

2.4 Record-keeping and logbooks

Why keep records?

Cdecs assist members of the community with a wide range of documentation. At times, the contents of documents or the capacity of a person to sign a document are challenged in a court of law and you may be called to a court or tribunal to give evidence about what occurred when the documents were witnessed.

Therefore, it is important that you make and retain thorough and consistent records of all the documents you witness and any action you may take. You should advise the signatory that certain particulars are required to be recorded in case the witnessing of the document is ever queried.

What information should I record?

You should keep accurate and consistent records, develop a standard procedure for dealing with a particular document and not deviate from this practice. Then, if a document you witnessed is challenged in court, you can honestly say that, though you may have no special recollection of this document, your normal witnessing practice is to proceed in a particular way and you do not deviate from this practice.

The information recorded may vary depending on the type of document witnessed. Your logbook should contain the following information:

- date
- name of the signatory
- type of document witnessed
- type of identification sighted
- location where the document was witnessed
- whether there were any special requirements you needed to take to ensure compliance with the document
- any questions asked and answers given to clarify the document contents and the signatory's understanding of the document
- if the signatory took a declaration, oath or affirmation.

Detailed records should also be kept when the document to be witnessed is unusual or there are circumstances when it is wise to keep more detailed records. These may include documents such as:

- applications for warrants
- documents under the *Powers of Attorney Act 1998*
- if an interpreter or translator was used, such as the language and dialect used, and the oath or affirmation of interpreter.
- Titles Registry forms.

If you decline to witness the document, the reasons for refusal should be noted in your logbook.

Confidentiality

Any information you record as a result of witnessing a document must remain confidential. You should never include specific details about the contents of a document as this may breach confidentiality between yourself and the signatory.

You are not permitted to record in your logbook any specific numbers appearing on the signatory's identification. This includes but is not limited to passport numbers, driver licence numbers or credit card numbers. All documents should be treated as confidential. However, in some circumstances, the relevant court or tribunal may require you to disclose information about the document. For example, you may be called to give evidence about the matter in court.

When should I make my records?

You should make your records at the time of the witnessing or as soon as practicable thereafter.

A court will not normally allow reference to records made a long time after the event.

Do I need to keep copies of documents that I witness?

No, you cannot keep copies of documents you witness. Your logbook should contain the details of the documents you have witnessed.

You do not have any authority to request, make or retain a copy of any document that will be or has been lodged in a court or tribunal. This includes but is not limited to:

- complaints and summonses
- warrants
- enduring documents
- matters before the courts where the named person is a juvenile.

However, at times, you may be requested to retain copies of documents such as applications for warrants and complaint and summonses.

Storage and security of retained documents

You should keep your records in a secure place where access by anyone else is restricted.

Retention and destruction of records

Generally there is no specific legislation that stipulates how long you should keep information obtained in exercising your duties of office.

An exception to this is recording of Titles Registry transactions. There is a mandatory requirement for witnesses to titles registry forms to keep, for a period of seven (7) years from the date of witnessing, a written record of how they verified the signatory's identity and their entitlement to sign the form. This means recording the types of documents that were sighted to verify the signatory's identity and their entitlement to sign the form. After that time has elapsed, the witness may securely destroy the record.

On other occasions, certain receiving agencies may require you to produce records of the following:

- what type of identification was sighted
- what questions were asked to confirm the person understood the document they were signing
- how you determined the outcome you reached to enable you to witness the document.

If you are no longer able to perform your official duties and resign from your role as a Commissioner for Declarations, you can dispose of any reference material at your local courthouse.

Never dispose of any documents or logbooks in household bins, business bins or public refuse disposal areas.

Example of register or logbook

Date	Document witnessed	Name of deponent	Identification sighted (e.g. drivers licence)	Location of signing	Comments
DD/MM/YY	National Mortgage form	Zaynah Eden Odling	QLD drivers licence Australian passport Marriage certificate	Stretton	Contract sighted. Title ref 41235491
DD/MM/YY	Statutory declaration	Rose Lillian Busch	QLD drivers licence	Teneriffe	Traffic statutory declaration – self nomination
DD/MM/YY	Statutory declaration	James Roberts	Passport – USA	Brisbane	Immigration statutory declaration form 888 visa application
DD/MM/YY	Affidavit	Kofi Zhane Kaufman	Medicare card Birth certificate	Mt Gravatt	Family law application
DD/MM/YY	Enduring power of attorney	Romany Sahib Garza	Proof of age card	Logan	Additional notes retained in logbook
DD/MM/YY	Certified copies	Theresa Mary Green	QLD drivers licence	Brisbane	Birth certificate, medicare, D/L
DD/MM/YY	National Mortgage form	Sumayya Krista Rosas	SA drivers licence	Brisbane	Unable to witness ID and property evidence not supplied at this time
DD/MM/YY	Statutory declaration	Cameron Mitchell	Medicare card Student card	Calamvale	

