



## ANMF (Vic Branch) Policy

### Advice regarding the making of witness statements

The provision of a statement that outlines an individual's professional practice in relation to any element of that practice that may be the basis of investigation, will generally require Australian Nursing and Midwifery Federation (Victorian Branch) (ANMF (Vic Branch)) members to document their involvement in such an action. Where a request to provide a witness statement comes from an employer, the Police, legal representatives of organisations or other persons relating to the actions or observations of the nurse, midwife or personal care worker in undertaking their work, all ANMF (Vic Branch) members have the right to expect that:

1. Employers or other bodies will inform the nurse, midwife or personal care worker that they are required to provide a statement.
2. Employers will provide the appropriate notice where a witness statement or the giving of evidence is required.
3. There will be an opportunity to elect appropriate representation where witness statements or giving of evidence to tribunals is concerned.
4. The right of representation will be formally acknowledged prior to the commencement of legal proceedings to allow for appropriate legal advice and representation to be sought.
5. They have access to relevant document/s to inform their statement.

#### **It is the policy of the ANMF (Vic Branch) that:**

1. Members are entitled to procedural fairness and to seek their own independent legal advice prior to making their statement/s either verbally or in writing, to an employer or employer's legal advisor or to Police or the Coroner or relevant authority/jurisdiction.
2. Statements (written or verbal) should only be made regarding aspects of the duties carried out by ANMF (Vic Branch) members in the course of their work, and seek their own independent advice prior to submitting statements.
3. Members of the ANMF (Vic Branch) may be entitled to the payment of legal costs and legal representation according to ANMF (Vic Branch) Policy: Legal costs/Legal Representation.
4. Where a member is requested to provide a statement or give evidence, but is not a defendant in the proceedings or potential proceedings, the ANMF (Vic Branch) may provide the assistance of a Professional or Industrial Officer, other staff member, or ANMF (Vic Branch) legal representative in preparing the statement.
5. Prior to attending any hearings conducted by the Australian Health Professionals Regulation Agency or the Nurses and Midwifery Board of Australia regarding mandatory reporting, conduct or misconduct, members are strongly advised to speak to their relevant ANMF (Victorian Branch) staff member and are entitled to seek advice and or assistance as set out also in **ANMF (Vic Branch) policy: Legal costs / legal representation**.

The ANMF (Vic Branch) can provide guidance/templates to members about the content of any individual written statement.

**Considerations when preparing a witness statement:**

1. Ensure the statement includes an introduction stating name, title, qualifications, place of study, year of graduation, level of experience.
2. Outline the duties performed as inherent in the work role, for example:
  - a) What you did on the day, start and end times of the shift, your expected ordinary duties for the day, your working week in the lead up to the incident?
  - b) What shifts you had worked in the 24-48 hours leading up to the allegation?
  - c) Who was in charge of the shift and allocating the patient to the nurses, for example, NUM/ANUM's name?
3. The exact involvement members had in the incident – do not speculate, specify the facts.
4. Respond only to the incident or allegation.
5. Make sure the statement contains only the information that is known personally – consider checking relevant documents to assist with recollection of facts, in accordance with relevant Privacy legislation.
6. Remember, once you sign the statement, it is your statement.
7. Only write objective information, for example, dates and times you dealt with the patient/s and how they seemed to you according to your assessment; whether the patient/s stated they wanted a female nurse to shower them, not a male nurse.
8. Be sure of your facts, if you cannot recall, state this fact in the witness statement.
9. Once you have written your draft statement, send it to ANMF to have it cross-checked before signing and submitting.
10. ANMF recommends members seek guidance prior to submitting any statement.
11. Once a statement is accepted by ANMF, you will be advised and arrangements will be made for you to sign and send it to the appropriate person or organisation.
12. Retain a copy for personal records of all documents that are tendered.