

Department of Education and Training

Instrument of Authorisation

Director-General's Duties

under

Public Guardian Act 2014

(Version 1 – April 2015)

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

INSTRUMENT OF AUTHORISATION

Director-General's duties under the Public Guardian Act 2014

I, Dr Jim Watterston, Director-General of the Department of Education and Training, AUTHORISE the persons who are from time to time the holders of the positions specified in Column 4 of Schedule 1, to exercise on my behalf those duties conferred or imposed on me or the Department under the provisions of the *Public Guardian Act 2014*, which are specified in Column 1 of Schedule 1, subject to the limitations (if any) specified in Column 3 of Schedule 1.

The brief descriptions provided in Column 2 of Schedule 1 are for information only, and do not limit in any way the generality of the powers, functions, authorities and duties, specified in Column 1 of Schedule 1.

This Instrument of Authorisation is comprised of this page and Schedule 1, comprising 2 pages. No other material forms part of the Instrument.

This Instrument of Authorisation **does not authorise** the persons who are from time to time the holders of the positions specified in Column 4 of Schedule 1 to subdelegate any of the powers, functions, authorities or duties specified in Column 1 of Schedule 1.



**DR JIM WATTERSTON
DIRECTOR-GENERAL
DEPARTMENT OF EDUCATION AND TRAINING**

DATED AT BRISBANE THIS 16th day of June, 2015

SCHEDULE 1 – Table of persons authorised by the Director-General to exercise duties imposed by the *Public Guardian Act 2014*

Table of persons authorised by the Director-General to exercise duties imposed by the <i>Public Guardian Act 2014</i>			
Column 1	Column 2	Column 3	Column 4
Reference	Nature of Duty	Observations / Limitations	Authorised Persons
Chapter 3 – Provisions relating to adults with impaired capacity			
Part 3 - Investigations			
22	<p>Right to information</p> <p>(1) The public guardian has a right to all information necessary to investigate a complaint or allegation, or to carry out an audit, in connection with an adult.</p> <p>Note— In addition, the Powers of Attorney Act, section 81 (Right of attorney to information) gives the public guardian a right to information as an attorney.</p> <p>(2) The public guardian may, by written notice given to a person who has custody or control of the information, require the person—</p> <p style="padding-left: 40px;">(a) to give the information to the public guardian; and</p> <p style="padding-left: 40px;">(b) if the person is an attorney or administrator and the information is contained in a document—to give the document to the public guardian; and</p> <p style="padding-left: 40px;">(c) if the person is not an attorney or administrator and the information is contained in a document—to allow the public guardian to inspect the document and take a copy of it.</p> <p>(3) The person must comply with the notice, unless the person has a reasonable excuse. Maximum penalty—100 penalty units.</p> <p>(4) It is a reasonable excuse for a person not to comply with the notice because complying with the notice might tend to incriminate the person.</p> <p>(5) Subject to subsection (4), this section overrides—</p> <p style="padding-left: 40px;">(a) any restriction, in an Act or the common law, about the disclosure or confidentiality of information; and</p> <p style="padding-left: 40px;">(b) any claim of confidentiality or privilege, including a claim based on legal professional privilege.</p> <p>(6) In this section— attorney means—</p> <p style="padding-left: 40px;">(a) an attorney under a power of attorney; or</p> <p style="padding-left: 40px;">(b) an attorney under an advance health directive; or</p>		<ul style="list-style-type: none"> • Executive Director, Legal and Administrative Law Branch (LALB) • Director, LALB • Officers of the Information Release Team, LALB • Regional Director • Principal

Table of persons authorised by the Director-General to exercise duties imposed by the *Public Guardian Act 2014*

Column 1	Column 2	Column 3	Column 4
Reference	Nature of Duty	Observations / Limitations	Authorised Persons
	(c) a statutory health attorney.		
Chapter 4 – Provisions relating to relevant children and children staying at visitable sites			
Part 4 – Information exchange			
87	<p>Information requirement made by public guardian</p> <p>(1) The public guardian may ask a prescribed entity for particular information in the entity's possession or control for the purpose of this part; and,</p> <p>(2) Subject to this section, the prescribed entity must comply with the request.</p> <p>(3) However, if the prescribed entity is the director of public prosecutions or the chief executive officer of Legal Aid Queensland, the information to be made available by the director or chief executive officer must not relate to anyone or anything other than a child and the child's circumstances.</p> <p><i>Examples of information that does not relate to the child and the child's circumstances—</i> If the director of public prosecutions is prosecuting a parent of the child for an offence against the child, the director is not required to provide information about the prosecution of the parent. Similarly, if Legal Aid Queensland is also representing a parent of the child, Legal Aid Queensland is not required to provide information relevant to the parent's representation.</p> <p>(4) For subsection (1), information is not taken to be in the prescribed entity's control merely because of an agreement between the prescribed entity and another entity under which the other entity must give the information to the prescribed entity.</p> <p>(5) A prescribed entity may refuse to comply with a request under this section to provide information that is subject to legal professional privilege.</p> <p>(6) Also, a prescribed entity may refuse to comply with a request under this section to provide the information if the prescribed entity decides that giving the information could reasonably be expected to—</p> <p style="padding-left: 40px;">(a) prejudice the investigation of a contravention or possible contravention of a law in a particular case; or</p>		<ul style="list-style-type: none"> • Executive Director, Legal and Administrative Law Branch (LALB) • Director, LALB • Officers of the Information Release Team, LALB • Regional Director • Principal

Table of persons authorised by the Director-General to exercise duties imposed by the *Public Guardian Act 2014*

Column 1	Column 2	Column 3	Column 4
Reference	Nature of Duty	Observations / Limitations	Authorised Persons
	<p>(b) prejudice an investigation under the Coroners Act 2003; or</p> <p>(c) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or</p> <p>(d) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained; or</p> <p>(e) endanger a person's life or physical safety.</p> <p>(7) The prescribed entity is not required to satisfy itself that the request for particular information is made for the purpose of this part.</p>		

APPENDIX 1 – Director-General’s duties not authorised under the *Public Guardian Act 2014*

Reference	Nature of Authorisation	Observations / Limitations
	Nil	