

Practice tool: Tips for completing s.90 applications

Overview	Points to consider for inclusion
Format	<ul style="list-style-type: none"> » Standard beginning of your affidavit: <ul style="list-style-type: none"> ○ “All conversations referred to in this affidavit are true and correct to the best of my knowledge.” ○ “Information contained in this affidavit is derived from my knowledge as the caseworker and also from (insert agency) paper and computer records which I have access to.” ○ “Since (insert date) I have had and continue to have the day to day responsibility for the casework in relation to (insert child or young person’s name) born (insert DOB).” » Use Arial font (12) » Make the form and affidavit relevant to the orders you are seeking to vary or rescind; and relevant to the number of children - if there is one child the form should read ‘child’ not ‘children or young person’.
Introduction	<ul style="list-style-type: none"> » Is the application to rescind or vary the order? To rescind an order is to remove it in whole, and make completely new orders or revert back to the parents at common law. To vary the order means to alter the current order(s) in some respect. » Remember Community Services is the model litigant and needs provide the Court with the full circumstances of the case » Introduce the mother and father eg Ms Sally Smith (Ms Smith) and Mr Bill Smith (Mr Smith) » Refer to the parents as Ms (Surname) and Mr (Surname) » Introduce siblings (refer to them by their first names). Jack Smith (Jack) » Refer to others by their first name to avoid any confusion eg: Ms Clancy Nguyen (Clancy) is the maternal grandmother » Introduce other significant people mentioned in the affidavit » Use a table where there are numerous family members » Attach a Genogram where possible
Brief history of the matter	<ul style="list-style-type: none"> » State when the child was removed / assumed and from whose care » State the reasons behind why the child was removed / assumed

Current Children's Court orders	<ul style="list-style-type: none"> » State what the final orders are » Annex a copy of the final orders to the affidavit and also the application » Annex a copy of the care plan only where a restoration has been unsuccessful
Current placement	<ul style="list-style-type: none"> » Where is the child placed? » How long has the child been with the carer?
Significant change in relevant circumstances	<ul style="list-style-type: none"> » Why is the application needed - state the significant change » If minimum outcomes have not been met, state which ones have not been met (do not write them all out).
Evidence of significant change of relevant circumstances	<ul style="list-style-type: none"> » What is the significant change in relevant circumstances? » Was there a critical incident? » State the evidence you have gathered to support the above points » Use direct speech » State dates and times of home visits » State any risk of harm reports since the date of final orders if any- (this could have its own heading if lengthy) » State if there has been any updating material obtained through exchanging information
Child or young person's views	<ul style="list-style-type: none"> » This section is included only where a child is under 12 years and has expressed clear and strong views, as a child over 12 years is legally represented » The date, time and place you spoke with the child » Use "I said" "He Said"
Casework since final orders	<ul style="list-style-type: none"> » This information could mirror prior alternative action- what services are / were involved; for what reason(s); and for what length of time?
Plans for child or young person	<ul style="list-style-type: none"> » What are your recommendations? » Where do we intend to place the child » Is there family we have assessed or are intending to assess?