



## Applying the legislation

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

### Evidence of identity and authority

**This guideline does not reflect the current law.**

It reflects the *Right to Information Act 2009* and *Information Privacy Act 2009* as they existed prior to 1 July 2025. It has been provided for the use of agencies and Ministers in relation to access and amendment applications received before 1 July 2025.

Under the *Right to Information Act 2009* (Qld) (**RTI Act**) if an application includes any documents containing the applicant's personal information then the applicant must provide evidence of their identity. Under the *Information Privacy Act 2009* (Qld) (**IP Act**), *all* applications must be accompanied by the applicant's evidence of identity.<sup>1</sup>

If the applicant has someone (referred to as an agent) make one of these applications on their behalf, the agent must also provide evidence of their identity, as well as evidence of their authority to act as an agent for the applicant.<sup>2</sup>

#### Personal information only

These requirements only apply if the application is for access to, or amendment of, documents containing the applicant's personal information.<sup>3</sup> As noted above, this means they always apply to IP Act applications.

The obligation to provide evidence of identity or agent authorisation does not apply under the RTI Act if the documents applied for do not contain the applicant's personal information.

#### Application is noncompliant

If the evidence of identity and/or authority does not satisfy the legislative requirements (for example, the copy of evidence of identity is not certified or has

<sup>1</sup> Sections 43(3) and 44(5) of the IP Act.

<sup>2</sup> Sections 24(3)(a) of the RTI Act.

<sup>3</sup> See section 12 of the IP Act which sets out the definition of *personal information*.



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information blacked out, or the agent's authorisation has not been suitably established) then the agency should follow the noncompliant application process.

The processing period does not begin until the agency has a compliant application, but it is important that agencies contact the applicant as soon as possible if evidence of identity or authority does not comply with the Act.

### What forms of ID are valid?

The RTI and IP Act accept the same kinds of identity documents for the applicant and the agent. Valid forms of ID under the RTI and IP Act are documents 'verifying the person's identity'<sup>4</sup>. This includes:

- a passport
- a copy of a birth certificate or extract
- a driver licence – see below for information on digital drivers licences
- a statutory declaration from an individual who has known the person for at least one year
- for a prisoner only: a copy of a prisoner's identity card that is certified by a Corrective Services officer.

This list is not exhaustive and other documents may also satisfy the requirement to provide evidence of an applicant's or agent's identity, such as an adult proof of age card. If a lawyer is acting as the agent, a letter printed on the law firm's letterhead and signed by the principal of the firm may be sufficient to verify a legal representative's identity as the agent.

For documents with an expiry date, eg a drivers licence, if it has expired, it is not valid ID for an RTI or IP application.<sup>5</sup>

#### Redaction of ID invalidates it

The entire identity document, with no information blacked out or covered, must be provided for it to be valid. If an applicant or agent provides, for example, a drivers licence with the photo or numbers covered, the agency cannot accept it as proof of identity for the purposes of the RTI or IP Act.

### Evidence of agent's authority

Documents that will establish an agent's authority may include<sup>6</sup>:

- a will or court order appointing the agent to act as the applicant's guardian

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<sup>4</sup> As defined in the *Right to Information Regulation 2009* and the *Information Privacy Regulation 2009* (RTI and IP Regulations).

<sup>5</sup> *Z69 and Metro North Hospital and Health Service* [2019] QICmr 48 (6 November 2019) at paragraph 31

<sup>6</sup> See section 23(3)(b) of the RTI Act and section 43(3)(b) of the IP Act.



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- the client agreement authorising a legal practitioner to act for an applicant
- evidence the agent is the child's parent<sup>7</sup>

This not an exhaustive list and other documents can establish an agent's authorisation.

### Examples

- A letter of authority from the applicant specifically appointing the person to act as the applicant's agent to make the application.
- In the case of a legal representative, a letter of authority setting out the nature, terms and duration (where relevant) of the legal representative's authority which is signed by the legal representative and their client (the applicant).

Generally, evidence of an agent's authority should:

- be in writing
- be current<sup>8</sup>
- state the full name of the applicant and the name of the agent
- set out the scope of the authority to act as the applicant's agent; and
- be signed and dated by the applicant.

## Ways of providing evidence of identity and authorisation

### Original identification sighted by agency

If the agency has public facing offices, the original identification documents could be shown to an agency officer, who could make a file note confirming the original documents have been sighted. There is also an area on the application form where the officer can confirm the original identification was sighted.

There is no need to copy the evidence of identity document, however, the agency may wish to take a copy of any agent authorisation.

### Sighting identity using video conferencing

Agencies can also sight an applicant's or agent's identity using video conferencing. This can be done, for example, using Zoom, Teams, Skype,

<sup>7</sup> If the application is made by a parent for a child, under section 25 of the RTI Act or section 45 of the IP Act, please see *Applications by and for children* for more information.

<sup>8</sup> OIC recommends that authorities older than 6 months be verified to ensure they are current prior to accepting them.



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Discord or any appropriate video program, after which decision makers can file note that they have seen the applicant's or agent's ID.

Agencies will need to consider any privacy implications of the program, and ensure the applicant or agent consents to its use, but using video tools allows applicants and agents to meet the Acts' identity requirements without having a third party certify their identity.

### Certified copies

The most common method of providing evidence of identity is by way of a certified copy. A copy of the evidence of identity document must be certified as a correct copy of the original by a 'qualified witness' which means a Justice of the Peace, lawyer, Commissioner for Declarations or notary public.<sup>9</sup> Under **no circumstances** can a qualified witness certify their own identification.

### Exception for prisoners

The only exception to the 'qualified witness' requirement is where the evidence of identity is a prisoner identity card. These will be certified by a corrective services officer and not a qualified witness.

As noted above, the entire identity document must be provided, with no information redacted from the certified copy, for it to be valid under the RTI and IP Act.

There is no requirement for a copy of an agent's authority to be certified by a qualified witness.

### Digital drivers licences

The Queensland Digital Licence app (the app) allows people to store Queensland Department of Transport issued identification, eg drivers licences and adult proof of age cards, on their mobile device.

Due to the specific requirements of the RTI and IP Regulations, to be used as evidence of identity for an access or amendment application, the digital identity document must be *displayed* to the agency.<sup>10</sup> This means agencies can sight evidence of identity documents contained in the official Queensland government app instead of a physical drivers licence,<sup>11</sup> but if a copy of the identity document,

<sup>9</sup> Except for applicants who are incarcerated and providing a copy of their prisoner identity card which can be certified by a corrective services officer.

<sup>10</sup> Section 29AI of the *Transport Planning and Coordination Act 1994* (Qld) provides that if an Act permits a person to produce a document to another person to evidence the person's identity, the person is taken to have produced the document if the person displays the digital evidence of identity.

<sup>11</sup> See <https://www.qld.gov.au/transport/projects/digital-licence/business-verify> for assistance in verifying the digital identity/.



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eg drivers licence or proof of age card, is being provided as evidence of identity, it must be an appropriately certified copy of the physical card.

However, the Regulations' list of acceptable identification documents is not exhaustive. It is open to an agency to accept the PDF which can be exported from the app<sup>12</sup> if it has been certified by a qualified witness and the agency is satisfied it evidences the individual's identity.

Other states and territories, such as New South Wales, have developed similar apps. Agencies considering digital evidence of identity issued by other states or territories should refer to information provided by the relevant state or territory, to ensure they are able to satisfy themselves of its authenticity. See for example: [Licence checkers and the NSW Digital Driver Licence](#).

### Providing electronic copies

The RTI Act and the IP Act do not specify how copies of evidence of identity documents are to be given to an agency. If the agency allows, they can be provided electronically, such as by email or fax.

The *Electronic Transactions (Queensland) Act 2001*<sup>13</sup> provides that where a State law requires or permits the production of a paper document an electronic version may be provided if the following conditions are met:<sup>14</sup>

- The method used to produce the electronic copy of the document ensures the integrity of the document's information, ie the information is complete and unaltered, apart from immaterial or endorsed changes.
- The information in the electronic document will be readily accessible for subsequent reference.
- The person the paper document is to be given to agree to receive an electronic copy of the document.

It is up to each agency to decide whether it is appropriate to accept identity documents electronically, taking into account any general restrictions about receipt of sensitive personal information documents. However allowing these documents to be provided electronically can help simplify the application process.

### Dealing with a second agent

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<sup>12</sup> <https://www.qld.gov.au/transport/projects/digital-licence/app-users>, which notes that the PDF is to be provided in addition to displaying the digital identity, in situations where the verifying entity would usually make a photocopy.

<sup>13</sup> Section 16 of the *Electronic Transactions Act 2001* (**Electronic Transactions Act**).

<sup>14</sup> The Electronic Transactions Act does not apply to particular requirements and permissions, including that a document "be attested, authenticated, verified or witnessed by a person other than the author of the document" (section 7A and schedule 1 of that Act).



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On some applications which have an applicant and agent, or a parent applying on behalf of their child, the agent or parent will ask someone else to deal with the agency. This 'second agent' will often, but not always, be a lawyer. Sometimes, particularly in the case of a parent applying on behalf of a child, it may be another family member.

There is nothing in the RTI or IP Act that prevents this. For these applications, agencies will need to first satisfy the identity and authority requirements of the RTI or IP Act in relation to the applicant and agent or parent and child. Then they will need to decide, as a matter of policy, what they require to satisfy themselves that the second agent is properly authorised to represent the parent or agent.

Where the applicant is a child, written confirmation from the parent that the second agent is acting for them may be sufficient. Where the applicant is an adult, the agency may want confirmation from the applicant as well as the first agent that the second agent is authorised to deal with the agency in relation to the application. Where the second agent is a lawyer, confirmation on firm letterhead that the lawyer is acting for the agent or parent may be enough to satisfy the agency.

### **Applications for access to non-personal information**

If none of the documents being applied for contain the applicant's personal information the applicant does not need to provide evidence of their identity; and an agent does not need to provide evidence of identity or evidence of authority to act for the applicant.

However, if an agent applies for sensitive information about the applicant, such as confidential information about a company they claim to be acting for, and the agency has concerns about the agent's authority to act, then those concerns may be taken into account when making the access decision.

Before doing so, however, it would be reasonable for the agency to speak with the agent, explaining those concerns and the possible ramifications for the decision, and ask them to provide proof of their authority to act for the applicant. The agent is not required to provide this evidence, and the application will be valid even if they refuse, as it is not a requirement of the RTI Act.

*Published 10 August 2009 and Last Updated 15 November 2024 - Changes to legislation after the update date are not included in this document*

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