

4.6 Administering oaths and affirmations

What is an oath?

An oath is a solemn declaration or undertaking that calls upon God to witness the truthfulness of the statement a person is making.

A document made under oath is said to be ‘sworn under oath’, as the contents of the document are ‘sworn before God’.

What is an affirmation?

A solemn affirmation is the equivalent of an oath except that it does not call upon God to bear witness. It was introduced as a concession to people who object to taking an oath for religious or other conscientious reasons. Some religions do not accept the use of oaths, and the use of affirmations by people with no religious beliefs is now commonly accepted.

Why would a person take an oath?

The reason for making an oath is based in the historical significance of religion when swearing an oath before God was a very serious thing. The serious nature of an oath is still evident today, as any false statement under oath is a criminal offence and results in substantial penalties, including heavy fines or imprisonment.

However, in today’s multicultural society, the law recognises a person’s right to beliefs other than Christianity, and there are various oaths for people with other religious beliefs.

By law, certain statements—such as documents intended for use in court proceedings, oaths of office, requests for the replacement of certain lost documents and some statements of debt—must be sworn under oath or by affirmation.

Why take an affirmation?

The *Oaths Act 1867* states a person may make an affirmation in lieu of an oath if they regard the taking of an oath as objectionable. The *Oaths Act* also provides that the objection to being sworn may be based on:

- an absence of religious beliefs
- conscientious grounds
- other grounds considered reasonable by the court, a judge, another presiding officer or a person qualified to administer oaths or to take affidavits or depositions.

However, the law does not allow people to avoid taking an oath in the belief they are under a lesser obligation to tell the truth when making an affirmation.

How do you administer an oath or affirmation?

You should follow the general procedure for witnessing a document but you must administer the oath or affirmation before the document is signed. It is advisable to administer the oath or affirmation at the very beginning so the deponent is under oath if you ask any further questions.

It is your responsibility to make sure the oath or affirmation is taken correctly.

Before administering the oath or affirmation, be sure to warn the deponent of the necessity of telling the truth, and the consequences if the document is found to be false.

A document to be made under oath is set out as follows:

I, [name] of [address], make oath and say [body of document].

A document to be made under affirmation is set out as follows:

I, [name] of [address], solemnly, sincerely and truly affirm and declare that [body of document].

At the end of the document, before the space for your signature, there is provision for you to indicate if the document was signed under oath or affirmation.

The procedures for the different types of oaths are set out below.

Note: There are many religions not covered in this handbook and some branches of the major religions require variations in the wording. When in doubt, you should use whatever wording the deponent regards as solemn and binding.

Oaths

Christian oath

To administer a Christian oath, you must use a Bible that contains either a full Bible (Old Testament and New Testament together) or an Old Testament or a New Testament alone. A Christian oath cannot be taken without a Bible, and no substitute is allowable.

- Ask the deponent to take the Bible in their hand, either left or right, and repeat the following words after you:

I swear that the contents of this document are true and correct to the best of my knowledge and belief, so help me God.

Or:

I swear that I will [as per the requirements of the documents], so help me God.

- Once the oath has been taken, ensure the document is signed and witnessed in accordance with the normal procedure.

Jewish oath

The wording for the Jewish oath is the same as for the Christian oath except that the Old Testament, the Torah or Pentateuch is used instead of the Bible. If the deponent wears a hat, this may remain on during the administering of the oath. The Old Testament, Torah or Pentateuch is usually held high in the right hand.

Islamic oath

The Holy Koran, or Qur'an, is used when taking an Islamic oath. Care should be taken when handling the Koran, as some Islamic people believe it is sacrilegious for an unbeliever to touch it.

- Ensure the Koran has been wrapped, by a believer, in a piece of plain white material.
- Hand the Koran to the deponent, asking them to take the Koran in either hand and place the other hand on their forehead.
- Ask the deponent to state the following words:

In the name of Allah, the Beneficent, the Merciful. By Almighty Allah, in whose hands are my life, I promise to give the facts completely, truthfully and sincerely to the best of my ability.

- Ensure the deponent kisses the Koran at the completion of the oath.

Buddhist oath

There are no set procedures to follow. Simply ask the deponent to state the following words:

I declare, as in the presence of Buddha, that I am unprejudiced, and if what I shall speak shall prove false, or if by colouring the truth others shall be led astray, then may the three Holy Existences—Buddha, Dhamma and Pro Sangha—in whose sight I now stand, together with the Devotees of the Twenty-two Firmaments, punish me and also my migrating soul.

Chinese oath

- Light a candle or a match.
- Ask the deponent to blow out the flame and state the following words:

I swear that I shall tell the truth, the whole truth, and nothing but the truth. This candle (or match) is now extinguished, and if I do not tell the truth, may my soul, in like manner, be extinguished forever hereafter.

An older form of a Chinese oath includes the breaking of a plate rather than the lighting of a candle or match, and stating:

I swear that I shall tell the truth, the whole truth and nothing but the truth. The plate is shattered and if I do not tell the truth may my soul, in like manner, be shattered like it.

Affirmations

The procedures for administering an affirmation are the same as for an oath, except that no holy book (or candle, match or plate) is used, and the wording is different.

Secular affirmation

Either ask the deponent:

.....
Do you solemnly, sincerely and truly affirm and declare that the contents of this your [document] are true and correct to the best of your knowledge?

and then instruct the deponent to answer:

I do.

.....
Or ask the deponent to repeat these words after you:

.....
I solemnly, sincerely and truly affirm and declare that the contents of this my [document] are true and correct to the best of my knowledge.

.....
There are also prescribed affirmations under the *Oaths Act 1867* for people of certain religious persuasions.

Affirmation by Quakers

.....
I, [name], being one of the people called Quakers, do solemnly sincerely and truly affirm and declare that the contents of this my [document] are true.

Affirmation by Moravians

.....
I, [name], being of the united brethren called Moravians, do solemnly sincerely and truly affirm and declare that the contents of this my [document] are true.

Affirmation by Separatists

.....
I, [name], do in the presence of Almighty God solemnly, sincerely and truly affirm and declare that I am a member of the religious sect called Separatists and that the taking of an oath is contrary to my religious belief as well as essentially opposed to the tenets of that sect and I do also in the same solemn manner affirm and declare that the contents of this my [document] are true.

Things to bear in mind

Be careful: The followers of some faiths believe it is wrong for a non-believer to speak the words of their oath. So, before hearing the oath, check whether the deponent objects to you reading the words of the oath for them to follow. If they do object, you can hand them a written copy of the oath and ask them to read it out aloud.

Frequently asked questions

Am I precluded from administering a particular oath if it is contrary to my personal beliefs?

No. You have the authority to administer any kind of oath or affirmation, regardless of your own beliefs.

Can I refuse to administer an oath or affirmation?

You may not refuse to administer an oath or an affirmation simply because oaths or affirmations are contrary to your own beliefs.

However, you should refuse to attest a document where the form of oath or affirmation is not substantially in a format that is authorised by law—that is, as set out in this section.

Who provides the equipment?

The person making the oath or affirmation is expected to provide whatever equipment is necessary.

Bibles are supplied to the JPs in the Community program signing sites.

Should I keep a record of the oaths and affirmations I witness?

You can include information in your logbook such as:

- date
- document witnessed
- deponent's details
- type of identification sighted
- location of signing
- any other relevant details.

Where can I get more information?

Queensland legislation

www.legislation.qld.gov.au

