doubt, it is better for the JP to politely decline to act.

Deponent unable to write or is illiterate

If the deponent is unable to write because of illiteracy or a physical disability, add the following words to the jurat before the oath or affirmation is administered:

The deponent, being unable to write, made his/her mark upon the affidavit in my presence.

Sworn/Affirmed by the above named deponent

at [town/city] in Tasmania

on the day of 20

His/Her mark before me

.....

.....

Signature of JP

[Your full name, JP initials, JP number and the words: Justice of the Peace]

Affidavits pre-signed by the deponent

If an affidavit is presented to you already signed, the person should cross out their signature (both the person and the JP should initial that crossing out) and sign the documents again in your presence.

A blank document of any form should never be signed until completed.

It is also necessary that the person identifies himself or herself as the person signing the document by providing a driver's license or other form of identification.

Affidavits by non-English speaking persons

Where a person is not sufficiently conversant with English to be able to swear or affirm an affidavit in this language, and it is desired to file the affidavit in another language, the following procedures should be followed:

- the deponent should swear the affidavit in their language
- the affidavit should be translated by a suitably qualified interpreter
- the interpreter shall swear an affidavit setting out their qualifications and verifying the translation
- the translation and the affidavit in the foreign language shall be exhibited to the affidavit by the interpreter
- the three documents shall be filed together.

This means there will be 3 documents – a version sworn in the language other than English, a version translated into English, and an affidavit signed by a translator.

Signing the affidavit

When you sign the jurat at the end of the affidavit, it is important to indicate whether the document was 'sworn' or 'affirmed'.

If the word 'affirmed' is not included and it was affirmed, you must insert in the jurat 'affirmed' and cross out and initial the word 'sworn'.

It may also be necessary in the body of the affidavit to correct 'make oath and say' to 'solemnly and sincerely declare and affirm' and initial this change.

Common questions

Should I administer an oath if this is contrary to my personal beliefs?

Yes, your duty is to administer the oath or affirmation as a JP regardless of your own beliefs.

Oath or affirmation?

Under both Tasmanian and Commonwealth law where something must be done under oath, it may also be done by affirmation. Section 16 of the *Oaths Act 2001* (Tas) provides that a person may make an affirmation instead of taking an oath for any purpose where an oath is required by law, and that an affirmation has the same effect as an oath.

The *Evidence Act 2001* (Tas) provides at section 21(5) that an affirmation has the same effect for all purposes as an oath. In Commonwealth law, section 2b of the *Acts Interpretation Act 1901* (Cth) defines 'oath' to include an affirmation, declaration or promise.

Generally, a person swearing an oath will do so whilst holding a religious text. However, section 24 of the *Tasmanian Evidence Act 2001* makes clear that a religious text is not necessary for an oath to be effective, nor is it necessary for a person swearing an oath to have a religious belief or a religious belief of a particular kind.

Can I refuse to administer an oath or affirmation?

You should refuse to administer an oath or affirmation for an affidavit if you believe the deponent or affirmant does not understand the contents of the affidavit or the nature of an oath or affirmation.

The *Oaths Act 2001* only authorises JPs to administer oaths and affirmations for use in court proceedings so you can also refuse to administer an oath or affirmation if it is for any other purpose.

Should I read the affidavit?

It is not necessary to read the affidavit. However, you should ask the person if they have read it and if it is true and correct. Note however that there are different requirements if you are requested to approve a search warrant (see section 11).

What if corrections have been made to the document?

If an error has been corrected in the document get the deponent to initial the correction in the margin. You must also initial the correction.

8. Statutory Declarations

8.1 What is a statutory declaration?

A statutory declaration is a written statement in which the person (called a declarant) formally declares before an authorised person that the statement is true. A statutory declaration is different from an affidavit in that it is not sworn or affirmed. A JP is authorised to take a statutory declaration.

Statutory declarations have a wide variety of uses. In some cases, the law requires information to be supplied in the form of a statutory declaration. For example, if a driver who has received a traffic infringement notice for running a red light asserts that someone else was driving the car at the time, they can send a statutory declaration to the police stating who was driving. Police then rely on this information to issue a traffic infringement notice to that other person.

Insurance companies, banks, educational institutions, employers, clubs, government departments and other organisations often require information to be provided in the form of a statutory declaration.

While statutory declarations are much less complex than affidavits, they still carry a serious penalty for a false declaration.

8.2 Where can people get a statutory declaration?

Blank statutory declaration forms are available from most post offices, Service Tasmania offices and the local Magistrates Court Registry. An electronic statutory declaration can also be downloaded from the [Department's website](#). It is not necessary to use these blank forms, as long as the document is substantially in the form set out by the relevant Act. If you can see that the format of the document is not substantially correct, you should decline to witness it.

8.3 Tasmanian statutory declaration

There are different versions of statutory declarations, but those made for a purpose under Tasmanian law must be in the form set out in section 14 of the *Oaths Act 2001* (Tas).

This is an example of a Tasmanian statutory declaration:

I, [name, address, occupation and telephone number]
do solemnly and sincerely declare that
..... [facts].
I make this solemn declaration under the *Oaths Act 2001*.
Declared at [place]
On [date]
..... [signed by the declarant]
Before me
(Justice, commissioner for declarations or authorised person)

8.4 Commonwealth statutory declaration

A statutory declaration made for a purpose under Commonwealth law must be in the form prescribed by section 8 of the *Statutory Declarations Act 1959* (Commonwealth).

One difference between state and Commonwealth statutory declarations is the closing clauses. A Commonwealth declaration ends with these words:

I believe that the statements in this declaration are true in every particular, and 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*, the punishment for which is imprisonment for a term of 4 years.

You should follow the same procedure as for Tasmanian declarations, and enter any additional information specified on the form.

A Commonwealth statutory declaration can be signed electronically and can be downloaded from the Attorney-General's Department website.

It is important to note that the electronic signing of statutory declarations is only for Commonwealth statutory declarations, NOT Tasmanian statutory declarations.

8.5 How to witness a statutory declaration

Before taking a statutory declaration, refer to the witnessing section of the Handbook (see section 6).

You may ask the declarant:

Do you solemnly and sincerely declare that the contents of this document are true and correct to the best of your knowledge, understanding and belief?

The declarant must answer '*I declare*' or '*I do*'.

Make sure you hear this response before you:

- initial every deletion and alteration in the document after the declarant has initialled them
- initial the foot of every page of the declaration and sign the last page near the signature of the declarant
- complete and sign the part that starts 'Declared atbefore me ' as outlined in the witnessing section of the Handbook.

Never sign a blank form. If a statutory declaration does not take up a full page, it is good practice to rule a diagonal line across the remainder of the page before you sign it to ensure nothing is added later.

Common questions

What if the statutory declaration is pre-signed?

You should cross out the current signature, both the declarant and the JP initial that crossing out and then ask the declarant to sign again.

What if I suspect the declaration is untrue?

Even if you are suspicious that a declaration is untrue, you do not have the power to refuse to sign it. However, make a note of your suspicions for future reference in case it should be needed.

9. Certifying documents

9.1 What are certified copies?

Often people or organisations need documented proof of a degree parchment, birth, marriage, and death certificates, identification, or other documents. For instance, a person wishing to be registered as a legal practitioner, doctor or dentist needs to provide proof that a university has awarded them the relevant degree. As it is not always possible to provide

the original document, organisations often accept a photocopy of an original document, but only when they have an independent assurance that the copy is a true copy. A JP can certify that the copy is a true copy.

9.2 How to certify a copy

To certify a copy as a true copy:

- inspect the original document to satisfy yourself that it is the original version
- inspect the copy to satisfy yourself that it is identical to the original document and has not been altered
- certify the document using these words:

I certify that this is a true and correct copy of the original document sighted by me
at this day of 20.....
.....
Signature of JP
[Your full name, JP initials, JP number and the words: Justice of the Peace]

These are the standard words used for certifying copies and many JPs have a stamp made to use every time they certify a document.

9.3 Multiple-page documents

If the original is a multiple-page document, you must check every page of the document to satisfy yourself that it is the original. You must then check each photocopied page. You must then:

- sign or initial or stamp every page
- number each page of the copy, e.g. 'page 1 of 40, page 2 of 40'
- certify the last page with these words:

I certify that this ... [write number of pages]-page document, each page of which I
have numbered and signed or initialled, is a true and correct copy of the original
... [write number of pages]-page document sighted by me at
..... this day of 20....
.....
Signature of JP
[Your full name, JP initials, JP number and the words: Justice of the Peace]

9.4 Certifying copies of documents in other languages

You may be asked to certify documents written in languages other than English. You can do so if you are competent in that language. If you are not, it is good practice to have the originals photocopied in your presence.

Then follow the procedure given above.

Common questions

Can I certify a copy of an electronic document?

JPs need to take extra care when certifying printed copies of documents that have been received electronically or sourced from websites.

Only certify a printed copy of an electronic document if you are satisfied it is a true and correct copy using one of the following methods:

- you viewed the copy printed directly from the official website or a computer that is under the control of the document's issuing authority

(This means you personally see the document come from a trusted source - not from someone's USB stick, email or saved file. The website should belong to the organisation named on the document. Official websites often end in things like .gov.au, .edu.au, or .org.au, and should clearly show the organisation's name and logo.)

- you viewed the electronic original live on the official website under the control of the document's issuing authority and you inspected the printed copy against the electronic original to ensure it is identical.

(This means you look at the online version on a website that clearly belongs to the issuing organisation and check that the printed version is exactly the same - nothing missing or changed. Again, official websites usually end in .gov.au, .edu.au, or .org.au. Don't accept documents shown through email links or personal files unless you can verify they came from the real website.)

If satisfied, certify the document using standard wording, adding the words 'original sighted on an electronic device'.

There is a risk that documents presented outside of these processes, including emails, faxes, pdf documents and other electronic communications may have been altered.

As an alternative to certifying electronic documents, the client may attach the printed document to a statutory declaration and declare that it is a true copy of the original and that it exists only in electronic form. You may witness the statutory declaration but must not certify the attached document.

If the document is an email or attached to an email, the client may be able to forward the electronic original directly to the organisation requiring it. It is then up to the organisation to decide whether to accept the email or make further enquiries.

To avoid inconvenience, the client should check with the receiving organisation whether a certified copy is necessary or if alternatives are acceptable.

10. Other types of documents a JP may be required to witness

10.1 Witnessing wills

Although there is no legal requirement for a JP to witness a will, you will often be called upon to do so. Great care should be taken to correctly perform this task as there can be serious repercussions if the correct procedure is not followed.

The *Wills Act 2008* (Tas) sets out the necessary requirements for wills. It is important that you do not provide legal advice about a will.

If questions do arise, it is strongly suggested that you recommend that the person seek formal legal advice about the will or surrounding issues. In fact, it is preferable (if circumstances permit) that you recommend that the person making the will (called a testator) arrange for a legal practitioner to witness the signing of the will (called the execution of the will).

However, if the person insists on having the will executed and witnessed in the presence of the JP, there are some important aspects of signing a will you must follow.

- Two independent witnesses must be present and must all sign the will in the presence of the testator but not necessarily in the presence of each other pursuant to s.8(1)(c) of the *Wills Act 2008*.
- The same pen should be used by the testator and witnesses.
- Witnesses must not be beneficiaries in the will, this can invalidate any gift that the beneficiary may have under the will.
- The testator must indicate that the signature is theirs and that it is their will.
- Importantly, the testator must sign the will in the presence of both witnesses. Pre-signing is not permissible and could in fact invalidate the will if it is later challenged.
- You must ensure the will is dated. This is extremely important.
- If there have been any changes or amendments made to the will, the testator and both witnesses must initial each and every change before the final signing of the will.
- Each page of the will must be signed by both witnesses and the testator. You should also print their name under their signature and insert your registration number. These identification details are required if the validity of the will is ever questioned in subsequent legal proceedings. The addresses of the witnesses must also be shown under their signatures on the last page in case they are required later for verification.
- There is no requirement for the contents of the will to be revealed to the witnesses.

10.2 Witnessing applications for probate

When a person dies, an application may be made to the Supreme Court of Tasmania for a grant of probate or letters of administration. A JP may be asked to witness an affidavit in support of that application. The affidavit will also have documents that are annexed and/or exhibited to it. There will always be a Record of Death (Death Certificate), a Notice of Intention and an Inventory of Assets and Liabilities. The Record of Death must be the original document and not a photocopy. If the application is for probate, there will also be an original Will, which must not be a photocopy. There may be other supporting material.

Role of the JP

The JP's role is to administer the oath or affirmation, witness the applicant's signature on the affidavit, and complete any annexure or exhibit clauses that form part of the affidavit package. The JP is not certifying that the Will is valid, that the estate details are correct, or that the applicant is entitled to the Grant.

A JP should not provide legal advice about the application, the legal effect of the Will, who should apply for probate, or whether the documents are correct. If an applicant is uncertain about any aspect of the application, they should be referred to the Probate Registry or advised to seek independent legal advice before the affidavit is sworn or affirmed.

Affidavits, annexures and exhibits

The affidavit is the written statement sworn or affirmed by the applicant in support of the application. At the end of the affidavit is the jurat, which records when and where the affidavit was sworn or affirmed and is signed by both the applicant and the JP.

Documents referred to in the affidavit will either be annexed or exhibited. An annexure is attached to the affidavit, whereas an exhibit is a separate document identified in the affidavit by an exhibit clause. In probate matters, documents such as the Record of Death and Inventory of Assets and Liabilities are generally annexed to the affidavit, while the original Will is exhibited.

The relevant annexure or exhibit clause must appear directly on the original document. The clause may be written, stamped or affixed to the document. This is required by the Probate Registry.

The JP should ensure that any annexure or exhibit clauses are completed as required. Where the Will is exhibited, the exhibit clause must be signed by both the applicant and the JP and dated.

Before administering the oath or affirmation, the JP should ensure that all annexures and exhibits referred to in the affidavit are present. The Record of Death must be the original document and not a photocopy and, where the Will is exhibited, the Will must be the original document and not a photocopy. The JP should also ensure that any required annexure or exhibit clause appears directly on the relevant original document. The clause may be written, stamped or affixed to the document.

Witnessing the affidavit

The affidavit should be sworn or affirmed in the usual manner. The applicant must sign the affidavit in the presence of the JP. The JP should then complete the jurat, ensuring it correctly records whether the affidavit was sworn or affirmed, together with the date and place of execution.

The JP should complete any annexure and exhibit clauses forming part of the affidavit package, ensuring that the wording is consistent with whether the affidavit was sworn or affirmed. Once completed, the JP should sign the relevant clauses, print their full name and insert their JP registration number so they can be readily identified if the witnessing is later questioned.

Special care with original Wills

When witnessing an application for probate, the JP is not witnessing the will-maker's signature or confirming that the Will was validly executed. The JP's role is limited to identifying the original Will as the document exhibited to the affidavit.

The original Will should be handled with care. It should not be altered, marked, repaired or damaged, and staples or other fastenings should not be removed or replaced. Where an exhibit clause is required, the Probate Registry requires the clause to appear directly on the original Will. The clause may be written, stamped or affixed to the Will. Apart from the required exhibit clause, nothing should be written on the Will.

If the Will appears to be damaged, incomplete or otherwise unusual, the JP should not attempt to rectify the issue but should advise the applicant to contact the Probate Registry or seek legal advice.

Further guidance

Witnessing probate documents requires careful attention to detail. Omissions such as incomplete jurats, unsigned annexure or exhibit clauses, inconsistent wording, or missing dates may result in documents being rejected or delayed by the Supreme Court.

10.3 Witnessing applications for letters of administration

If, for any number of reasons, there is no executor for an estate to apply for probate, then an application must be made to the Supreme Court for a grant of letters of administration. The granting of letters of administration means that an administrator is appointed to deal with and finalise the estate.

This is normally done by a solicitor but as a JP you may be asked to witness an affidavit in support of an application for letters of administration. As with applications for probate, the applicant must swear an oath or make an affirmation before signing the affidavit. There may or may not be a Will exhibited, depending on the particular circumstances.

The JP's role is to administer the oath or affirmation, witness the applicant's signature on the affidavit, and complete any annexure or exhibit clauses that form part of the affidavit package.

The Record of Death (Death Certificate) must be the original document and not a photocopy. Where a Will is exhibited, it must also be the original document and not a photocopy. The original Will should be handled with care and must not be altered, marked, repaired or damaged. Apart from the required exhibit clause, nothing should be written on the Will, and staples or other fastenings should not be removed or replaced.

Where an original document is annexed or exhibited, the relevant annexure or exhibit clause must appear directly on the original document. The clause may be written, stamped or affixed to the document.

The JP is not responsible for determining whether the applicant is entitled to the grant or whether the information in the affidavit is correct. A JP should not provide legal advice about the application. If the applicant is uncertain about any aspect of the application, they should be referred to the Probate Registry or advised to seek independent legal advice before the affidavit is sworn or affirmed.

The JP must complete the relevant documents, sign the required clauses, print their full name and insert their JP registration number. These identification details are required in the event that the validity of the witnessing is ever questioned in subsequent legal proceedings.

10.4 Witnessing enduring powers of attorney or guardianship

As a JP, you may be asked to witness an instrument appointing an enduring power of attorney or enduring guardian. These appointments are made by a person authorising another person to make decisions on their behalf in the event that the person loses the capacity to make decisions in the future.

An enduring power of attorney is a legal document that allows a person ('the donor') to choose another person ('the attorney') to make property and financial decisions on their behalf if they become unable, by mental incapacity, to make such decisions for themselves.

An instrument appointing an enduring guardian is a legal document that enables a person (the appointor) to appoint another person (the enduring guardian) to make personal decisions on their behalf if the person becomes unable, by reason of impaired decision-making ability, to make such decisions for themselves.

Depending on the powers that are contained in the instrument, an enduring guardian may be able to make decisions about personal matters such as where and with whom the person lives, the provision of care services; and consenting or withdrawing consent to the provision of health care or medical and dental treatment.

The appointment of enduring powers of attorney is governed by the provisions of the *Powers of Attorney Act 2000*, while the appointment of enduring guardians is governed by the provisions of the *Guardianship and Administration Act 1995*.

An instrument appointing an enduring guardian or enduring power of attorney must be signed by 2 witnesses. Consequently, you and a second witness will need to be present when the instrument is signed by the donor.

10.5 Witnessing family law documents

There are several types of documents that may be called upon in proceedings before the Family Court (a Federal Court which exercises jurisdiction in all states except Western Australia, which has its own Family Court).

You may be asked to sign a number of different Family Court documents, the most common ones being affidavits for:

- Application for Divorce
- Acknowledgement of Service
- Affidavit of Service
- Affidavit of Proof of Signature
- Application for Remission of Fees.

It is very important to read and carefully follow the instructions for witnessing these documents. If it is not clear what is required, or if you have any queries, contact the local Family Court Registry. The [Tasmanian Registry](#) is located in Hobart.

You may also be asked to sign documents issued from an interstate Registry. You have the authority to sign these documents if they are signed in Tasmania.

It is important to also note that the rules of signing affidavits are the same whether the documents are issued from the Family Court or a Tasmanian court. The general principles for administering an oath or affirmation are the same in all jurisdictions. As with any other affidavit, you should initial each page and ensure that all corrections and erasures are initialled.

10.6 Witnessing applications under the *Family Violence Act 2004 (Tas)*

Under this Act, you may be asked to administer an oath or affirmation for the:

- Application for a Family Violence Order (FVO)
- Application to extend a FVO or Police Family Violence Order (PFVO)
- Application to vary a FVO or PFVO
- Application to revoke a FVO or PFVO
- Application for registration of an external FVO.

These forms can all be found on the [Magistrates Court of Tasmania website](#).

The procedures for the administration of these oaths or affirmations are the same as administering any other oath or affirmation.

10.7 Witnessing applications for restraint orders

The purpose of a restraint order is to prohibit or restrict certain activities or behaviours. An application for a restraint order is made by either:

- a police officer, who is required to declare a statutory declaration that to the best of their knowledge and belief, the information contained in the application is true, or

- any other person (such as the victim of the behaviour) must swear an affidavit that to the best of their knowledge and belief, the information contained in the application is true.

As a JP, you may be called upon to administer the necessary oath or affirmation for the application.

Additionally, if the person against whom the restraint order is sought (the respondent) wished to defend the application, they may file an affidavit that would also require a JP to administer an oath or affirmation. Affidavits may also be filed from other persons whose evidence has some relevance to the proceedings.

The decision of whether to make an interim or final restraint order rests with the court, which must decide the case based on the evidence presented.

Copies of restraint order forms can be found on the [Magistrates Court of Tasmania website](#).

10.8 Witnessing Voluntary Assisted Dying forms

The Voluntary Assisted Dying (VAD) process involves multiple steps, with doctors assessing eligibility at each step.

Form 6 – Second Request is a patient's second formal request to proceed with the VAD process. This must be in writing and is the only form in the process that must be witnessed by a Commissioner for Declarations (CD), this includes JPs who hold that appointment - or two eligible adult witnesses.

Witnessing Form 6 - Step-by-Step

Step 1: Confirm you are eligible to witness

You must NOT witness the form if you are:

- the patient's Primary Medical Practitioner or Consulting Medical Practitioner
- the patient's designated person (the person who fills in, or fills in and signs, the Form on the patient's behalf)
- a family member of the patient
- a person who knows or believes that they are likely to benefit from the patient's death
- a staff member, resident or operator of a care facility where the patient resides

Step 2: Check who is signing the form

Confirm whether the patient is completing and signing the form themselves, or if a designated person is doing so in whole or in part on the patient's behalf due to incapacity.

A designated person is someone chosen by the patient but must meet the following criteria:

- be at least 18 years of age
- not be the patient's Primary Medical Practitioner
- not be the person who assisted the patient in communicating directly with the Primary Medical Practitioner

The patient must be present even if a designated person is completing, or completing and signing the form.

Step 3: Witness the Completion and Signature

You must personally witness the form being completed and signed by the patient or designated person.

Step 4: Complete the Witness Section (Parts G and H)

As the First Witness (CD or JP):

- fill in Part G with your:
 - full name
 - date of birth
 - relationship to the patient
 - contact details
- tick 'Yes' to indicate you are a Commissioner for Declarations
- specify your status as a CD (eg JP or the profession or employment group that qualifies you for this role)
- complete Part H by ticking the appropriate box to indicate who you saw sign the form

Step 5: Do not act as a second witness

If you're witnessing the form as a CD or JP, you are not required to complete Parts I and J as a second witness.

Need Support?

If you require assistance or have questions when witnessing this form, please contact the VAD Navigation Service by calling 1800 568 956 (Monday to Friday, 9:00am to 5:00pm) or email vad@health.tas.gov.au.

11. Other issues a JP may be involved in

11.1 Certifying a person's identity

Certifying a person's identity used to be a common function of a JP. However, this function is now less common because of the 100 point checks required by most institutions.

Should you be asked to certify a person's identity, you will need to do what the particular legislation requires you to do. For example, you may need to have known the person for a certain time or know the person to be the same as the person known in the document.

If you do not know the person, you should ask for proof of identity such as a driver's licence or passport. If photo ID is not available, other forms of ID are acceptable — e.g. birth certificate, Medicare card, concession card, Australian bank issued credit or debit card showing the person's name.

You should state on the document you certify what type of identification was produced and any identifying number on the proof of identity.

11.2 Certifying photographs

In some circumstances, you may be asked to certify a photograph of a person as part of verifying their identity. Before doing so, ensure that you are authorised under the relevant legislation or the instructions accompanying the document. You should first check the document to which the photograph will be attached, or any accompanying instructions, to confirm that you are permitted to witness the photograph and that the name specified on the document matches the person presenting it.

When certifying a photograph, follow the usual requirements for certifying a person's identity. This may include having known the person for the period specified in the legislation or instructions, or verifying the person's identity using approved forms of identification. Confirm that the photograph is clear and distinct. If the photograph is provided in a non-standard format, such as via video, email, or colour photocopy, check the accompanying instructions to ensure this format is acceptable.

If the instructions indicate that the same witness must both view the identity documents and endorse the photograph, ensure that you follow this requirement. When endorsing the photograph, follow any specific wording provided in the instructions. For example, the endorsement may read: *"This photograph is a true likeness of [full name], DOB [date of birth]"*, followed by your signature, name, authority, and the date.

11.3 Issuing search warrants

A search warrant is a legal document authorising police officers to enter and search a premises for evidence relating to an offence or crime that has been committed.

Search warrants are issued under section 5 of the *Search Warrants Act 1997* (Tas).

An issuing officer (JP) may issue a warrant if they are satisfied that the information provided on oath or affirmation by the police states there are reasonable grounds for suspecting there is or will be in the next 72 hours (48 hours for phone/electronic warrants) any evidential material at the premises.

The search warrant is an approved, prescribed form and consists of 2 parts:

1. Application for a Search Warrant – the information required to substantiate the issuing of the warrant, such as details about the suspected offence/crime, why the occupier is suspected of having committed the offence and the type of evidence sought.
2. Search Warrant – giving details about the premises (the address and type of premises), the name and occupation of the occupier of the premises and the date and time of the proposed search.

If you are asked by a police officer to issue a search warrant, the police officer will apply for the warrant by providing you with facts on oath or affirmation. If you are unsure or do not have sufficient understanding of the process or feel uneasy signing an application for a search warrant, please tell the police officer and request he or she call on another JP.

In issuing a search warrant, you must act as an independent decision maker and assess the evidence on the balance of probabilities. If you do not feel that the warrant should be issued, you can refuse to sign it. The JP stands between the police and the citizen and is not an agent for the police.

A search warrant authorises:

- the search and seizure of things specified in the warrant
- a frisk search or ordinary search of a person
- the taking of fingerprints from any object
- the taking of forensic samples of any object
- the taking of photographs or video recordings of the premises.

The following information must be included in the search warrant:

- the offence/crime to which the warrant relates
- the description of the premises to which the warrant relates, physical address or conveyance (for example, motor vehicles or boats etc)
- the kind of evidence that is to be searched for (for example, electronic evidence, specific property details etc)
- the name and badge number of the police officer responsible for executing the warrant
- the time period that the warrant remains in force (no longer than 28 days)
- whether the warrant may be executed at any time or only during particular hours
- the circumstances under which additional evidence (i.e. evidence not stated on the search warrant) may be seized
- the circumstances under which an ordinary or frisk search of any person at or near the premises may be conducted when the warrant is executed
- the full names and dates of birth of all persons involved are recorded in the warrant, including complainants and suspects.

Further details can be found in section 5(2) of the *Search Warrants Act 1997* (Tas).

11.4 Procedure for issuing search warrants in person

1. Ask the applicant (police) for some form of identification, should they not have any, you should ask for their badge number.
2. The applicant will present you (the issuing officer) with an application for a search warrant.
3. Read the entire application carefully. This is one of the occasions when you must read the entire document and would be failing in your duty if you did not. Ensure the application includes the following:
 - the applicant's name, rank, and station

- a description of the place to be searched, sufficient to correctly identify the premises or the conveyance such as vehicle registration/identifying or VIN number
- the name of the occupier of the place, if known (for an occupied premises)
- a brief description of the offence the application relates to
- a description of the type of evidence sought
- why it is suspected that evidence of the offence is likely to be found on the premises
- full details of any previous search warrants if any
- the name of the police officer responsible for executing the warrant
- the period that the warrant remains in force (no longer than 28 days)
- whether the warrant may be executed at any time or only during particular hours
- the circumstances under which additional evidence (i.e. not evidence that is stated on the search warrant) may be seized
- the circumstances under which an ordinary or frisk search of any person at or near the premises may be conducted when the warrant is executed
- the full names and dates of birth of all persons involved are recorded in the warrant, including complainants and suspects.

4. Ask the applicant any questions that are needed to clarify why a search warrant is necessary, the type of evidence sought and whether the search is likely to yield this evidence. Here are some sample questions to guide you:

- Is your source of information reliable? Can you please explain?
- Is your source a registered informant or just an anonymous report?
- Have you used this source before, and how regularly do you use this source?
- What was the outcome of previous search warrants (if any) issued as a result of information provided by this source?
- How did you identify the premises?
- How did you determine the name of the occupier (if there is one)?
- Have there been any previous search warrants issued in relation to these premises or this occupier?
- What exactly are you looking for?
- Do you have any other evidence not mentioned on the warrant (for example, crime stopper reports or information reports)?
- What is the suspected offence?
- Why do you need the search warrant to be executed at night?
- Do you have anything further to add?

Most of these questions will already have been answered on the application. If not, record any further information supplied to you under oath/affirmation.

5. If you are satisfied the search warrant is justified, have the applicant swear or affirm the search warrant application is true and correct.
6. Witness the applicant's signature on the search warrant application by signing the search warrant application and endorsing with your JP registration number.

7. Complete the search warrant and check through to ensure:
 - it gives the full name, rank and station of the applicant, as well as the basis of the application
 - it is dated on the day you issued it
 - it gives the address of the premises to be searched, and if known the full name, date of birth and occupation of the occupier of the premises
 - it gives the date and time when it ends.
8. Sign the search warrant and endorse it with your JP registration number.

11.5 Procedure for issuing search warrants by telephone or other electronic means

You may issue a search warrant by telephone or other electronic means if you are satisfied that the case is very urgent, or that the delay that would occur in making an application in person would result in a high likelihood of there being a loss of evidence.

An example for this threshold might be police have attended an incident at someone's residence and observed illegal items. Police are not able to remove those items without first seeking a search warrant, but leaving the premises to organise a search warrant would mean those items could be removed from the premises.

In these cases, the application for a warrant may be made before the information is sworn on oath.

1. Ask the applicant (police officer) for their full name and badge number.
2. Depending on the situation the applicant may email you the facts. However, it is more likely they will read the application they have written, detailing the facts of the application and reasons for the phone warrant. You will need to make detailed notes that would normally be in the application including:
 - the applicant's name, rank and station
 - a description of the place to be searched, sufficient to correctly identify the premises (for example the conveyance, including a vehicle/boat/truck registration, identifying or VIN number)
 - the name of the occupier of the place, if known (for an occupied premises)
 - a brief description of the offence the application relates to
 - a description of the type of evidence sought
 - why it is suspected that evidence of the offence is likely to be found on the premises
 - the circumstances under which additional evidence (i.e. evidence not stated on the search warrant) may be seized
 - the circumstances under which an ordinary or frisk search of any person at or near the premises may be conducted when the warrant is executed
 - the full names and dates of birth of all persons involved in the warrant, including complainants and suspects.

3. If you are satisfied the search warrant is both urgent and justified, you may notify the applicant by electronic means (email or phone). Include information about the terms of the warrant and the date and time that you are signing off on the warrant (this will likely be the date and time you decide the warrant is necessary). Make sure you sign, date and time the notes you made.
4. Provide your JP number to the applicant for the warrant.
5. The applicant will then complete the search warrant as per the terms you as the issuing officer specified.
6. No later than the day after the day of expiry of the warrant, or the day after the day on which the warrant was executed (whichever is earlier) the applicant is to give or transmit the completed warrant to the issuing officer. If not sworn, at this time you should have the applicant take the oath/affirmation.
7. Complete the search warrant and check through to ensure:
 - it gives the full name, rank and station of the applicant, as well as the basis of the application
 - it is dated the day you issued it
 - it gives the address of the premises searched and the full name, date of birth and occupation of the occupier of the premises (if known)
 - it gives the date and time when it ended or the period that the warrant remains in force (no longer than 48 hours).
8. Sign the search warrant and endorse it with your JP registration number and send/give back to the applicant.

11.6 Search warrants issued under other Tasmanian legislation

There is other Tasmanian legislation that deals with search warrants. One example is the *National Parks and Reserves Management Act 2002* (Tas). You should familiarise yourself with Part 4 – Provisions Relating to Enforcement.

11.7 Search warrant record keeping

Compiling and safe keeping the record of the application for a search warrant is extremely important. Police keep copies of all applications and if in the unlikely event, you are called to court in relation to a search warrant you issued, you can request a copy of the application from police.

The Department suggests all JPs keep personal notes of the search warrants they issue for their own personal records. You will find a form to assist JPs with this process on the [JP Resources](#) page of the Department's website.

If the police applicant does not automatically provide you with a copy of the application, you may request a copy.

If JPs intend to keep copies of search warrant applications, they must have a secure place to store applications. A locked filing cabinet (or similar lockable container) is considered sufficient for this purpose. Any applications maintained by a JP should be destroyed after a period of seven years.

If a JP ceases to be a JP for any reason, they must make the necessary arrangements for the proper safe and secure destruction of any search warrant applications in their possession. It may also be necessary to ensure that arrangements such as the above are left as instructions for the administrator of a deceased JPs estate.

There is no requirement for a copy of the actual search warrant to be retained by a JP, nor for a copy to be provided to a JP.

11.8 Making and issuing complaints

Although JPs have the power to sign complaints, it is recommended that you refer the person requesting a complaint be signed to the nearest Magistrates Court Registry, for a JP on the registry staff to sign the necessary forms to issue the complaint.

A complaint is the foundation of all criminal proceedings. A complaint may be sworn or unsworn:

- An unsworn complaint results in a summons being issued for the defendant to attend court at a certain time and place. This type of complaint is used for less serious offences.
- A sworn complaint requires the person making the complaint (usually a police officer) to swear that information contained in the complaint is true. If you sign it, the complaint is issued along with a warrant for the defendant's arrest. A sworn complaint is normally reserved for more serious offences.
- Copies of complaint forms can be found on the [Magistrates Court of Tasmania website](#).

If you decide to sign a complaint, you should check that the complaint contains:

- the defendant's name and address
- the defendant's date of birth (if available)
- the exact section(s) of the legislation which it is alleged has been breached
- a brief description of the offence.

It is not your role to decide whether the complaint is legally valid; this is a subsequent matter for a court. Unless there is some glaring error on the face of the complaint, you would sign it.

You can ask the person requesting to make a complaint on oath to state why this complaint needs to be made on oath (and therefore have a warrant issued for the arrest of the defendant). If you are not satisfied with the reasons given, you may sign the complaint without administering an oath, and therefore no arrest warrant would be issued.

11.9 Issuing witness summonses (including on a complaint, family violence order and restraint order)

It is recommended that you do not sign witness summonses but refer the person to the nearest Magistrates Court Registry.

The discretion to issue or refuse to issue witness summonses is an administrative decision by a JP, which requires very careful consideration. A witness summons should not be issued lightly. A JP may refuse to issue a witness summons if it appears that the witness summons is not for a bona fide purpose or is vexatious in nature.

When considering whether to issue a witness summons, a JP may make enquiries of the person making the request, to establish that there is a proper purpose for issuing the summons. This may include being satisfied that the proposed evidence has some relevance to the case. In considering whether to issue a witness summons, a JP should not determine the weight of the proposed evidence or impede a defendant's capacity to properly defend themselves at the hearing of a complaint.

Under the *Justice Act 1959* (Tas), JPs have the power to issue or sign some witness summonses for proceedings before a court. However, there are exceptions to this.

Under the *Crown Proceedings Act 1993* (Tas), a witness summons addressed to a government minister must not be issued without the Director of Public Prosecutions being advised and given an opportunity to be heard on the matter.

11.10 Attending children and young people interviews

As a JP you may be asked by the police to be an independent adult observer in police interviews of children and young people. JPs must hold a current Registration to Work with Vulnerable People (RWVP) before performing this role. Tasmania Police will confirm that a JP holds the appropriate RWVP registration before engaging them as an independent adult observer.

Although there is no legislation requiring the police to have a parent or independent adult observer present during an interview, internal policy requires them to do so. This is to ensure that there can be no accusations that a statement was made under any threat or coercion by the police.

You may perform the role of the independent adult observer, and the procedure you should follow is:

- speak to the child or young person alone and introduce yourself as an independent observer and ask whether they object to your presence
- ask whether their parent or guardian is aware of the proceedings and why they will not be attending
- establish your impartiality and your ability to communicate with the child or young person
- establish that the child or young person understands the charges and the proceedings

- satisfy yourself that the child or young person is not affected by any substance (such as alcohol or drugs) to the extent that it may affect their ability to participate in the interview
- establish the type of interview to be conducted (for example, audio, video or question and answer form)
- ensure the child or young person's rights to medical attention, legal representation, and to speak or remain silent are met.

The child or young person is obliged to supply their name and address, to answer any statutory obligation requirements and to undergo a lawful search or examination.

You should not take part in the interview but should merely be present to witness the interview occurring. However, if it is obvious that the child or young person does not understand the question, you may ask if they know what they are being asked.

It is important that you do not give any legal advice.

If the statement or interview is handwritten or typed, you should either hear the child or young person read it aloud, or you should read it aloud back to them. Each page of the statement should be signed and dated by you, the police, and the child or young person. You should write the following words on the last page:

I certify that this ... [write number of pages]-page document, each page of which I have numbered and signed or initialled, is a true and correct copy of the original ... [write number of pages]-page document sighted by me at
 this day of 20....

 Signature of JP
 [Your full name, JP initials, JP number and the words: Justice of the Peace]
 I was present during this interview and it was given of their own free will, without threats, promises, or inducements.

 Signature of JP
 [Your full name, JP initials, JP number and the words: Justice of the Peace]

A suggested form for JPs to complete for children and young people interviews can be found on the Department's website under [JP Resources](#).

12. Witnessing documents in other jurisdictions and other countries

As a JP appointed under Tasmanian legislation, your main function is to witness documents to be used in Tasmania.

Tasmanian courts accept as evidence affidavits sworn in other Australian states and territories before a JP or other authorised person for that state or territory.

Generally, the witnessing and certifying of documents by persons authorised interstate is also accepted in Tasmania.

12.1 Other states and territories of Australia

JPs from any state or territory can witness some documents created under Commonwealth laws, but only when these documents are used in Australia. This includes statutory declarations under these Commonwealth Acts:

- *Statutory Declarations Act 1959*
- *Family Law Act 1975*
- *Migration Act 1958.*

It also includes the consent of a parent or guardian to the marriage of a minor under the *Commonwealth Marriage Act 1951*.

It is not your responsibility as a JP, but of the person making the interstate document, to ensure you are authorised to witness it.

12.2 Other countries

JPs should exercise caution when asked to witness documents intended for use overseas, as a JP may not be recognised as an authorised witness in the receiving country.

Where a document is to be used overseas, it is important to first establish whether a JP is legally permitted to witness the signature under the laws or requirements of the relevant country. If there are no clear instructions, the person should be referred to the relevant Embassy or Consulate or to a Notary Public.

Notaries Public are appointed by the Supreme Court of Tasmania under the *Notaries Public Act 1990* and are authorised to witness documents for international use. A current list of Notaries Public is available through the Yellow Pages or on the [Supreme Court of Tasmania website](#).

Some international documents may be witnessed by a JP from an Australian state or territory. Before agreeing to witness such a document, the JP should ensure that they are authorised to do so. Confirming this authority is the responsibility of the person making the document.

In these circumstances, it is particularly important for the JP to record details of the discussion and any instructions relied upon in their log.

13. Glossary of terms

Term	Description
Affidavit	Written statement sworn or affirmed by a person (the deponent) before a person who has authority to administer an oath or an affirmation. Affidavits are used in legal proceedings
Affirm	Make a legally binding promise to a court that the contents of a document are true
Affirmant	Person who affirms an affidavit
Agent	Person who legally acts on behalf of another person
Appointor	Person who gives another person legal authority to act on his or her behalf to make personal decisions
Attest	Bear witness to, affirm the authenticity of, certify, ask a person to make an oath or solemn declaration
Attest or witness the execution of a document (instrument)	Sign a legal document to verify that it has been completed according to law in your presence
Attest or witness a signature	Sign a document to certify that it was signed by another person in your presence
Attorney	Person who accepts the legal authority to act on another's behalf
Bench Justice	JPs who have completed a special course of instruction and have been appointed by the Chief Magistrate to deal with certain proceedings in the Magistrates Court
Declarant	Person who makes a statutory declaration
Deponent	Person who makes an affidavit or deposition
Donor	Person who gives another person legal authority to act on his or her behalf
Enduring Guardian	Person who accepts the legal authority to act on another's behalf to make personal decisions
Execute	Carry out, perform, make (legal instrument) valid by signing
Instrument	Legal document such as a will, a mortgage or power of attorney
Jurat	The clause at the end of an affidavit stating the place and date the affidavit was sworn or affirmed and the person before whom it was sworn or affirmed
JP registration number	The registration number the Department of Justice provides JPs on their appointment that is to be used with the JPs signature
Notary Public	Witness for overseas documents, particularly those for use in non-Commonwealth countries (may be likened to an international JP)
Revoke	Withdraw or cancel
Signatory	Person who signs a document or declaration
Statutory declaration	Written statement made in the form prescribed by section 14 of the <i>Oaths Act 2001</i> (TAS)
Testator	A person making a will

14. Further information

Department of Justice website for JPs

The [Department of Justice website](#) has a section dedicated to JPs.

Magistrates Court website

The [Magistrates Court of Tasmania](#) has a useful website containing a large amount of useful information for background knowledge about the Tasmanian legal system.

Please note that all forms relating to family violence orders, restraint orders, summonses, and others can be found on the [Tasmanian Magistrates Court forms](#) page.

Glossary of legal terms

A glossary of legal terms can be found on the [Magistrates Court website](#).

JP Association

Tasmanian Association of Justices of the Peace Inc
GPO Box 805
HOBART TAS 7001
Email: secretary@jptasmania.com.au
<http://www.jptasmania.com.au>

Information and referral contacts

HOBART

Magistrates Court
23-25 Liverpool Street
HOBART TAS 7000
Phone: (03) 6165 7136
Email: registry.hobart@magistratescourt.tas.gov.au

LAUNCESTON

Magistrates Court
73-76 Charles Street
LAUNCESTON TAS 7250
Phone: (03) 6777 2945
Email: registry.launceston@magistratescourt.tas.gov.au

BURNIE

Magistrates Court
38 Alexander Street
BURNIE TAS 7320
Phone: (03) 6477 7140
Email: registry.burnie@magistratescourt.tas.gov.au

DEVONPORT

Magistrates Court

8 Griffith Street

DEVONPORT TAS 7310

Phone: (03) 6478 4353

Email: registry.devonport@magistratescourt.tas.gov.au

15. Code of conduct for appointed justices

The following Code of Conduct applies to all appointed JPs and is contained in the *Justices of the Peace (Code of Conduct) Regulations 2019*.

PART 1 - Preliminary

1. Interpretation of code of conduct

In this code of conduct –

Act means the [Justices of the Peace Act 2018](#)

service, in relation to a Justice of the Peace, has the meaning given by clause 2.

2. Meaning of service provided by Justice of the Peace

A service is provided by a Justice of the Peace if he or she exercises a power, or performs a duty, of a Justice of the Peace for the benefit of another person.

3. Application of code of conduct

This code of conduct applies to all appointed justices.

4. Purpose of code of conduct

This code of conduct prescribes the behaviour expected of all appointed justices.

5. Effect of contravention of code of conduct

Under section 29(a) of the Act, serious or repeated breaches of this code of conduct by an appointed justice may result in his or her removal from the office of Justice of the Peace.

PART 2 - Conduct of appointed justices

6. Providing Justice of the Peace services

In addition to the requirement under section 19 of the Act for an appointed justice to be reasonably available to exercise his or her powers as a justice and reasonably active in doing so, an appointed justice -

- (a) must not unreasonably refuse to provide the services of a Justice of the Peace; and
- (b) must deal with requests for the services of a Justice of the Peace in a timely manner.

7. General conduct

- (1) An appointed justice must –
 - (a) respect and comply with the law; and
 - (b) conduct himself or herself in a manner that promotes public confidence in the integrity and independence of the office of Justice of the Peace.
- (2) An appointed justice must behave in a respectful and courteous manner towards anyone who seeks his or her services as a Justice of the Peace.

- (3) An appointed justice must not –
 - (a) engage in any dishonest activities; or
 - (b) conduct himself or herself in such manner as to bring the office of Justice of the Peace into disrepute.
- (4) An appointed justice –
 - (a) must always act impartially in exercising his or her powers as a Justice of the Peace; and
 - (b) must not allow his or her conduct as a Justice of the Peace to be influenced by his or her political, business, family, social, religious or personal interests.
- (5) An appointed justice must not convey, or permit another person to convey, the impression that the justice is in a special position of influence by reason of being a Justice of the Peace.
- (6) An appointed justice must not use his or her office as Justice of the Peace for the purpose of benefitting his or her business, commercial or personal interests.
- (7) An appointed justice must give appropriate precedence to his or her duties as a Justice of the Peace without causing unreasonable detriment to his or her personal or business life.
- (8) An appointed justice must not purport to hold, or purport to exercise, as a Justice of the Peace a power that is not conferred on him or her as a Justice of the Peace by the Act or any other Act.

8. Confidentiality

- (1) An appointed justice must respect the confidentiality of a person to whom he or she provides the services of a Justice of the Peace.
- (2) An appointed justice must not, intentionally, reveal to another person or otherwise publish information –
 - (a) that he or she obtained in providing services as a Justice of the Peace; and
 - (b) that is private, confidential or commercially sensitive.
- (3) Subclause (2) does not apply to the revealing or publication of information that is required or authorised by any Act or other law.

9. Legal and notarial services and advice

An appointed justice, in the course of providing the services of a Justice of the Peace to a person, must not provide –

- (a) legal advice to the person; or
- (b) notarial services or advice to the person.

Note

Section 36 of the Act prohibits a Justice of the Peace from demanding, taking or accepting any fee, gratuity, patronage or reward for carrying out the duties of a Justice of the Peace. This does not include remuneration from an employer if the Justice of the Peace performs the duties of a Justice of the Peace as part of his or her employment. Contravening this section of the Act may result in a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.

10. Conflict of interest

- (1) For the purposes of this regulation, an appointed justice has a conflict of interest when providing the services of a Justice of the Peace if his or her personal, pecuniary or business interests interfere with, or may be perceived as interfering with, his or her independent and impartial provision of those services to, or in relation to, a person.
- (2) If –
 - (a) an appointed justice is considering providing, or is providing, the services of a Justice of the Peace to, or in relation to, a person; and
 - (b) the appointed justice is aware, or becomes aware, that he or she has or may have a conflict of interest in the provision those services to, or in relation to, that person –

the appointed justice must disclose that conflict of interest or possible conflict of interest to that person and disqualify himself or herself from providing, or continuing to provide, those services.

11. Knowledge and competence

An appointed justice must be familiar with, and comply with, the provisions of –

- (a) the Act; and
- (b) these regulations; and
- (c) any other regulations made under the Act; and
- (d) any other law having effect in relation to appointed justices; and
- (e) any guidelines issued under the Act and applying in relation to appointed justices.

Note 2

Section 18 of the Act requires appointed justices to undertake and complete training or professional development –

- (a) prescribed by the regulations; or
- (b) required by the Secretary of the Department.