

IPOLA GUIDELINE

Applying the legislation – Right to Information Act 2009

Processing applications from prisoners

This guide does not reflect the current law.

It highlights important changes to the *Right to Information Act 2009*.

This guide does not constitute legal advice and is general in nature only. Additional factors may be relevant in specific circumstances. For detailed guidance, legal advice should be sought.

1.0 Overview

This guideline is intended to assist agency¹ decision makers who are processing applications under the *Right to Information Act 2009* (RTI Act) from a person who is incarcerated (a prisoner).

2.0 Evidence of identity

Where a prisoner applies to access or amend documents containing their personal information, they will need to provide evidence of identity. The RTI Regulation recognises a Prisoner's Identity Card which has been certified by a Corrective Services Officer² as evidence of identity.

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. An alternative form of evidence of identity is an original memorandum from a General Manager of a correctional facility, attesting to the identity of a prisoner. Many correctional centres have procedures in place to produce these

¹ In this guideline, references to an agency include a Minister unless otherwise specified.

² A Corrective Services Officer is an employee of Queensland Corrective Services.

for prisoners wishing to make access or amendment applications, and they are accepted by Queensland Corrective Services as identification.

If the prisoner is not incarcerated in Queensland, the agency will need to consider the best way for them to provide evidence of identity.

Refer to [Evidence of identity and authority](#) for more information.

3.0 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.³ 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 and, if the prisoner has only provided a postal address, sending and receiving documents by post.

Refer to [Managing noncompliant applications](#) for more information.

4.0 Timeframes

The processing period is the length of time the agency has to give the applicant a decision on their application. It starts at 25 business days and is extended for the circumstances listed in section 18 of the RTI Act.

If the only address provided by the applicant with their application is a postal address, the processing period is extended by 5 business days. Most prisoners will only provide a postal address, so the processing period will be at least 30 business days.

The processing period does not start until the agency has a valid application.⁴

Refer to [Timeframes under the RTI Act](#) for more information.

5.0 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.

6.0 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

³ Section 33(2) and 78K of the RTI Act.

⁴ Section 18 of the RTI Act.

Officers may monitor postal items sent to prisons and mail can be opened and searched.

Note

Prisoners may ask an agency decision maker to 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 or amendment applications or internal reviews.

7.0 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.

8.0 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, section 64 of the RTI Act allows decision makers to waive the processing and/or access charges.

For additional IPOLA assistance, please contact the IPOLA team by email IPOLA.Project@oic.qld.gov.au

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

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