

De facto partners policy



Acknowledgement of Traditional Custodians



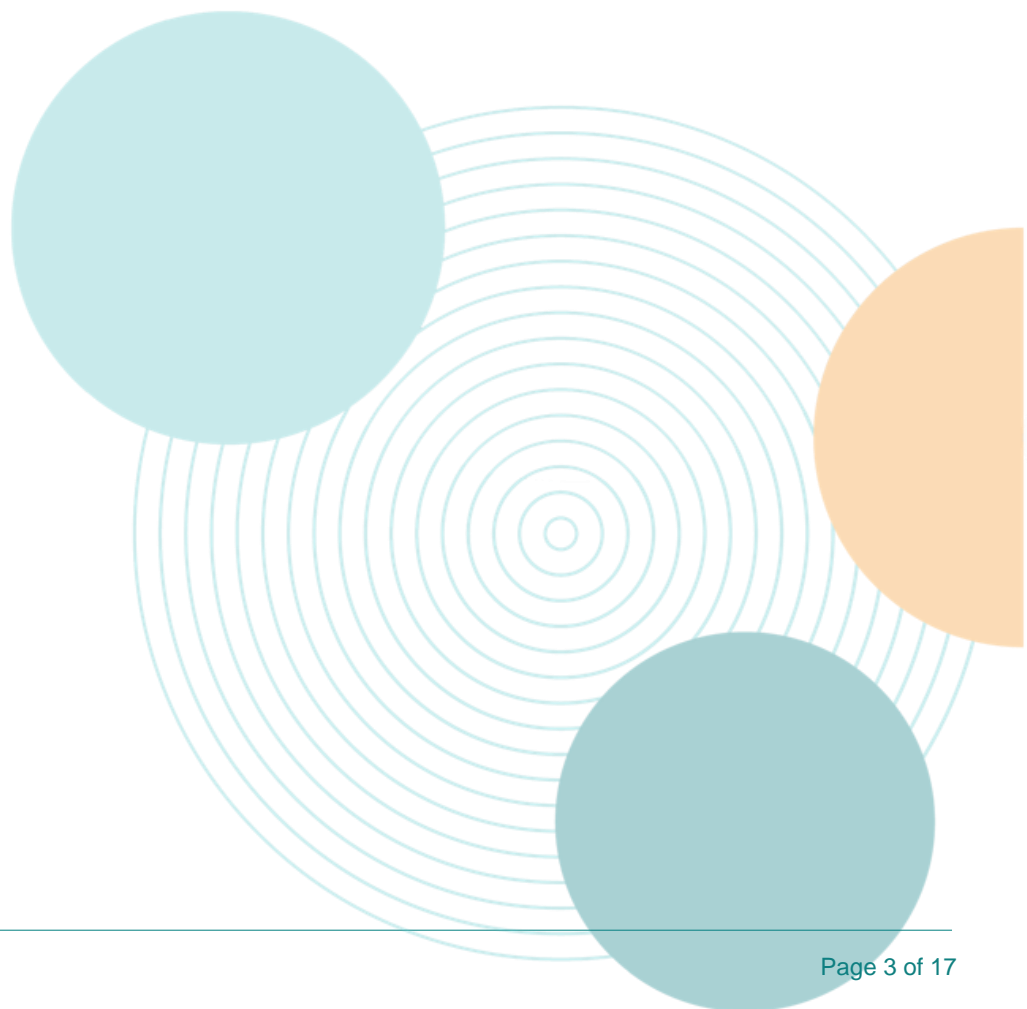
The Department of Justice and Attorney-General recognises and acknowledges Aboriginal and Torres Strait Islander peoples as the First Peoples of Queensland and as the Traditional Custodians of Queensland's precious land and waters. We pay our respects to their Elders past, present and emerging.

We recognise and celebrate the unique and continuing position of Aboriginal and Torres Strait Islander peoples in Australia's history, culture and future, and acknowledge their ongoing strength, resilience and wisdom. We are working to translate this recognition into fair, safe and inclusive practices, policies and services for Aboriginal and Torres Strait Islander peoples.



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1.0 Policy background

The Registry of Births, Deaths and Marriages (RBDM) is responsible for keeping records about life events in Queensland. Some of these records contain details about the legal relationships of persons connected to the life event. Previously, RBDM only recorded the fact a person was married or in a civil partnership. However, following changes to the law on 24 June 2024, RBDM now also records details of de facto relationships when registering births and deaths.

Unlike marriages or civil partnerships, de facto relationships are not formally registered, and there is no certificate to prove the relationship. Instead, a couple is considered to be in a de facto relationship when they 'live together on a genuine domestic basis.' This is a legal test that considers various aspects of the couple's relationship, making it sometimes challenging to prove that you are (or were) in a de facto relationship.

This policy sets out how RBDM considers de facto relationships, including:

- How RBDM manages disputes about the existence of a de facto relationship, and
- The types of evidence required to prove the existence of a de facto relationship.

2.0 Scope

This policy addresses:

- The legal definition of a de facto relationship
- RBDM's process for recording a de facto relationship on a registration in the first instance
- The process RBDM will follow if there is a dispute about a de facto relationship
- The evidence requirements an applicant should follow to prove a de facto relationship existed
- The types of information RBDM will not accept as evidence
- How RBDM makes a decision about recording a de facto relationship on a birth or death registration.

If you are seeking to include a de facto relationship on a death certificate that was registered prior to 24 June 2024 (before the law allowed de facto relationships to be recorded on death certificates), please read the **updating records policy** first, as it confirms what evidence you must provide.

3.0 What is a de facto relationship?

A de facto relationship is defined in Queensland law to be a couple who are living together on a 'genuine domestic basis', but who are not married to each other or related by family.

There are several factors relevant to determining whether a couple are *living together on a genuine domestic basis*:

1.	The nature and extent of their common residence
2.	The length of their relationship
3.	Whether or not a sexual relationship exists or existed
4.	The degree of financial dependence or interdependence, and any arrangement for financial support
5.	Their ownership, use and acquisition of property
6.	The degree of mutual commitment to a shared life, including the care and support of each other
7.	The care and support of children
8.	The performance of household tasks
9.	The reputation and public aspects of their relationship

There are no fixed or minimum requirements for any of these factors (for instance, there is no fixed time that the couple must live together). Instead, the couple's overall circumstances must be considered to decide if they are living together on a genuine domestic basis.

4.0 Including a de facto partner on a registration

Details about de facto relationships are collected when RBDM registers either a:

1.	Birth The parents of the child being registered must state if they are married, in a civil partnership, or in a de facto relationship. <i>Note: this information is not shown on a birth certificate and is collected for statistical purposes.</i>
2.	Death The person registering the death must nominate <u>both</u> : <ul style="list-style-type: none">• the deceased person's relationship status at the time of death, and• each marriage, civil partnership, and de facto relationship the deceased person had during their life.

Note: This information is shown on the death certificate.

When is evidence required?

RBDM typically won't ask for evidence proving the existence of a de facto relationship when registering a life event. Instead, RBDM usually only needs evidence if a person applies to correct de facto details appearing on a certificate.

This is because proving a de facto relationship can be challenging due to the many factors involved, and finding evidence is not always straightforward. To maintain an efficient, effective, and economical registration process, RBDM depends on persons registering life events to cooperate, reach agreement, and provide accurate information regarding de facto relationships.

Disputes over de facto relationships

Sometimes, there can be disagreement over the existence of a de facto relationship.

When a death is registered, the deceased's spouse or a member of their family completes the death registration form. The person who signs the application form is called the 'informant' for the death. Other family members may disagree about who the informant listed (or did not list) as a de facto partner of the deceased. A family member disputing de facto information on a death certificate can apply to [correct the certificate](#).

Contrastingly, when a birth is registered, both parents must complete the birth registration and indicate if they are in a de facto relationship. There is little scope for a dispute to arise in this context and, in any event, information about the parents' relationship does not appear on the birth certificate.

Guidance for funeral directors

Usually, a funeral director will help the deceased's family with a death registration.

If the family is unsure about including a de facto partner

If a family is having trouble deciding if a partner of the deceased meets the definition of a de facto partner, funeral directors may advise the family to include only 'serious, long-term partners, who lived with the deceased, with a shared commitment to one another during their relationship'.

A common 'rule of thumb' is that the couple should have lived together for at least 2 years, however, it is important to remember that this is not a legal requirement. A serious and committed couple may still be considered in a de facto relationship after living together for a shorter period – particularly if they had children together.

The family may consider contacting the former partner to ask if they considered themselves a de facto partner of the deceased. Partners from long ago who were no longer in contact with the deceased need not be included if the family is unsure.

If the family disagrees

If a funeral director becomes aware that members of the deceased's family disagree about a de facto relationship, the funeral director should:

1. Ask the family if they can resolve the dispute themselves and come to an agreement about what should be recorded on the death certificate.
2. If the family cannot agree in a reasonable time:
 - a. submit the death registration with the information provided by the informant, and
 - b. advise family members who disagree that they can apply to RBDM to correct the death certificate, and refer them to this policy.

The funeral director's focus should be on registering the death quickly and efficiently, noting that deaths are required to be registered within 14 days. A dispute over a de facto relationship should not be allowed to significantly delay registration.

If the informant is themselves unsure, or caught in the middle of a dispute, they can be advised that the best approach may be to exclude the disputed de facto relationship from the registration.

If the spouse or relatives can't agree who will be the informant

In rare cases where there is no clear preferred informant for the death (for instance, a family member or spouse named in the deceased's will as executor for their estate, or who is organising and paying for the funeral), and the remaining relatives of the deceased can't agree on who will sign as informant for the death registration application, the funeral director should contact RBDM for guidance.

If RBDM is advised by a funeral director that the deceased's spouse or relatives are at an impasse about who will sign the death registration as the informant, RBDM may exercise its power under the BDMR Act to compel the funeral director to submit the death registration application. RBDM may provide guidance to the funeral director as to whether they should include details of a de facto partner that the family cannot agree on.

In these circumstances, the funeral director may notify the family that RBDM has legally compelled them to register the death, and any persons who disagree with the details registered may apply to RBDM for a correction.

5.0 Correcting de facto details on a certificate

After a death is registered, the death certificate will include details about the deceased's de facto partners at the time of their death and throughout their life. If someone disputes the accuracy of these details, they may apply to RBDM to:

- **remove** or **modify** details about a listed de facto partner, or

- **add** details about a de facto partner whose details are missing.

In either case, the person seeking the correction must apply to RBDM to correct the certificate.

Correction process

RBDM will follow the steps listed below when considering a request to correct details about a de facto relationship:

Step 1	<p>Correction application</p> <p>The person wanting the change to the death certificate must apply to RBDM to correct the certificate and provide supporting evidence. If the correction is to:</p> <ul style="list-style-type: none"> • add or modify a de facto relationship, supporting evidence must meet the evidence requirements in this policy. • remove a de facto relationship, the person applying must explain why they believe a de facto relationship did not exist, and supply any evidence supporting that view. <p><i>Note: a fee is payable when applying to correct a certificate.</i></p>
Step 2	<p>Review</p> <p>RBDM will review the evidence and decide if there is:</p> <ul style="list-style-type: none"> • Enough evidence to support the correction, or • Not enough evidence to support the correction. <p>RBDM corrects records only if the correction is supported by the most reliable information available.</p> <p>RBDM may also seek additional evidence from the applicant or other persons.</p>
Step 3	<p>Decision</p> <p>RBDM will either correct or not correct the death certificate based on its review, and will contact the person who applied to notify them of its decision.</p> <p>RBDM <i>may</i> also contact the informant (the person who provided the information to RBDM at the time of registration) to notify them of a correction. Whether RBDM contacts the informant depends on:</p> <ul style="list-style-type: none"> • If the informant was recorded as the deceased person’s spouse • If the de facto relationship was ongoing at the time of death

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How recently the death was registered.

6.0 Proving a de facto relationship

RBDM will review various types of evidence to verify the existence of a de facto relationship. These are organised in this policy into categories that cover different legal aspects of the relationship. [Attachment 1](#) contains a detailed list of these categories.

Evidence may show that a de facto relationship existed at the time of the deceased's death, or at some other point in their life. RBDM will look at dates and other details listed on the supporting documents when reviewing the evidence.

The categories and examples are not exhaustive. They aim to assist persons applying to provide RBDM with strong evidence. Other forms of evidence can be considered on a case-by-case basis. However, RBDM may not consider [some types of evidence](#).

Statutory declarations

Applicants are encouraged to provide a statutory declaration setting out the details of the relationship. This can help explain and link together the other types of evidence that have been provided (see other types of evidence below).

A statutory declaration by itself is generally not sufficient unless the relationship occurred in the distant past and was not ongoing at the time of the deceased's death.

If you want to show that a relationship recorded on a death certificate was not a de facto relationship, you will need to provide statutory declarations from people who knew the deceased's correct living or relationship circumstances. These declarations should include details of where and with whom the deceased was living during the period of the disputed de facto relationship noted on the death certificate.

6.1 Types of evidence

Category 1 – Common residence

Category 1 evidence is documents showing that the couple lived together.

This is the most important type of evidence because living together is essential to being a de facto couple.

Persons applying must provide at least one item of Category 1 evidence. However, it is best to provide more than one if possible. The duration and start date of the relationship will be assessed based on the period the couple lived together.

Category 1 evidence may include:

1. A joint lease

2.	A jointly owned residential property
3.	Joint household bills
4.	Official documents displaying the same address for the couple

Living together, but not a couple

Sometimes two people live together but are not a couple. For example, two friends living together as housemates could be named jointly on a lease.

For this reason, evidence of living together *alone* is not enough to prove that a de facto relationship existed. Instead, the person applying must give other types of evidence to show that they were a couple. The different combinations of evidence required is discussed in the [evidence requirements](#) section of this policy.

Couples living apart temporarily

Sometimes a de facto couple may live apart temporarily because of health complications, work commitments or other justifiable reasons (for example, an elderly person requiring full-time care in an aged care facility, or a partner living interstate for a temporary work project).

In these circumstances, the person applying must show that the period where the couple lived separately was due to an outside factor (not because the relationship ended) and that the couple would have continued living together if not for that factor.

To do this, the applicant must do all the following:

- Provide Category 1 evidence showing that the couple lived together before living apart
- Explain the couple's circumstances in the period they lived apart, and
- Give other evidence showing that the couple remained in a partner relationship whilst living apart.

A couple that never resided together cannot be considered a de facto couple.

Category 2 – Legal documents

Category 2 evidence is legal documents naming a person as the deceased's partner. This may include:

1.	A will naming a person as the deceased's partner
2.	Superannuation death benefit in the name of the surviving partner
3.	A self-managed superfund in both partners' names

4.	A power of attorney document
5.	An advance health directive
6.	Property or financial settlement* <i>*This can only be used to demonstrate a previous de facto partner</i>
7.	Spousal maintenance* <i>*This can only be used to demonstrate a previous de facto partner</i>

RBDM will consider the date of the document to ensure it aligns with the application. For example, a will naming a de facto partner that was created 10 years before a person's death will not prove they were in a de facto relationship *at the time of death*. In that case, the applicant would need to submit more recent evidence to prove that the deceased was in a de facto relationship with the person at the time of their death.

Category 3 – Shared finances or care arrangements

Category 3 evidence shows other aspects of the couple's relationship, such as shared finances (sharing money or giving financial support to each other), shared care for children, or care and support for each other.

Documents showing shared finances may include:

1.	Joint bank account or joint credit card
2.	Joint loan
3.	Joint savings
4.	Contributions towards the mortgage of a property owned by one partner
5.	Joint health insurance
6.	Income tax return (naming a de facto spouse)
7.	Centrelink documents

Documents showing shared care for children or each other may include:

1.	Birth certificate
2.	Joint Medicare card or health insurance
3.	Centrelink documents

4.	Letter from a child's school or doctor
5.	Child support* <i>*This can only be used to demonstrate a previous de facto partner</i>

Category 4 – Shared property

Category 4 evidence demonstrates a couple's shared ownership, use or purchase of property. This may include:

1.	Joint ownership or shared use of personal property such as a car, caravan or boat
2.	Joint ownership of a pet

Category 5 – Public aspects of the relationship

Category 5 evidence demonstrates the reputation and public aspects of a couple's relationship, such as:

1.	Documents addressed to the couple
2.	Attendance at events or functions together (official invitations)
3.	A statutory declaration from a family member or friend of the couple regarding the couple's relationship

Category 5 evidence is of low value by itself, but may be submitted together with other evidence.

6.2 Evidence requirements

The person applying may submit many different combinations of evidence to prove a de facto relationship existed. In all cases, the person applying must give at least one piece of Category 1 (common residence) evidence.

To ensure that details of a de facto relationship can be recorded accurately, the person applying should ensure the evidence shows:

- the **full name** of the de facto spouse, and
- **when** and **where** the couple first started living together.

The table below sets out the **bare minimum** combinations of evidence an applicant can submit to RBDM.

Minimum evidence requirements

Option 1	Category 1 Common residence	+	Category 2 Legal documents	
Option 2		+	Category 3 Shared finances or care arrangements	
Option 3		+	Category 4 Shared property	+
<i>Applicants should also submit a statutory declaration to explain their evidence and provide further details about the relationship</i>				

RBDM reviews all correction requests on a case-by-case basis. Submitting the bare minimum evidence does not guarantee a correction will be approved – the more evidence provided, the more likely the correction will be approved.

RBDM may ask the person applying for more evidence or consider evidence from other sources.

6.3 Evidence RBDM may not consider

RBDM will generally not consider the following evidence as proof of a de facto relationship:

1.	Communications between the parties such as text messages, phone call logs, Facebook messages, Snap Chat messages, Instagram messages or posts, emails, love letters to each other etc.
2.	Photos or videos of the couple.

This evidence is considered very low value and generally will not persuade RBDM that a de facto relationship existed. Applicants are discouraged from providing this type of evidence.

6.4 How RBDM makes a decision

RBDM will rely on evidence about the couple’s circumstances when assessing whether an applicant has satisfied the [legal definition of a de facto relationship](#).

When reviewing available evidence, RBDM will consider whether the evidence proves:

- An ongoing de facto relationship, or
- A de facto relationship existed for a period in the past.

Some evidence may only show that a de facto relationship existed in the past but ended (for example, evidence of spousal maintenance or child support payments). In

that case, the de facto partner could be listed on the death certificate as a previous partner, however, the de facto relationship would not be reflected in the deceased's relationship status at the date of death.

When reviewing the evidence, RBDM will consider the length of the relationship, the strength of the evidence, and whether it conflicts with other information. RBDM will make a decision based on the most reliable information available.

7.0 Reviewing the decision of the Registrar

If you are not happy with a decision made by the Registrar, you have the right to seek a review of the decision. You can do so by applying to the Queensland Civil and Administrative Tribunal (QCAT) in accordance with the procedures outlined in the *Queensland Civil and Administrative Tribunal Act 2009*.

8.0 Compatibility with human rights

RBDM is committed to upholding, safeguarding, and advancing human rights. Under the *Human Rights Act 2019*, RBDM is required to act and make decisions in a manner that aligns with human rights. When assessing whether a de facto relationship should be listed on a registration, decision-makers must give careful consideration to human rights and ensure compliance with this obligation.

9.0 Commencement and version

Commencement date: 24 June 2024

Version: 1.0

Approved: Registrar-General

Attachment 1: Categories of evidence

Type of evidence	What to submit
CATEGORY 1 – Common residence	
A document demonstrating a common residence	Joint lease <ul style="list-style-type: none"> A lease agreement in both partner's names A letter on letterhead from a property manager or real estate agent confirming that both partners are listed on the lease
	Joint mortgage or title document <ul style="list-style-type: none"> A title deed naming both partners as owners of a residential property such as a house or apartment Mortgage documents listing both partners' names A letter on letterhead from a bank confirming both partners are mortgage holders for a residential property
	Joint household bills <ul style="list-style-type: none"> Rates notice with both partners' names listed Water bill with both partners' names listed Electricity bill with both partners' names listed Body corporate statement with both partners' names listed Home and/or contents insurance bill with both partners' names listed
	Other <ul style="list-style-type: none"> Official correspondence sent to both partners at the same residential address Both partners' driver licence displaying the same address Australian Electoral Commission enrolment showing both partners at the same address
CATEGORY 2 – Legal documents	
A legal document naming a person as the partner of another person	Will <ul style="list-style-type: none"> A will naming a person as the deceased's partner
	Superannuation <ul style="list-style-type: none"> Superannuation death benefit in the name of the surviving partner Self-managed superfund in joint names
	Power of attorney <ul style="list-style-type: none"> Power of attorney document naming the deceased's partner as their power of attorney
	Advance health directive <ul style="list-style-type: none"> An advance health directive naming the deceased's partner as a person to be involved in discussions about the deceased's health care or appointing the deceased's partner as their attorney for health matters
	Property or financial settlement or spousal maintenance or parenting order* <ul style="list-style-type: none"> A property or financial settlement agreement following separation A parenting order between the person and the deceased regarding care arrangements for children of the relationship following separation An order under the <i>Family Law Act 1975</i> Evidence of spousal maintenance

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Type of evidence	What to submit
	<i>*This can only be used to demonstrate a previous de facto partner</i>
CATEGORY 3 – Shared finances or care arrangements	
A document demonstrating shared money or a financial support arrangement	Joint bank account or joint credit card <ul style="list-style-type: none"> Bank statement listing both partners as account holders Credit card with both partners' names listed on it
	Joint loan <ul style="list-style-type: none"> Loan documents listing both partners' names (for example, a car loan) A letter on letterhead from a bank or other financial institution confirming both partners are named on the loan
	Joint savings <ul style="list-style-type: none"> A bank statement showing regular payments from one partner to the other, accompanied by a statutory declaration about the nature of the payments A term deposit in both partners' names
	Contributions towards the mortgage of a property owned by one partner <ul style="list-style-type: none"> A bank statement demonstrating regular payments from one partner to another, accompanied by a statutory declaration explaining the purpose of the payments
	Joint health insurance <ul style="list-style-type: none"> Health insurance statement listing both partners on the policy Health insurance card with both partners' names listed on it
	Income tax return <ul style="list-style-type: none"> An income tax return listing the other partner's tax information
	Centrelink <ul style="list-style-type: none"> A document from Centrelink regarding a couple's relationship, such as a partner details form or relationship details form
A document demonstrating shared care and support of children or each other	Birth certificate <ul style="list-style-type: none"> A child's birth certificate naming both partners as parents of the child
	Joint Medicare or health insurance card <ul style="list-style-type: none"> A Medicare card listing the name of both partners A Medicare card listing the name of both partners <i>and</i> their child A health insurance statement listing both partners on the policy A health insurance statement listing both partners <i>and</i> their child on the policy A health insurance card listing the name of both partners A health insurance card listing the name of both partners <i>and</i> their child
	Centrelink <ul style="list-style-type: none"> A document from Centrelink regarding a couples' relationship and shared care of children, such as a Parenting Payment Partnered (PPP)
	Letter from school or doctor <ul style="list-style-type: none"> A letter from a school or doctor addressed to the couple regarding their shared child

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Type of evidence	What to submit
	<p>Child support</p> <ul style="list-style-type: none"> Evidence of child support payments from one parent to the other (such as a child support notice)* <p><i>*This can only be used to demonstrate a previous de facto partner</i></p>
CATEGORY 4 – Shared property	
Evidence of shared property	<p>Joint ownership or shared use of personal property such as a car, caravan or boat</p> <ul style="list-style-type: none"> Title document or ownership transfer document for a vehicle in both partners' names Car registration bill with both partners' names listed
	<p>Joint ownership of a pet</p> <ul style="list-style-type: none"> Registration of pet with local council, listing both partners as owners Adoption record from Animal Shelter in both partners' names Contract for sale of pet with both partners' names
CATEGORY 5 – Public aspects of the relationship	
Evidence of public aspects of a couple's relationship	<p>Documents addressed to the couple</p> <ul style="list-style-type: none"> Letters or cards addressed to both partners
	<p>Attendance at events</p> <ul style="list-style-type: none"> Invitations to weddings, engagement parties and other functions together as a couple
	<p>Evidence from family or friends of the couple</p> <ul style="list-style-type: none"> A statutory declaration from a family member or friend of the couple regarding their relationship