



Ministerial Professional Development Practice Note

Topic: Client Scenarios

Date: June 2022

The following describes situations you may find yourself in and asks what you would do to meet the client's needs. These are all real situations that have arisen.

Before you read the suggested answers, consider the situation described and think about what actions you would take. Bear in mind that the situation is not an easy one and there may be more than one best response. You have to consider carefully the situation you are presented with.

The major issues that the scenarios present are :

- how to do the best for your client without giving advice
- when and when not to use the letters JP after your name
- when to refuse to provide the service requested

1	<p>Client arrives with a production order and says that he got the JP who was at the service desk to sign one last week.</p> <p>A production order is an order issued under the Search and Surveillance Act. Similarly search warrants and surveillance orders.</p> <p>This is a service that must be delivered by an Issuing Officer with a valid warrant (ie whose term of appointment has not expired). Issuing Officers have had special training and have been gazetted as appointed to that role for a term of three years. Issuing Officers can come from any walk of life and do not have to be a JP, though most are also JPs.</p> <p>If you are not an Issuing officer, contact (or ask the client to contact) the Association President or Registrar or the nearest Court for names of current Issuing Officers in your region.</p> <p>Even if you are an Issuing Officer, this may not be work that you should do at a busy Service Desk and it may be better to make an appointment to see the client outside Service Desk hours.</p> <p>Please note if you sign and you are not an Issuing Officer and the person acts on that signature it is likely that any evidence obtained will be ultra vires and unusable resulting in a failed prosecution.</p>
2	<p>Client arrives with a two page closely typed document headed statutory declaration, but it does not meet the standards for use in NZ. The client tells you it is going overseas. Would your actions be different if it was to be used here in NZ, say as a submission to Immigration NZ?</p> <p>If the document is going overseas:</p> <ul style="list-style-type: none">• Establish with the client that a NZ JP is an acceptable witness to the declaration (the client is responsible for ascertaining this)• Make sure that if signing the declaration, the JP is not becoming party to an unlawful act (e.g. money transfer over \$10,000 NZ to another country; if so decline to sign (AML risk))• Sign the form as directed by the client• Record in your record book that it was a non standard SD to go overseas <p>If the document is being used in NZ:</p>

	<ul style="list-style-type: none"> • Supply the client with a NZ Statutory declaration form explaining that the wording is prescribed by law and the legal consequences to get across how serious the document is. These are readily available by Googling “NZ Statutory Declaration form”, and there are usually supplies at Service Desks • Get client to complete the declaration all except the signing box • Take the declaration in the usual way and identify client and attach any exhibits as required
3	<p>Client arrives with a Marriage Dissolution which has been to India and has been subject of many stamps and signatures, but the affidavit has not had the pages which come before the page with the Jurat initialed. Also, some of the details on the Marriage Certificate are not consistent with the details in the Affidavit.</p> <p>Explain that the Affidavit is not valid as it has not been completed correctly.</p> <p>The client will need to re-write the affidavit with the correct details. Do not forget the JP and the client must initial the pages preceding the Jurat page.</p> <p>You may advise the client that in this situation (i.e., the other party is in a different country) it would be better to make a sole application for dissolution and get it served by an alternate route.</p>
4	<p>Client arrives with an electronic Authorisation and Instruction form pre signed at some date in the past and a certified copy of a passport certified by a JP at some randomly different date than the date client signed the A and I form. Client wants you to complete the identification section.</p> <p>Show the client that the requirements in the identity part of the form state that the JP has sighted the ID and has attached a copy of the ID</p> <p>If the original of the identification used is available, then you can proceed if not you cannot proceed with that copy. The client will need to get a new copy of the photo ID used and the JP can certify this with the current date. Ask the client to cross out previous signature and date, then re-sign and enter current date; you should both initial these changes.</p> <p>A new clean copy is best, but if it’s not possible to get a new copy of the photo ID, you can re-certify the old copy in the usual way after you cross out the old certification.</p> <p>There is a separate Practice Instruction sheet available for the A&I document that goes into more detail, including how to complete when the form is set out for two individuals, but just one of them are presenting to you.</p>
5	<p>Client arrives and they have no photo ID to access accommodation. This has arisen because they are fleeing violence and did not take any papers when they left.</p> <p>One thing that has been proven to work is to make a Statutory Declaration with the client. They identify themselves by stating in the Declaration their name, their date of birth and they attach their photo (if this is on a separate page, attach it as an Exhibit to the Declaration). Several social agencies will assist with photo such as Women’s refuge and Downtown Community Ministry. If possible get them to get a birth certificate from WINZ or some such and attach to the Statutory Declaration as an Exhibit.</p> <p>Take the Statutory Declaration in the usual way.</p> <p>Attachment 1 is an example of such a declaration.</p>
6	<p>Client arrives with a copy of her birth certificate on her phone which has been sent attached to an email from her Mum in Los Angeles. Client was actually born in Melbourne but is now a NZ Citizen but does not have a passport or a driver’s license. She needs to provide proof of her date of birth for AML requirements.</p> <p>The client must first print a copy of the birth certificate that is on the phone.</p>

	<p>Get the client to check with the recipient agency if a downloaded copy of the birth certificate with a cover Statutory Declaration is acceptable.</p> <p>If it is acceptable, proceed to certify the electronic downloaded copy (use the standard wording for an electronic copy certification), then complete statutory declaration and attach certified copy as an Exhibit.</p> <p>If this approach is not acceptable, then the client needs to get NZ Citizenship documentation or get an original of her birth certificate or get a NZ Driver's License</p>
7	<p>Client wants a Marriage Dissolution completed. You don't feel confident to deal with it and there are complicating factors like an overseas Marriage Certificate in a language other than English and the client has already been granted a protection order for herself and the child of the marriage and she is desperate. Her spoken English is good but on checking the form her written English is not good. Her identification is a refugee document.</p> <p>Marriage Dissolutions are complex and should only been done by JPs who have had the specialised training. The Association maintains a list of JPs who are competent in Marriage Dissolutions. If you don't have access to this call or ask the client to call the Association President or Registrar.</p> <p>If you are going to proceed with this one, here are some tips:</p> <ul style="list-style-type: none"> • The overseas marriage certificate will need translating and you will need a copy of the original marriage certificate which you certify in usual way and a copy of translation you certify in usual way. • Check to see if there has been any legal advice like a separation agreement, these are not compulsory but are optional, or a protection order. • If there is a protection order ask to see a copy in case it refers to the care and protection of any children if it does then it will need to be referenced in the sections for the arrangements for the care of the child/ren and ensure the details of date Protection order granted, its reference number and the Court of issue are recorded in the Affidavit. • Any wording on care of children in the affidavit must match the protection order or refer to the protection order. A Marriage Dissolution affidavit cannot be used to vary a protection order. A variation to a protection order can only be done by going back to Court. • In this particular scenario, you can get the client to tell you what she wants to say and you convert this to acceptable wording. Read it back to her to make sure it represents her views and is true. If she can write it herself that is good but if not you may help her write it by penciling it in and then she inks over. • Complete the Affidavit. In this case there are two Exhibits A the certified copy of original in the foreign language and the certified copy of the translation. • Do not attach the Protection Order as an Exhibit. Refer to it in the Affidavit by citing the reference number, date of Issue and Court of Issue. This will enable the Court to find the copy that was lodged. • Do not forget to identify client. In this case working off a refugee document. • Swear or Affirm. If swearing it is OK to have the Holy Book on the phone. • Don't forget to initial the pages preceding the jurat (i.e. the signature page) and have your client do the same. • Make sure the client knows they do not have to serve the papers in person and that details can be redacted to keep her safe.
8	<p>Client arrives with an Immigration form which requires a Statutory Declaration completed. In this case, it is form INZ1025 <i>Sponsorship Form for Temporary Entry</i>. You notice on the footer that the form is dated 2009. The instructions for this form state that it requires proof of residence and/or citizenship to sponsor a visitor which the client does not have with him. You also notice the form is not completed correctly and is pre signed. The client needs the form to be submitted today. In addition, the client has a large number of extraneous pages to support his application to Immigration that he wants certified; some are electronic downloads and some are paper copies; some of the copies have bits missing.</p>

	<p>Take a deep breath as there are several issues to sort out so this will take some time!</p> <ul style="list-style-type: none"> • Be aware that all Immigration NZ forms should have a date on them close to the current date (within a year). The clients may have found an older version of the form after Googling it. The latest form should be downloaded directly from the Immigration NZ website www.immigration.govt.nz. Advise the client that INZ is likely to reject an application completed on an older version of the form. • Unless client wants to send original passport or Citizenship documents with the form they will need a certified copy of one of these, otherwise the form will be returned. This requirement is stated inside the front cover of the form top left. There is no need for an Exhibit Note on this. • Deal with pre signed Statutory Declaration in the usual way • In regards to the extra pages, advise that the extra paperwork is not required for an INZ1025 form. If it were needed, it would be stated in the instructions under "Evidence you must provide" on page 2 of the form. • However, if the client is still requiring you to certify these, have the client number the pages (page 1 of 30, page 2 of 30, etc) and complete a single Statutory Declaration with all 30 pages attached and stamped as an Exhibit. <p>See a separate Immigration NZ Practice Note in our training notes.</p>
9	<p>You are providing JP services online and the client wants you to provide colour paper copies and to courier these documents to a third party</p> <p>Advise the clients that there are costs involved with these 2 requests which they will need to pay for.</p> <p>Before you act, pre-agree costs. Either get the client to make a direct credit of the costs to your bank account or agree a different way for the client to pay.</p> <p>For the colour copying as a benchmark you can use the Warehouse stationary colour copying rate.</p> <p>For the courier services, you can have the client post you an addressed courier pack or you can check the cost of these with NZ Post and purchase yourself. The first option is preferred as it ensures it is addressed correctly. It is preferred to have a tracked package as then both you and the client will know when it has been delivered.</p> <p>If you feel unable to carry out this request, advise the client that they will need to find a different JP to act for them.</p>
10	<p>Client requests you sign their Kiwi Access card application form and have a birth certificate and photo. Would you ask for any further information? If they had no further information such as driver's license or passport would you take the statutory declaration route to identity? If you then you find the client is illiterate do you complete the statutory declaration for them and help them make their mark on the declaration?</p> <p>A Kiwi Access card is the old 18 plus card and is a photo ID used mostly for buying alcohol.</p> <p>The instructions ask the client to complete the form in capital letters and provide the following additional documents:</p> <ul style="list-style-type: none"> • Two (2) identical recent passport-sized colour photos of themselves • Proof of the address they want your card delivered to • Photo ID to prove who they are, which can be their: <ul style="list-style-type: none"> - Current 18+ Card or Kiwi Access Card - Passport - New Zealand Driver Licence - Firearms Licence - Certificate of Identity (issued under the Passports Act 1992) - Refugee Travel Document (issued by or for the New Zealand Government)

	<p>If the client does not have photo ID, Section 6 of the form can be completed by someone who has known the individual for 12 months or more.</p> <p>The form is signed as true by the applicant, and it does not need a JP to sign it. Note that the old 18 plus card application did include a Statutory Declaration requiring a JP signature.</p>
11	<p>Client arrives and wants her “Enduring” Powers of Attorney signed for both Fiji and New Zealand. The Fiji one turns out to be a one off for a single time limited property issue, while the NZ one is a complete Enduring Power of Attorney over all their affairs.</p> <p>After reading the Fiji document it is clear that this is a temporary one in that it gives someone in Fiji power to act in a property matter and is time limited. This is therefore not an Enduring Power of Attorney and it is OK for you to witness the signature. But you are not witnessing as a JP so do not add that after your name and signature. If the scenario was in NZ the same would apply you can witness but again not as a JP.</p> <p>It may be appropriate to suggest the client get legal advice as this kind of arrangement is high risk</p> <p>The New Zealand document is an Enduring Power of Attorney. This document allows a named person to manage the affairs of another person in the event of that person suffering ill health or incapacity. The EPoA is signed by two people – the individual whose affairs are to be managed (the Donor) and the individual who is being given the power and responsibility to manage the affairs (the Attorney).</p> <p>If the client is the Donor, a JP is NOT able to witness the signature. Only a lawyer or legal executive employed by a law firm can witness this.</p> <p>If the client is the Attorney, a JP can witness the signature.</p>
12	<p>Client arrives with an Affidavit of Service to be executed.</p> <p>Check that the wording is in the correct format for an Affidavit. Check the identification of your client. Is all the required information there? Did your client actually serve the papers and were they served on a day which is permitted (you must not serve on a Sunday or Christmas Day, New Year’s day or Good Friday or Anzac day)?</p> <p>Note that Affidavit of Service only applies in the case of sole applicants and must be served by a third party, not the applicant.</p> <p>If the person serving does not get a signature or know the client personally a photo of the person on whom the papers are served has to be attached as Exhibit C.</p> <p>Papers can be served by laying them at the feet of the person and use a photo to evidence that.</p> <p>Affidavits of service are often completed in error by the applicant for the dissolution not the deponent (person) who served the papers so identify the client here is doubly important. The client in this instance the signatory to the Affidavit is not the original applicant for the dissolution but the person who served the papers on behalf of the applicant for dissolution.</p>

Attachment 1 - Sample Statutory Declaration for client who has no photo ID.

Statutory Declaration

I (Enter your full name)

Frank Robert Disco

of (Enter the address where you live)

Homeless (or Women's Shelter or whatever - give address if possible)

(Enter your occupation - for example, bricklayer, teacher, unemployed)

Unemployed (or Retired or whatever)

solemnly and sincerely declare that

(List the facts in your own words. Number each point to make it clearer)

Note: What you write must be true. You can be prosecuted if you make a false declaration.

- 1. I am the person shown in the attached photo.
- 2. I was born in Hokitika on 10 November 1947
- 3. I do not have any other photo ID as my expired passport and drivers licence disappeared the last time I moved.
- 4. I have attached a copy of my Birth Certificate that WINZ gave me. This is marked 'A'



For Training Purposes only

[Large empty rectangular box for additional notes or a signature line]

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Note: Do not complete the following section until you are with the person witnessing your declaration.

Your signature

Frank Disco

Declared at (Place, for example town or city)

Wellington

(Day/month/year)

25 05 2022

Before me (Name of official witness)

Mary Jane Smith JP#12345

Signature of official witness

MJ Smith

(For example, a Justice of the Peace, solicitor or another person authorised to take a statutory declaration)