



LIN 23/026

**Migration (Specification of evidentiary requirements—family violence)  
Instrument (LIN 23/026) 2023**

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I, Andrew Giles, Minister for Immigration, Citizenship and Multicultural Affairs, make this instrument under paragraph 1.24(b) of the *Migration Regulations 1994* (the *Regulations*).

Dated

30 March 2023

The Hon. Andrew Giles MP  
Minister for Immigration, Citizenship and Multicultural Affairs

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## Part 1 Preliminary

### 1 Name

This instrument is the *Migration (Specification of evidentiary requirements—family violence) Instrument (LIN 23/026) 2023*.

### 2 Commencement

This instrument commences the day after it is registered on the Federal Register of Legislation.

### 3 Definitions

In this instrument:

**child welfare officer** means an officer of a child welfare authority or a child protection authority of a State or Territory.

**education professional** means a school counsellor, school principal or teacher who has taught or counselled the alleged victim.

**family consultant** has the meaning provided in section 11B of the *Family Law Act 1975*.

**family relationship counsellor** means a counsellor who provides services at a family relationship centre.

**family violence support service provider** means a women's refuge, or domestic and family violence crisis centre, or a community, multicultural or other crisis support service providing domestic and family violence assistance or support to the alleged victim.

**medical practitioner** has the meaning provided in the *Health Insurance Act 1973*.

**psychologist** means a person registered under the *Health Practitioner Regulation National Law Act 2009*, as enacted and in force in each State and Territory, to practice in the psychology profession.

**registered nurse** has the meaning provided in the *Health Insurance Act 1973*.

**midwife** has the meaning provided in the *Health Insurance Act 1973*.

**police officer** means:

- (a) a member or special member of the Australian Federal Police (within the meaning of the *Australian Federal Police Act 1979*); or
- (b) a member, however described, of a police force of a State or Territory.

**social worker** means a member of the Australian Association of Social Workers, or a person who is eligible to be a member of that Association, and who has provided counselling or assistance to the alleged victim while performing the duties of a social worker.

### 4 Types of evidence

- (1) For the purposes of paragraph 1.24(b) of the Regulations, the types of evidence mentioned in Schedule 1 are specified.
- (2) All items of evidence must be sufficiently detailed and include the required information as mentioned in Schedule 1.
- (3) All items of evidence provided by a person, officer or provider mentioned in Schedule 1, must be in writing in English on their professional letterhead or the professional letterhead of their organisation, and include the following details:

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- (a) full name;
  - (b) occupation;
  - (c) signature;
  - (d) date;
  - (e) address; and
  - (f) contact phone number.

**5 Number of items of evidence**

For the purposes of paragraph 1.24(b) of the Regulations:

- (a) subject to paragraph (b), a minimum of two items of evidence mentioned in Schedule 1 are specified;
- (b) each item of evidence must be of a different type of evidence.

**6 Repeal**

*Migration Regulations 1994—Evidentiary Requirements—IMMI 12/116* (F2012L02237) is repealed.

**7 Savings and transitional**

Anything done under the *Migration Regulations 1994—Evidentiary Requirements—IMMI 12/116* (F2012L02237) continues to be in effect as if it had been done under this instrument.

# Schedule 1 Evidence

(s.4)

## 1 Table: Types of Evidence

Type of evidence	Items of evidence	Information that must be included
Medical	<p>Any of the following made by a medical practitioner, registered nurse or midwife who is acting in their professional capacity:</p> <ul style="list-style-type: none"> <li>(a) medical report;</li> <li>(b) hospital report;</li> <li>(c) discharge summary;</li> <li>(d) letter;</li> <li>(e) statutory declaration.</li> </ul>	<p>The item of evidence must:</p> <ul style="list-style-type: none"> <li>(a) identify the alleged victim; and</li> <li>(b) detail the injuries or treatment of the alleged victim that may be consistent with family violence.</li> </ul>
Police	<p>Any of the following made by a police officer who is acting in their professional capacity:</p> <ul style="list-style-type: none"> <li>(a) report;</li> <li>(b) record of assault or family violence;</li> <li>(c) risk assessment;</li> <li>(d) witness statement;</li> <li>(e) statutory declaration.</li> </ul> <p>A witness statement made by a person, other than the alleged victim, to a police officer during the course of a police investigation.</p>	<p>The item of evidence must:</p> <ul style="list-style-type: none"> <li>(a) identify the alleged victim; and</li> <li>(b) identify the alleged perpetrator or provide information from which the identity of the alleged perpetrator can reasonably be inferred; and</li> <li>(c) detail the incident(s) of family violence.</li> </ul>
Child welfare officer	<p>Any of the following made by a child welfare officer who is acting in their professional capacity:</p> <ul style="list-style-type: none"> <li>(a) report;</li> <li>(b) letter;</li> <li>(c) statutory declaration.</li> </ul>	<p>The item of evidence must:</p> <ul style="list-style-type: none"> <li>(a) detail fears for the dependent child's safety due to family violence within the household; and</li> <li>(b) identify the alleged perpetrator or provide information from which the identity of the alleged perpetrator can reasonably be inferred.</li> </ul>
Family violence support service provider	<p>Any of the following made by a family violence support service provider who is acting in their professional capacity:</p> <ul style="list-style-type: none"> <li>(a) report;</li> <li>(b) letter;</li> <li>(c) risk assessment;</li> <li>(d) statutory declaration.</li> </ul>	<p>The item of evidence must:</p> <ul style="list-style-type: none"> <li>(a) state that the alleged victim has made a claim of family violence; and</li> <li>(b) state in their professional opinion whether the claims of the alleged victim are consistent with them having been subject to family violence; and</li> <li>(c) identify the alleged perpetrator or provide information from which the identity of the alleged perpetrator can reasonably be inferred.</li> </ul>
Social worker	<p>Any of the following made by a social worker who is acting</p>	<p>The item of evidence must:</p> <ul style="list-style-type: none"> <li>(a) state that the alleged victim has made</li> </ul>

	<p>in their professional capacity:</p> <p>(a) report;</p> <p>(b) letter;</p> <p>(c) statutory declaration.</p>	<p>a claim of family violence; and</p> <p>(b) state in their professional opinion whether the claims of the alleged victim are consistent with them having been subject to family violence; and</p> <p>(c) identify the alleged perpetrator or provide information from which the identity of the alleged perpetrator can reasonably be inferred.</p>
Psychologist	<p>Any of the following made by a psychologist who is acting in their professional capacity:</p> <p>(a) report;</p> <p>(b) letter;</p> <p>(c) statutory declaration.</p>	<p>The item of evidence must:</p> <p>(a) state that the alleged victim has made a claim of family violence; and</p> <p>(b) state in their professional opinion whether the claims of the alleged victim are consistent with them having been subject to family violence; and</p> <p>(c) identify the alleged perpetrator or provide information from which the identity of the alleged perpetrator can reasonably be inferred.</p>
Family consultant / family relationship counsellor	<p>Any of the following made by a family consultant or a family relationship counsellor who is acting in their professional capacity:</p> <p>(a) report;</p> <p>(b) letter;</p> <p>(c) statutory declaration.</p>	<p>The item of evidence must:</p> <p>(a) state that the alleged victim has been treated or counselled by the family consultant or family relationship counsellor; and</p> <p>(b) state in their professional opinion whether the claims of the alleged victim are consistent with them having been subject to family violence; and</p> <p>(c) identify the alleged perpetrator or provide information from which the identity of the alleged perpetrator can reasonably be inferred.</p>
Education professional	<p>Any of the following made by an education professional who is acting in their professional capacity:</p> <p>(a) report;</p> <p>(b) letter;</p> <p>(c) statutory declaration.</p>	<p>The item of evidence must:</p> <p>(a) state that they have made, or been made aware of, observations that are consistent with the alleged victim's claims of being subject to family violence; and</p> <p>(b) provide details of those observations; and</p> <p>(c) identify the alleged perpetrator or provide information from which the identity of the perpetrator can reasonably be inferred.</p>