



Justice of the Peace Manual

Justices have a proud history of serving the public of Aotearoa-New Zealand for more than 206 years.

Our clients the public have developed a high level of trust and regard for the quality of the service that Justices of the Peace will deliver.

The Justices of the Peace Ministerial Duties Manual plays an important role in ensuring that the quality of service is maintained.

I have much pleasure in approving this Manual.



Garry Nicholls

President, Royal Federation of New Zealand Justices' Associations Inc

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About this Manual

This manual was revised in 2020 and incorporates legislative and best practice changes which have come into effect since the previous manual which was published in 2015. Royal Federation acknowledges the assistance of the Ministry of Justice in reviewing the technical/legal aspects/requirements set out in the manual.

Updates to this manual will be incorporated into the online version available from the member only section on the Royal Federation website. Version numbers will be updated when changes are made. If you are using a printed version, please assure yourself that you have the current version by checking online.

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Chapter 1

Introduction

1.1 About this Manual

This manual is written to assist Justices of the Peace in the execution of their duties. It provides best practice processes for many of the tasks requested of Justices of the Peace. While this manual strives to provide comprehensive advice, Justices will inevitably encounter circumstances not directly addressed in the manual. Justices of the Peace should follow best practice, where possible, and do their best for the client while adhering to the codes of ethics and conduct.

1.2 Definitions

Administering an affidavit: the act of hearing a person state that his or her affidavit is true. Also known as taking an affidavit. See 6.4.

Affidavit: a statement in writing, sworn/affirmed/made before someone who has authority to administer it. Usually used in court as evidence. See chapter 6.

Affirm/affirmation: to make a solemn declaration equivalent to a statement upon oath. See 6.4.

Agency: A private or governmental organisation or institution. They may provide documents to clients or may receive the client's documents once they have been executed.

AML-CFT: Anti-Money Laundering and Countering Financing of Terrorism Act 2009 places obligations on New Zealand businesses to detect and deter money laundering and terrorism financing. Those businesses (agencies) may seek Justice of the Peace assistance to identify their clients to meet their AML-CFT obligations. See 3.3.

At: means "place", the town or city where the statutory declaration is made. For example, 'Wellington'.

Attachment: A document referred to in a statutory declaration or affidavit that will be 'attached' as evidence or in support of the declaration affidavit. Also called an 'exhibit note'. See 5.9 and 6.9.

Attestation clause: the part at the end of a document where it is stated who signed it, who witnessed it and the date it was executed. See 5.7 and 6.8.

Authorised person: person authorised to witness, certify or otherwise execute a document. Justices of the Peace are often authorised to deal with documents alongside others such as Members of Parliament or Court Registrars.

Certify: to attest to the truth of a fact by a written statement. See chapter 3.

Certified copy: A copy of a document that has been certified by an authorised person that it is an accurate copy of a paper or electronic document, presented as an original. See chapter 3.

Declarant: the person making a statutory declaration. See chapter 5.

Deponent: the person making an affidavit. See chapter 6.

Full name: the client should write all their names as on their birth certificate, passport or marriage certificate.

Dissolution: an order dissolving a marriage or civil union. Often called divorce. See 6.12.

Execute/Execution: the completion of the signing, witnessing or other requirements to make a document legally valid.

Exhibit: A document referred to in a statutory declaration or affidavit that will be attached as evidence or in support of the declaration affidavit. Also called an 'attachment'. See 5.9 and 6.9.

Issuing Officer: A person authorised under the Search and Surveillance Act 2012 to issue production orders and search warrants. Some Justices of the Peace are authorised to act as Issuing Officers. See 7.4.

Joint statutory declaration: a declaration that more than one person will declare.

Joint affidavit: an affidavit made by more than one person.

JP Association/Association: Local Justices of the Peace Association See 11.2.

Justice/JP: Justice of the Peace

Judicial Justice/JJP: Justices of the Peace who have completed Judicial Studies training and have been authorised by the Chief District Court Judge to join a court panel and to exercise judicial jurisdiction in the District Court. (see 7.5).

JQ/Justices' Quarterly: This an official publication of Royal Federation providing information on issues of importance and educational material. See 11.7.

Jurat: A statement at the end of an affidavit stating when, where and before whom it was sworn. Sometimes referred to as the 'attestation clause' or 'statement by the taker'. See 6.8.

Make an affirmation: the act of the deponent solemnly swearing to the truthfulness of their affidavit without reference to a religious item. See 6.4.

Make an affidavit: the act of the deponent swearing to or affirming or otherwise confirming the truthfulness of their affidavit. See chapter 6.

Make a statutory declaration: to declare the truth of a statement. The declarant 'makes' the declaration. See chapter 5.

Make oath and say: an older-style phrase that is still sometimes used at the beginning of affidavits instead of the word 'swear'. See chapter 6.

Mark: the writing a signatory makes on a document. This is usually in the form of a signature e.g. a stylised name, but it may also be a mark such as an 'x'. See 2.16.

Ministerial: any task carried out by a Justice of the Peace that is not a judicial task.

Nominated Adult: A person who attends a police interview of a child to protect the rights of the child. See 8.2.

Nominated Person/Nominated Witness: A person who witnesses the service of a mental health notice on a mental health patient. Sometimes nominated adults are called nominated witnesses. See 8.2.

Oath: a solemn promise to tell the truth, usually with reference to something sacred. See 6.4.1 and 10.2.

Occupation: this is the name or general description of the persons employment. Where a Justice is asked to specify their employment, this is the title description that authorises them to execute the document. See 2.7.

Original: the initial version of some information that originated at an agency, institution or other official body or business, and was made, printed, issued, emailed by that agency or is accessible securely at that agency's website. See chapter 3.

Place of abode/residence: this is the town or city where the declarant currently lives. The street address is not required.

Receiving Agency/Organisation: The organisation or agency that will receive the client's document once it has been properly executed.

Royal Federation/ RF/RFNZJA: Royal Federation of New Zealand Justices' Associations Inc. This is the national body of Justice of the Peace Associations. See 11.3.

Severally: to take turns doing something. Usually used in joint applications, statutory declarations or affidavits.

Signatory: a person who must sign a document or form to make it valid.

Signature: a person's mark on a document which indicates his or her intention to be bound by its contents.

Swear: to state something on oath. See 6.4.

Taking an affidavit: the act of administering an affidavit. This can be done by a Justice of the Peace. See 6.4.

Take a declaration: the act of administering a statutory declaration. This can be done by a Justice of the Peace. See 5.4.

Taking an oath: the act of a deponent swearing an oath. Sometimes also called 'making' an oath or 'making' an affidavit. See 6.4.

Verify: to confirm or find out the truth of something. Often used in relation to verifying a client's identity for AML purposes. See 3.3.

Visiting Justice: A barrister or solicitor or Justice of the Peace appointed by the Governor-General to exercise powers under the Corrections Act 2004. See 7.3.

Witness: person who sees the signatory sign the document. See Chapter 4

Chapter 2

Dealing with Documents

2.1 About dealing with documents

It is not possible for this manual to cover every document which may be presented by a client. Justices need to maintain an open mind for all eventualities.

NOTE

If the Justice is unable to deal with the document themselves, they should provide their client with further information about how the document can be completed.

For example, only a lawyer, a qualified legal executive or an authorised officer of a trustee corporation who is independent of the attorney can witness a donor's signature on an enduring power of attorney document¹. If a client asks for your assistance with completing this form, you could recommend they contact an attorney. (see 4.4.2).

To minimise the risk of mistakes occurring, Justices should maintain a consistent method of dealing with all documents.

Example

For example, before dealing with any document:

- Make sure you have jurisdiction to administer the document (see 9.6).
- Clarify with the client what the document is for.
- Determine what you and the client must do to complete the document.

Your core responsibilities when dealing with a document are:

- To be reasonably satisfied as to the identity of the signatory.
- To ensure that the signatory signs in your presence or acknowledges that the signature on the document is his or her own.
- To ensure that the swearing, affirming or declaring, witnessing and signing are all correctly completed.

¹ S94A Protection of Personal and Property Rights Act 1988

2.2 Document Situations

As well as knowing how to administer forms correctly, the key skills of a Justice are pragmatism, flexible thinking, and common sense. Various situations may arise in which actions need to be taken that are slightly different from those described in this manual. A pragmatic approach may be taken when completing documents:

- Statutorily defined documents should be completed in accordance with the relevant legislation or regulation. For example, affidavits and statutory declarations.
- Documents not prescribed by legislation that are produced by organisations (including government departments and private agencies) should be completed in accordance with the organisations' expectations and instructions.
- Other documents should be completed in accordance with the receiving entities' requirements.
- Where there is no legislation or instruction to guide completion of the document, you should take a common-sense approach to ensuring the clients' needs are addressed.

Example

1. *Your client says her sister will bring the affidavit to you as she herself is unavailable.*
 - *This is not possible as a person must swear or affirm their affidavit personally before the Justice (see 6.5).*
 - *Could the client come at a different time? Could the client approach another more conveniently located Justice?*
2. *You know that both the client and the Justice should initial in the margin opposite where an alteration has been made. (See 2.12). However, on this document there is no margin at all. The document has somehow been printed with close wording from edge to edge of the paper.*
 - *Initial the alteration as near as possible to the alteration itself, perhaps above or below it.*
 - *If there is no room at all, make a note at the end of the document stating that the alteration: ' at line 'x' on page 'y' was made before the document was signed, then initial that statement.*

2.3 Identifying your client

This should not be confused with the task of verifying the identity of a client (see 3.3).

Although it is not strictly speaking a legal requirement, when a document is to be signed, a Justice should take reasonable steps to be adequately satisfied that the signatory is the person named in the document.

It is best practice to see a form of photo identification such as a driver licence, passport, New Zealand Gold Card or 18+ card / Kiwi Access Card, before witnessing a document. You may be able to use photo identification that has expired to positively identify your client.

If the client does not have identification, you may ask reasonable questions to assure yourself of the person's identity.

Example

If the signatory is described in the document as 'Joe Rawiri Bloggs, of Wellington, Builder' you could ask the signatory questions along these lines:

- *What is your full name?*
- *What is your address?*
- *What is your occupation?*

Only you can assess the reasonableness of your questions and the client's responses. This is not a legal requirement and your questions should not be intrusive.

It is not acceptable to refuse to administer a person's document because they do not have a form of photo identification.

NOTE

The onus on the Justice is to be reasonably satisfied as to the person's identity, and this is fulfilled when the Justice asks questions of the person.

2.3.1 Agency requirements

Some agencies specifically state that their forms may not be executed without the witness having seen a form of photo identification.

In this instance, if a person does not have a written form of identification, it is advisable to have the person make a statutory declaration as to their name, date and place of birth, or other details. Your client needs to confirm that the agency will accept a statutory declaration to this effect.

2.3.2 Signing photos of clients

Sometimes agencies require photos to be signed on the back by someone who has met the person in the photo.

To link the person to their name, you should see a form of photo identification before signing the photo or ask the person questions along the lines stated in paragraph 2.3.

2.3.3 Passports

Requirements for different countries' passports vary from each other. New Zealand passport applications require the witness to have known the applicant for at least 12 months. The witnessing of a New Zealand passport photo is not a Justice of the Peace duty; therefore, you should not write Justice of the Peace or JP on the witnessing document. Doing so may delay processing of the application.

Care should be taken to ascertain that a foreign passport or visa application can be witnessed by a New Zealand Justice of the Peace. If in doubt, the applicant should seek guidance from their embassy.

2.4 Using a pen

Permanent ink pens must be used on all documents. Ink should be in blue or black.

It is preferable for the Justice to provide a pen, rather than use one provided by the client.

Pencils and erasable pens should never be used for signing or witnessing a document.

2.5 Dating the document

You must clearly date your signature with the date the signature was made.

Never pre-date or post-date a document or your signature. Set out the date so that it is completely clear and cannot be amended in any way.

Correct Dating: 01/01/23 OR 1st January 2023

Incorrect Dating: 1/1/23 OR 1 Jan 23

2.6 Signing and printing your name and number

Many people believe their own signature is legible, but those who try to read it may not agree. It is best practice to:

- Sign and print (or stamp) your name clearly underneath or beside your signature.
- Write or stamp 'JP' or 'Justice of the Peace' after or below your signature (if it is not already stated on the form or your stamp).
- Write (or stamp) your JP number.

Agencies are now frequently required under anti-money laundering legislation to confirm that a person who has signed as a Justice of the Peace is in fact a Justice. If your name is written clearly this check can be carried out quickly and easily. Requirements for overseas jurisdictions may necessitate the agency contacting you directly for verification.

2.7 Specifying Occupation

2.7.1 Specifying the client's occupation

Documents, such as statutory declarations and affidavits, often require the client to state their occupation. This is the name or general description of the person's employment, e.g. retail worker, retired, homemaker, self-employed.

It is not necessary to state the employer or any specifics of the job. The reason for stating this is only to identify the person in relation to someone else with the same name in the same town or city.

2.7.2 Specifying your occupation

Documents sometimes require the person executing the document to state their occupation. When a Justice of the Peace is asked to note their occupation, they are being asked to specify the role or title held by them that authorises them to act as a witness, to take the declaration or affidavit or otherwise execute the document.

Write 'Justice of the Peace' as your occupation.

Writing something other than 'Justice of the Peace' can lead to confusion when the receiving agency reviews the document. The agency may conclude that the document has been executed by a person who is not authorised.

Similarly, writing 'retired' as your occupation may lead an agency to believe that you are a retired Justice of the Peace and the agency may question whether the document has been validly executed.

2.8 Sundays and holidays

All documents may be administered on Sundays and public holidays. You may make an appointment on a Sunday or a holiday.

2.9 Using stamps

2.9.1 Justice of the Peace Stamps

You may find it convenient to use a stamp with your details on it after signing.

Justices are given this stamp upon appointment.

Example



Jane Doe, JP
#1234
WELLINGTON
Justice of the Peace for New Zealand

The Justice of the Peace stamp is not a legal requirement; handwriting is equally valid. However, some agencies have formed a view that the stamp is legally required and will not accept documents without it. This is one reason it is good practice to always use a stamp.

2.9.2 Other Stamps

Stamps with other wording on them, such as wording for certified copies and exhibit notes, may be purchased by Justices and may contain wording as shown in other chapters of this manual.

2.10 Using your Justice of the Peace number

NOTE

Your Justice of the Peace number is an administrative number only – it has no official bearing on your capacity as a Justice.

It is helpful to memorise your Justice of the Peace number (see 10.3.2).

If you are handwriting, it is good practice to add your JP number as well as the letters 'JP' after signing. Although this is not compulsory, some agencies believe a Justice of the Peace's signature is not valid without the number and will not accept documents without a number.

2.11 Alterations and additions

Always look through every document for alterations. Any mistake should be corrected by having the client draw a line through the incorrect word and then writing the correct word above it. Any additions to the document should be written in the appropriate place.

Both you and the signatory must initial in the margin of the document opposite the alteration or addition, unless otherwise directed by the document. Full signatures are not required.

2.12 Multiple pages

If the pages of a document are not already numbered, write '1 of 2', 'Page 1 of 3' or similar on each page, corresponding to the number of pages.

If a document has numerous un-numbered pages, it may be acceptable to the agency for you to write a cover page stating the number of pages and attach it securely to the whole document. Discuss this option with your client – if it is not clear from the documentation provided, your client should check with the agency first.

For an exception see 6.9.6.

2.13 Initialling

Some documents must be initialled at the bottom right-hand corner of every page by both the Justice of the Peace and the signatory. It is not usually necessary to date the initials.

Initialling every page is compulsory for affidavits except the signing page. It is recommended that statutory declarations be initialled also, except on the signing page.

Other documents do not usually need to be initialled. Initial the document if the client has instructions that this is required.

2.14 Blank sections

A form or application is sometimes rejected by an institution or agency if a section is left blank, causing inconvenience to the signatory.

If you notice that a section of a form or document has not been filled out or there is a particularly large gap, bring it to the client's attention and have him or her complete it with the letters "N/A" or with a line drawn through the blank area.

It is good practice for you to initial the end of any line drawn through a blank space on a document.

Never complete any part of a document on behalf the signatory.

2.15 Content of documents

Although a Justice must always look through documents for alterations, blanks, gaps and page numbering, it is not your responsibility to read the client's document. In other words, you do not need to understand the contents of a document. Signatories may wish the contents of the document to remain private. However, it is recommended that Justices confirm that the client is aware of the contents of the document they will be signing, swearing, affirming or declaring.

To confirm your client's knowledge, you may ask questions such as:

"Is this your document?"

"Do you understand the contents of this document?"

Sometimes an agency will request that you tick a box or make a statement that the signatory appears to understand what they are signing. This is acceptable if the person is generally able to discuss their document and the signing of it (see 2.17).

While usually Justices of the Peace should not read a document beyond what is necessary to properly execute the document, there is one exception to this rule; when a client is visually impaired or has physical disabilities or literacy needs (see 2.16).

2.16 Clients with special requirements

Clients may have special requirements which you may be able to assist them with.

2.16.1 Visually impaired clients

A client who is unable to read his or her own document for any reason will require special consideration. The Justice must read the document aloud to the signatory before seeing the signatory make his or her mark. A signature does not need to be legible or in any particular form.

You may offer to guide the client's hand to the correct place on the paper or assist by supporting the elbow or wrist. It is also important to ensure there is another person present to witness the signing so that there can be no misunderstanding about your intention in guiding the signatory's hand.

You should write a note on the document explaining the circumstances of the signing.

Example

Signed



Murray May

Witnessed by Jane Doe JP in the presence of Mrs Julie Smith.

I certify the signatory made his mark after having the entire document read to him and that he appeared to understand its contents. I held his hand with the pen to the paper, as he is unable to see the print clearly.



Jane Doe JP 1234

Wellington



Julie Smith, HealthCare Assistant, Wellington

2.16.2 Hearing impaired clients

Depending on the document a client may have to be referred to the court to arrange a person able to use sign language. In most situations this will not be necessary as the intent of the document will be clear to the client. The client may be accompanied by a support person who can assist.

2.16.3 Clients with physical disabilities

Clients with disabilities which impact on their mobility may need to be referred to a service desk if your own residence has restricted access.

If a client has a disability which prevents them from signing a document in the usual manner, they may make a mark on the document which need not be legible. You should write a note on the document explaining the circumstances of the signing.

2.16.4 Clients with literacy needs

If a client cannot understand the document they are signing they may need assistance from a lawyer or their local Community Law centre. You should not proceed to complete their document on their behalf.

2.17 'Appears to be of sound mind'

You may be presented with a form which requires you to tick a box or make a statement to the effect that the signatory 'appears to be of sound mind'.

It is important to note that the assessment being asked is not that of a medical professional. **It is a lay-person's assessment and the key word is 'appears'.**

If you are satisfied that the person has spoken and behaved in a generally calm, rational manner throughout their interaction, the box may be ticked accordingly. If you want to ask some general questions of the signatory, they should be non-intrusive and incorporated into natural conversation.

Example

- *Start the conversation by asking the client what the document is being used for.*
- *Ask the client for their full address.*
- *Ask the client for today's date.*

If the client does not appear to you to be of sound mind or does not appear to understand the purpose of the document or task, you should not tick the box or make a statement to the effect that the person appears to be of sound mind.

2.18 Language

2.18.1 Completion of documents written in English

If a client cannot understand sufficient English, it is generally not possible to continue without someone else present who can translate. For an affidavit or statutory declaration, the person must understand the meaning of the question you ask and must be able to respond in a manner that you can understand.

To facilitate communication, it may be helpful to:

- *Speak more slowly than usual.*
- *Choose plain-usage words rather than legal jargon.*

2.18.2 Documents in languages other than English

You should not administer any document that is entirely in a language other than English, unless you are personally fluent in that language or the document is accompanied by an independent translation that is acceptable to the receiving agency.

A client with a document in another language should be referred to the appropriate embassy or consulate office or referred to Department of Internal Affairs.

A statutory declaration in another language may be taken if certain parts are in English (see 5.12).

An affidavit in a language other than English must be accompanied by an official translation and an affidavit completed by an interpreter (see 6.10).

2.19 Children

Children are normally accompanied by a parent or other person when visiting a Justice of the Peace. It is acceptable to administer their documents as usual. Unless specifically excluded by legislation or instructions, nothing prohibits a child from completing a document.

It is important, however, to ascertain that the child understands the implications of the document they are signing, swearing, affirming or declaring. To confirm that the child understands what they are signing, ask them to explain the purpose of the document to you.

Completion of statutory declarations and affidavits made by children are covered in 5.11 and 6.11.

Chapter 3

Certifying Copies

3.1 About Certified Copies

Certifying that a document is a true copy of an original is an administrative task that is not covered by legislation. It is not a task of a Justice of the Peace under the Justices of the Peace Act 1957 and is not provided for in any other legislation. No-one holds authority to certify documents by reason of their title, role or status.

The authority to verify that a document is a true copy of an original is conferred by government and other agencies on individuals or groups whom they trust. Justices of the Peace are identified as a trusted group to undertake this task. This has become one of the most common tasks that Justices of the Peace are asked to do.

Clients require certified copies when a representative of an agency cannot physically see the client's original document in person. The agency expects you to look at the document and confirm that the copy is a true reproduction of the original that you have physically sighted.

At times the agency also asks for the client's identity to be verified. The agency expects you to compare the client's photograph to their physical appearance and confirm that the client resembles their photographic identification. This is usually to fulfil the agency's anti-money laundering and countering financing of terrorism (AML-CFT) legislative obligations.

In general, there is no prescribed wording that must be used. However, careful attention to the requirements of the agency is required to ensure that the expectation of that agency is met.

NOTE

A Justice of the Peace is not a document examiner. A Justice is certifying that the copy is a true copy but is not verifying the original. Check the original to the best of your **ability**.

3.2 Certifying Ordinary Copies

3.2.1 Checklist

1. Check with the client that the copy is not required for AML-CFT purposes (see 3.3 to proceed with AML – CFT requirements),
2. Confirm that the receiving agency will accept certification by a New Zealand Justice of the Peace,
3. Sight the original document,
4. Satisfy yourself that the copy is a true copy,
5. Hand the original document to the client,
6. Stamp (or write) certification statement on the copy (see 3.2.2 and 3.2.6),
7. Sign, and stamp (or write) your name, 'JP', your JP number and the date (see 2.6 and 2.10).

3.2.2 Certification statement for ordinary copies

In the absence of specific instructions from the receiving agency an example of the standard wording to write on an ordinary copy is:

Example

“Certified true copy of document presented to me as an original.”

Or words to the same effect.

3.2.3 Writing on the original

To prevent accidentally stamping or signing the original it is best practice to hand it back to the client before proceeding to certify the copy. The original item may not be able to be replaced easily and there may be a cost to do so.

Advice should be sought from your association on how best to proceed if an error is made.

3.2.4 Stamp guide

A stamp with the standard wording for copy certification is recommended.

Place the certification stamp on the copy in a place to prevent the wording being cut off and used on another document.

Place your Justice of the Peace stamp in a place where the image on the document does not conceal the contact information on your stamp.

If the copy is to be sent overseas and the client is sure a New Zealand Justice of the Peace is acceptable to the overseas agency as a certifier, ensure your stamp states 'Justice of the Peace for New Zealand' – if it does not, you should write this on the copy.

Stamp Examples

CERTIFIED TRUE COPY OF A DOCUMENT PRESENTED TO ME AS AN ORIGINAL	
Signed	_____
Date	_____



Some receiving agencies may require different wording to the words shown above. Justices cannot have a stamp for every situation, and it may be necessary to hand write the required statement on the copy.

Do not use your stamp if it does not match the wording required by the receiving agency.

Some agencies provide a 'document guide' or similar document outlining how a form must be filled in or how attached documents such as copies must be made. In some cases, the form guide specifies wording that must be used by the certifier. An organisation may reject a copy if it has not been certified according to their instructions. Check with your client whether such a guide was provided with their document and whether it specifies wording.

3.2.5 Identifying the client

For ordinary certified copies, it is not necessary for the client to be the owner of the document or be named in the document. Someone other than the owner of the document, a family member for instance, may seek certification of that document.

3.2.6 Electronic original documents

Many original documents are electronic in form. For example, bills and invoices are often sent via email or can be accessed via an online account rather than by post.

If a client brings a transcript or printout from a website, online account or application, email attachment or other electronic source, you will need to see the electronic original on an internet capable device.

Some Justices use their own computers or phones to do this, others do not. You are under no obligation to let a client use your device. Clients may bring their own WIFI-enabled device.

You must be able to observe how the client accesses the electronic document. Observe the client logging into the relevant account or loading the relevant website. Allow clients to enter login details to accounts privately.

Sometimes the printed copy is formatted differently from the original electronic version.

Compare the information on the printed copy with the electronic original.

In the absence of specific instructions from the receiving agency an example of the standard wording to write on an ordinary electronic copy is: I certify that this is a copy of a document presented to me as an original accessed online by the client.

“I certify I that this is a printed copy of a document attached to an email presented to me as an original.” Or words to the same effect.

3.3 Certifying copies to meet AML-CFT requirements

The Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (referred to as AML-CFT) places obligations on New Zealand agencies to detect and deter money laundering and terrorism financing.

Agencies are legally required to verify the identity of their clients. Justices of the Peace may be asked to assist with this process.

Agencies required to comply with AML-CFT legislation include:

- Banks and Financial institutions
- Accountants
- Lawyers and Conveyancers
- Real Estate Agents
- Financial Advisors
- Brokers
- Businesses that deal in high value goods
- Gambling providers

NOTE

Clients are generally provided with instructions/a document guide from the receiving agency describing the required identification and certifying process. Failure to follow these instructions may cause significant inconvenience to the client. Ask the client to bring these instructions with them to their appointment with you.

3.3.1 Checklist

1. Confirm that the receiving agency will accept certification by a New Zealand Justice of the Peace,
2. Read all provided instructions,
3. Sight the original document,
4. Satisfy yourself that the person before you is the same person in the photo on the document,
5. Satisfy yourself that the copy is a true copy,
6. Hand the original document to the client,
7. Stamp (or write) certification statement on the copy (see 3.2.2 and 3.2.6),
8. Sign, and stamp (or write) your name, 'JP', your JP number and the date (see 2.6 and 2.10).

3.3.2 Certification statement for AML-CFT certified copies

Certification statements for AML-CFT purposes consist of two parts.

1. Confirmation that the document is an accurate copy of the original identification document, which you have sighted.
2. Verification that the identification document represents a true likeness of the person named in the document.

Most agencies will provide a ‘document guide’ or similar form specifying the wording that must be used for the AML-CFT certification statement. Write the certification statement as instructed. Deviation from the requested wording may lead to the copy being rejected.

In the absence of instructions, write a statement like the one in the example below.

Example

“Certified true copy of [passport/driver licence/another document] that represents the named individual [client’s name].” or words to the same effect

3.3.3 Seeing the person named in document

When certifying a copy of an identification document for AML-CFT purposes, you must be able to compare the person to the image in their identification document to verify the document represents their true likeness. The usual practice is to meet with the client in person. See 3.4.4 for other means of identifying the client.

3.3.4 Stamp guide

There is no fixed wording for AML-CFT certified statements. Receiving agencies can request whatever wording they believe best meets their obligations under the law. Consequently, there are many variations of the certified statement you will need to write.

The below example is a general certification statement that may suit some AML-CFT situations. You must not use a stamp if it does not match the wording required by the receiving agency. Justices cannot have a stamp for every situation, and it may be necessary to hand write the required statement on the copy.

Certified true copy of _____
That represents the named individual

Signed _____
Date _____

3.4 Unusual circumstances

You may be presented with a document of an unusual nature or asked to certify a document in a way you have never encountered. Because certification of copies is not a legislated process, there is no single correct method of certification.

If a client is seeking a certified copy in unusual circumstances, determine whether the receiving agency will accept a document certified under those circumstances and, where possible, communicate those circumstances in your certification statement.

- Determine whether the receiving agency accept a document certified in those circumstances.
- Be truthful and clear about the circumstances in your certification statement.
- Do your best for the client and the receiving agency.

3.4.1 Documents consisting of images or written in other languages

You may be presented with a document in a language other than English or another language you know, or which contains graphics, fingerprints, or other unusual features.

Compare as many features of the original and the copy as you can until you are sure the copy is a true copy. Where possible, it may help to hold both items to the light (one behind the other) to compare their features.

Then certify as usual.

3.4.2 Transcripts of text messages

If a client brings a written, typed or printed transcript of a cell phone text message you need to sight the full message on the screen of the cell phone.

Make sure you see the whole message on the screen. Read the ‘receipt’ information at the end of the message if it is there. This usually includes the sender’s name (as inserted by the owner of the cell phone), sender’s phone number, time and date of text message, and sometimes the ‘message centre’ information from the cell phone service provider.

Example

“Certified this is a true transcript of the words of a text message sent from phone number [Number] on [date] received at [time, am/pm] which I sighted on a cell phone on [date].”

You may include as many details as are available.

Or words to the same effect.

3.4.3. Client does not have the original document

Clients must supply both the copy and the original document to the Justice of the Peace making a certified copy.

The client will need to retrieve the original document if they have forgotten to bring it with them before you can certify any copies of the original. You may need to arrange an alternative time to meet the client.

If the client does not have possession of the original document or retrieving the document is impractical, one solution is to have the client swear a statutory declaration (see chapter 5).

The client may ask if the person in possession of the original document can show it to you via video calling, such as Skype. Using this method, you would not be able to examine the original document to the same extent as you would if the document was presented to you in person. Determine whether the receiving agency would accept a certified copy in these circumstances and be clear about your method of certification in your statement.

Example

“I certify that the original version of this document was presented to me via [skype/video calling/other electronic method] and that this printed copy is a true copy.”

Or words to the same effect.

3.4.4 Client cannot appear before you

For an ordinary certified copy, it is acceptable for someone other than the person requiring the certified copy to bring you an original and copy for certification.

For a copy required to meet AML purposes, you need to be able to see the person who owns the identification document to satisfy yourself that they resemble the photo in the identification document. The client may need to arrange to meet in person with you or another authorised person at a mutually agreeable time.

Another solution is to meet the client via video calling. While there is no specific legislation requiring the client to be present before you, the receiving agency may not be satisfied that certification using video calling meets their identity verification requirements. Before meeting the client via video calling, the client will need to confirm with the receiving agency that the proposed method of certification will be accepted by them. When certifying the copy, you need to be able to sufficiently identify the client and compare them to their identification document. Be clear about your method of certification in your statement. The client will need to retrieve the certified copy from you in some way. Perhaps by sending someone to retrieve the copy from you or, if the agency accepts this, by having you scan and email the certified copy to them.

If unable to meet with an authorised person in person or via video conference to have their identification document certified for AML purposes, the client may need to discuss what options are available to them with the receiving agency.

3.4.5 Client and documents cannot be presented to you in person

If a client is unable to physically appear before a person with authority to certify copies and cannot present you with the original document physically, it is possible for you to certify copies of a document via video calling following the processes set out in 3.4.3 and 3.4.4 or something similar.

To undertake certification via video calling, you must be able to satisfy yourself that the copy of the document before you is a genuine copy of the original document and, if certifying for AML purposes, that the identification document is an accurate representation of the client. Before certifying a document in this way, you should determine that the receiving agency will accept a document certified in these circumstances. The copy to be certified could be delivered to you or emailed to be printed by you. When certifying the copy, be clear about your method of certification in your statement. The client will need to retrieve the certified copy from you. Perhaps by sending someone to retrieve the copy from you or, if the agency accepts this, by having you scan and email the certified copy to them.

If unable to meet with an authorised person in person or via video conference to have their identification document certified for AML purposes, the client may need to discuss what options are available to them with the receiving agency.

3.4.6 Certified copy of an apostille

Justices of the Peace cannot certify copies *for* an apostille (see 3.5). But you may be authorised to make a certified copy *of* an apostille

3.4.7 Cannot certify the copy

Sometimes circumstances mean that you feel you cannot carry out the task of certifying a copy.

One solution is to take a statutory declaration from the client instead. This shifts the onus of the truth of the copy to the client. Any wording can be used that explains the origin of the copy. Attach the copy and complete an exhibit note on the copy (see 5.9). Discuss with the client the likelihood of this being an acceptable alternative as some agencies may not accept a statutory declaration. Statutory declarations will not be accepted in lieu of a certified copy of identification for AML-CFT purposes.

Example statutory declarations:

Example

“I (name) of (place of abode and occupation) solemnly and sincerely declare that:

“The document annexed to this declaration and marked ‘___’ has been downloaded and printed/copied without alteration from _____website/my cell phone.” (or other appropriate wording)

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

Or

“I (name) of (place of abode and occupation) solemnly and sincerely declare that:

“The document annexed to this declaration and marked [A] is a true copy of a letter I received in the post from my bank on [date].

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

effect.

See chapter 5 for more information on taking statutory declarations.

3.5 Apostille certificates

A Justice of the Peace cannot certify copies of documents to be submitted for an apostille certificate.

An apostille certificate is a state-to-state authentication of government-issued documents, such as birth and death certificates. The Department of Internal Affairs certifies to another country that a document is genuine.

Although most documents submitted for apostilles must be original there are a few documents of which certified copies are accepted. However, these copies must be certified by the original issuing office or notarised by a notary public. A Justice of the Peace cannot certify copies of documents to be submitted for an apostille certificate.

Refer your client to the Department of Internal Affairs for specific advice.

Chapter 4

Witnessing

4.1 About witnessing

Witnessing is when a person watches someone else sign or make their mark on a document and then attests to the genuineness of that signature by adding his or her own signature.

Justices are recognised as responsible individuals who will ensure that the document is signed by the person named in the document. Most government and private agencies and institutions accept Justices of the Peace as witnesses to the execution of documents for their purposes. However, it is still always important to check that a Justice of the Peace is an acceptable witness.

4.2 Witnessing a signature

4.2.1 Checklist

1. Identify the client (see 2.3),
2. Read all provided instructions,
3. Check for and attend to alterations in the usual way (see 2.11),
4. Check for and attend to blanks and gaps in the usual way (see 2.14),
5. Check that pages are numbered, or number them, in the usual way (see 2.12),
6. The signatory then signs the document,
7. Sign, and stamp (or write) your name, 'JP', your JP number and the date (see 2.6 and 2.10),
8. The Justice and the signatory both initial each page of the whole document, except the signing page (see 2.13).

4.2.2 Instructions

The form and layout of legal documents may be confusing to a layperson. Many solicitors mention in a covering letter how a document is to be signed and witnessed and indicate the places for signing and initialling on the document itself.

If advice is not given, remember that most documents are signed at or near the end of the document and that there is clear wording indicating where the signatures are to go.

4.2.3 Completing the attestation



Signed by the above-named **Joe Rawiri Bloggs** in the presence of:



Jane Doe JP 1234

If the signatory has signed the document before presenting it to you, you may ask the signatory to cross out the original signature and re-sign the document.

Sometimes, it is sufficient for the signatory to acknowledge that the signature on the document belongs to them and re-signing is not required. See, for instance, paragraph 4.3.2.

4.3 Wills

Some members of the public believe that a Justice must be a witness to a will and approach Justices especially.

4.3.1 Witnesses to a will

Witnesses to a will need no special qualifications, except that they must not be beneficiaries of that will. There is no requirement or need for a Justice of the Peace to act as a witness.

Witnessing a will is not a Justice of the Peace duty and you should not use 'Justice of the Peace' or 'JP' after your name.

4.3.2 Signing a will

The general requirements for witnessing a will are²:

- There must always be two witnesses to a will.
- The witnesses and the will-maker (testator) must see each other sign the will.
- No document should be attached to a will.
- The will-maker and each witness must all initial the bottom of each page other than the page containing the signature.

Sometimes the will-maker has already signed the will or directed someone else to sign on his or her behalf before meeting with the two witnesses. In that case, the will-maker must acknowledge verbally to the two witnesses who are present together that he or she did so. The witnesses must write a statement on the will to that effect before each signing in the presence of each other and the will-maker.

4.4. Powers of attorney

Powers of Attorney are contracts where one-person (the donor) seeks to give another person (the attorney) power to make decisions on their behalf.

When creating a power of attorney, both the donor and the attorney must sign the document and must have their signature witnessed. The donor and the attorney cannot have the same witness.

There are two kinds of powers of attorney – ordinary powers of attorney and enduring powers of attorney.

4.4.1 Ordinary powers of attorney

General, or ordinary, powers of attorney are a short-term solution where a donor seeks to give another person power to make decisions on their behalf. They may want to allow someone to make a business transaction in their stead or, if they are going overseas, to enable someone to administer their affairs until they return.

The powers bestowed can be limited and specific or wide and sweeping. However, a general power of attorney ceases if the person who gave the power loses mental capacity or dies.

² s 11 Wills Act 2007

4.4.1.1 Witnessing the signature of a donor or attorney

Any person, other than the donor or attorney, may act as a witness for an ordinary power of attorney. The donor and the attorney must have different witnesses.

Justices of the Peace may witness the donor or the attorney's signature (but not both). You simply witness the donor or attorney's signature in the usual way. A Justice has no further duties and does not give any advice of any kind.

Because this witnessing is not carried out as a Justice of the Peace, do not write 'JP' after your name.

It may be appropriate to recommend a donor seek legal advice prior to signing the document. Donors are enabling someone else to act on their behalf and are bestowing significant power.

4.4.2 Enduring powers of attorney

Enduring powers of attorney (EPAs) are regulated by the Protection of Personal and Property Rights Act 1988.

An enduring power of attorney is a document that creates a future right for someone to act on someone else's behalf in relation to that person's property and financial affairs and/or his or her personal care and welfare if he or she becomes incapable.

4.4.2.1 Witnessing the signature of a donor

A Justice of the Peace cannot witness a donor's signature on an Enduring Power of Attorney document.

Only a lawyer, a qualified legal executive or an authorised officer of a trustee corporation who is independent of the attorney can witness a donor's signature³. The witness to the donor's signature must give the donor legal advice and complete a certificate of witness before signing.

³ S94A Protection of Personal and Property Rights Act 1988

4.4.2.2 Witnessing the signature of an attorney

Witnessing of the attorney's signature is not subject to strict rules. Any person who did not witness the donor's signature (except the donor) can witness the attorney's signature.

Justices of the Peace may witness an attorney's signature. You simply witness the attorney's signature in the usual way. You have no further duties and must not give any advice of any kind.

Because this witnessing is not carried out as a Justice of the Peace, do not write 'JP' after your name.

Chapter 5

Statutory Declarations

5.1 About statutory declarations

The purpose of a statutory declaration is to provide a mechanism for clients to confirm or verify information required by agencies and have that information taken as truth by that agency.

One of the functions and powers of a Justice of the Peace is to:

'Take oaths and declarations under the provisions of the Oaths and Declarations Act 1957 or any other enactment'.⁴

A statutory declaration under the Oaths and Declarations Act 1957 is a document recording a statement in writing which the person making the statement declares to be true. A statutory declaration is not made under oath, but it does create a legal duty on the declarant to tell the truth. It is a crime punishable by 3 years' imprisonment to make a false declaration.⁵ The Oaths and Declarations Act 1957 prescribes the wording that must be used at the beginning and end of a statutory declaration.

Some other statutes also specify that a person may make an application or take certain steps under their provisions by declaration and most statutes make it an offence punishable by fine or imprisonment if the contents of the declaration are proved to be false.⁶ These declarations sometimes contain different wording from declarations under the Oaths and Declarations Act 1957 but it is still best practice to take the declaration in the same way.⁷

NOTE

NOTE: The Oaths and Declarations Act 1957 prescribes the wording that must be used at the beginning and end of a statutory declaration.

⁴ s 4(a) Justices of the Peace Act 1957

⁵ s 111 Crimes Act 1961

⁶ For example, ss 13 and 14 Rates Rebate Act 1973

⁷ Customs Dept v Meates [1982] 2NZLR 500

5.2 Checklist

1. Meet the client(s) in person (see 5.5),
2. Identify the client(s) (see 2.3),
3. Check for and attend to alterations in the usual way (see 2.11),
4. Check for and attend to blanks and gaps in the usual way (see 2.14),
5. Check that multiple pages are numbered, or number them, in the usual way (see 2.12),
6. Check that the declarant has completed the beginning of the statutory declaration (see 5.6),
7. The declarant signs the declaration (see 5.7),
8. The declarant solemnly declares as to the truth of the contents (see 5.4),
9. The Justice completes the attestation clause (see 5.7),
10. The Justice and the declarant initial each page of the document, except the signing page (see 2.13).

5.3 Wording of a statutory declaration

Schedule 1 of the Oaths and Declarations Act 1957 prescribes the form (wording) to be used in a statutory declaration.

A statutory declaration must begin with:

*I, (full name of declarant) of (place of abode and occupation) solemnly and
sincerely declare that
(Here follow the facts that are declared, usually numbered in paragraphs).*

A statutory declaration must conclude with an attestation clause:

*And I make this solemn declaration conscientiously believing the same to be true and
by virtue of the Oaths and Declarations Act 1957.
_____ (signature of declarant here)
DECLARED at _____ *this* _____ *day of* _____ 20 ____
before me:
_____ (signature of Justice here)
Justice of the Peace
(or other person authorised to take a statutory declaration)*

5.4 Taking a declaration

The declarant must declare to you that:

- The declaration belongs to them.
- They are aware of the declaration's contents.
- The declaration is true.

To prompt this declaration, you can put the declaration to the declarant in the form of a question.

Ask:

Justice: "Do you solemnly and sincerely declare that the contents of this your declaration are true?"
Declarant: "Yes" or "I do".
Or words to the same effect.

It is helpful to learn the question by heart. It is possible to use different wording.

5.4.1 Taking a non-verbal declaration

It is best to ask the declarant to give a clear verbal declaration. A nod of the head or shrug of the shoulder is easy to misinterpret.

In special circumstances, such as the client being non-verbal, a physical response may be appropriate. Ensure the declarant's intentions are clear by requesting a specific response. New Zealand sign language may be used.

You could ask:

Justice: "If you solemnly and sincerely declare that the contents of this your declaration are true, please raise your right hand"

or

Justice: "Do you solemnly and sincerely declare that the contents of this your declaration are true? Please sign 'Yes' or 'No'"

5.4.2 Joint declarants

Each declarant must give their declaration separately – that is the meaning of the word 'severally' in the opening and concluding words of the joint declaration.

Where there are multiple declarants, each declarant must be asked the declaration question and each must say "yes" or "I do" or give a physical reply, separately.

5.5 Declarant must be present in person

The declarant must be personally present before you. Justices must never take a statutory declaration from somebody other than the named declarant.

It is good practice to identify the client before proceeding with the declaration (see 2.3).

5.5.1 Joint declarants

The joint declarants may visit a Justice of the Peace together, or they may visit you at separate times, or each visit a different Justice.

5.6 Completing the beginning of the declaration

The declarant must write their full name, place of abode and occupation in the section at the beginning of the declaration.

5.6.1 Joint declarants

Ensure the beginning of the declaration says 'We' and not 'I'. All declarants must write their full names, places of abode and occupations.

Example

*We, Joe Rawiri Bloggs of Wellington, Builder and Stacey Smith of Lower Hutt,
Electrician, do solemnly and sincerely declare severally as follows:*

5.7 Completing the attestation clause

To complete the attestation clause:

- Ask the client to sign as the declarant.
- Write the place of signing.
- Write the date.
- Sign the declaration, print your name and JP number (or use your stamp).
- Insert "Justice of the Peace" (if not already included).
- Delete any references to other authorised persons.
- A declarant may make any mark as their signature; and does not have to be legible. It may be an 'X' (see 2.16).

5.7.1 The declarant signs beforehand

If the declarant has signed the declaration before presenting it to you, you may ask the declarant to cross out the original signature and re-sign the declaration. You and the declarant must initial this alteration.

However, it is also acceptable for the client not to re-sign their document. Have the declarant confirm their signature when they make their declaration.

Ask:

*“Do you solemnly and sincerely declare that the contents of this your declaration are true and that you signed this declaration yourself?”
Or words to that effect.*

5.7.2 Joint declarants

If a declaration is being made jointly, every declarant must sign the attestation. The document may provide separate attestation clauses for each declarant or a separate signing space for each declarant in the same attestation clause.

How you complete the attestation clause(s) will differ depending upon whether the declarants all appear before you on the same occasion or whether they have their declarations taken on different occasions.

5.7.2.1 All declarants present

If all declarants to a declaration wish to have their declaration taken by the same Justice of the Peace on the same occasion, only one attestation clause needs to be completed.

Ensure the wording of the attestation clause indicates that the declaration is being made jointly. The clause should begin with the phrase ‘Severally declared at...’.

Both declarants must sign the declaration. The finished attestation clause looks like:

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



Joe Rawiri Bloggs (signature of declarant here)



Stacey Smith (signature of declarant here)

SEVERALLY DECLARED at Wellington this 1st day of February 2023

before me (name of official witness) Jane Doe JP 1234

Signature of official witness:



~~Registrar/Justice of the Peace/Solicitor of the High Court.~~

5.7.2.2 One declarant present

If declarants decide to have their declaration taken on different occasions, each declarant must have their own attestation clause. The wording of each attestation clause will be the same as a single person declaration.

You and the declarant will complete only one of the attestation clauses. The other joint declarant(s) will complete the other attestation clauses with the authorised person who takes their declaration.

Example

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



Joe Rawiri Bloggs (signature of declarant here.)

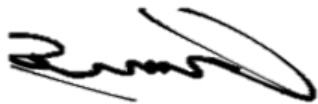
Declared at Wellington this 1st day of April 2023

Before me (name of official witness) Jane Doe JP 1234

Signature of official witness:



Registrar/Justice of the Peace/solicitor of the High Court



Stacey Smith (signature of declarant here.)

Declared at Masterton this 1st day of April 2023

Before me (name of official witness) Jack Downes JP 5678

Signature of official witness:



Registrar/Justice of the Peace/solicitor of the High Court

5.8 Initialling multiple page documents

You and the declarant(s) should initial each page of the declaration except the signing page (see 2.13). If the declaration is one page, no initialling is needed.

5.9 Attachments to statutory declarations

Sometimes a person mentions a document in their declaration, such as a letter or contract, and then attaches that document to the declaration for the recipient to read. These documents are known as ‘attachments’ or ‘annexures’ or ‘exhibits’.

Every attachment to a declaration must have an exhibit note completed on it.

For court documents these exhibit notes are compulsory (see 6.9) whereas for statutory declarations it is a matter of legal practice that they must always be completed.

Sometimes you may need to certify the attachment as a copy before completing an exhibit note.

5.9.1 Checklist

For each attachment, do the following:

1. Certify the attachment as a copy, if required (see chapter 3 for information on how to do this),
2. Check the attachment is referenced in the declaration (see 5.9.3),
3. Write a distinguishing letter/number on the attachment (see 5.9.2),
4. Have the declarant refer to the attachment by its distinguishing letter in the declaration (see 5.9.3),
5. Complete an exhibit note on the attachment (see 5.9.4).

5.9.2 Distinguishing letter or number

Each attachment must have a distinguishing letter or number written on it. Consecutive letters of the alphabet are nearly always used. For example, if there are five attachments mentioned in the declaration, they will have ‘A’, ‘B’, ‘C’, ‘D’ and ‘E’ written on them, preferably in the order that they are mentioned in the declaration.

If a letter or number has not been written on the attachment already, you can write one clearly at the top of the front of each attachment.

Sometimes the declarant will have written a distinguishing letter on the attachment before having their declaration taken.

Some organisations provide statutory declarations forms to clients with the declaration section pre-written. The pre-written declaration may require specific documents to be attached to it and may require those attachments to be given specific distinguishing letters.

5.9.3 Referring to the attachment

Every attachment needs to be referred to in the body of the declaration. The attachment’s distinguishing letter or number must also be referred to in the body of the declaration. If the attachments are not already

referenced in the declaration or their distinguishing letter or number is not noted, the client must add the appropriate reference.

*On 6/2/15 I received a letter from Mr Jones dated 1/2/15 a copy of which is attached
and marked 'A'.*

5.9.4 Completing the exhibit note

An exhibit note must be written or stamped on each attachment. It should not obscure the information on the document. The note may be placed on the front or the back of the document and should be worded as follows:

This is the *letter* marked *A* referred to in the statutory declaration of *Joe Rawiri Bloggs* declared at *Wellington* this *12th* day of *June 2023* before me:



Jane Doe JP 1234

Justice of the Peace

The declarant does not sign the exhibit note.

5.10 Overseas statutory declarations

Most countries have 'oaths and declarations' or similar legislation and all have different rules about who may administer declarations.

If it is stated on the form or on accompanying instructions that a New Zealand Justice may administer the declaration, take the declaration as usual or according to instructions provided. Do not change any wording on the form. Write 'Justice of the Peace for New Zealand' after your signature. Make sure your name and JP number are clearly written to allow the agency to verify your authority.

If it is not stated that a New Zealand Justice may act, you should obtain confirmation from the client that you have authority to act. Your client may need to contact their embassy or high commission or the receiving agency to provide that confirmation.

NOTE: It is the client's responsibility to determine whether you have jurisdiction to take their declaration. It is the foreign agency's prerogative to accept your signature or not.

5.10.1 Australian declarations

New Zealand Justices of the Peace do not have authority to take a declaration under the Australian Oaths and Declarations Act 1959. However, some Australian states do allow overseas Justices to take declarations and this may be stated on the form.

Refer the client to the Australian High Commission for specific advice

5.11 Declarations made by children

There is no statutory minimum age limit for making a declaration.

It is obvious that very young children cannot promise to tell the truth. If a child is brought to you for the purpose of making a statutory declaration, you need to make an ordinary (layperson's) assessment of the child's ability to describe what telling the truth means and to make a promise to do so. It can be helpful to talk with the child a little bit before drawing a conclusion.

Then take the declaration as usual.

Some agencies put their own age limit on declarations. Check on the form. If necessary, you will need to see the birth certificate of the child.

5.12 Declaration in another language

The wording at the beginning and end of the declaration prescribed by the Oaths and Declarations Act 1957 must be in English.

However, a person may write the content of their New Zealand statutory declaration in a language that is not English. You do not need to understand the content of the declaration and should administer the declaration as described in this chapter.

The receiving agency will likely require the statutory declaration to be submitted to them alongside a translation. The client will need to confirm the correct procedure for submitting a non-English with the receiving agency. It is acceptable to follow the same procedure that is required for submitting a non-English affidavit (see 6.10).

The verbal declaration must be made in English, with the declarant stating 'yes' or 'I do' in English, unless special circumstances necessitate a physical response (see 5.4.1). You must be satisfied that the declarant adequately understands the legal importance of making a declaration and the meaning of the question you ask. The client may have a support person present to assist.

Chapter 6

Affidavits

6.1 About affidavits

The Oaths and Declarations Act 1957 authorises Justices of the Peace to administer affidavits. An affidavit is 'a statement made on oath in writing, sworn or affirmed before someone who has authority to administer it'.⁸

The layout and wording of affidavits is regulated by the High Court Rules 2016⁹, Family Court Rules 2002¹⁰ and District Court Rules 2014¹¹.

An affidavit, like a statutory declaration, is a form of recording a truthful statement, but an affidavit is a document usually used as evidence in connection with court proceedings. The person the affidavit belongs to is called a deponent.

Deponents may choose to swear on oath or affirm their affidavit. Both methods have the same legal effect. Justices should not query the reason for a person choosing either method.

6.2 Checklist

- Meet the client(s) in person (6.5),
- Check the deponent's identification (see 2.3),
- Check for and attend to alterations (see 2.11),
- Check for and attend to blanks and gaps (see 2.14),
- Check that pages are numbered, or number them (see 2.12),
- Confirm that both the affidavit and the exhibits are single-sided,
- Ask whether the deponent wishes to swear or affirm the affidavit or use an alternative method,
- Confirm or correct the wording at the beginning of the affidavit (6.6),
- The deponent(s) will swear/affirm their affidavit (6.4),
- The deponent(s) signs the affidavit (6.7),
- Complete the jurat (6.8),
- The Justice and the deponent must both initial every page except the signing page (see 2.13),
- Complete exhibit notes on each attachment (6.9).

6.3 Wording of affidavit

Affidavits have standard layout and wording, but some variations are acceptable. The actual content of the deponent's statement must be in numbered paragraphs.¹³

⁸ P. Spiller (ed), Butterworths New Zealand Law Dictionary 5th Edition.

⁹ R9.76 High Court Rules 2016.

¹⁰ R158 Family Court Rules 2002.

¹¹ R9.66 District Court Rules 2014.

¹³ Rule 5.17 District Court Rules 2014, r5.14 High Court Rules 2016, r68 Family Court Rules 2002.

Affidavits have usually been drafted by the deponent's lawyer.

6.3.1 Beginning of affidavit

An affidavit which will be sworn usually commences:

I (full name of deponent) of (place of residence and occupation) swear as follows:

An affidavit which will be affirmed usually commences:

*I (full name of deponent) of (place of residence and occupation)
solemnly and sincerely affirm as follows:*

Sometimes the affidavit has both phrases printed at the beginning.

*I (full name of deponent) of (place of residence and occupation) swear/solemnly and
sincerely affirm as follows:*

6.3.2. Jurat

The conclusion of an affidavit is called the jurat. The jurat usually looks like:

SWORN/AFFIRMED at
*thisday of....., 20..... before me
Registrar/Justice of the Peace/solicitor of the High Court*

In a jurat, "at" means the town or city where the signing takes place.

6.4 Taking an affidavit

Deponents may choose to swear an oath or to make an affirmation.

It is best practice to ask the deponent to give a clear verbal affirmation or oath. A nod of the head or shrug of the shoulder is easy to misinterpret. However, section 3(c) of the Oaths and Declarations Act 1957 enables deponents to have oath taken in any manner the deponent declares binding on them, which could involve the deponent making a physical gesture rather than a verbal oath.

6.4.1 Swearing an oath

Satisfy yourself that the affidavit belongs to the deponent and that the deponent believes in the truth of its contents.

Ask questions such as:

Justice: *"Is this your affidavit? Have you read it? Is it true and correct?"*
Deponent answers

Have the deponent hold a copy of the Bible or other religious book or object in either hand and prompt the deponent to take their oath by asking:

Justice: *"Do you swear by Almighty God that the contents of this your affidavit are true, so help you God?"*
Deponent: *Whilst touching a bible or other religious book or object responds "Yes" or "I do".*

If the deponent can respond verbally, it is best practice for them to do so. A nod of the head or a shrug can be misinterpreted.

In special circumstances, such as the client being non-verbal, a physical response may be appropriate. Ensure the deponent's intentions are clear by requesting a specific response. New Zealand sign language may be used.

For example, have the deponent take their oath by asking:

Justice: *"Do you swear by Almighty God that the contents of this your affidavit are true, so help you God? Please use New Zealand Sign Language to answer."*
Deponent: *Signs 'Yes' or 'I do'*

6.4.2.1 Taking an oath in an alternative way

Although the standard method described above is the usual way for an oath to be taken, it is possible for an oath to be taken in an alternative way. Section 3(c) of the Oaths and Declarations Act 1957 provides

that 'the oath may be administered and taken in any manner which the person taking it may declare to be binding on him'.

If a deponent chooses to perform some other action, for example to blow out a candle, that is acceptable so long as the deponent declares this action binding upon them.

However, the deponent must still clearly state by speaking aloud or using clear body language:

- That the affidavit is theirs.
- That it is true.
- That their manner of taking the affidavit is binding on them.

6.4.2 Affirming

Satisfy yourself that the affidavit belongs to the deponent and that the deponent believes in the truth of its contents.

Ask questions such as:

Justice: *"Is this your affidavit? Have you read it? Is it true and correct?"*

Deponent answers

Have the deponent take their affirmation by asking:

Justice: *"Do you solemnly, sincerely and truly declare and affirm that the contents of this your affidavit are true?"*

Deponent: *"Yes" or "I do".*

If the deponent can respond verbally, it is best practice for them to do so. A nod of the head or a shrug can be misinterpreted.

In special circumstances, such as the client being non-verbal, a physical response may be appropriate. Ensure the deponent's intentions are clear by requesting a specific response. New Zealand sign language may be used.

For example, have the deponent take their affirmation by asking:

Justice: *"Is this your affidavit? Have you read it? Is it true and correct? Please use New Zealand Sign Language to answer."*

Deponent: Signs 'Yes'

Justice: *"Do you solemnly, sincerely and truly declare and affirm that the contents of this your affidavit are true? Please use New Zealand Sign Language to answer."*

Deponent: Signs 'Yes'.

6.4.3 Joint deponents

If there is more than one deponent, each deponent must answer the appropriate questions separately. Deponents may have their affidavit taken in different ways. For instance, one deponent may take an oath while the other makes an affirmation.

There must be a separate jurat for each deponent. Check that the wording at the beginning of the affidavit accurately reflects what each deponent did.

Each deponent must be asked the questions separately and make their oath or affirmation separately.

6.5 Deponent must be present in person

The deponent must be personally present before you. Justices must never take an affidavit from somebody other than the named deponent.

6.5.1 Joint deponents

More than one person may make the same affidavit.

The joint deponents may visit a Justice of the Peace together, or they may visit the same Justice of the Peace at separate times, or deponents may have their affidavit taken by different authorised persons.

6.6 Completing the beginning of the affidavit

The deponent must write their full name, place of abode and occupation in the section at the beginning of the declaration. You must also indicate the method by which their affidavit was made.

If swearing an oath, the affidavit should begin:

I (full name of deponent) of (place of residence and occupation) swear as follows:

CHAPTER 6 - Affidavits

If making an affirmation the affidavit should begin:

*I (full name of deponent) of (place of residence and occupation)
solemnly and sincerely affirm as follows:*

Sometimes more than one phrase is printed at the beginning. **You must cross out one of the phrases according to what the deponent has chosen to do:**

*I (full name of deponent) of (place of residence and occupation) swear/~~solemnly and
sincerely affirm~~ as follows:*

If necessary, it is acceptable to cross out and replace the words. This alteration should be initialled by the Justice and the deponent:

*I Joe Rawiri Bloggs of Wellington, Builder ~~solemnly and sincerely affirm~~ SWEAR
JB JD as follows:*

6.6.1 Joint deponents

If there is more than one deponent, the beginning of the affidavit must give the full name, place of residence and occupation of each deponent. The affidavit must accurately reflect what each deponent did to make their affidavit.

Example

*I Joe Rawiri Bloggs of Wellington, Builder ~~swear~~/solemnly and sincerely affirm
And I Stacey Smith of Lower Hutt, Electrician ~~swear/solemnly and sincerely affirm~~
as follows:*

Or

*We John Rawiri Bloggs of Wellington, Builder and Stacey Smith of Lower Hutt,
Electrician swear as follows:*

Or words that accurately reflect what each deponent did.

6.7 Signing the affidavit

The deponent(s) must sign the affidavit.

6.7.1. The deponent signs beforehand

If the deponent has signed the affidavit before presenting it to you, you may ask the deponent to cross out the original signature and re-sign the affidavit in front of the Justice. You and the deponent must initial this alteration.

However, it is also acceptable for the client not to re-sign their document. Have the deponent confirm their signature when they make their affidavit.

For instance, if affirming their affidavit, ask:

“Do you solemnly and sincerely affirm that the contents of this your affidavit are true and that you signed this affidavit yourself?” Or words to that effect.

6.8 Completing the jurat

To complete the jurat:

- Cross out 'Sworn' or 'Affirmed' to reflect how the affidavit was taken.
- Write the place of signing and date.
- Sign the jurat, printing your name and JP number (or using your stamp).
- Insert "Justice of the Peace" (if not already included).
- Delete any references to other authorised persons.

SWORN/AFFIRMED at *Wellington*

this *1st* day of *April* 2023 before me *Jane Doe* JP,1234



~~Registrar/Justice of the Peace/solicitor of the High Court~~

Sometimes the jurat of an affidavit will include 'solicitor of the High Court' but not 'Justice of the Peace'. Simply cross out 'solicitor of the High Court' and write 'Justice of the Peace'.

6.8.1. Joint deponents

6.8.1.1 All deponents present

There must be a separate jurat for each deponent and each deponent must take their affidavit separately. Check that the wording at the beginning of the affidavit accurately reflects how each deponent took their affidavit.

6.8.1.2 One deponent present

If only one deponent to a joint affidavit is before you, the steps for completing the jurat are the same as in paragraph 6.8.

Each deponent has a separate jurat clause. You and the deponent will complete only one of them. The other joint deponent(s) will complete the other jurat clauses with the authorised person who takes their oath or affirmation.



Joe Rawiri Bloggs

SWORN/~~AFFIRMED~~ at Wellington
this *1st* day of April 2023 before me Jane Doe JP 1234
Registrar/Justice of the Peace/~~solicitor of the High Court~~



Stacey Smith

SWORN/~~AFFIRMED~~ at Lower Hutt
this *3rd* day of April 2023 before me Jack Downes JP 5678
Registrar/Justice of the Peace/~~solicitor of the High Court~~



6.9 Attachments and exhibit notes

Sometimes a person mentions in an affidavit a document, such as a letter, receipt or contract, and then attaches that document to the affidavit for the court to read. These documents are known as ‘attachments’ or ‘annexures’ or ‘exhibits’.

The High Court Rules 2016, Family Court Rules 2002, and District Court Rules 2014 all require each attachment to have an exhibit note typed or written on it¹⁴.

6.9.1 Checklist

For each attachment, do the following:

- Certify the attachment as a copy of an original document, if required (see chapter 3),
- Check the attachment is referenced in the affidavit (6.9.3),
- Write a distinguishing letter/number on the attachment (6.9.2),
- Have the deponent refer to the attachment by its distinguishing letter in the affidavit (6.9.3),
- Complete an exhibit note on the attachment (6.9.4).

¹⁴ Rule 9.77 High Court Rules 2016, Rule 159 Family Court Rules 2002, Rule 9.67 District Court Rules 2014.

6.9.2 Distinguishing letter or number

Each attachment must have a distinguishing letter or number written on it. Consecutive letters of the alphabet are nearly always used. For example, if there are five attachments mentioned in the affidavit, they will have 'A', 'B', 'C', 'D' and 'E' written on them, preferably in the order that they are mentioned in the affidavit.

If a letter or number has not been written on the attachment already, you can write one clearly at the top of the front of each attachment.

Sometimes the deponent will have written a distinguishing letter on the attachment before having their affidavit taken.

Some affidavits, such one attached to an application for marriage dissolution, require specific documents to be attached and require those attachments to be given specific distinguishing letters.

6.9.3 Referring to the attachment

Every attachment needs to be referred to in the body of the affidavit. The attachment's distinguishing letter or number must also be referred to in the body of the affidavit. If the attachments are not already referenced in the affidavit or their distinguishing letter or number is not noted, the client must add the appropriate reference.

Example

On 6/2/15 I received a letter from Mr Jones dated 1/2/15 a copy of which is attached and marked 'A'.

6.9.4 Completing the exhibit note

An exhibit note must be written or stamped on each attachment. It should not obscure the information on the document. The note may be placed on the front or the back of the document and should be worded as follows:

EXHIBIT NOTE
This is the annexure marked " <u>A</u> " referred to within the affidavit of <u>Joe Rawiri Bloggs</u>
and sworn/affirmed at <u>Wellington</u>
this <u>1st</u> day of <u>April</u> 20 <u>23</u> before me
Signature <u><i>John Doe</i></u>

The deponent does not sign the exhibit note.

You do not need to write an exhibit note on every page of a multiple page exhibit. There is no requirement to number or initial individual pages of the exhibit.

6.9.4.1 Joint deponents

If an affidavit is being sworn jointly, an exhibit note must be made for each deponent if they have their affidavits taken on separate occasions.

If taking the first deponent's oath or affirmation, it is a good idea to use an exhibit note stamp twice. Complete one of the exhibit note stamps and leave the second blank, as a prompt for the second Justice or authorised person who will take the next deponent's oath or affirmation.

If two or more deponents have their affidavit taken at the same time, only one exhibit note is required. The name of each deponent must be written on the single exhibit note.

6.9.5 Attaching the exhibit

If an exhibit cannot practically be attached to the affidavit (due to size or media format such as a DVD), the exhibit must be securely stapled or bound together, and a cover page attached. See the exception to this in 6.9.6.

Make your exhibit note on the cover page.

6.9.6. Wills as attachments

Sometimes, in the process of applying for probate, an affidavit must be submitted to the High Court with the original will attached as an exhibit.

If a will is referred to in an affidavit as an exhibit, the will must not be stapled to the affidavit or altered in any way other than having an exhibit note written on it. You must not obscure any writing on the will. It is best practice to write the exhibit note on the back of the will.

6.10 Affidavit in a language other than English

An affidavit in a language other than English may be filed in District Court, High Court or Family Court proceedings¹⁵.

The non-English affidavit must be accompanied by an affidavit by an interpreter.

The interpreter's affidavit must have exhibited to it:

- A copy of the non-English affidavit (it is recommended that you certify this copy, see chapter 3).
- The interpreter's translation of the non-English language affidavit.

See 6.9 for guidance on how to properly exhibit attachments.

6.11 Affidavits made by children

There is no statutory minimum age limit for making an affidavit.

It is obvious that very young children cannot promise to tell the truth. If a child is brought to you for the purpose of making an affidavit, you need to make an ordinary (layperson's) assessment of the child's ability to describe what telling the truth means and to make a promise to do so. It can be helpful to talk with the child a little bit before drawing a conclusion.

Then take the affidavit as usual.

¹⁵ Rule 1.19 District Court Rules 2014, Rule 1.15 High Court Rules 2016, Rule 160 Family Court Rules 2002

6.12 Applications for dissolution of marriage or civil union

To apply for a dissolution of marriage or civil union, an application must be filed with the Family Court who administers the dissolution process according to the Family Court Rules 2012. Because it is a court document prescribed by statute, it is vitally important that every aspect is completed correctly. If not, the application may be rejected by the court registrar, costing the applicant wasted time and effort, and in some cases causing major inconvenience.

The application packs contain instructions on how to complete the application documents and the application documents to be completed. The documents that must be completed are:

- an application form
- an affidavit to accompany the application
- an information sheet (called G7), which must be printed on yellow paper¹⁶

The application packs are formatted so that each page is single-sided. Any exhibits attached to the affidavit must also be singled sided.

Single-party applicants must provide the court with all the forms listed above and two additional copies of the information sheet (called G7).

NOTE

Applicants must complete the application pack – joint or one-party - that suits their circumstances.

When assisting a client with an application for dissolution, Justices of the Peace must:

- Check that the application documents have been completed.
- Take the affidavit.
- Complete exhibit notes on attachments.

6.12.1 Ability to apply for a dissolution

It is the client's responsibility to determine whether they can apply for a dissolution. If they are unsure, they should get advice from the Ministry of Justice or from a lawyer.

To apply for a dissolution of marriage or civil union in New Zealand the couple must have lived apart for at least two years and one day and at least one party to the marriage or civil union must be domiciled in New Zealand

¹⁶ Rule 20A(d) Family Court Rules 2002

6.12.2. Joint and one-party applications

Parties must complete the application pack that fits their circumstance. Parties to a marriage or civil union may apply jointly or may file a one-party application.

If only one party to a marriage or civil union seeks a dissolution, they must file a one-party application. The other party will not apply for a dissolution and they become the respondent.

If both parties are seeking a dissolution, then they must complete a joint application pack together. As with any other affidavit, parties can have their joint affidavit taken at different times by different authorised persons, if that is their preference.

6.12.3 Ensuring the documents have been completed

Take the time to go through the application form, affidavit and information sheet. Check that each numbered statement or question has been filled in where required.

Every application pack includes instructions on how to complete the application form, affidavit and information sheet. Refer to the client to these instructions if they require guidance.

6.12.4 Taking the affidavit

The process for taking an affidavit for an application of dissolution is the same as any other affidavit. See 6.4 for instructions on taking a one-party affidavit. See 6.4.3 for instructions on taking a joint affidavit.

How the jurat is completed for a joint application will depend upon when each party has their affidavit taken.

6.12.4.1 Taking a joint application with both parties present

For a joint application where both parties have their affidavit taken by you on the same occasion, only one jurat should be completed for the joint applicants.



Joe Rawiri Bloggs

(Signature of deponent)



Stacey Smith

(Signature of deponent)

Severally Sworn (~~or affirmed~~) at

Wellington [place]

This *1st of February 2023*

[date] before me:



Jane Doe JP 1234

~~Deputy Registrar~~

(or Justice of the Peace

Or Solicitor of the High Court)

6.12.4.2 Taking a joint application with one party present

Parties applying jointly may have their affidavit taken at different times, by the same Justice of the Peace or by different authorised persons. Each party must have a separate jurat completed for them.

The first applicant to have their affidavit taken should have the first jurat completed for them. The second applicant will have the bottom jurat completed for them.



Stacey Smith

Signature of deponent

Signature of deponent

Severally Sworn (or affirmed) at

Lower Hutt [place]

This *1st of February 2023*

[date] before me:



Jack Downes JP, 5678

–Deputy Registrar

(or Justice of the Peace

Or Solicitor of the High Court)



Joe Rawiri Bloggs

Signature of deponent

Sworn (or affirmed) at

Wellington [place]

This *2nd of February 2023*

[date] before me:



Jane Doe JP 1234

–Deputy Registrar

(or Justice of the Peace

Or Solicitor of the High Court)

6.12.5 Completing the exhibit note

Write exhibit notes in the usual way (see 6.9).

- The certificate of marriage or civil union, or a certified copy, must be attached to the affidavit as Exhibit A.
- If parties have a separation order or agreement, or a certified copy, this must be attached as Exhibit B.

Remember, when parties to a joint application have their affidavit taken on separate occasions, an exhibit note must be completed for each attachment on each occasion.

Make sure that the client has their marriage or civil union certificate or a copy of that document. Clients may mistakenly bring a document called 'copy of particulars'. If the client only has the 'copy of particulars' they will need to order a marriage certificate from the Government.

6.12.6 Affidavit of service

When one party applies for dissolution, a set of the documents must then be sent to the other party, who is now called the 'respondent'. This is called 'serving' the other party. The person who served the documents must then make an affidavit of service to provide the court with evidence that the respondent has in fact been given the documents.

When taking affidavits of service check that:

- The person who actually served the documents on the respondent is the person who will be swearing or affirming the affidavit of service.
- The affidavit is completed in full, i.e. all sections of the affidavit are completed and where there are options that do not apply, they are deleted.
- Take the affidavit in the usual way (see 6.4).

Matters to be aware of:

- The applicant for an application for an order dissolving a marriage/civil union (the husband, wife or partner) cannot serve the documents on the respondent himself or herself.
- If the person serving the documents does not personally know the respondent then either the acknowledgement of service must be signed by the respondent, or the deponent (the person serving the documents) must identify the person they are serving (the respondent) by a photograph. This photograph must then be attached to the affidavit of service as exhibit 'C'.
- The documents cannot be served on a Sunday, Christmas Day, New Year's Day, Good Friday or Anzac Day.
- Where service is effected in New Zealand it must be effected at least 21 clear days prior to the registrar's list date allocated to the matter.

6.12.7 Affidavit of identification

Occasionally a Justice of the Peace may be approached by an applicant for an order dissolving a marriage/civil union to have an affidavit of identification sworn or affirmed.

These affidavits only need to be completed when dissolution documents have been served on a respondent by a person who did not personally know the respondent.

In this case the applicant must swear or affirm an affidavit either identifying the respondent's signature on the affidavit of service or identifying the photograph that was used by the person serving the dissolution documents.

All matters previously mentioned should be checked when taking these affidavits. When swearing or affirming an affidavit of identification, the applicant must have access to the affidavit of service to identify either the signature or photograph of the respondent.

6.12.8 Acknowledgement of service

This document is required when the respondent has to acknowledge that he or she was served with (given) a copy of the spouse or partner's application for dissolution and the associated affidavit.

Chapter 7

Statutory Roles

7.1 About statutory roles

There some Acts which provide that a task may or must be carried out by a Justice of the Peace, or that a Justice of the Peace is specifically eligible for appointment.

7.2 Elections

It is the role of a Justice of the Peace under the Electoral Act 1993 to act as an independent observer for various stages of the electoral process.

Justices may be appointed to carry out the following roles:

- A Justice of the Peace must accompany an issuing team as an independent observer during the issuing of advance votes in hospitals and rest homes if no scrutineers have been appointed by local party officials.
- A Justice of the Peace must accompany an issuing team as an independent observer during the issuing of advance votes if an issuing team visits a voter at home.
- A Justice of the Peace must also be present throughout the official count at the electorate headquarters to:
 - Observe the progress of the count.
 - Initial any amendment to the results counted on election night for each polling place.
 - Sign the official certificate of results for each polling place as it is completed.
 - Certify the progress of the count at the end of each day by signing the official notification certificate of the results for the electorate.

A Justice of the Peace cannot be employed in another role (such as an issuing officer of advance votes) during an election process while he or she is undertaking the duties of a Justice of the Peace.

Returning Officers contact their local Justice of the Peace Associations to obtain names of Justices of the Peace who are available during the election period and suitable to carry out the role.

Justices should inform their Association Registrar of their interest in the role well before an election. It is acceptable to receive payment and reimbursement of costs incurred for this role.

7.3 Visiting Justices

Visiting Justices hear charges and appeals relating to offences against prison discipline.¹⁷

A Visiting Justice must be either a Justice of the Peace or a barrister and solicitor of the High Court of New Zealand. Appointments are for 3 years and may be renewed. The application and appointment process is carried out by the Ministry of Justice.

This is a paid role. The Ministry of Justice seeks expressions of interest from suitably qualified persons who would like to be considered for appointment when vacancies arise.

7.4 Issuing officers

Issuing officers consider applications for search warrants and production orders under the Search and Surveillance Act 2012. An issuing officer is personally authorised by the Attorney-General for a 3-year term.¹⁸

Justices of the Peace are eligible to be authorised as issuing officers. To become an Issuing Officer you must be recommended for training by your Association and you must undertake training and assessment provided by Royal Federation. Justices who are supported by their Association and have successfully completed training will have their name forwarded to the Chief District Court Judge for recommendation to the Attorney-General.

A Justice who is interested in the role should contact his or her Association Registrar.

To be considered for this role you must be committed to ongoing learning. Issuing Officers must understand their jurisdiction under the Search and Surveillance Act 2012 and keep their knowledge current.

Issuing Officers must reside or work in an area that enforcement officers can travel to easily. Issuing Officers must be prepared to answer calls late at night and must exercise a high level of discretion.

This is an unpaid role.

7.5 Judicial Justices of the Peace

Judicial Justices are Justices of the Peace who are authorised to preside over certain criminal cases in the District Court.

¹⁷ s 19 Corrections Act 2004

¹⁸ s 108 Search and Surveillance Act 2012

To become a Judicial Justice, a Justice of the Peace must complete the Judicial Studies Course and receive authorisation from the Chief District Court Judge to join a local Justice of the Peace court panel.

The Judicial Studies course is a privately-run course facilitated by the Royal Federation endorsed by the Chief District Court Judge. Applications for the course are submitted to the Royal Federation and Justices of the Peace must be endorsed by their local Association to apply. Applicants must be accepted by the Royal Federation to be enrolled into the course.

The Judicial Studies Course consists of online distance learning, a practicum and a mentoring programme.

Judicial Justices are members of their Association's court panel.

7.6 Other legislative tasks relating to Justices of the Peace

Other legislation exists which enables Justices of the Peace to undertake roles additional to those outlined in this manual. Justices of the Peace are rarely asked to undertake these roles. You should contact your Association for advice if you are requested to undertake a task that is not familiar to you or is not described in this manual.

Examples include being asked to take evidence under section 91 of the Coroners Act 2006 or to enter a prison under section 162 of the Corrections Act 2004.

Chapter 8

Other Roles

8.1 Introduction

Justices of the Peace are known in the community as persons of good character because of the personal attributes and community service required of a nominee and the vetting process undertaken before appointment. Often Justices are invited to undertake additional tasks for which a trustworthy member of society is required.

These tasks are not the statutory duty of a Justice of the Peace. It is acceptable to receive payment and reimbursement of costs incurred for the roles outlined in this chapter, and other similar roles, if such payment is offered.

8.2 Nominated witness for police interview of child or young person

A Justice who is interested in either of the following roles should contact their Justice of the Peace Association Registrar. It is acceptable to receive payment and reimbursement for costs incurred for these roles, if offered.

8.2.1 Police interview of child or young person

The Oranga Tamariki Act 1989 (also called the Children’s and Young People’s Well-being Act) stipulates that when police interview a child or young person under 17 years there must be a parent or guardian present, or another adult nominated by the young person. If none of these persons is available or the young person declines to accept any of these options, the police can nominate an adult of their choice provided that the person is not an enforcement officer¹⁹.

This role is known as a ‘nominated witness’ (or sometimes ‘nominated person’).

In some areas Police choose a nominated witness from a list of Justices of the Peace provided to them by the local Justice of the Peace Association.

The main role of the nominated witness is to ensure that the young person to be interviewed is fully aware of his or her rights under the Oranga Tamariki Act before the interview commences. This means not just witnessing the reading of the rights by the interviewing officer, but also actively ensuring that the young person understands them. The nominated witness does not play an active role in the course of the interview but is given a form on which to record what happened and may intervene if the young person appears to be confused at any point. There is provision on the form to record whether or not undue pressure was applied to the young person.

¹⁹ 29 s 222(1)(d) Oranga Tamariki Act 1989

If there are any concerns about the interview, the matter is taken up with a senior police officer.

Interviews may be simple questions and answers recorded in a notebook, a formal written statement, or a video-recorded interview. In the case of written statements, the nominated witness also signs the statement as a witness to it being a correct record of the interview and to the young person's signature.

8.2.2 Police taking of DNA samples from young people

In some areas police also ask Justices of the Peace to observe the taking of a DNA sample from a young person under the Criminal Investigations (Bodily Samples) Act 1995. This only occurs when a parent, caregiver or other person of the young person's choice is not available or cannot be located; or the young person or his or her parent or caregiver fails or refuses to choose another person to be present.

The Justice of the Peace observing the DNA sample should ensure that the requirements of the Act are observed, including:

- The giving of and explanation of a written notice in a manner and in language that the young person is likely to understand.
- A choice of a finger-prick or buccal (mouth) sample. (If the young person does not choose after a reasonable opportunity, the police officer may make the choice). A finger-prick sample must be taken by a suitably qualified person, while a buccal sample may be taken by the young person himself or herself or by a suitably qualified person.
- The young person must be told that if he or she refuses to give a DNA sample then the constable may use or cause to be used reasonable force to assist a suitably qualified person to take a finger-prick sample.

8.3 Nominated witness for mental health patient

The Mental Health (Compulsory Assessment and Treatment) Act 1992 governs the assessment and treatment process when a person suffers a mental disorder to the extent that they pose a serious danger to their own health or safety or that of others, or which 'seriously diminishes the capacity of that person to take care of himself or herself'.²⁰

An application for an assessment may be made by anyone who believes a person is suffering such a mental disorder. The application must include a medical certificate. When an application is received, the Director of Area Mental Health Services, or a duly authorised officer acting with the authority of the Director, makes arrangements for the assessment to take place.

²⁰ s 2 Mental Health (Compulsory Assessment and Treatment) Act 1992

The duly authorised officer is required to explain to the proposed patient in person:

- When and where the assessment will take place.
- Why the assessment is proposed.
- Who is going to carry out the assessment.

The proposed patient must receive a written statement of his or her rights and be kept informed of his or her legal status as a prospective patient. All of this information is collectively known as a 'section 9 notice'.²¹

As the proposed patient is in a vulnerable state, the Section 9 notice must be given and explained in the presence of a member of his or her family, or a caregiver, or other person concerned with that person's welfare.

In the absence of a family member or caregiver, District Health Boards (DHBs) in some areas ask Justices of the Peace to fulfil the role as an 'other person'.

A Justice of the Peace in this role is therefore, in relation to the patient, a '...person concerned with that person's welfare'. The role is usually referred to as a 'nominated witness' or 'nominated person'. The responsibilities of the Justice of the Peace acting as a nominated witness are to:

- Be present and observe the process.
- Support the proposed patient as appropriate.
- Observe the proposed patient being given an explanation of his or her rights.

The Justice of the Peace:

- Meets with the duly authorised officer.
- Meets the proposed patient and is introduced.
- Witnesses the delivery of the section 9 notice (both orally and on paper).
- Leaves once the section 9 notice has been given appropriately.

If there are any concerns with the process, the Justice of the Peace should talk with the duly authorised officer at the time or on the next working day.

A Justice of the Peace who is interested in this role should contact his or her Justice of the Peace Association Registrar. In an area where the DHB does utilise Justices of the Peace for the role, the Association provides it with a list of appropriate Justices, and also provides information, training and

²¹ s 9 Mental Health (Compulsory Assessment and Treatment) Act 1992

support to Justices. It is acceptable to receive payment and reimbursement of costs incurred for this role, if offered.

8.4 Marriages and civil unions

Justices of the Peace are **not** marriage or civil union celebrants. However, some Justices make a personal decision to apply to become a celebrant.

To become a marriage or civil union celebrant, any person may apply to the Registrar-General through the Department of Internal Affairs.

A Justice of the Peace automatically fulfils the requirement for an applicant to be of good character, but in other aspects a Justice of the Peace must apply for the role in the same way as other applicants²².

8.5 Exam supervision

Tertiary and other institutions may ask Justices of the Peace to act as exam supervisors (also known as 'invigilators'). The task involves being present while students complete exam papers, and requires patience and concentration.

It is acceptable to receive payment for this task.

8.6 Citizenship

8.6.1 Citizenship applications

The first step towards New Zealand Citizenship is an application. Justices of the Peace may be called upon to take the declaration that is part of this form and may be asked to sign a photograph of the person making the declaration. Take this declaration following the usual declaration process (see chapter 5).

8.6.2 Citizenship ceremonies

Once a citizenship application has been successful, the person must make an oath or affirmation of allegiance.²³

Nearly all applicants for New Zealand Citizenship have the oath or affirmation of allegiance administered at a public ceremony by a mayor or deputy mayor of a local authority. However, in special circumstances

²² s 11 Marriage Act 1955

²³ s 11 Citizenship Act 1977

the Minister may grant a dispensation to have the oath of allegiance administered in a private ceremony by a Justice of the Peace.

This is an unpaid task.

Having received permission from the Minister, the new citizen contacts a Justice of the Peace to request the ceremony. The Department of Internal Affairs will then send the appropriate form to the Justice, who is required to complete it and return it after the ceremony. The Justice becomes the administrator of the form; a task usually undertaken by the mayor's office staff.

The ceremony must take place on the date specified on the Certificate of Citizenship.

It is appropriate for members of the new citizen's family to be present, and for them to take photos.

Take the ceremony as follows:

- The new citizen will already have a card provided by the Department of Internal Affairs with the words of the oath (or affirmation) written on it.
- The new citizen must read the words on the card aloud. It is usual for the person to stand up to say the words of the oath (or affirmation). If the person has chosen to swear the oath, a Bible or other religious book or object may be held in either hand. The words may also be spoken in Māori.
- The Justice should ensure that the full name of the deponent and the place and date of swearing (or affirming) are correctly written on the form.
- The deponent and the Justice then sign the form in the spaces provided.
- The form should be returned to the address provided as soon as possible.

8.6.2.1 The oath of allegiance

"I, (candidate's full name), swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, Queen of New Zealand, her heirs and successors, according to law, and that I will faithfully observe the laws of New Zealand and fulfil my duties as a New Zealand Citizen. So help me God."

8.6.2.2 The affirmation of allegiance

“I, (candidate’s full name), solemnly and sincerely affirm that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, Queen of New Zealand, her heirs and successors, according to law, and that I will faithfully observe the laws of New Zealand and fulfil my duties as a New Zealand Citizen.”

8.6.2.3 The oath of allegiance in Māori

“Ko ahau, ko _____ e oati ana ka noho pūmau taku pono ki a Kuini Irihāpeti te Tuarua me tōna kāhui whakaheke, e ai ki te ture. Ko te Atua nei hoki taku pou.”

Chapter 9

Engaging with Clients

9.1 Availability

Most of your Justice of the Peace work is carried out at your home, workplace or at a Service Desk. Members of the public contact local Justices of the Peace to arrange appointments.

Point 3 of the Code of Conduct requires Justices to ‘willingly and courteously manage the duties required at any reasonable time of the day and night’. However, this does not mean that you must be available all the time, as this would clearly not be possible. The key point of the phrase is ‘reasonable’.

NOTE

If you are available at the time a prospective client requests, the appointment should be made. It is not acceptable to refuse clients for no reason.

However, if a prospective client suggests an inconvenient time, it is reasonable to offer alternative times when you will be available. If you are not able to find a mutually acceptable time:

- Suggest the name(s) of Justices who live in the same locality.
- Advise the location and times of Service Desks.
- Suggest that the client searches ‘Find a JP’ on the Royal Federation website for alternatives.

You should note your general availability on the Royal Federation website. This way, members of the public may know in advance the likelihood that you will be able to assist them at a certain time of day. You can also note other languages you can understand.

9.2 Arranging an appointment

When a client makes contact requesting an appointment, it is helpful to discuss the following points:

- The exact time and place of the appointment.
- How to get there and how to recognise the correct home.
- What the access to your home is like, e.g. stairs, steep driveway.
- What type of document the client wishes to bring.
- Ask the client to bring photographic identification (especially if the documents to be administered demand this).
- Ask the client to bring any instructions or document guides that may be included with their specific documentation requirements.
- Request that the client does not sign anything before coming to the appointment.

9.3 Service desks

Many Justice of the Peace Associations operate service desks at local libraries, courts or other community venues. This is a popular and convenient way for members of the public to access Justice of the Peace services and for Justices to serve to the public.

You are likely to encounter a wider range of tasks when sitting at a service desk. Associations provide support to Justices of the Peace rostered to service desks including ongoing mentoring and provision of stationery.

Working at a service desk requires you to demonstrate excellent administrative and time-management skills, as well as tact and patience. Sometimes there are additional pressures, for example if many clients arrive during their lunch hour. It's important to work steadily but carefully.

Contact your Association Registrar if you are interested in working at a service desk or starting up a service desk.

Justices who join a service desk roster are still expected to receive clients at home (see 9.1).

9.4 Relatives and friends

You should not witness a signature, take an affidavit or declaration, or certify a copy for any member of your own family. Although there is no legislative barrier to this, it is always preferable if the task is done by another Justice or authorised person. Acting for a family member may be seen to have compromised the neutrality of the transaction.

Even a certified copy signed by a Justice of the Peace who is related to the presenter may imply to some agencies an improper lack of neutrality. In the same way, it is generally preferable for a Justice not to undertake any task for a close friend.

You must never administer any document which will be used for any transaction in which that your own pecuniary or other interests are involved.

9.5 Privacy and safety

9.5.1 Of the client

You must not disclose clients' names or discuss details of their transactions with anyone else, however minor the task.

The following suggestions also help to ensure the privacy and safety of clients –

At home:

- Greet the client at the door personally (not another family member) and identify yourself.
- Escort the client to a suitably quiet and private place in the house.
- Alert the client to anything unusual or risky in the home such as steps and floor mats.

At a service desk:

- Speak clearly, but reasonably quietly.
- Do not say personal details such as IRD or bank account numbers aloud.

9.5.2 Of the Justice

To ensure your own privacy and safety, you should –

At home:

- Be sensible and cautious about making appointments if home alone.
- Keep private areas such bedrooms and bathrooms closed.
- Ensure no private papers or webpages are visible.
- Stay with clients all the time they are in the home.
- If a client needs to use the bathroom show the client there rather than describe how to get there, and unobtrusively ensure the client comes straight back to the appointed place.
- Not mention any private or personal details in conversation, beyond the weather and other general topics.

At a service desk:

- Keep personal belongings to a minimum and placed out of sight.
- If possible, have personal belongings locked away somewhere at the venue.
- Ideally, roster two Justices to the desk all the time.
- If alone at the Service Desk, remain in view of employees at the venue.

9.6 Jurisdiction

Before undertaking any task, you must always make sure that a Justice of the Peace has legal or other authority to act and is the correct person to administer the document. This is known as jurisdiction.

Justices always have jurisdiction to take statutory declarations and affidavits originating in New Zealand. Otherwise, authority to act is conferred by the government department, institution or other agency at which the form or document originated or is to be sent.

Justices are nearly always acceptable witnesses for New Zealand documents, but it is wise to check.

Often it is stated on the form or in accompanying notes that a Justice may act. If it is not stated, or the form is unusual or originates overseas, discuss with the client whether a Justice is the correct person to act. Forms and applications may be declined if signed by the wrong person.

NOTE

It is ultimately the client's responsibility to find out who should administer their document.

You may assist the client in their inquiries as a courtesy. This information may be found on an information sheet accompanying the client's document or on an agency website. The client may need to contact the receiving agency directly to ascertain who have jurisdiction to assist in executing their document.

9.6.1 Notary public

A notary public is a lawyer authorised by the Archbishop of Canterbury in England to officially witness signatures on legal documents, take sworn statements, administer oaths and certify the authenticity of legal documents, usually for use overseas. A notary public uses a seal to verify his or her presence at the

time the documents were signed. The document is said to have been ‘notarised’. Notaries Public charge for their services.

Although the tasks of a notary are similar to those of a Justice, some countries do not recognise the authority of a Justice of the Peace and so require documents to be notarised instead.

If a client presents a document which states that it must be administered by a notary public, it should not be assumed that a Justice of the Peace will also be acceptable.

The client should seek confirmation from the receiving agency that a Justice of the Peace has jurisdiction to deal with their document.

9.7 When in doubt

This applies when there is genuine doubt about the legality or propriety of the document or task requested.

If you doubt that you have the authority to do the task, remember that your basic statutory authority is to take affidavits and statutory declarations under the Oaths and Declarations Act 1957. Authority to do other tasks such as certifying a copy comes from the institution or agency seeking to receive the certified copy so if in doubt it may be helpful to check with that institution.

NOTE

It is incumbent upon Justices to be competent by maintaining their knowledge, keeping up to date, and to provide service or a pragmatic option wherever possible.

You can approach your Association education officer at any time for guidance and should attend the education sessions that are offered by Associations. The completion of the accreditation process reflects your commitment to providing clients with the highest level of skill and competency.

It is unethical to arbitrarily decline to act and neglecting or refusing to perform the functions of a Justice may be grounds for removal or suspension from office.²⁴

²⁴ s5(1)(b)(ii) Justices of the Peace Act 1957

9.8 Keeping a record

You are not required by law to keep records of your ministerial duties, but the practice is contained in point 6 of the code of conduct and is best practice.

A transaction may be queried by an agency. No matter how few or how many clients you see, it is not sufficient to rely on your memory alone.

Keep a notebook or diary and record an entry for all transactions containing the date and time, nature of the transaction and where it took place (e.g. home or work), and sometimes the client's name.

Associations ensure that documents administered at service desks are also recorded.

Example

<i>12 June 23</i>	<i>5.10 pm</i>	<i>K Smith</i>	<i>5 x cert copies/passport</i>	<i>Home</i>
<i>13.6.23</i>	<i>9 am</i>		<i>Dissolution application</i>	<i>Work</i>
<i>14 Jun 23</i>	<i>3pm</i>	<i>G Smith</i>	<i>CC AML</i>	<i>Home</i>

9.8.1 Privacy Act 1993

When keeping a record of a client's name, you are technically an 'agency' which has 'collected information' about that person, under the Privacy Act 1993. That person is therefore entitled to apply to see the information about him or her that is held by you.²⁵

In the rare event that an application is made to you, the information to be provided is limited to the specific entry pertaining to the client. For this reason, the information retained should be kept to a minimum (see the examples above). There is no specific reference in the Privacy Act regarding the length of time that records be kept. Justices should retain records "for such time as a reasonable person would expect the information to have exhausted its usefulness".

Records are to be destroyed by incineration, deletion (if digitally recorded) or shredding.

²⁵ Part 5 Privacy Act 1993

9.9 Gifts and payment

You must never seek or accept gifts or payment in return for services undertaken as a Justice of the Peace. Any implication that service will be given in exchange for goods or money is highly unethical.

Sometimes clients leave items anonymously in the letterbox or on the doorstep after an appointment. In that case, there is a pragmatic and ethical decision to be made, according to the nature of the item. Money or items of a valuable nature should be donated or given away. Perishable or food items may be shared or consumed. If you do not know whether to use or consume an item, it can be helpful to discuss the situation with someone else within your Association.

Some clients have a strong sense of obligation to pay for or thank someone for services. It is important to explain as clearly but firmly as possible that this is not necessary and cannot be accepted. If necessary, to avoid offence, it may help to suggest the client makes a donation to charity instead.

9.10 Finding legislation

Several Acts are mentioned throughout this manual. If you are interested to read them, official versions of all New Zealand legislation may be found online at: [legislation.govt.nz](https://www.legislation.govt.nz)

Chapter 10

About Justices of the Peace

10.1 History

The role of Justice of the Peace is an ancient and honourable one, and began as an English institution almost 800 years ago.

The first appointment of a Justice of the Peace for New Zealand was in November 1814 when Governor Macquarie of New South Wales appointed the missionary Thomas Kendall as a Justice.

Although there is a certain status being a Justice of the Peace, which is in itself honourable, the position is not an ‘honour’ but one involving serious duties and responsibilities.

When exercising some of the powers conferred by the appointment, Justices may affect the fundamental freedoms and rights of a citizen.

It is the duty of Justices to understand the limits of their powers and the proper manner of exercising the associated responsibilities. Justices have an important role in the preservation of the rule of law in New Zealand.

In keeping with the status accorded to them, Justices should seek to uphold the law at all times, not only in the office of Justice of the Peace but also in their private and working lives.

When swearing or affirming the judicial oath upon appointment, all Justices promise that they will “do right to all manner of people after the laws and usages of New Zealand, without fear or favour, affection or ill will.”

10.2 Oaths of office

Justices have no authority to act until they have taken oaths required by the Oaths and Declarations Act 1957. The oaths must be taken before a District Court judge, and this usually takes place in court. There are two oaths prescribed in the Act: the oath of allegiance and the judicial oath.²⁶

The prescribed form (wording) of the oath of allegiance is:

‘I _____ swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors, according to law, So help me God.’

The oath of allegiance may also be spoken in Māori²⁷:

²⁶ S 22(1) Oaths and Declarations Act 1957

²⁷ Oaths and Declarations (Māori Language) Regulations 2004

‘Ko ahau, ko _____ e oati ana ka noho pūmau taku pono ki a Kuini Irihāpeti te Tuarua me tōna kāhui whakaheke, e ai ki te ture. Ko te Atua nei hoki taku pou.’

The prescribed form (wording) of the judicial oath is:

‘I _____ swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her heirs and successors, according to law in the office of Justice of the Peace; and I will do right to all manner of people after the laws and usages of New Zealand, without fear or favour, affection or ill will. So help me God.’

The judicial oath is not prescribed in Māori.

An appointee who does not want to take an oath is entitled to make an affirmation instead²⁸. Making an affirmation has the same legal effect as taking an oath. The same basic form of wording is used, but the word ‘swear’ is deleted and the words ‘solemnly, sincerely, and truly declare and affirm’ are substituted.

10.3 Status and identification

Having taken the judicial oath, a Justice of the Peace becomes a ‘judicial officer’. Other judicial officers who take the oath include the Chief Justice, all judges, community magistrates, coroners, sheriffs and disputes tribunal referees.²⁹

This status may be understood as a ‘mantle’ that has been laid permanently upon the Justice (subject to resignation, or removal from office) and is thus different from employment or other official roles which cease at the end of employment or tenure, such as nurse or mayor (see 10.5).

10.3.1 Warrant card

Every newly appointed Justice of the Peace is issued with a card, which is commonly known as a warrant card.

The only purpose of the card is to confirm your appointment.

²⁸ s 4 Oaths and Declarations Act 1957

²⁹ Schedule 2 Oaths and Declarations Act 1957

You must not produce your card if questioned by police or other enforcement officers. To do so is unethical and may invite a complaint or censure.

10.3.2 Justice of the Peace number

When a person is nominated as a Justice of the Peace an administrative number is generated by Ministry of Justice.

NOTE

The Justice of the Peace number is not an official identification number.

As a judicial officer, no such identification is required. However, it is best practice to write your JP number when signing as a Justice of the Peace (see 2.6).

10.4 Tenure

A Justice holds appointment for life, or until resignation or retirement by notice in writing to the Secretary for Justice or removal from office by the Governor-General.³⁰

The Governor-General may remove any person from the office of Justice of the Peace on the recommendation of the Minister of Justice by publishing a notice in the New Zealand Gazette. Grounds for removal include misconduct, conviction for an offence punishable by imprisonment, and bankruptcy.³¹

A Justice of the Peace who has completed at least ten years of active service and wishes to relinquish the office may apply in writing to the Secretary for Justice for the status of JP (retired).³²

Exemptions are available for those who have served for less than 10 years as a Justice of the Peace, but who have to retire due to health or extenuating circumstances.

³⁰ s 3A Justices of the Peace Act 1957

³¹ s 5 Justices of the Peace Act 1957

³² s 3C Justices of the Peace Act 1957

10.5 Ex officio Justices

A chairperson of a regional council, or a mayor of a territorial authority is a Justice of the Peace during the time that he or she holds the office of chairperson or mayor.³³ This role is known as an 'ex officio Justice'. It is recommended that ex officio Justices attend training provided by the local Justice of the Peace Association prior to being sworn in as mayor or chairperson. They must also take the oaths of office as a Justice of the Peace.

Upon relinquishing office, if an ex officio Justice wishes to be appointed as a Justice of the Peace in his or her own right, the full nomination, training and assessment procedure outlined in the Best Practice Manual must be followed.

10.6 Functions and powers

The activities of Justices of the Peace are usually classified in two ways:

10.6.1 Ministerial duties

These comprise the main tasks of all Justices and include:

- Administering statutory declarations
- Administering affidavits
- Witnessing signatures
- Certifying copies

This manual covers only ministerial duties.

10.6.2 Judicial duties.

These involve presiding in a District Court. Judicial duties are dealt with in separate training resources. This manual does not cover judicial duties. The statutory powers and functions of Justices are set out in of the Justices of the Peace Act 1957 as follows:

³³ s 41(4) Local Government Act 2002 and s 2 Justices of the Peace Act 1957

4 Functions and powers of Justices

The functions and powers of Justices shall be

- (a) To take oaths and declarations under the provisions of the Oaths and Declarations Act 1957 or by any other enactment:
- (b) To carry out such functions and exercise such powers as are conferred on Justices by the Criminal Procedure Act 2011 or by any other enactment.

Justices of the Peace carry out some tasks not as a Justice of the Peace (i.e. authorised by statute) but because the person is a Justice of the Peace (i.e. authorised by the government department, institution or agency wanting the task carried out). This includes witnessing signatures and certifying copies as true copies. Some other tasks in this category are outlined in chapter 8.

Chapter 11

Life as a Justice of the Peace

CHAPTER 11 – Life as a Justice of the Peace

11.1 Community service

Life as a Justice of the Peace is one of community service. A Justice should always endeavour to act for every client to the very best of his or her ability and knowledge.

11.2 Justice of the Peace Associations

New Zealand is divided into 28 separately constituted Justices of the Peace Associations:

North Island:

Far North
Northland
Hauraki and Districts
Auckland
Franklin
Bay of Plenty
Eastern Bay of Plenty
Waikato
Rotorua and Districts
Gisborne
Central Districts
Hawkes Bay
Taranaki
South Taranaki
Wanganui
Wairarapa
Hutt Valley and Districts
Wellington

South Island:

Nelson Tasman
Marlborough
West Coast
Canterbury
South Canterbury
Ashburton
North Otago
Otago
Gore
Southland

Each Association has its own constitution and policies. All Justices should belong to their local Association. The advantages of membership include:

- Receive regular communication from the local Association with updated local and national information.
- Participation in the ongoing education sessions which each Association organises for its members.
- Support in resolving any problems or queries that arise when carrying out ministerial duties.
- Interaction with fellow Justices at meetings, social occasions, presentations and visits.
- Eligibility to contribute your time at a Justice of the Peace service desk.
- Receipt of the New Zealand Justices' Quarterly.

- Website access to the Royal Federation website for education, training and other resources.
- Your details listed on “Find a JP” on the Royal Federation website.

11.3 Royal Federation of NZ Justices’ Associations (Inc).

Royal Federation is the national body consisting of the 28 Justices’ Associations which meet in conference once a year. The Royal Federation enables all Justices of the Peace throughout New Zealand to make representations and to speak with a single voice.

11.4 Policy

All Associations and their members are bound by Royal Federation policy, and Associations’ policies must accord with those of Royal Federation.

The constitution and policies are available on the Royal Federation website.

11.5 Websites

The Royal Federation has a website which contains resources, information and news for all Justices of the Peace and should be referred to regularly. Once logged in, Justices can update their contact details which show when members of the public use the “Find a JP” function of the website.

Some Associations also have their own websites and others have their own ‘sub-hosted’ webpage accessed through the Royal Federation website. Check with your local Association Registrar.

11.6 Ongoing education

Although the core tasks of a Justice of the Peace are relatively straightforward, it is important that you keep up to date and are therefore competent to do the task. There are often procedural and technological changes to be aware of, as well as new questions and concerns brought about by various client requests and circumstances.

These form the basis of the ongoing education sessions offered regularly by Associations. It is a requirement of the code of conduct that you will attend education sessions, and you are encouraged to

attend as often as possible. For accreditation purposes, you must attend a training session at least once every two years. Other Justices of the Peace will benefit from hearing about your experiences.

11.7 Justices' Quarterly

Every issue of the Justices' Quarterly contains educational articles and other material. The Justices Quarterly is available on the website.

Justices may contribute questions and topics of interest by contacting the Royal Federation.

11.8 Codes

The office of Justice of the Peace for New Zealand has powers and responsibilities that involve dealing with the private affairs and rights of individuals from all ethnicities and backgrounds. The role demands sensitivity, precision and the maintenance of high ethical standards in both private and professional life.

The codes of ethics and conduct were approved by Conference in 2011 and apply to all Justices at all times.

Any breaches of either the Code of Ethics or the Code of Conduct shall be dealt with according to the Royal Federation Policy for Complaints and Discipline, and, where circumstances dictate, in accordance with the provisions of the Justices of Peace Act 1957 section 5 (i). Associations affiliated to the Royal Federation of New Zealand Justices' Associations (Inc), shall, as a condition of such affiliation, endeavour to ensure their members' compliance with this Code, and shall suitably amend their Constitutions to make compliance with these Codes a condition of an individual Justice's membership of his or her Association.

11.8.1 Code of Ethics

Justices of the Peace shall:

1. carry out their statutory, judicial and ministerial duties in a proper manner and administer the law in so far as they are authorised and called upon to do so, without fear or favour, affection or ill will, in accordance with their Judicial Oath and in the most conscientious manner possible

2. maintain the integrity and dignity of the office through ethical conduct, good example, high standards of Citizenship, and by not acting in a manner which is unlawful or likely to bring disrepute to the office of Justice of the Peace
3. preserve their Warrant, displaying it only when necessary to establish their bona fides in the performance of their duties as a Justice of the Peace
4. acknowledge that their authority to act is only as prescribed by law, and that the office confers no other authority, responsibility, or benefit
5. not claim by virtue of their office of Justice of the Peace any privilege or licence to avoid legal responsibilities
6. remain true to the Oaths of the Office taken on appointment as a Justice of the Peace
7. refrain from giving legal advice in their capacity as a Justice of the Peace.

11.8.2 Code of Conduct

Justices of the Peace shall:

1. abide by the constitution and the policies of the Royal Federation of New Zealand Justices' Associations and of the Association to which each Justice belongs
2. maintain a working knowledge of the duties, responsibilities and obligations of a Justice of the Peace by regularly participating in ongoing education provided by their Associations or Royal Federation
3. willingly and courteously manage the duties required at any reasonable time of the day and night
4. use the office of Justice of the Peace for the purpose of ministerial or judicial duties and not to enhance their personal status
5. in the carrying out of duties of a Justice of the Peace disclose any interest or relationship likely to affect impartiality or which might create an appearance of partiality or bias, and refrain from participating in such circumstances
6. maintain a record of activities, provided the information stored is not used in any manner contrary to the Privacy Act
7. ensure that their availability as a Justice of the Peace is appropriately publicised

8. not benefit, in cash or kind, for any service as a Justice of the Peace except as may be specifically permitted or authorised by law
9. cease to act as a Justice of the Peace once they have resigned, been removed or retired from office.

11.9 Use of letters 'JP'

When signing as a Justice of the Peace, the letters 'JP' (or words 'Justice of the Peace') should be written after your signature.

The use of the letters 'JP' after your name on private notepaper, in personal correspondence (such as email and social media) and in connection with social functions is acceptable provided they are not being used, or appearing to be used, for advancing trade, professional or business interests. The letters should never be used in such a way as to appear to enhance the status of the Justice of the Peace relative to other people, or to imply superiority in any way.

The letters should be inserted after any New Zealand or Royal Honours, but preceding academic, professional and other qualifications, e.g. Jane Smith, MNZM, JP, B.Com.

It is improper for the letters to appear on cheques or driver licences, and the status of an officer of a local authority who is a Justice of the Peace should not be referred to on its official notepaper.

In relation to candidacy in parliamentary or local body elections, the mention of the fact that a person is a Justice is permitted in biographical material, but the letters 'JP' must not be placed after the candidate's name on public notices and hoardings. Any Justice standing for such elections should ensure that his or her agents are aware of this restriction.

11.10 Social Media

Justices of the Peace should use social media responsibly and in a way that is consistent with the Codes of Conduct and Ethics.

