

Department of Education and Training

Legislative Delegations

Delegation of Director-General's Powers

under

Right to Information Act 2009

(Version 3 – June 2016)

NOTE: The Executive Director, Legal and Administrative Law Branch must be consulted regarding all proposed amendments to these delegations.

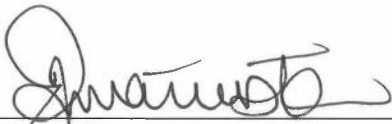
INSTRUMENT OF DELEGATION

Right to Information Act 2009

I, Dr Jim Watterston, Director-General of the Department of Education and Training, pursuant to section 30(2) of the *Right to Information Act 2009*, DELEGATE to the person who is from time to time the holder of the position specified in Column 4 of Schedule 1, those powers, functions, authorities and duties, conferred or imposed on me under the provisions of the *Right to Information Act 2009*, which are specified in Column 1 of the Schedule, subject to the limitations (if any) specified in Column 3 of the Schedule.

This Instrument of Delegation is comprised of this page and Schedule 1, comprising 3 pages. No other material forms part of the Instrument.

This Instrument of Delegation revokes and replaces any other Instrument of Delegation in respect of those powers, functions, authorities and duties, conferred or imposed on me under the provisions of the *Right to Information Act 2009*, which are specified in Column 1 of the Schedule, subject to the limitations (if any) specified in Column 3 of the Schedule.



DR JIM WATTERSTON
DIRECTOR-GENERAL
DEPARTMENT OF EDUCATION AND TRAINING

DATED AT BRISBANE THIS 13 day of June, 2016.

SCHEDULE 1 – Table of Delegated Powers of Director-General *Right to Information Act 2009*

| Schedule 1 – Table of Director-General's Delegated Powers – <i>Right to Information Act 2009</i> | | | |
|--|---|--|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| Reference | Nature of Power | Observations / Limitations | Delegate |
| Chapter 3 – Disclosure by application under this Act | | | |
| Part 3 – Dealing with application and Part 8 Internal review | | | |
| 30(2) | <p>Decision-maker for application to agency</p> <p>(1) An access application to an agency must be dealt with for the agency by the agency's principal officer.</p> <p>(2) The agency's principal officer may delegate the power to deal with the application to another officer of the agency.</p> <p>(3) Also, for an agency other than a local government, the agency's principal officer may, with the agreement of another agency's principal officer, delegate the power to deal with the application to the other agency's principal officer.</p> <p>(4) The principal officer of the other agency may subdelegate a power delegated to him or her under subsection (3).</p> <p><i>Note—</i> Under the <i>Acts Interpretation Act 1954</i>, section 27A(2), a delegation may be revoked, wholly or partly, by the delegator. Accordingly, a delegation may be revoked before a decision is made in a particular case and the delegator may make the decision.</p> <p>(5) However—</p> <p>(a) a principal officer may not, under subsection (2) or (4) delegate the power to deal with the application to the extent it involves—</p> <p style="padding-left: 20px;">(i) making a healthcare decision; or</p> <p style="padding-left: 20px;">(ii) appointing a healthcare professional under paragraph (b); but</p> <p>(b) the agency may appoint an appropriately qualified healthcare professional to make a healthcare</p> | <p><u>Initial application observations:</u></p> <p>This delegation does not give a person the power to deal with a Right to Information application to the extent that it involves making a "healthcare decision" (as defined in the Act) or appointing a "healthcare professional" (as defined in the Act).</p> <p><u>Internal review limitations:</u></p> <p>The following officers do not have delegated power to deal with an application for internal review:</p> <ul style="list-style-type: none"> • Executive Services Officer, Legal and Administrative Law Branch • RTI Support Officer, Legal and Administrative Law Branch <p><u>Internal review observations:</u></p> <p>The internal review application must not be decided by:</p> <ul style="list-style-type: none"> • the person who made the reviewable decision; or • a person who is less senior than that person. | <ul style="list-style-type: none"> • Executive Services Officer, Legal and Administrative Law Branch • RTI Support Officer, Legal and Administrative Law Branch • Senior Policy Officer, Legal and Administrative Law Branch • Principal Information Officer, Legal and Administrative Law Branch • Legal Officer, Legal and Administrative Law Branch • Senior Lawyer, Legal and Administrative Law Branch • Principal Legal Officer, Legal and Administrative Law Branch • Manager, Information Release, Legal and Administrative Law Branch • Manager, Legal and Administrative Law Branch • Director, Legal and Administrative Law Branch • Executive Director, Legal and Administrative Law Branch |

| Schedule 1 – Table of Director-General’s Delegated Powers – Right to Information Act 2009 | | | |
|---|---|----------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| Reference | Nature of Power | Observations / Limitations | Delegate |
| | <p>decision in relation to the application.</p> <p>(6) In this section— healthcare decision means a decision about any of the following matters—</p> <ul style="list-style-type: none"> (a) whether disclosure to the applicant of relevant healthcare information about the applicant might be prejudicial to the physical or mental health or wellbeing of the applicant under section 51; (b) whether to refuse access under section 47(3)(d); (c) whether to give access despite being able to refuse access under section 47(3)(d); (d) whether to give a direction under section 77(2); (e) whether to approve a healthcare professional under section 77(2). <p>power to deal, with an access application, includes power to deal with an application for internal review in relation to the access application.</p> <p><i>Examples of dealing with an application for internal review—</i></p> <ul style="list-style-type: none"> • making a new decision under section 80(2) • giving notice under section 83(3) | | <ul style="list-style-type: none"> • Executive Director, Office of the Director-General |