



## RIGHT TO INFORMATION / INFORMATION PRIVACY (RTI/IP)

### Evidence of Identity / Evidence of Authorisation requirements for applicants and agents

This information sheet sets out the requirements for establishing 'evidence of identity' and 'evidence of authorisation', as prescribed under the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

#### Key Principles

To ensure the appropriate protection of personal information held by government, the *Right to Information Act 2009* and the *Information Privacy Act 2009* both require that specific precautions are taken before processing applications for access to, or amendment of, documents containing personal information.

These precautions include verifying the identity of applicants, and also verifying the identity and authority of persons who state that they are acting as an applicant's agent, in relation to applications for access to, or amendment of, personal information.

#### Statutory Requirements

Applications under the <i>Information Privacy Act 2009</i>	What is required	Authority (IP Act)
<b>Access</b> application made by individual on own behalf	• Evidence of applicant's identity	s 43(3)(a)
<b>Access</b> application made by agent on behalf of applicant eg. - by solicitor on behalf of client - by parent or other person on behalf of child	• Evidence of applicant's identity • Evidence of agent's identity • Evidence of agent's authorisation	s 43(3)(a) s 43(3)(b) s 43(3)(b)
<b>Amendment</b> application made by individual on own behalf	• Evidence of applicant's identity	s 44(5)(a)
<b>Amendment</b> application made by agent on behalf of applicant eg. - by solicitor on behalf of client - by parent or other person on behalf of child	• Evidence of applicant's identity • Evidence of agent's identity • Evidence of agent's authorisation	s 44(5)(a) s 44(5)(b) s 44(5)(b)

Applications under the <i>Right to Information Act 2009</i> * *if the application is for access to a document containing personal information of the applicant	What is required	Authority (RTI Act)
<b>Access</b> application made by individual on own behalf	• Evidence of applicant's identity	s 24(3)(a)
<b>Access</b> application made by agent on behalf of applicant eg. - by solicitor on behalf of client - by parent or other person on behalf of child	• Evidence of applicant's identity • Evidence of agent's identity • Evidence of agent's authorisation	s 24(3)(a) s 24(3)(b) s 24(3)(b)

#### What is sufficient 'evidence of identity' (for both applicant and agent)?

The evidence of identity **prescribed\*** for a person is a document verifying the person's identity, including, **for example**—

- (a) a passport; or
- (b) a copy of a certificate or extract from a register of births; or
- (c) a driver licence; or
- (d) a statutory declaration from an individual who has known the person for at least 1 year; or
- (e) if the person is a prisoner within the meaning of the *Corrective Services Act 2006* – a copy of the person's identity card from the department administering the Act that is certified by a corrective services officer.

If a document, other than a prisoner identity card (see (e) above), is a photocopy of an original document, the document must be certified by a qualified witness as being a correct copy of the original document.

**qualified witness** means—

- (a) a lawyer or notary public; or
- (b) a commissioner for declarations; or
- (c) a justice of the peace.

\* see *Information Privacy Regulation 2009*, section 3; *Right to Information Regulation 2009*, section 3

## What is sufficient 'evidence of authorisation' (for an agent)?

No specific requirements have been prescribed by regulation. However, the *Information Privacy Act 2009* and the *Right to Information Act 2009* both contain the following **examples\***:

### *Examples of an agent's authorisation—*

- the will or court order appointing the agent to act as the applicant's guardian
- the client agreement authorising a legal practitioner to act for an applicant
- if the application is made on behalf of a child (in reliance on section 45 IPA; section 25 RTIA), evidence the agent is the child's parent

\* see *Information Privacy Act 2009*, section 43(3) (b); *Right to Information Act 2009*, section 24(3) (b)

## When must the evidence of identity and/or authorisation be provided?

The *Information Privacy Act 2009* and the *Right to Information Act 2009* both require that evidence of the applicant's identity, and where necessary, evidence of an agent's authorisation, must be provided **with the application or within 10 business days after making the application.**

## What happens if the required documentation is not provided?

The evidence of identity / authorisation requirements in the *Information Privacy Act 2009* and the *Right to Information Act 2009* are included in the list of "relevant application requirements" which must be satisfied in order for an application to be considered valid.

If the required evidence is not provided, an RTI / IP officer will contact the applicant (or agent) to inform them of the application's non-compliance with statutory requirements. If the applicant (or agent) has still not provided the required documentation within a reasonable period, the only course open to the RTI / IP officer is to make a decision refusing to deal with the application because it does not comply with all relevant application requirements. This is a reviewable decision, subject to (*optional*) internal review within the department, and external review by the independent Office of the Information Commissioner.

This summary discusses general principles only.

If you need any additional information about the 'evidence of identity' or 'evidence of authorisation' requirements for RTI or IP applications made to the Department of Health, please contact:

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