



Applying the legislation

GUIDELINE *Right to Information Act 2009 and Information Privacy Act 2009*

Processing applications from prisoners

This guideline is intended to assist decision makers who are processing applications under the *Right to Information Act 2009* (RTI Act) or *Information Privacy Act 2009* (IP Act) from a person who is incarcerated (a prisoner).

Evidence of identity

Where a prisoner applies for documents containing their personal information, they will need to provide evidence of identity.¹ Both the RTI and IP Acts recognise² a Prisoner's Identity Card which has been certified by a Corrective Services officer as evidence of identity.³

An example of the way a Prisoner Identity Card should be certified is:

I [name], Corrective Services Officer, certify this document as a correct copy of the original which I have sighted, [Signature and Date]

Some correctional centres are not set up to photocopy and certify Prisoner Identity Cards. The Department of Justice and Attorney-General, of which Corrective Services is part, accepts an original memorandum from a General Manager of a correctional facility, attesting to the identity of a prisoner, and many correctional centres have procedures in place to produce these for prisoners wishing to make access applications.⁴

Dealing with a noncompliant application

If an application is noncompliant, decision makers must make reasonable efforts to contact the applicant and give them a chance to correct it.⁵ Where an agency is dealing with a prisoner, they will need to extend their normal timeframes. Generally, agencies should consider allowing at least 20 business days for a prisoner to respond, to allow for the extra time taken by prison procedures.⁶

¹ Section 24 of the RTI Act and section 43 of the IP Act

² Section 3 of both the *Information Privacy Regulation 2009* and the *Right to Information Regulation 2009*

³ A Corrective Services Officer is an employee of Queensland Corrective Services. This guideline contains information about [Evidence of authority and identity](#).

⁴ These original memorandums are acceptable identification for applications involving the prisoner's personal information.

⁵ Section 33(2) of the RTI Act and section 53(2) of the IP Act

⁶ Please see [Noncompliant applications](#) for more information.



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Forms of access

Prisoners face specific challenges when accessing information as most will not have access to email, computers or printing facilities. Paper documents will generally be the only form of access available to them, although some may be able to accept information provided on disc. You will need to confirm this with them before providing access.

Charges

Prisoners cannot hold concession cards and are therefore not eligible to apply for financial hardship. If a decision maker decides access and/or processing charges are payable, prisoners may have a limited ability to pay as well as limited methods of making payment.

It is important to remember that decision makers have a duty to minimise charges and, where it is uneconomical to charge, decision makers can waive the processing and/or access charges.⁷

Delivering the decision

While many agencies email their decision notices to ensure they reach the applicant by the end of the processing period, this will generally not be possible with prisoners. Decision makers will need to take posting times into account when delivering their decisions to ensure applications do not become deemed.⁸

Posting practicalities

Correspondence sent via post should be clearly addressed and include the agency's details. Including the prisoner's ID number (where known) on the envelope will help ensure it reaches the correct person. Corrective Services Officers may monitor postal items sent to prisons and mail can be opened and searched.

Note

Prisoners may request that you mark envelopes 'Legal Mail'. Only entities listed in section 17 of the *Corrective Services Regulation 2017* are entitled to send privileged mail, which is indicated by marking envelopes 'Legal Mail'. These entities do not include agencies processing initial access applications or internal reviews.

⁷ A decision maker may waive charges if it is uneconomical to charge - section 64 RTI Act and 81 IP Act

⁸ Section 46 of the Right to Information Act and section 66 of the Information Privacy Act. Refer to [How to calculate timeframes](#) for more information.



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For additional information and assistance please refer to the OIC's guidelines, or contact the Enquiries Service on 07 3234 7373 or email enquiries@oic.qld.gov.au.

This guide is introductory only, and deals with issues in a general way. It is not legal advice. Additional factors may be relevant in specific circumstances. For detailed guidance, legal advice should be sought.

If you have any comments or suggestions on the content of this document, please submit them to feedback@oic.qld.gov.au.

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