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Certificate access policy

Registry of Births, Deaths and Marriages
Current 4 August 2017



1. Purpose

- 1.1** This policy sets out guidelines for the exercise of discretion by the Registrar relating to who may obtain (a) information (section 45(1)) or; (b) a certificate or information (section 44) pursuant to the Births, Deaths and Marriages Registration Act 2003 (the BDMR Act).
- 1.2** The relevant section in the BDMR Act is section 44, which provides for applications being accepted on the basis of an adequate reason.
- 1.3** This policy serves to ensure that consistent and accountable decisions are made by staff of the Registry of Births, Deaths and Marriages (RBDM) when applications for information or certificates are assessed.
- 1.4** The Registrar's discretion in deciding entitlement to information or certificates is not exhausted by this policy. Decisions may be made by the Registrar-General on any unusual case that may fall outside the scope of this policy.

2. Definitions

The below list defines particular words which may be used in this Policy:

The Registrar Applicant	Registrar-General of the Registry of Births, Deaths and Marriages Means a person who completes an application for certificate for the purpose of obtaining a certificate.
Eligible Applicant	Means a person who completes an application for certificate and satisfies the eligibility criteria as per Part 3.
Sibling	Means brother or sister, and does not include step brother/sister relationship
Spouse	Means husband or wife or de facto partner or registered partner.
De Facto Partner	A person registered on a life event record as a de facto partner.
Registered Partner	A person registered on a civil partnership (including those formerly named registered relationships) register as a partner.
Source document	Refers to the original signed documents submitted for the registration of a life event.
Registered person	Means a person whose registrable life event (birth, death, marriage, change of name or civil partnership) has been entered into the register.
Informant	The person providing registered person's details.
Intended parent/s	Means the parent/s who have entered into an arrangement with the birth parent.
Law Enforcement Body	Means: <ul style="list-style-type: none">a) the Qld Police Service or a police service of another state; orb) the Australian Federal Police; orc) the Crime and Misconduct Commission; ord) the Australian Crime Commission

Surrogacy Arrangement Related Only:

Birth Mother	The woman who becomes pregnant and gives birth to a child under a surrogacy arrangement.
Birth Mother's Spouse	Means the birth mother's spouse at the time when the birth mother entered into the surrogacy arrangement.
Birth Parent	Means a person (other than an intended parent) who is recognised by law as being a parent of the child at the time when the child is born.
Identified Person	Means a person identified by the material as a person mentioned as: <ul style="list-style-type: none">a) a child born as result of a surrogacy arrangement or a child to whom a court proceeding under this Act relates; orb) a party to a surrogacy arrangement; orc) a party to a court proceeding under this Act; ord) a person who has consented to a surrogacy arrangement.
Parentage Order	An order made by the Children's Court for the transfer of the parentage of a child born as a result of a surrogacy arrangement (for a court order made in another Australian jurisdiction under a corresponding law).
Discharge Order	An order made by the Children's Court discharging a parentage order.

3. Overview

Regulatory framework

The following legislation is included in the regulatory framework:-

- Births, Deaths and Marriages Registration Act 2003 (the Act)
- Births, Deaths and Marriages Registration Regulation 2003 (the Regulations)

General Principles

3.1 Section 44(2) of the Act states that unless the application relates to historical information, the Registrar may refuse the application if the applicant does not have an adequate reason for obtaining the requested information or certificate.

The Act also requires that in determining an applicant's eligibility to obtain the requested information or certificate, in respect of a registered person, the Registrar must have regard to

- the relationship, if any, between the applicant and the person to whom the information relates
- the reason that the applicant wants the information
- the use to be made of the information
- the age of the entry
- the contents of the entry or source document
- the sensitivity of the information, and
- any other relevant factors.

In satisfying the above factors, the prime concern is that adequate care needs to be taken to prevent unjustified intrusion to privacy of an individual and to prevent information being obtained fraudulently or improperly, but not hinder those persons who have a legitimate entitlement to the requested information or certificate.

Terms and Conditions

3.2 The relationship, if any, between the applicant and the person to whom the requested information relates

The applicant's relationship to the registered person is the primary criterion in determining what constitutes an eligible applicant to obtain a certificate. Recognising that the registered person has an unrestricted right of access to their own certificate, the right of access in all other cases diminishes by the degree the applicant is removed from the registered person.

While the reason for requiring a certificate usually relates to the establishment of identity or being required for a particular event, this policy considers the applicant's relationship to the registered person to establish whether it is appropriate to provide the certificate.

All official application forms require applicants to state their relationship to the registered person.

Relationship is to include both the meaning in the family sense (e.g. mother, father, spouse) and in the broader sense including principal/agent relationship (e.g. solicitor; person having Power of Attorney).

3.3 The reason that the applicant wants the information

This policy recognises that circumstances exist where an applicant without a direct 'relationship' to the registered person may have an unusual or exceptional reason for requesting access to a registered person's information.

The Registrar will consider such cases individually.

3.4 The use to be made of the information

This policy recognises that circumstances exist where an applicant without a direct 'relationship' to the registered person may have an unusual or exceptional intended use for requesting access to a registered person's information.

The Registrar will consider such cases individually.

3.5 The age of the entry

Recognising that the sensitivity of personal information and the chances of its fraudulent use diminish with time, the Registrar allows unrestricted access to certificates and indexes of:

- Birth – Open access after 100 years
- Death – Open access after 30 years
- Marriage – Open access after 75 years
- Civil partnership – Open access after 75 years

3.6 The contents of the entry or source document and the sensitivity of the information

Content of the records dictates to what degree the applicant's relationship to the registered person will apply. The more sensitive the information on the records, the greater the restrictions on access.

Access to requested birth information or certificates is confined to a narrow range of persons due to the potential for invasion of privacy and fraudulent use. Death information or certificates pose less potential for invasion of privacy and fraudulent use, therefore access to this information or certificates is less restrictive.

The content of marriage or civil partnership (including those formerly named registered relationships) information or certificates includes personal information about both parties to the marriage and therefore access to marriage information or certificates is quite restrictive. Allowing access on the basis of close family relationship of the applicant to one of the parties may raise privacy concerns for the other party.

3.7 Other Relevant Factors

Where an applicant for the requested information or certificate does not adequately satisfy any of the above factors, other relevant factors (if any) shall be taken into account in determining whether information or certificates should be provided.

A relevant factor for such an application is one which involves the public interest because it relates to:

- criminal law enforcement;
- any other public policy consideration which outweighs, or does not conflict with, consideration of the privacy interests of the registered person.

Decisions on cases outside the criteria listed in the following Parts 5, 6, 7, 8 and 9 shall be made by the Registrar.

4. Proof of identity principles

- 4.1 The records of the Registry contain sensitive and personal information about individuals and families. To protect the privacy of these persons, Registry staff are only to release certificates, information and source documents to persons who have satisfied the factors referred to in Part 3.
- 4.2 In establishing an applicant's reason in accordance with the factors detailed in Part 3, an applicant must provide acceptable forms of identification to validate their reason, particularly claims of a relationship to a registered person.
- 4.3 Identification requirements are, as far as practicable, consistent with and complementary to the requirements of other Queensland Government and Commonwealth Government agencies who accept certificates as Proof of Identity.
- 4.4 Identification documents provided are to be consistent with the requirements as listed in the Certificate Access Policy – Administrative Requirements.
- 4.5 Identification requirements enhance the security and privacy of register information. Personal information recorded from proof of identity documents by the Registry is for the sole purpose of protecting security and privacy of register information and will not be used by the Registry for any purpose other than the collection purpose.
- 4.6 The Registrar may vary identification requirements at any time and may accept alternative forms of proof of identity in exceptional or unusual circumstances.

5. Applications for BIRTH information or certificates

Type of Access	Applicant	Specific Requirement/s
Historical Access	Anyone	<p>Births which have occurred over 100 years ago</p> <ul style="list-style-type: none"> Completed and signed application form.
Family access	The registered person or their parent	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements
	Non-parental legal custodian or guardian	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements; and Document establishing custody or guardianship to be produced
	<p>Spouse, sibling, child, grandchild, grandparent.</p> <p>Partner (Chapter 6 Amendments BDMRA (Div 5(63))</p>	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements; and Written authority from and Proof of Identity of the registered person or other eligible applicant, or Power of Attorney document to be produced If a partner is registered in the birth register they have access to information. Thus the partner is to be presumed to be a parent of the registered child/person
Other agent	Any person with the written authority of an eligible applicant or with Power of Attorney (i.e. family member not eligible via family access, search Agent acting on behalf of a Financial Institution)	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements; and Written authority from and Proof of Identity of the registered person or other eligible applicant, or Power of Attorney document to be produced; and Reason for access must be stated i.e. must be acting for person entitled to information or certificate and required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate
Surrogacy related access to information on a 'closed register' under section 41D or 41E	The registered child	<ul style="list-style-type: none"> If the child is under 18 years of age, access may be provided if the birth parent/s and the intended parent/s for the parentage order consent to the child's application for the information. If the child is over 18 years of age, consent is not required however when the Registrar issues the information or certificate the Registrar must attach a letter (addendum) to the certificate stating that further information is available about the entry. To remove any doubt, it is declared that the Registrar must not issue the addendum to any person other than the registered person/child. A person's consent is not required if: <ul style="list-style-type: none"> a) the person has died; or b) the child cannot locate the person after making all reasonable enquiries. Proof of Identity of applicant as per the Proof of Identity requirements.
	Birth Parent/s	<ul style="list-style-type: none"> No written consent required to obtain requested information or certificate/s. Proof of Identity of applicant as per the Proof of Identity requirements.
	Intended Parent/s	<ul style="list-style-type: none"> No written consent required to obtain requested information or certificate/s.
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Type of Access	Applicant	Specific Requirement/s
Surrogacy related access to information on a 'closed register' under section 41D or 41E continued		<ul style="list-style-type: none"> • Proof of Identity of applicant as per the Proof of Identity requirements
	Guardian, Administrator for the child, Personal Representative, Officer or person acting for a law enforcement body or Attorney General	<ul style="list-style-type: none"> • Proof of Identity of applicant as per the Proof of Identity requirements. • Document establishing guardianship, administrator, personal representative, Officer or person acting for a law enforcement body or Attorney General to be produced.
Legal / Estate access	Executor or administrator of Estate Matter; Public Trustee	<ul style="list-style-type: none"> • Proof of Identity of applicant as per the Proof of Identity requirements; and • Applicant must name deceased person and show evidence of executor status and relationship to deceased; and • Reason for access must be stated i.e. must be acting for person entitled to information or certificate and required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate
	Solicitor	<ul style="list-style-type: none"> • A signed letter on company letter head clearly stating the reason for access, i.e. must be acting for person entitled to information or certificate or required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate. <ul style="list-style-type: none"> ○ This letter must also contain the System Generated Key Number (SGKN) for Qld solicitors; ○ Interstate solicitors to provide certified copy of their law society card or practising certificate. • Proof of employment with the firm or organisation which the delivery agent claims to represent and; • Proof of Identity of the delivery agent as per the Proof of Identity requirements.
	Additional requirements for a solicitor/solicitor's delivery agent when lodging in person	
	Law enforcement or any government body dealing in law enforcement (e.g. police, courts)	<ul style="list-style-type: none"> • Must be referred to the Registrar
Statutory or Government access	Church or other non-governmental body; or equivalent (interstate or local) (acting in the interest of the registered person)	<ul style="list-style-type: none"> • Proof of Identity of applicant as per the Proof of Identity requirements; and • Proof of employment with the firm or organisation which the applicant claims to represent; and • Reason for access must be stated i.e. must be acting for person entitled to information or certificate and required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate
	Consular office or foreign legation (of the registered person's or his or her parents' country of origin)	<ul style="list-style-type: none"> • Must be referred to the Registrar
	Any government body requiring access (e.g. Centrelink, Immigration, Veterans' Affairs, Health, Department of Communities, Department of Child Safety)	<ul style="list-style-type: none"> • Must be referred to the Registrar • Applicant must provide details and/or relevant statutory provision/s authorising access

6. Applications for DEATH information or certificates

Type of Access	Applicant	Specific Requirement/s
Historical Access	Anyone	Deaths which have occurred over 30 years ago. <ul style="list-style-type: none"> Completed and signed application form.
Family access	Spouse, parent, child, informant	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements
	Non-parental legal custodian or guardian	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements; and Document establishing custody or guardianship to be produced
	Sibling	<ul style="list-style-type: none"> Sibling may only make application where the registered person has no surviving spouse, children or parents or where they were the informant for the death registration; and Proof of Identity of applicant as per the Proof of Identity requirements; and Reason for access must be stated i.e. must be acting for person entitled to information or certificate and required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate
Other agent	Any person with the written authority of an eligible applicant or with Power of Attorney (i.e. family member not eligible via family access, search Agent acting on behalf of a Bank)	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements; and Written authority from and Proof of Identity of the registered person or other eligible applicant, or Power of Attorney document to be produced and; Reason for access must be stated i.e. must be acting for person entitled to information or certificate and required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate
Legal/Estate access	Executor or administrator of Estate Matter; Public Trustee	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements and; Applicant must name deceased person and show evidence of executor status and relationship to deceased and; Reason for access to the document to be stated
	Solicitor	<ul style="list-style-type: none"> A signed letter on company letter head clearly stating the reason for access, i.e. must be acting for person entitled to information or certificate or required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate. <ul style="list-style-type: none"> This letter must also contain the System Generated Key Number (SGKN) for Qld solicitors; Interstate solicitors to provide certified copy of their law society card or practising certificate. Proof of employment with the firm or organisation which the delivery agent claims to represent and;
continues on next page	Additional requirements for a solicitor/solicitor's delivery agent when lodging in person	

Type of Access	Applicant	Specific Requirement/s
Legal/Estate access continued		<ul style="list-style-type: none"> • Proof of Identity of the delivery agent as per the Proof of Identity requirements.
	Law enforcement or any government body dealing in law enforcement (e.g. police, courts)	<ul style="list-style-type: none"> • Must be referred to the Registrar
	Funeral Director	<ul style="list-style-type: none"> • Application made on behalf of person entitled to certificate at time of registration, or within two (2) months of registration of death.
	Financial Institution (i.e. to write off debt or effect entitlement)	<ul style="list-style-type: none"> • Proof of Identity of applicant as per the Proof of Identity requirements; and • Proof of employment with the firm or organisation which the applicant claims to represent; and • Reason for access must be stated i.e. must be acting for person entitled to information or certificate and required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate
Statutory or Government access	Church or other non-governmental body; or equivalent (interstate or local) (acting in the interest of the registered person)	<ul style="list-style-type: none"> • Proof of Identity of applicant as per the Proof of Identity requirements; and • Proof of employment with the firm or organisation which the applicant claims to represent; and • Reason for access must be stated i.e. must be acting for person entitled to information or certificate and required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate
	Consular office or foreign legation (of the registered person's or his or her parents' country of origin)	<ul style="list-style-type: none"> • Must be referred to the Registrar
	Any government body requiring access (e.g. Centrelink, Immigration, Veterans' Affairs, Health, Department of Communities, Department of Child Safety)	<ul style="list-style-type: none"> • Must be referred to the Registrar • Applicant must provide details and/or relevant statutory provision/s authorising access

7. Applications for MARRIAGE information or certificates

Type of Access	Applicant	Specific Requirement/s
Historical Access	Anyone	<ul style="list-style-type: none"> Marriages which have occurred over 75 years ago. Completed and signed application form.
Family Access	The registered person	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements
	Child or other descendant of the registered persons	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements; and Written authority from and Proof of Identity of the registered person; or Proof that the registered persons are deceased; or Documentary evidence of parent's inability to provide informed consent.
Other Agent	Any person with written authority of an eligible applicant or with Power of Attorney (i.e. family member not eligible via family access, search Agent acting on behalf of a Bank)	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements; and Written authority from and Proof of Identity of the registered person or other eligible applicant, or Power of Attorney document to be produced; and Reason for access must be stated i.e. must be acting for person entitled to information or certificate and required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate
Legal/Estate access	Executor or Administrator of Estate Matter; Public Trustee	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements; and Applicant must name deceased person and show evidence of executor status and relationship to deceased; and Reason for access to the document to be stated
	Solicitor	<ul style="list-style-type: none"> A signed letter on company letter head clearly stating the reason for access, i.e. must be acting for person entitled to information or certificate or required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate. <ul style="list-style-type: none"> This letter must also contain the System Generated Key Number (SGKN) for Qld solicitors; Interstate solicitors to provide certified copy of their law society card or practising certificate.
	Additional requirements for a solicitor/solicitor's delivery agent when lodging in person	<ul style="list-style-type: none"> Proof of employment with the firm or organisation which the delivery agent claims to represent and; Proof of Identity of the delivery agent as per the Proof of Identity requirements.
	Law enforcement or any government body dealing in law enforcement (e.g. police, courts)	<ul style="list-style-type: none"> Must be referred to the Registrar

Type of Access	Applicant	Specific Requirement/s
Statutory or Government access	Church or other non-governmental body; or equivalent (interstate or local) (acting in the interest of the registered person)	<ul style="list-style-type: none"> • Proof of Identity of applicant as per the Proof of Identity requirements; and • Proof of employment with the firm or organisation which the applicant claims to represent; and • Reason for access must be stated i.e. must be acting for person entitled to information or certificate and required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate
	Consular office or foreign legation (of the registered person's or his or her parents' country of origin)	<ul style="list-style-type: none"> • Must be referred to the Registrar
	Any government body requiring access (e.g. Centrelink, Immigration, Veterans' Affairs, Health, Department of Communities, Department of Child Safety)	<ul style="list-style-type: none"> • Must be referred to the Registrar • Applicant must provide details and/or relevant statutory provision/s authorising access

8. Application for CHANGE OF NAME information or certificates

Type of Access	Applicant	Specific Requirement/s
Self	The registered person	<ul style="list-style-type: none"> • Proof of Identity of applicant as per the Proof of Identity requirements
Anyone else	Any other applicant	<ul style="list-style-type: none"> • Proof of Identity of applicant as per the Proof of identity requirements; and; • Written authority from and Proof of identity of the registered person, or Power of Attorney document to be produced; and • Reason for access must be stated, i.e. must be acting for person entitled to information or certificate and required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate.

9. Application for CIVIL PARTNERSHIP (including formerly named registered relationship) information or certificates

Type of Access	Applicant	Specific Requirement/s
Historical Access	Anyone	<p>Civil Partnerships (formerly named Registered relationships) which have occurred over 75 years ago.</p> <ul style="list-style-type: none"> Completed and signed application form.
Family Access	The registered person	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements
	Child or other descendant of the registered persons	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements; and Written authority from and Proof of Identity of the registered person; or Proof that the registered person is deceased; or Documentary evidence of parent's inability to provide informed consent
Other Agent	Any person with written authority of an eligible applicant or with Power of Attorney (i.e. family member not eligible via family access, search Agent acting on behalf of a Bank)	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements; and Written authority from and Proof of Identity of the registered person or other eligible applicant, or Power of Attorney document to be produced; and Reason for access must be stated i.e. must be acting for person entitled to information or certificate and required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate
Legal/Estate access	Executor or Administrator of Estate Matter; Public Trustee	<ul style="list-style-type: none"> Proof of Identity of applicant as per the Proof of Identity requirements; and Applicant must name deceased person and show evidence of executor status and relationship to deceased; and Reason for access to the document to be stated
	Solicitor	<ul style="list-style-type: none"> A signed letter on company letter head clearly stating the reason for access, i.e. must be acting for person entitled to information or certificate or required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate. <ul style="list-style-type: none"> This letter must also contain the System Generated Key Number (SGKN) for Qld solicitors; Interstate solicitors to provide certified copy of their law society card or practising certificate.
	Additional requirements for a solicitor/solicitor's delivery agent when lodging in person	<ul style="list-style-type: none"> Proof of employment with the firm or organisation which the delivery agent claims to represent and; Proof of Identity of the delivery agent as per the Proof of Identity requirements.
	Law enforcement or any government body dealing in law enforcement (e.g. police, courts)	<ul style="list-style-type: none"> Must be referred to the Registrar

Type of Access	Applicant	Specific Requirement/s
Statutory or Government access	Non-governmental body; or equivalent (interstate or local) (acting in the interest of the registered person)	<ul style="list-style-type: none"> • Proof of Identity of applicant as per the Proof of Identity requirements; and • Proof of employment with the firm or organisation which the applicant claims to represent; and • Reason for access must be stated i.e. must be acting for person entitled to information or certificate and required either for production in Court; for lodgement with the Registrar of Titles, or for administration of an estate
	Consular office or foreign legation (of the registered person's or his or her parents' country of origin)	<ul style="list-style-type: none"> • Must be referred to the Registrar
	Any government body requiring access (e.g. Centrelink, Immigration, Veterans' Affairs, Health, Department of Communities, Department of Child Safety)	<ul style="list-style-type: none"> • Must be referred to the Registrar • Applicant must provide details and/or relevant statutory provision/s authorising access

10. Accountabilities and delegations

The Registrar's discretion in deciding entitlement to information or certificates is not exhausted by this policy. Decisions may be made by the Registrar on any unusual case that may fall outside the scope of this policy.

11. Non-compliant applications

If any of the above requirements are not met, a letter of request will be sent to the applicant. If compliance is not received by the Registry of Births, Deaths and Marriages in 60 days, the application will be cancelled and any payment refunded.

12. Review

The review of this document is managed by the Registry of Births, Deaths and Marriages and approved by the Director-General, Department of Justice and Attorney-General.

13. Version history

Version	Notes	Author	Date of change
1.0	Final Copy for Approval with Director-General	Manager, Planning & Development RBDM Revitalisation Program	24/05/2010
2.0	Approved by David John, Registrar-General, RBDM	Manager, Planning & Development RBDM Revitalisation Program	02/02/2012