



Completing a statutory declaration for a family violence claim

What is the purpose of the statutory declaration?

Important – Please carefully read this information together with *Domestic and family violence and your visa* before you complete your statutory declaration.

Domestic and family violence and your visa is available on the Department of Home Affairs (the Department) website <https://www.homeaffairs.gov.au/familyviolence>

Family violence is a crime and is unacceptable in Australia. If you are in Australia and you have applied as a partner for certain permanent residence visas, you (and any member of your family unit included in your application) do not have to remain in an abusive relationship just to get permanent residence.

The statutory declaration you are required to provide relates to the family violence provisions of the *Migration Regulations 1994* (the Regulations). The family violence provisions allow you (or a member of your family unit) to continue with your application to remain permanently in Australia even though the relationship with your partner has ended, if you or a member of your family unit have been a victim of relevant family violence committed by your partner.

If you or a member of your family unit have suffered family violence and you fear for your or their safety, and you decide to end your relationship with (or have already ended your relationship and left) your partner, you must decide whether or not you wish to return to your home country or remain in Australia.

If you decide to leave Australia, you must inform the Department in writing that you no longer wish to continue with your application for permanent residence. You must also advise the Department that your relationship with your partner has ended.

If you wish to remain in Australia, you must provide evidence to the Department that is acceptable under migration law that:

- your relationship has broken down and you and your partner have custodial rights under the *Family Law Act 1975* for any children aged under 18 years that you and your partner may have (if you are a Partner visa applicant and this applies, you may not need to provide a statutory declaration); OR
- you, or members of your family unit (which may include members of your partner's family unit), have suffered family violence; and
- the family violence took place while your relationship existed with your partner.

'Partner' means your spouse or de facto partner (including same-sex partners).

'Family violence', as it relates to the family violence provisions can include physical, psychological and financial abuse and is defined below.

What is family violence?

Family violence has a specific definition in the Regulations and this is the definition that must be referred to in relation to a claim that a visa applicant may be the victim of relevant family violence.

For the purposes of the Regulations, the definition of relevant family violence means:

'conduct, whether actual or threatened, towards:

- (i) the alleged victim; or
- (ii) a member of the family unit of the alleged victim; or
- (iii) a member of the family unit of the alleged perpetrator; or
- (iv) the property of the alleged victim; or
- (v) the property of a member of the family unit of the alleged victim; or
- (vi) the property of a member of the family unit of the alleged perpetrator;

that causes the alleged victim to reasonably fear for, or to be reasonably apprehensive about, his or her own wellbeing or safety.'

Important information about privacy

The *Privacy Act 1988* contains 13 Australian Privacy Principles which regulate the way that the Department collects and handles personal information. Information about how the Department collects, uses and discloses personal information for its key functions can be found in form 1442i *Privacy notice*. More information about the Department's general information handling practices (including form 1442i) can be found in the Department's Privacy policy at

<https://www.homeaffairs.gov.au/access-and-accountability/our-commitments/privacy>

The information is given and received on the understanding that it will be treated in confidence.

Notes for visa applicants

Evidence you need to provide

In order to be assessed under the family violence provisions, you must submit to the Department evidence that is required under the Regulations that:

- you, or members of your family unit (including members of your partner's family unit), have suffered family violence; and
- the family violence took place while the relationship with your partner still existed.

This evidence can be either from a court (judicial evidence) or non-judicial evidence.

You can provide any of the following judicial evidence:

- a court injunction under the *Family Law Act 1975* against your partner;
- a court order against your partner made under a state or territory law; or
- evidence that a court has convicted your partner of assault against you or members of your family unit (or has recorded a finding of guilt against your partner).

You can also provide non-judicial evidence of a joint undertaking to a court made by you and your partner that relates to an allegation of family violence your partner has committed against you or members of your family unit.

If you have any of the above evidence, generally you do not need to complete a statutory declaration. However, your case officer may request you to complete a statutory declaration, if necessary.

Alternatively you can provide non-judicial evidence, which includes a statutory declaration and a minimum two pieces of evidence from the list of documents outlined in the legislative instrument. The list of documents is available on the Department's website

<https://www.homeaffairs.gov.au/familyviolence>

Accessing the statutory declaration form

A statutory declaration means a statutory declaration under the *Statutory Declarations Act 1959*. You must use an official Commonwealth statutory declaration form.

For your statutory declaration to be valid, it must be witnessed by an approved witness. Any attachments to the declaration must also be certified by an approved witness.

The Commonwealth statutory declaration form, information on how to complete your statutory declaration and who can witness your statutory declaration is available from the Attorney General's Department website

<https://www.ag.gov.au/legal-system/statutory-declarations>

Completing the statutory declaration

Under the Regulations, the statutory declaration must be made by the partner of the person alleged to have committed the family violence. There are different requirements, depending on who is the alleged victim of family violence. These are described below.

- (a) If you are the partner and you are also the alleged victim, you must include the following information in your statutory declaration:
 - set out the allegation;
 - name the person alleged to have committed the relevant family violence; and
 - describe the effect this has had on you.
- (b) If someone else is the alleged victim, you (as the partner of the alleged perpetrator) must still make the statutory declaration on their behalf. Under the Regulations, you must provide the following information:
 - name the alleged victim;
 - set out the allegation of family violence;
 - identify the relationship between you (as the maker of the statutory declaration) and the alleged victim;
 - name the alleged perpetrator; and
 - set out the evidence on which the allegation is based.

Detail to be included in the statutory declaration

Ensure you include the following information:

1. The name(s) of the person or people that you allege have suffered relevant family violence, their dates of birth and their relationship(s) to you (this can be yourself or another member of your family unit).
2. The name of the person who you allege has committed the relevant family violence against the person(s) named in number 1 above and their relationship to you.
3. Describe the relevant family violence you have experienced, including dates of individual incidents and the frequency of the violence.
4. Describe how the violence has caused you to be reasonably fearful or apprehensive about your own safety and well-being.
5. Describe and attach any evidence of the family violence that has taken place.

Note: There are minimum evidence requirements as outlined on the Department's website

<https://www.homeaffairs.gov.au/familyviolence>

How you should provide the statutory declaration

If you currently have a visa application in ImmiAccount that is not yet finalised, sign in to ImmiAccount and upload the completed statutory declaration and any additional evidence to support your application

<https://www.homeaffairs.gov.au/immiaccount>

Otherwise you should send the completed statutory declaration to the officer of the Department who is handling your application.

Please ensure you have quoted your visa application reference number.