

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

REGISTRAR'S CIRCULAR NO. 2 OF 2025

**ISSUANCE OF THE GUIDELINES ON THE PREPARATION AND DRAFTING OF
AFFIDAVITS OF EVIDENCE-IN-CHIEF IN PROCEEDINGS BEFORE THE
FAMILY JUSTICE COURTS**

The Guidelines on the Preparation and Drafting of Affidavits of Evidence-In-Chief in Proceedings before the Family Justice Courts set out best practices and principles for the preparation and drafting of affidavits of evidence-in-chief (“AEICs”) used in proceedings before the Family Justice Courts.

2 These Guidelines apply to AEICs used in proceedings before the Family Justice Courts (including proceedings before the Family Division of the High Court) with immediate effect.

Dated this 15th day of August 2025.



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Guidelines on the Preparation and Drafting of Affidavits of Evidence-In-Chief in Proceedings before the Family Justice Courts

A. Introduction and Purpose of Guidelines

1. These Guidelines¹ seek to set out best practices and principles for the preparation and drafting of affidavits of evidence-in-chief (“AEICs”) used in proceedings before the Family Justice Courts (which include the Family Division of the High Court).²
2. The Guidelines serve to assist practitioners and court users in (a) preserving the fundamental function of AEICs (*ie*, the AEIC contains the evidence-in-chief of the witness that would have otherwise been given orally); and (b) ensuring that the practitioners’ professional duties to the Court in the preparation and presentation of evidence in proceedings are properly observed. AEICs are important in informing the parties and the court of the evidence a party intends to rely on at a trial or hearing. Their use promotes the just, expeditious and cost-effective disposal of cases.
3. To avoid doubt, these Guidelines are not exhaustive and do not detract from the law on evidence, and the legal and ethical requirements applicable to AEICs (such as those set out in the Rules of Court 2021, the Family Justice (General) Rules 2024, the Family Justice (Probate and Other Matters) Rules 2024, the Legal Profession (Professional Conduct) Rules 2015, the relevant Practice Directions and case law).³ Non-compliance with these Guidelines may affect the Court’s assessment of (a) whether a witness’ AEIC sets out the witness’ own independent and untainted evidence; and (b) the weight to be accorded to the witness’ evidence.⁴

B. Guidelines on Obtaining Evidence for the Preparation of AEICs

I. Independence of Witness’ Evidence

4. The fundamental principle is that the witness’ evidence in an AEIC must be his or her independent testimony.⁵ The witness’ testimony should not be altered or influenced by others. An AEIC should therefore be prepared in such a way as to avoid the altering of the witness’ recollection, other than by refreshing of memory. The witness’ own evidence must not be supplanted or supplemented by other persons, including the practitioner.⁶ Practitioners should inform and remind witnesses not to collaborate on their answers or be informed of the specific contents of other witnesses’ evidence to

¹ These Guidelines have been prepared in consultation with Council of the Law Society (“Council”) and incorporate input from Council and representatives from the Law Society’s Practice Committees.

² See Section 3 of the Family Justice Act 2014

³ See *eg*, the Evidence Act 1893; Family Justice (Probate and Other Matters) Rules 2024 read with Division 2, Order 15 of the Rules of Court 2021; Division 2, Part 15 of the Family Justice (General) Rules 2024; Part 13D of the Family Justice Courts Practice Directions 2024; and, where applicable, Division 38, Part 18 of the Family Justice Rules 2014 and Part XIII of the Family Justice Courts Practice Directions 2015.

⁴ See *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar, SA and others and other appeals* [2018] 1 SLR 894 (“*Ernest (CA)*”) at [134] and [137]; see also *Jasvinderbir Sing Sethi and another v Sandeep Singh Bhatia and another* [2021] SGHC 14 (“*Jasvinderbir Sing Sethi*”) at [56], [57], [59] and [61].

⁵ *Ernest (CA)* at [136] and [137].

⁶ See *Ernest (CA)* at [138].

preserve the integrity of each witness' independent recollection. To avoid doubt, nothing herein prohibits a witness from being shown contemporaneous or relevant documents in order to refresh the witness' memory.

5. The preparation of AEICs should be based on evidence obtained directly from the witness through emails or interviews (*eg*, face-to-face meeting, video or telephone call or conference, or instant messaging). The practitioner should keep, for internal reference, a contemporaneous record of the evidence obtained from such email(s) or interview(s) as and when they are received. The record (between solicitor and client) should be as detailed as practicable. Where applicable, such records should be maintained and updated as the matter progresses.

II. Obtaining Evidence

6. Witnesses should not be interviewed in groups when their evidence is obtained.⁷ In obtaining a particular witness' evidence-in-chief, the witness should not be given or informed of the evidence of another witness. However, where the witness' evidence contradicts that of another witness for the same party or for the opposing party, the witness may be asked to comment on the contradiction. Practitioners may also identify matters addressed in another witness' evidence on which the witness may be able to give evidence, and ask the witness proper questions to elicit the evidence that the witness is able to give.
7. An interview to obtain evidence from a witness should, as much as possible, use open-ended questions and avoid using leading questions. As a general rule, leading questions should only be used when they relate to uncontentious matters and/or requests for clarification of or additional detail about prior answers.
8. Similarly, if further evidence is sought from the witness to clarify or complete the AEIC, such further evidence should as much as possible be obtained *via* non-leading and open-ended questions for the witness to answer in the witness' own words. The practitioner should not obtain any evidence by proposing content for approval, amendment or rejection by the witness.

III. No Coaching or Influencing of Witnesses

9. Witnesses must not be coached or influenced.⁸ The witness' evidence must remain his or her own and not be a false recollection encouraged or influenced by others. Witness coaching occurs when the witness' own true recollection is supplemented or supplanted with another version of events.⁹ Some non-exhaustive examples of witness coaching include:
 - (a) giving advice to or influencing (through the use of verbal or non-verbal cues) a witness to move away from his or her original answer to the "right" one which (i)

⁷ *Ernest (CA)* at [140]. The prohibition against group interviews to obtain evidence is to be distinguished from group meetings or briefings (involving the practitioner, his or her client and/or the client's witnesses) on matters that are unrelated to evidence gathering.

⁸ See *Ernest (CA)* at [142].

⁹ See *Ernest (CA)* at [138].

favours the witness' case or the person calling him or her as witness; or (ii) is consistent with the evidence of other witnesses;

- (b) allowing witnesses to collaborate on their answers so as to provide a version that is favourable to a party's case instead of relying on their honest recollection of what actually happened.

The rules against witness coaching are intended not only to prohibit intentional wrongdoing but also innocent breaches which may or may not have actually affected a witness' evidence or testimony.

- 10. Practitioners should be mindful that oblique comments, non-verbal cues, and the general sequence of questions posed to a witness (especially when reiterated or repeated a number of times) may influence the witness to adopt answers which the witness surmises from such comments, cues or questions to be more favourable to a particular case, even if the witness does not believe them to be the truth.¹⁰

C. Guidelines on Drafting of AEICs

I. Clarity & Conciseness in Drafting

- 11. The AEIC should have an organised and logical structure, and be as concise as possible. Where the form of an AEIC is prescribed by any rules or practice directions, the parties are expected to adhere to the prescribed form under the relevant rules or practice directions.
- 12. As far as possible, the AEIC should be expressed in the words of the witness as it is meant to be a record of evidence that the witness would have orally given as his or her evidence-in-chief. Practitioners should ensure that the witness understands all statements, phrases, expressions and/or words used in the AEIC.
- 13. The AEIC is neither a pleading nor a submission. The AEIC should not repeat pleadings or contain arguments or conclusions in any form, such as explaining why a particular account of facts is plausible or implausible. If the AEIC is prepared for a factual witness, it should not contain irrelevant or inadmissible opinion evidence. Practitioners should explain to the witness what may and may not be included in his or her AEIC.
- 14. During the preparation of witnesses' AEICs, the practitioner should not use the draft AEIC of one witness as a template for the AEICs of the other witnesses, or ask if a witness agrees with the version of events set out in the draft AEIC of another witness. Witnesses should not be asked to state in their AEICs that they confirm the AEIC of another witness.¹¹
- 15. If the AEIC includes evidence on important disputed matters of fact, the AEIC should, if practicable, state in the witness' own words:

¹⁰ See *Ernest (CA)* at [139].

¹¹ See *Jasvinderbir Sing Sethi* at [57] and [59].

- (a) how well they independently recall the matters addressed; and
 - (b) whether, and if so, the details of how and when, the witness' recollection in relation to those matters has been refreshed.
16. The preparation of an AEIC should involve as few drafts being reviewed by the witness as is practicable. Practitioners should be mindful that repeatedly revisiting the draft AEIC may interfere with or influence the witness' own independent recollection of events.
 17. Particular attention is required where a witness does not understand English. In such cases, practitioners should ensure that the witness is able to understand all statements, phrases, expressions and/or words used in the AEIC and to confirm its contents before the witness deposes his or her AEIC before a commissioner for oaths or notary public. Self-represented persons should note that all documents filed or submitted in Court must be in English. Accordingly, self-represented persons who do not understand English should ensure that their AEICs, which must be in English, accurately state what they intend to give in evidence.

II. Ethical Obligations

18. To avoid doubt, in drafting an AEIC, practitioners are not under an ethical duty to separately verify the truth of the evidence given by the witness, unless there is compelling evidence to indicate that it is dubious.¹² However, if the practitioner has knowledge that the AEIC includes a statement of fact which he or she knows to be false, the false statement of fact must not be included in the AEIC.¹³ Further, the AEIC must not contain any statement of facts other than the substance of any evidence which, having regard to the instructions given to the practitioner, the practitioner believes the witness would give if that evidence were given orally. Practitioners should be mindful of their ethical obligations, including those under the Legal Profession (Professional Conduct) Rules 2015 as well as those as regards their role in the administration of justice and in the conduct of proceedings.
19. Practitioners should consider the principles of Therapeutic Justice when preparing AEICs.¹⁴ For instance, it would not be appropriate for AEICs to contain provocative language and baseless speculation, or to use them as platforms to air grievances irrelevant to the issues at hand.
20. Practitioners should also consider applying the best practices in paragraphs 4 to 19 of these Guidelines to the preparation and drafting of other affidavits, where appropriate.

¹² See *Tang Liang Hong v Lee Kuan Yew and another and other appeals* [1997] 3 SLR(R) 576 at [74]. See also *Bachoo Mohan Singh v Public Prosecutor and another matter* [2010] 4 SLR 137 at [137(e)].

¹³ See r 9(2)(c) of the Legal Profession (Professional Conduct) Rules 2015.

¹⁴ See the Family Justice Courts Therapeutic Justice Model (TJ Model) at <https://www.judiciary.gov.sg/who-we-are/therapeutic-justice>