

Commission Chief Executive Guideline 02/13: Evidence of Attribute – Aboriginal and/or Torres Strait Islander Identified Roles

1. Purpose:

To provide guidance on obtaining of evidence of the attribute required for Aboriginal and/or Torres Strait Islander identified roles.

2. Effective date: 20 June 2013

3. Supersedes:

Guideline: Evidence of Attribute – Aboriginal and/or Torres Strait Islander identified roles (issued December 2010)

4. Legislative authority:

Sections 25(1)(a) and (g), 46(1)(b) and 53(a) of the *Public Service Act 2008*.

5. Application:

This guideline applies to chief executives in relation to actions and decisions made under section 98 of the *Public Service Act 2008*. The guideline must be considered by, but does not bind, those to whom it applies.

6. Related information:

- *Anti-Discrimination Act 1991*

Guideline:

7. Evidence of Attribute

- 7.1. An Aboriginal and/or Torres Strait Islander identified role is a role requiring an Aboriginal and/or Torres Strait Islander person be employed in the role on the basis of genuine occupational requirement.
- 7.2. For administrative purposes, in relation to an Aboriginal and/or Torres Strait Islander identified role, an Aboriginal and/or Torres Strait Islander person is a person who identifies as an Aboriginal and/or Torres Strait Islander person and is either:
 - (a) of Aboriginal and/or Torres Strait Islander descent; **or**
 - (b) accepted as an Aboriginal and/or Torres Strait Islander person by the Aboriginal and/or Torres Strait Islander community in which he or she lives.
- 7.3. By definition a person who is not an Aboriginal and/or Torres Strait Islander cannot be employed (on any basis) to perform the duties of an Aboriginal and/or Torres Strait Islander identified role.
- 7.4. When filling an Aboriginal and/or Torres Strait Islander identified role, whether permanently, temporarily, via appointment, secondment, transfer or contract the employing entity may choose to either:
 - (a) accept the written assertion of an applicant of their Aboriginal and/or Torres Strait Islander descent; **or**



- (b) require an applicant to provide as part of their formal application, documentary evidence attesting to their Aboriginal and Torres Strait Islander descent, as set out in clause 8.

7.5. Where an applicant is required to provide documentary evidence as part of their application, the employing entity should clearly state this requirement in the role advertisement and the role documentation should state the definition of an Aboriginal and/or Torres Strait Islander person and evidentiary requirements as set out above.

7.6. For the purpose of confirmations, the following should generally be applied:

- (a) confirmations of Aboriginal and/or Torres Strait Islander status may be made by an incorporated community organisation, association or body where the majority of members of the governing body are Aboriginal persons or Torres Strait Islanders or both
- (b) confirmations should only be accepted by an employing entity in respect of an individual person's:
 - (i) Aboriginal and/or Torres Strait Islander descent; and/or
 - (ii) acceptance as an Aboriginal and/or Torres Strait Islander person by the Aboriginal and/or Torres Strait Islander community in which he or she lives or formerly lived.

7.7. Schedule Two provides a template for a declaration and confirmation of Aboriginal and/or Torres Strait Islander status for employment-related purposes in the Queensland public sector.

8. Recommended minimum evidence standards

Element of Aboriginal and/or Torres Strait Islander person definition (a) + (b) or (a) + (c)	Recommended minimum evidence standards
(a) Identifies as an Aboriginal and/or Torres Strait Islander person.	i. Signed statutory declaration by the person (Schedule One - Part A is an acceptable form of declaration for this purpose).
(b) Is of Aboriginal and/or Torres Strait Islander descent.	i. An original or notarised copy of Schedule One – Part A; or ii. An original or notarised copy of a 'letter of confirmation' issued by an incorporated Indigenous organisation and stamped with the organisation's common seal; or iii. A verifiable family tree or archival or historical document that links the applicant to an Aboriginal and/or Torres Strait Islander family or person; or iv. A decision or determination of an Australian or State court or tribunal that recognises the applicant as being of Aboriginal and/or Torres Strait Islander descent.
(c) Is accepted as an Aboriginal and/or Torres Strait Islander person by the Aboriginal and/or Torres Strait Islander community in which he or she lives.	i. An original or notarised copy of Schedule One - Part B (Confirmation of Aboriginal and/or Torres Strait Islander status); or ii. An original or notarised copy of a 'letter of confirmation' issued by an incorporated Indigenous organisation and stamped with the organisation's common seal; iii. In respect of a) and b) above the confirmation must be provided by an Aboriginal and Torres Strait Islander organisation that exists at the time of the intended purpose of the confirmation.

Schedule One

**Declaration and Confirmation of Aboriginal and/or Torres Strait Islander Status for
Employment Related Purposes in the Queensland Public Sector**

Purpose of declaration and confirmation

This document serves as acceptable evidence of a person's Aboriginal and Torres Strait Islander status for the purpose of:

- seeking employment in an Aboriginal and/or Torres Strait Islander identified role in the Queensland public sector;
- seeking participation in, or enjoyment of, a training and development opportunity designed specifically for Aboriginal and/or Torres Strait Islander people who are employed in the Queensland public sector; and
- seeking participation in, or enjoyment of, a pre-employment training and development opportunity designed specifically for Aboriginal and/or Torres Strait Islander people who are seeking employment in the Queensland public sector (e.g. traineeship, cadetship, apprenticeship, study award, etc).

Authority to require declaration and confirmation

The requirement to provide this document may be exercised by a public sector entity at its discretion and is authorised under section 25(1)(g) and 98 of the *Public Service Act 2008*.

Penalty for false or misleading statement

The making of a false statement may attract a penalty of imprisonment under s193 or 194 of the *Criminal Code Act 1899*.

Completing this document

This document comprises two parts. A public sector entity may require one or both parts of the document to be completed.

Part A: Declaration of Aboriginal and/or Torres Strait Islander status.

Part A should be completed by the individual applicant. The applicant must sign Part A in the presence of a witness. There are penalties for providing false and misleading information in a statutory declaration.

Part B: Confirmation of Aboriginal and/or Torres Strait Islander status by a community organisation.

Part B should be completed by an incorporated community organisation, association or body where the majority of members of the governing body are Aboriginal persons or Torres Strait Islanders or both.

Confirming Organisations

Organisations considering whether to confirm the Aboriginal or Torres Strait Islander status of a person should appreciate that they bear a responsibility in both ensuring that only people who are Aboriginal persons or Torres Strait Islanders receive benefits to which they are entitled.

A confirmation made by an organisation must be approved by a resolution at a formal meeting of the organisation's governing body and the record of that resolution is to be sealed with the Common Seal of the organisation and signed by the authorised signatories. Organisations should not provide confirmation unless they have evidence before them that the person is an Aboriginal and/or Torres Strait Islander person and that the person has Aboriginal and/or Torres Strait Islander community acceptance.

Schedule One

**Declaration and Confirmation of Aboriginal and/or Torres Strait Islander Status for
Employment Related Purposes in the Queensland Public Sector**

Part A – Statutory Declaration of Aboriginal and/or Torres Strait Islander status

Statutory Declaration - Oaths Act 1867 (Qld)

I, _____
(full name)

(If you are also known by any other name –

(i.e. maiden name, community or traditional name)

of _____
(address)

do solemnly and sincerely declare that (*tick all that apply*):

- I identify as an Aboriginal person;
- I identify as a Torres Strait Islander.
- I am of Aboriginal descent;
- I am of Torres Strait Islander descent;

and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

I understand that is in offence under the *Criminal Code Act 1899* to make false declaration.

Signature of person making the declaration	
Declared at (place)	
on (day)	
of (month and year)	
Before me (signature of person before whom the declaration is made)	
Full name, qualification and address of person before whom the declaration is made, in accordance with s13 of the <i>Oaths Act 1867 (Qld)</i> (in printed letters)	

Schedule One

**Declaration and Confirmation of Aboriginal and/or Torres Strait Islander Status for
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Part B – Confirmation of Aboriginality

Organisational Details:

Name of Organisation: _____

ABN or other identifier: _____

Registered address of Organisation: _____

It is hereby confirmed that the above named person:

- has provided sufficient evidence to indicate that he/she is of:
 - Aboriginal descent; and/or
 - Torres Strait Islander descent;

and/or

- is accepted as being of Aboriginal and/or Torres Strait Islander descent by the _____ (Aboriginal and/or Torres Strait Islander) community in which he/she:
 - currently lives; or
 - formerly lived for _____ years.

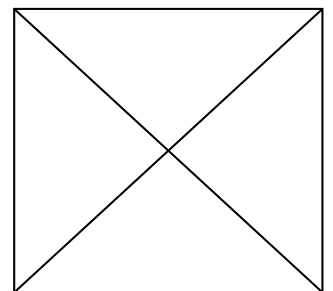
Resolution Number: _____ Date of meeting: ____/____/____

Signature: _____ (Authorised signatory)

PRINT NAME: _____

Signature: _____ (Authorised signatory)

PRINT NAME: _____



Affix organisational seal

NOTE: This confirmation will only be accepted for the intended purpose of the confirmation if the Aboriginal and Torres Strait Islander organisation exists at the time of the intended purpose of the confirmation.