

This video explains what an affidavit is and how you complete one.

### **What is an affidavit?**

An affidavit is a formal written statement, which sets out facts known to you.

It must be signed under oath or affirmation, which is you saying that the information is true.

Your affidavit will form part of the evidence to support your case.

The other party will be allowed to ask you questions about its contents during the hearing.

### **How do I complete my affidavit?**

You can complete the affidavit template on the Supreme Court of Victoria website and then print a copy.

Or, the Registry can send you a blank affidavit for you to complete by hand.

Affidavits contain a series of short, numbered statements.

Each statement should follow logically from the statement before, in date order, and each statement should set out a fact relevant to the case.

Using headings in the affidavit can assist the reader to follow your story.

Write your affidavit using everyday language. The same way you will speak when you are cross-examined about your affidavit.

## **What information should I include in my affidavit?**

Start your affidavit by setting out your full name, address and occupation.

In the next paragraph, explain why you are making the affidavit.

Is it to respond to something the other party has filed or to support an application you have made?

If relevant to your case, you can provide some brief background details, such as how you are involved in the proceeding.

Next, set out the facts of your case, such as what you did, saw, said or heard.

Specify dates on which things happened, where they happened and who was present.

If you are not sure about something or can't remember, be honest about this.

## **What information should I leave out of my affidavit?**

Avoid the temptation to include information that is not relevant to your case.

Do not include arguments about how the law applies to the facts set out in your affidavit.

You will have an opportunity to make legal arguments, called "submissions", at the hearing of your case.

Put any emotions about your dispute aside by not including your opinion or sharing what you think has happened.

For instance, when describing conversations, state only what you know was said, by whom, where and when.

Information that someone else has told you, which is called hearsay, is not usually allowed.

But if you think you need to include it, you must say it is based on your belief.

You should avoid including information that you or the other party has previously given to the court.

Be aware...

If you include inappropriate or irrelevant material in an affidavit, the other party may apply to have that material struck out or removed.

If the other party is successful in their application to have part or all of your affidavit struck out, the Court may order you to pay their legal costs in bringing that application.

It is a serious crime if you knowingly make a false statement in your affidavit.

This could result in you receiving a significant penalty.

Exhibits to an affidavit.

Exhibits to an affidavit are documents such as bank statements, letters and property searches or other forms of evidence, which support the statements made in the affidavit.

Exhibits are kept with the affidavit while the matter remains in the courts.

You will need to name each of your exhibits.

Using your initials and then a sequential number is a good way.

For example, if your initials were BD, you would name your exhibits BD1, BD2, BD3 and so on.

To refer to one of your exhibits in your affidavit, you would write:

"I refer to exhibit BD1".

Each exhibit should have a cover sheet known as a Certificate Identifying Exhibit Form 43A which includes the name of the exhibit.

This is available on the Supreme Court website or from the Principal Registry.

### **I've finished writing my affidavit, what do I do next?**

Go back to your affidavit after you have completed it and carefully check for accuracy.

Once you are happy with it, the affidavit must be signed by you and your signature witnessed by an authorised person.

For example: a lawyer, barrister, Justice of the Peace or police officer of sergeant rank or above.

Once your affidavit has been signed, you should make copies for your own records and a copy to serve on the other party or parties to your proceeding.

You must file your original, signed affidavit and exhibits with the Court.

The process for doing this varies depending on your proceeding.

Should you require further information about court processes, please visit our website or call our Registry.