



LIN 23/026

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

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

Contents

Part 1	Preliminary	3
1	Name	3
2	Commencement	3
3	Definitions	3
4	Types of evidence	3
5	Number of items of evidence	4
6	Repeal	4
7	Savings and transitional	4
Schedule 1	Evidence	5

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:

- (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	Any of the following made by a medical practitioner, registered nurse or midwife who is acting in their professional capacity: (a) medical report; (b) hospital report; (c) discharge summary; (d) letter; (e) statutory declaration.	The item of evidence must: (a) identify the alleged victim; and (b) detail the injuries or treatment of the alleged victim that may be consistent with family violence.
Police	Any of the following made by a police officer who is acting in their professional capacity: (a) report; (b) record of assault or family violence; (c) risk assessment; (d) witness statement; (e) statutory declaration.	The item of evidence must: (a) identify the alleged victim; and (b) identify the alleged perpetrator or provide information from which the identity of the alleged perpetrator can reasonably be inferred; and (c) detail the incident(s) of family violence.
	A witness statement made by a person, other than the alleged victim, to a police officer during the course of a police investigation.	
Child welfare officer	Any of the following made by a child welfare officer who is acting in their professional capacity: (a) report; (b) letter; (c) statutory declaration.	The item of evidence must: (a) detail fears for the dependent child's safety due to family violence within the household; and (b) identify the alleged perpetrator or provide information from which the identity of the alleged perpetrator can reasonably be inferred.
Family violence support service provider	Any of the following made by a family violence support service provider who is acting in their professional capacity: (a) report; (b) letter; (c) risk assessment; (d) statutory declaration.	The item of evidence must: (a) state that the alleged victim has made a claim of family violence; and (b) state in their professional opinion whether the claims of the alleged victim are consistent with them having been subject to family violence; and (c) identify the alleged perpetrator or provide information from which the identity of the alleged perpetrator can reasonably be inferred.
Social worker	Any of the following made by a social worker who is acting	The item of evidence must: (a) state that the alleged victim has made

	<p>in their professional capacity:</p> <ul style="list-style-type: none"> (a) report; (b) letter; (c) statutory declaration. 	<p>a claim of family violence; and</p> <ul style="list-style-type: none"> (b) state in their professional opinion whether the claims of the alleged victim are consistent with them having been subject to family violence; and (c) identify the alleged perpetrator or provide information from which the identity of the alleged perpetrator can reasonably be inferred.
Psychologist	<p>Any of the following made by a psychologist who is acting in their professional capacity:</p> <ul style="list-style-type: none"> (a) report; (b) letter; (c) statutory declaration. 	<p>The item of evidence must:</p> <ul style="list-style-type: none"> (a) state that the alleged victim has made a claim of family violence; and (b) state in their professional opinion whether the claims of the alleged victim are consistent with them having been subject to family violence; and (c) identify the alleged perpetrator or provide information from which the identity of the alleged perpetrator can reasonably be inferred.
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> <ul style="list-style-type: none"> (a) report; (b) letter; (c) statutory declaration. 	<p>The item of evidence must:</p> <ul style="list-style-type: none"> (a) state that the alleged victim has been treated or counselled by the family consultant or family relationship counsellor; and (b) state in their professional opinion whether the claims of the alleged victim are consistent with them having been subject to family violence; and (c) identify the alleged perpetrator or provide information from which the identity of the alleged perpetrator can reasonably be inferred.
Education professional	<p>Any of the following made by an education professional who is acting in their professional capacity:</p> <ul style="list-style-type: none"> (a) report; (b) letter; (c) statutory declaration. 	<p>The item of evidence must:</p> <ul style="list-style-type: none"> (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 (b) provide details of those observations; and (c) identify the alleged perpetrator or provide information from which the identity of the perpetrator can reasonably be inferred.

Unless otherwise indicated in this document, it is Copyright of the Commonwealth of Australia and the following applies:

Copyright Commonwealth of Australia.

This material does not purport to be the official or authorised version. Reproduction and use of this material is subject to a [Creative Commons Attribution-NonCommercial-ShareAlike 3.0 Australia License](#).

You should make independent inquiries and obtain appropriate advice before relying on the information in any important matter.

This document has been distributed by LexisNexis Australia. All queries regarding the content should be directed to the author of this document.