

Department of Education

Legislative Delegations

**Delegation of
Director-General's Powers**

under

Right to Information Act 2009

(Version 6 – May 2024)

NOTE: In accordance with the Managing delegations, authorisations and administrative approvals procedure, legislative delegations are centrally managed by Policy and Statutory Engagement. Policy and Statutory Engagement must be contacted for all proposed amendments to these delegations.

INSTRUMENT OF DELEGATION

Right to Information Act 2009

I, Michael De'Ath, Director-General of the Department of Education, under section 30(2) of the *Right to Information Act 2009*, DELEGATE to the persons who are from time to time the holders of each position specified in **Column 4** of Schedule 1, those powers and functions conferred or imposed on me under the provisions of the *Right to Information Act 2009*, which are specified in **Column 1** of Schedule 1, relating to:

- Education; and
- Early Childhood Education and Care

subject to the limitations (if any) specified in **Column 3** of Schedule 1.

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

This Instrument of Delegation revokes and replaces any other Instrument of Delegation previously issued with respect of those powers and functions conferred or imposed on me under the provisions of the *Right to Information Act 2009* relating to Education and Early Childhood Education and Care of the Department of Education.



MICHAEL DE'ATH
DIRECTOR-GENERAL
DEPARTMENT OF EDUCATION

DATED AT BRISBANE THIS 20th day of May, 2024.

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, Part 1 to 8 – Disclosure by application under this Act			
s.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— (a) a principal officer may not, under subsection (2) or (4) delegate the power to deal with the application to the extent it involves— (i) making a healthcare decision; or (ii) appointing a healthcare professional under paragraph (b); but (b) the agency may appoint an appropriately qualified 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 limitation:</u></p> <p>The following officer does not have the delegated power to deal with an application for internal review:</p> <ul style="list-style-type: none"> • Policy Officer, Legal Services 	<ul style="list-style-type: none"> • Policy Officer, Legal Services • Senior Policy Officer, Legal Services • Principal Information Officer, Legal Services • Information Officer, Legal Services • Lawyer, Legal Services • Legal Officer, Legal Services • Senior Lawyer, Legal Services • Principal Lawyer, Legal Services • Manager, Information Release, Legal Services • Manager, Legal Services • Director, Legal Services • Executive Director, Legal Services

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>professional to make a healthcare decision in relation to the application.</p> <p>(6) In this section— <i>healthcare decision</i> means a decision about any of the following matters—</p> <p>(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;</p> <p>(b) whether to refuse access under section 47(3)(d);</p> <p>(c) whether to give access despite being able to refuse access under section 47(3)(d);</p> <p>(d) whether to give a direction under section 77(2);</p> <p>(e) whether to approve a healthcare professional under section 77(2).</p> <p><i>power to deal</i>, 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) 		