Noted / Approved / Not Approved

Chief Executive [or delegate]

…………………..….....................…

Date ….. / ….. / ………

Date Action Required By:  / /

**EDUCATION QUEENSLAND**

**GENERAL BRIEFING NOTE**

# TO: THE CHIEF EXECUTIVE [OR DELEGATE]

**SUBJECT:** **SECTION 340A - REQUEST FOR A SECTION 340 DIRECTION PROHIBITING ENTRY TO [NAME OF SCHOOL] PREMISES – [NAME OF PERSON]**

**RECOMMENDATION**

It is recommended that the Chief Executive [or delegate]:

1. In accordance with s.340A of the *Education (General Provisions) Act 2006* (the Act), issue a written direction prohibiting [**name of person**] of [**home address of person**] entry to the premises of [**name of school**] for a period of 60 days under the provisions of s.340 of the Act.

**Comments:**

*(leave 5 lines to allow Director-General to comment if required)*

**BACKGROUND**

1. In a letter dated [**insert date**] the Principal of [**name of school**], pursuant to s.340A of the Act, requested action under 340 of the Act – directing [**name of person**] not to enter the premises of [**name of school**] for up to 60 days **(Attachment 1)**.
2. The Principal and I are of the opinion that [**name of person**] is an ongoing threat to the safety and security of staff at [**name of school**] given their current and previous inappropriate behaviour.
3. The Principal and I are also of the opinion that it is appropriate that the Chief Executive [or delegate] issue the s.340 direction because:

* [insert reasoning here as to why it is more appropriate for the CEO or delegate to make the direction than it is for the school principal – If the school Principal issues the direction how will this offend the principles of natural justice? Refer to relevant circumstances outlined in Principal’s letter]

1. The application and supporting documentation (**Attachment 1 and 2**) set out the material relied upon, findings of fact and reasoning for the decision sought.

# KEY ISSUES

***Section 340***

1. The Chief Executive’s power to issue a direction under s.340 of the Act – to prohibit a person from entering premises of State instructional institutions for up to 60 days **(Attachment 3)** – in these circumstances is outlined in s.340A of the Act [insert if decision by delegate] and has been delegated to [insert delegate’s position]. **(Attachment 4)**.
2. As outlined in s.340(1) of the Act, in giving such a direction you must be reasonably satisfied that, unless the direction is given, the prohibited person/s are likely to:
3. cause physical harm to, or apprehension or fear of physical harm in, another person when the other person is at the premises or
4. damage the premises or property at the premises or
5. disrupt the good order or management of the institute (the school).
6. It is my view that the facts presented in the application and associated documents support the issuing of a direction under s.340 of the Act with respect to elements (a), (b) and (c) [DELETE NON APPLICABLE SECTION/S] of s.340 provided above.
7. You will also need to be satisfied in accordance with s.340A that it is appropriate for you to make the direction, given the circumstances outlined by the school principal.
8. If you decide to issue the direction, it will take the form of a letter and attachments sent to [**name of person**] (**Attachment 5**). The letter has been settled by LALB and satisfies ss..340(3), (3A) and 340A of the Act about what must be stated in such a direction.
9. On the advice of LALB, the letter will be sent by post / delivered by police attaching:

* ss.340 and 340A of the Act
* the Departmental policy SCM-PR-006: Hostile People on School Premises, Wilful Disturbance and Trespass; and
* ‘redacted material’, that is, the material on which your decision is based from which personal information and student names (with the exception of [**name of person**]’s children) have been removed.

1. The direction will apply for a period of 60 days after the date on which it is given to [**name of person**].

# LIST OF ATTACHMENTS

Attachment 1 – Letter of request from Principal

Attachment 2 – Additional material (attached to Principal’s letter)

Attachment 3 – Extract of the *E(GP)A 2006* – ss.340 and 340A

Attachment 4 – Delegation for s.340 [insert if relevant] and s.340A of the *E(GP)A 2006*

Attachment 5 – Direction notice and attachments

# RIGHT TO INFORMATION

1. I am of the view that the contents or attachments contained in this brief are not suitable for publication.*.*

(Briefing Officer):

|  |  |  |
| --- | --- | --- |
| Signature: |  | Date: / / |

Executive Director, Legal and Administrative Law Branch: Tom Jumpertz

|  |  |  |  |
| --- | --- | --- | --- |
| Signature: |  | | Date: / / |
| Endorsed- ❑ | | Not Endorsed - ❑ | |

Comments: