

Writing An Affidavit: Tips and An Example

Writing documents that will be used in legal proceedings, may be a new area of work for Permanency Support Program (PSP) Service Providers. It is understandably daunting for many caseworkers including Department of Communities and Justice (DCJ) staff.

Most caseworkers experienced in writing affidavits will tell you they learned from making mistakes and having to fix them. Mistakes are part of learning.

No two affidavits will be the same, as they are specific to the circumstances of each child or young person (child) and family. However, there are some rules that you must follow to ensure your affidavit conforms to certain expectations for structure and composition.

As a starting point see: [Affidavit: The Basics](#) factsheet.

Features of an affidavit

An affidavit will commence with introductory paragraphs that set out the details of the author, including their qualifications and relationship to the matter, and will usually include paragraphs about the truth of the information that is included in the body of the affidavit.

The body of the affidavit will then include the evidence you are putting before the Court. This information is usually set out in chronological order, should be clear and concise and factual.

To be legally admissible in court, an affidavit must be ‘sworn’ or ‘affirmed’ as true by the deponent (author) and witnessed by an authorised person, which is usually a justice of the peace or legal practitioner. You may have a justice of the peace in your office. Otherwise, please click [here](#) to find someone in your area.

Do not include your feelings or personal judgments in your affidavit

Affidavits should:

- include all relevant facts and allow the reader to draw their own conclusions
- be written in the first person using an active voice
- use the correct naming conventions consistently throughout the document
- use the child or family's own words when you are using direct speech
- use descriptions of what you saw and heard rather than conclusions
- provide context to situations that could be misinterpreted
- date all records and include the time of the event and who was present
- divide information under appropriate headings and sub-headings
- list information in chronological order using concise sentences
- number the pages and mark the annexures alphabetically
- summarise annexures in the body of the affidavit, and annex them in full
- **ensure that you have the permission of the author of the document before you annexure it.**

Remember, our perceptions of events and conversations are seen through our own lens, impacted by our life experiences and beliefs. Caseworker affidavits have a significant influence over court outcomes – ensure you are self-reflective and objective.

Language has a powerful impact. Be careful with your words. Remember the person reading your affidavit was not there. The way you describe things is critical. It frames whose view of reality you are accepting and presenting to the court.

Include all relevant facts

Affidavits should contain comprehensive facts only, not your feelings or opinions. The exception to this is if you are a qualified expert and the opinions you provide are on matters within your area of expertise, like a court clinician's assessment.

In a child protection context, facts are things you saw, heard, smelt, tasted, or could feel, or things you can demonstrate. Rather than drawing conclusions from conversations, describe what you saw and heard, for example instead of saying ‘Amy was upset’ say ‘I saw Amy crying’.

In the Children’s Court, you are considered a Model Litigant. This means that casework staff must include all relevant information in their affidavit, even if it doesn’t support their preferred outcome or draws attention to poor casework. Deliberately omitting evidence, misleading the court, or giving false evidence is perjury.

Tip - when writing about conversations in an affidavit include:

- when the conversation took place
- where it took place
- who was present
- use the child, young person or parents own words when possible.

Write in the first person using an active voice

Writing in the first person means writing from the author’s point of view, for example:

“I saw Fatima cry and her shoulders were shaking.”

Writing in an active voice describes a sentence where the subject performs an action stated by the verb, for example:

“I saw Mr Jones kick Pearl on her left shin.”

Writing in the first-person active voice is important in affidavit writing because it describes events from the author's perspective and ensures descriptions are clear, for example:

“I went to Pearl’s school and spoke to her” NOT “Pearl was spoken to at school.”

Use correct naming conventions

It is very important to use consistent naming conventions throughout an affidavit. The first time you reference a person, you need to use their full name (prefix, first, all middle and surnames) and then in brackets list the name you will refer to them as for the remainder of the affidavit. You also need to include the date of birth for all subject children and adults, to ensure they are correctly identified to the Court. You need to confirm their relationship to the child or young person who is the subject of the application. After you have done this, you should refer to children by their first name for the remainder of the document. For professionals and adults, you should refer to them by their prefix and surname for the remainder of the document.

Example child: Pearl Anna Oswald, born 23 May 2010 (“Pearl”)

Example professional: Jane Smith (“Ms Smith”), DCJ Manager Casework

Be mindful not to give more than one person the same abbreviation, especially when referencing grandparents. You may add the terms senior or junior to differentiate between the same last name.

You should use these same naming conventions for any abbreviated word in your affidavit. For example, the first time you refer to DCJ, write: “The Department of Communities and Justice (DCJ)”, and then you can use “DCJ” for the remainder of the affidavit.

Use headings and list information in chronological order and be concise

Affidavits can become very lengthy. To keep information clear, affidavits have a prescribed format:

- number each paragraph
- use headings and sub-headings to cluster similar information
- list facts chronologically within each heading
- use full sentences but be concise – every paragraph should describe an event or issue
- try not to exceed two or three sentences in a paragraph
- tables can be useful to make information clear.

The first few paragraphs of an affidavit will follow a similar format, that is:

1. who you work for and how long you have worked there
2. the qualifications you hold
3. your relationship to the subject child or young person and the length of that relationship
4. who you report to
5. confirm you have access to records on the subject child or young person
6. affirm that the contents of the affidavit are true to the best of your knowledge.

Number pages and annexures correctly

Sequencing pages and annexures in affidavits is very important, as it helps to structure complex (and often lengthy) information and enables solicitors to quickly direct the magistrate to specific information:

- the pages of the affidavit must be sequenced numerically, i.e., page 1, page 2, page 3. Do not include annexures in this sequence.
- the pages of each individual annexure must be numbered numerically with the first page of each annexure being page 1.
- annexures must be sequenced alphabetically, i.e., Annexure A, Annexure B, Annexure C. If there are more than 26 annexures, the 27th will be Annexure AA, and the 28th will be Annexure BB.

Annexures:

You will use an annexure when you want to include the source document for relevant information that you are relying upon in your affidavit. In the body of the affidavit you will refer to relevance of the annexure in summary form, and then you will annex the entire document.

When referencing an annexure in the body of an affidavit write:

“Annexed hereto and marked “A” is a copy of.....”

Annexures must then be summarised, so the reader of the affidavit gets an understanding of the results before reading the full annexure.

Each annexure attached must have the following introduction:

“This page and the following _ page/s comprise/s of the document referred to as Annexure _ in the affidavit of [insert deponent’s name] sworn/affirmed at [insert place] on [insert date] before me [witness to sign and provide name and qualification]”.

Some people prefer to use an annexure cover sheet as not all annexures will have room for the introduction.

Court documents are often complicated and lengthy enough so ensure that you are not including or annexing irrelevant information, i.e., it is not necessarily appropriate to annexure every single home visit record. Also, be conscious that court documents are provided to all parties. **Do not** include documents that contain personal and private information that are not relevant to the proceedings.

For more information about affidavits, see: [Affidavit: The Basics](#) factsheet.

Below is a fictional example of a high-quality affidavit.

**IN THE CHILDREN'S COURT
OF NEW SOUTH WALES
AT PORT MACQUARIE**

CASE NUMBER 2018/000111

Affidavit

Children and Young Persons (Care and Protection) Act, 1998

Children and young person

Name Pearl Anna Oswald
23 May 2018

Application details

Type of application Care Application
Date application filed 28 March 2023

Affidavit

Name Sharon Porter
Address Short Street, Port Macquarie NSW, 2444
Date affirmed 29 June 2023

I affirm:

1. My name is Sharon Porter and I am employed as a Caseworker at the Department of Communities and Justice ("DCJ") in Port Macquarie. I have been employed as a caseworker since 18 July 2015.

2. I hold a Bachelor of Social Studies from Southern Cross University. I am currently undertaking a Master of Social Work at Deakin University.

3. I have had, since 30 May 2022, and continue to have, the day-to-day responsibility for the casework in relation to Pearl Anna Oswald (“Pearl”) born on 23 May 2010. My manager is Jane Smith (“Ms Smith”).

4. I have access to the DCJ records relating to Pearl. I have read those files. Information referred to in this affidavit that is not known to me personally is contained in those records.

5. All information referred to in this affidavit is true and correct to the best of my knowledge.

Family Relationships

| Name | D.O.B. | Hereinafter referred to as | Relationship to Pearl |
|---------------|------------------|----------------------------|--|
| Sheree Oswald | 3 December 2023 | Ms. Oswald | Mother |
| Blake King | 6 January 1980 | Mr. King | Father |
| Ellen King | 7 March 1948 | Ms. E. King | Paternal grandmother |
| Tiara King | 24 October 1994 | Ms. T. King | Paternal half-sibling and carer |
| Elvis McNee | 10 November 1995 | Mr. McNee | Ms. King’s husband and carer |
| Alex McNee | 12 February 2010 | Alex | Nephew, son of Ms. T. King and Mr. McNee |

| | | | |
|-------------|------------------|-------|-----------------------|
| Jenny Baker | 22 December 2008 | Jenny | Paternal half-sibling |
|-------------|------------------|-------|-----------------------|

Current proceedings

6. On 2 April 2023, an interim order was made by Port Macquarie Children’s Court allocating all aspects of parental responsibility for Pearl to the Minister of the Department of Communities and Justice until further order.
7. On 30 April 2023, a finding was made by Port Macquarie Children’s Court that Pearl was a child in need of care and protection; and the matter was adjourned to enable DCJ to carry out further assessment of the parents in light of the objectives set out in the Summary of Proposed Plan.

Pearl’s placement

8. After her removal on March 25, 2023, Pearl was cared for in an emergency arrangement with DCJ-authorized caregivers in the Coffs Harbour area. During this period, DCJ faced challenges in identifying an appropriate family or local care option.
9. On April 4, 2023, Pearl transitioned to a care arrangement with authorized caregivers through Wesley Dalmar, a PSP Funded Service Provider, in Port Macquarie. This placement concluded unexpectedly on April 17, 2023. As no other local care options were accessible, Pearl was subsequently transitioned to an emergency arrangement in Grafton.
10. DCJ continued efforts to locate a suitable family culminated in Pearl being placed with her paternal half-sister, Ms. T King and her husband, Mr. McNee on 15 May 2023, under provisional authorisation as kinship carers.

11. Since 15 May 2023, I have carried out four home visits to Pearl in her placement with Ms. T. King and Mr. Mr. McNee on 18 May 2023, 25 May 2023, 8 June 2023, and 25 June 2023. I saw Pearl approach Ms. T. King and Mr. McNee on multiple occasions during these visits to seek comfort, affection, and assistance. For example, on 18 May 2023, I observed Pearl scrape her knee when she tripped on the cement out the back. She ran to Mr. McNee who lifted her up and hugged her. I heard Mr. McNee reassure her that she was going to be ok. On 25 May 2023, I observed Pearl wander to the kitchen and grab a pop top from the fridge and a banana from the bench before taking herself off to her room to play. On 8 June 2023, I heard Pearl ask Ms. T. King for a snack. I observed Ms. T. King to be consistent with the house rules and told Pearl that she would have her lunch as soon as our visit was over. On 25 June 2023, I watched Pearl approach Ms. T. King to help her unbutton her overalls. Pearl appeared comfortable and at home in this care arrangement.

12. Pearl has her own room at Ms. T. King and Mr. McNee’s home. Pearl proudly showed me her Paw Patrol quilt and a new stuffed monkey that Pearl has named “Mister Bluey”. There are pictures of Pearl’s parents displayed in frames in the lounge and Pearl’s bedroom. Pearl’s paintings and drawings are displayed on the fridge in the kitchen, and I observed Ms. T. King encourage Pearl to draw an Easter card for her parents. Ms. T. King also showed me a diary that she purchased and written down all of Pearl’s appointments. The family lives in a quiet cul-de-sac and Pearl often plays with the neighbour's children under the watchful eye of Mr. McNee.

Pearl’s health, education, and birth certificate

13. Upon coming into care in March 2023, Pearl was referred for an Out of Home Care Health Pathways assessment. She was determined to be in generally “good health”, by the

clinician Mr. Henry Jones (hereinafter referred to as “Dr. Jones”), who completed the assessment. Annexed hereto and marked “**A**” is a copy of the report.

14. On 16 June 2023 Pearl attended an urgent dental appointment with Dr. Ernst Young (hereinafter referred to as “Dr. Young”) at Little Smiles. Pearl received six fillings and Dr. Young has booked 6 (six) more appointments over the next month where Pearl will receive another 6 (six) fillings. Annexed hereto and marked “**B**” is a copy of the report.

15. Since moving to her current placement in May 2023, Pearl has been enrolled in Year 1 at Eastport Primary School, the same school that Alex attends. On 28 June 2023, I had a telephone conversation with Mr. Jesse Arnold (hereinafter referred to as “Mr. Arnold”), Pearl’s teacher, who said to me words to the following effect:

“Pearl has settled in well and despite being a little below what we would expect when she started is now generally in the mid-range of achievement. She gets on well with the other students and appears to have made some close friends”.

16. On 28 June 2023, I received a copy of Pearl’s birth certificate which shows that – previously unknown to DCJ – her middle name is “Anna”. Annexed hereto and marked with the letter “**C**” is a copy of the birth certificate. I have amended DCJ’s records accordingly and request that the Court’s file name be amended to reflect Pearl’s full name as registered.

Time with family

17. On coming into care in March 2023, a contact schedule was devised for supervised weekly family time between Pearl and her mother, Ms. Oswald. Pearl has had supervised contact with Ms. Oswald on 8 occasions being 2 April 2023, 9 April 2023, 16 April 2023, 10 May 2023, 17 May 2023, 24 May 2023, 31 May 2023, 7 June 2023, 14 June 2023, and 28 June 2023.

18. Ms. Oswald has missed three contact occasions: on 23 April 2023, she cancelled the family visit saying that she was unwell; on 30 April 2023, she missed the train to Grafton and family time could not proceed; and on 21 June 2023, she did not provide advance warning that she would not attend. I was subsequently advised by Ms. Oswald that there had been an incident between her and Mr. King a few days prior which prevented her from attending family time on that date. I give evidence about this incident subsequently herein.

19. Family time is generally supervised by an agency, Care Alternatives, and a report about each contact has been sent to DCJ. On the basis of those reports, which I have read, and my observations in the family visit that I personally supervised on 28 June 2018, it appears that contact has been positive. I saw Ms. Oswald play with Pearl for extended periods where they engaged in a tea party with Mr. Bluey. I also observed Ms. Oswald to redirect Pearl when she became frustrated with putting puzzle pieces together. Ms. Oswald brings small gifts for Pearl and activities, such as games and colouring books, which I observed them to do together. On the visits that I attended, I saw Pearl run into Ms. Oswald's arms. At the end of the visit, Pearl sobbed in her car seat for a few minutes before becoming distracted when we drove past the local pet shop.

20. On coming into care in March 2023, Pearl's father, Mr. King, was incarcerated in Sydney and awaiting sentencing for breaches of a provisional AVO. It was alleged that Mr. King did not adhere to a condition not to contact either Ms. Oswald or Pearl. I left three voice messages on 15 May 2023, 18 May 2023, and 6 June 2023 for the Welfare Worker at the jail in an attempt to negotiate a family visit between Mr. King and Pearl.

21. Although Mr. King was bailed and released from jail on 14 June 2018, he has since been taken back into custody after being charged with breach AVO and assault of Ms. Oswald on 18 June 2018. I give evidence about this incident subsequently herein.

22. Pearl has had contact with her extended family on both sides on several occasions since entering her placement with Ms. T. King and Mr. McNee. This has included contact with Ms. King and Ms. J. King and is arranged directly between them and the carers. Pearl also attended her paternal Aunt's wedding on 18 June 2023.

Ms Oswald's progress in meeting the objectives in the Summary Proposed Plan

23. On 18 April 2023, Ms Oswald signed an agreement to participate in supervised random urinary drug screens ("UDS"). It was a condition of that agreement that Ms. Oswald would be notified about the UDS by text message; and that any failure, without good reason, to attend for UDS as required would be treated as a test positive for drug use. Annexed hereto and marked with the letter "D" is a copy of that agreement dated 18 April 2023.

24. I required Ms. Oswald, by text message sent to her mobile phone, to attend random UDS on 12 occasions being 19 April 2023, 26 April 2023, 2 May 2023, 11 May 2023, 16 May 2023, 24 May 2023, 1 June 2023, 5 June 2023, 8 June 2023, 13 June 2023, 20 June 2023, and 26 June 2023.

25. Out of the required 12 sessions, Ms. Oswald missed 3 (three) appointments without providing an explanation. She tested positive for methamphetamine on 5 (five) occasions April 19, 2023; May 11, 2023; May 16, 2023; June 13, 2023; and June 20, 2023. She had a negative screen on May 2, 2023, April 26, 2023, May 11, 2023, June 8, 2023. The UDS results for Ms. Oswald's attendance occasions are detailed in Annex "E" for your reference.

26. On 5 June 2023, Ms Oswald did not attend for UDS and did not provide an explanation.

27. On April 18, 2023, I met with Ms. Oswald to discuss the objectives outlined in the proposed Summary Plan. During this meeting, Ms. Oswald signed the agreement to undergo UDS. I also provided her with information and referrals to services, including the Domestic Violence service and the Neighbourhood Centre, aiming to assist her in addressing issues related to Pearl's entry into care. Ms. Oswald expressed her intention, stating something similar to: *"I am going straight down there to sign up for the courses. I want to be the best mother I can be for Pearl."*
28. On 9 May 2023, I had a further meeting with Ms. Oswald. She said to me words to the following effect: *"I have started a 6-week Domestic Violence course at Helping Hands; it started last week. I have also signed up with the Neighbourhood Centre to do the Triple P and Circle of Security parenting courses. They both start next week. Mr. King kept ringing me from jail so I reported it to the Police as a breach of the AVO. I have also changed my mobile number"*. She then provided me with her new mobile number.
29. On 8 June 2023, I telephoned the Helping Hands to enquire about Ms. Oswald's progress. I spoke to the Coordinator about Ms. Oswald's progress and the Coordinator said words to the following effect: *"Ms. Oswald signed up to do the course in early May and attended the first two sessions but we haven't seen her since that time. I left a few messages on her phone but she didn't call back"*.
30. On 8 June 2023, I telephoned the Neighbourhood Centre to enquire about Ms. Oswald's attendance and participation in the parenting courses. The Coordinator advised with words to the following effect: *"Ms. Oswald signed up to do the courses in early May and attended the first two sessions but we haven't seen her since early June"*.

31. As a result of this information, I attempted to contact Ms. Oswald by phone on 11 June 2023, 14 June 2023, and 15 June 2023. On each occasion I left a voice message because the call went to the message bank, and I also forwarded text messages asking her to call me urgently. I did not receive any response.

32. On 20 June 2023, in company with Caseworker Robin Fox, I attended Ms. Oswald's home. I knocked several times without answer and we were about to leave when the door opened and Ms. Oswald appeared. She was unsteady on her feet and was hanging on to the door frame as if for support. I noticed a bruise on her face. Her eyes were red and her pupils dilated. When she recognised me, she said words to the following effect: *"Please go away. I'm not feeling well. I will come and see you tomorrow or the next day"*. Her speech was slurred. This was quite different from her usual presentation on the previous occasions I have seen her.

33. As I peered past Ms. Oswald into the living room, my attention was drawn to an unmistakable water pipe, commonly known as a bong, resting on the table. The bong, with its distinctive design featuring a bowl, downstem, water chamber, and mouthpiece, hinted at recent usage as a faint stream of smoke was observed rising up from the bottle. Recognizing the potential influence of substances, I was forthright with Ms. Oswald about my concerns regarding the bong. I explained that it might not be the best time to engage in a discussion about important matters given the circumstances. In light of these considerations, I made the decision that it was not suitable to prolong our conversation. I conveyed my worries to Ms. Oswald, expressing, "OK, Sheree, we'll go, but please come and see me soon. We need to talk about what's going on with you at the moment."

34. Later that day, I received a telephone call from someone who identified themselves as being a concerned resident in the street in which Ms. Oswald lives. This person said to me

words to the effect: *“I know you took her daughter into care; you should know that the Police were there again a couple of days ago and arrested her no-good partner for assaulting her again”*.

35. On 22 June 2023, I received a response from NSW Police to an urgent request for information which I had made the previous day under Chapter 16A, seeking updated information about Mr. King and Ms. Oswald. According to the information provided, there had been no report made by Ms. Oswald to Police about an alleged breach of AVO committed by Mr. King while in jail, as she had told me on 9 May 2018.
36. Furthermore, the information showed that Mr. King had been released from jail on 14 June 2023 but had been subsequently arrested and placed on remand after being charged with a breach AVO and assault of Ms. Oswald on 18 June 2023. The information recorded by Police alleged that Mr. King had been arrested at Ms. Oswald’s house on 18 June 2023. Both appeared to be affected by drugs and Ms. Oswald was bleeding from a cut to her forehead. Ms. Oswald alleged to Police that she had allowed Mr. King to stay at her house because he had nowhere else to go; however, that he became violent when she refused to have sex with him and asked him to leave. I have requested, but not received consent from the Police to annex the 16A response to this Affidavit.
37. On 25 June 2023, Ms. Oswald came to see me at the Port Macquarie DCJ Office. Caseworker Antrobus took contemporaneous notes. I asked Ms. Oswald: *“Tell me what happened on 18 June 2023”*. Ms. Oswald said to me words to the following effect: *“I was at home and suddenly he burst in through the door and started to attack me. He kept saying that I was the reason that he had been sent to prison. I started screaming and someone must have called the Police”*.

38. I said to Ms Oswald words to the following effect: *“Sheree, I’ve seen the Police records. They say that you told them that you invited him there as he had nowhere to go; and that you were both affected by drugs. You need to tell me the truth”.*
39. Ms. Oswald started to cry and said words to the following effect: *“I’m sorry, I thought if I told you the truth I would never get Pearl back. I’ve been lonely and felt sorry for him and he kept saying that he’d changed and was ready to be a proper partner and father again after his time in prison. He had a little bit of ice that someone had given him and we agreed that we would just have a taste and start over again clean the next day. It was only after he had been there a few hours that he turned nasty when I told him that I didn’t want to sleep with him that night. I’m so sorry. That’s why I didn’t come to contact on 21 June, because I felt so bad about what happened; and why I am like I am today. Please give me another chance. It was only that one day that I took ice.”*
40. I said to her words to the effect: *“Sheree, I have your UDS results for 8 June 2023 and 13 June 2023. They were both positive for methamphetamine. And you didn’t show up for the screen on 20 June 2023 either. It wasn’t just that one day was it?”*
41. Ms. Oswald started crying again and didn’t answer my question.

Future Plans for the child

42. On June 28, 2023, during a meeting with my manager, Jane Smith, Casework Specialist Trudy Valentine, and DCJ Manager Client Services, Frank Johns, we decided not to return Pearl to her parents due to positive drug test results and a lack of progress against the summary of proposed plan.

43. Currently, we are exploring permanency options for Pearl as it has been deemed unsafe for her to return to either parent. Guardianship is being considered as a potential arrangement, and the external assessment agency estimates that a guardianship assessment will take approximately 6-8 weeks. Concurrently, we are contemplating a Family Group Conference (FGC) to delve into how Pearl's adult network can provide support for her existing care arrangement and facilitate more organic family time, with less intrusive involvement from DCJ.

Signature

Affirmed at

Signature of deponent

Date

Before me:

Name of witness

Capacity Justice of the Peace Other [please specify]

Registration number

I certify the following matters concerning the person who made this affidavit (the deponent):

1. I saw the face of the deponent; or [delete whichever option if inapplicable]
I did not see the face of the deponent because the deponent was wearing a face covering but I am satisfied that the deponent had a special justification for not removing the covering.
2. I have known the deponent for at least 12 months; or [delete whichever option if inapplicable]
I have confirmed the deponent's identity using the following identification document:

Identification document
relied on

Signature

Date

[NOTE: The deponent and witness must sign each page of the Affidavit.]