Human rights impact assessment

This document records how human rights were considered in the process to determine if the decision is compatible with human rights under the*[Human Rights Act 2019](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2019-005)*, and the outcome.

|  |  |
| --- | --- |
| Decision | Distance education enrolment and/or fee applications |
| Which individuals or groups will be affected by the decision? | <insert name of prospective student or student>; <insert name of applicant for enrolment>ion |
| School completing assessment | <insert name of school of distance education> | Region | <insert name of relevant region> |
| What law or regulation allows you to make this decision?  | *Education General Provisions Act (2006)* (EGPA); *Education (General Provisions) Regulation 2017* (EGPR) |

***NOTE:*** *Some human rights have already been identified (below) as ones that could be engaged in decisions about distance education enrolment and/or fees. For each decision being made information can be removed or added as required.*

Record the outcome of assessment, including any amendments to the policy or procedure

| **IDENTIFY** | **IMPACT** | **JUSTIFICATION** | **OUTCOME**  |
| --- | --- | --- | --- |
| Are human rights engaged by the decision?  | Are these rights limited or promoted by the decision? | Is there a good reason for any limitation and is it justifiable?  | Is the decision compatible with human rights? |
| [S.15](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2019-005#sec.15) Recognition and equality before the law | Legislation provides for schools of distance education (SDE) to offer a program (or component) of distance education to eligible children, young people, and adults, including those living interstate or overseas. This right is potentially limited as, unless a person meets certain criteria, fees are payable – which could have a negative impact on some groups in the community (such as those from a low socio-economic background). | [S.52](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2006-039#sec.52) of the EGPA provides that a prescribed fee under a regulation (i.e. the EGPR) must be paid for the provision of distance education to the student.In [s.53](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2006-039#sec.53), the EGPA goes on to prescribe a wide range of circumstances under which a fee is not payable (including living in a remote area; inability attend a regular state school due to their health; having itinerant lifestyle; suspension or exclusion from other state schools; carer responsibilities; inability to attend a mature age state school; or being in custody).This is because students in these circumstances have a more limited choice in the schools they can attend and a distance education program may be the only option for them (apart from home education).Where a student does not meet any of the above criteria and may be able to enrol at their local state school or register for home education but still chooses to undertake a distance education program, fees are payable. However, [s.54](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2006-039#sec.54) of the EGPA allows for the SDE principal to waive fees, either entirely or partly if satisfied that: * the person would suffer a significant educational disadvantage if they were not able to continue in the program; and
* payment of the fee would cause financial hardship to the person liable to pay it; or
* the SDE principal is satisfied the waiver is appropriate and reasonable because exceptional circumstances exist in relation to the person.

Fee-paying students are also able to request to negotiate a payment plan.If the fee is not paid, the student is not entitled to be enrolled in, or undertake, the program of distance education; and the chief executive (or SDE principal as the chief executive’s delegate) may cancel the student’s enrolment. | The decision is compatible with human rights. While the right to recognition and equality before the law is potentially limited, it’s limited in a way that is reasonable and justifiable and supported by legislation. |
| [S.19](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2019-005#sec.19) Freedom of movement | While SDEs can provide a program (or component) of distance education to people regardless of where they live, the right to freedom of movement is potentially limited as fees are payable unless people live in certain locations – potentially limiting a family’s choice about where they live. | Fees for distance education are not payable if the student lives in a remote area as defined by [s.49](https://www.legislation.qld.gov.au/view/html/current/act-2006-039#sec.49) of the EGPA.If a student doesn’t live in a remote area, [s.54](https://www.legislation.qld.gov.au/view/html/current/act-2006-039#sec.54) of the EGPA allows for the SDE principal to waive fees, either entirely or partly if satisfied that: * the person would suffer a significant educational disadvantage if they were not able to continue in the program; and
* payment of the fee would cause financial hardship to the person liable to pay it; or
* the SDE principal is satisfied the waiver is appropriate and reasonable because exceptional circumstances exist in relation to the person.

Fee-paying students are also able to request to negotiate a payment plan. | The decision is compatible with human rights. While the right to freedom of movement is potentially limited, it’s limited in a way that is reasonable and justifiable and supported by legislation.  |
| [S.25](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2019-005#sec.25) Privacy and reputation | The *Application for student enrolment* form and request forms associated with the exemption / waiver / payment plans for distance education fees limit this right as they require people to disclose personal information such as student name, date of birth medical information/certificate). | All Queensland state schools (including SDEs) are required to use the approved enrolment form to capture information about prospective students (and their parent/carer) applying for enrolment. The collection of certain information on the enrolment form is authorised by [ss.155](https://www.legislation.qld.gov.au/view/html/current/act-2006-039#sec.155) and [428](https://www.legislation.qld.gov.au/view/html/current/act-2006-039#sec.428) of the EGPA. The mandatory questions on the form are required to be completed so as to: * ensure the department captures the necessary information to process a student’s enrolment in a state school and satisfy State and Federal data requirements, including for funding eligibility
* ensure schools can meet their administrative and duty of care responsibilities.

Failure or refusal to complete mandatory sections on the enrolment form, or to provide required documentation, can result in a refusal (by the school) to process the application.The information collected on the *Application for fee waiver for distance education (non-state school-based students)*, *Application for fee exemption/waiver/payment plan for distance education (home-based students)* and *Application for refund of the distance education fee* is for the purposes of the SDE principal making a decision under [s.53](https://www.legislation.qld.gov.au/view/html/current/act-2006-039#sec.53) (fee not payable or exempt) and [s.54](https://www.legislation.qld.gov.au/view/html/current/act-2006-039#sec.54) (waiver) of the EGPA, and [s.71](https://www.legislation.qld.gov.au/view/html/inforce/current/sl-2017-0161#sec.71) (part refund of fee) of the EGPR.If the personal information is not provided, principals cannot make decisions they are required to make by law. Each form has a Privacy Statement that clearly describes why the information is being collected and how the information will be used or disclosed (if needed) by the department. | The decision is compatible with human rights. While the right to privacy and reputation is potentially limited, it’s limited in a way that is reasonable and justifiable and supported by legislation. |
| [S.26](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2019-005#sec.26) Protection of families and children | Home-based studentsGenerally, an application for enrolment in a state school (including SDE) can only be made by a parent (if the prospective student is a child) or the prospective student (if they are an adult or independent). However, a child may still be enrolled by a principal without an enrolment application being made by a parent – which may potentially be perceived as having an impact on a ‘family’ (as a fundamental group unit of society) which is entitled to be protected by society and the State.School-based students This right is not directly engaged for school-based students applying to enrol at an SDE. The enrolment process is a form of flexible arrangement established between the school principals that enables a student to access a subject area not accessible to them at their base school. | [S.155(3)](https://www.legislation.qld.gov.au/view/html/current/act-2006-039#sec.155) of the EGPA permits principals to deal with an application for enrolment made by a child if the principal reasonably believes it is in the child's best interests for the child to make the application. To accept such an enrolment application, the principal must be satisfied that the child is otherwise eligible to enrol (e.g. meets age criteria).School-based studentsAll parties (including parents/carers) are informed about the flexible arrangement. | The decision is compatible with human rights. While the right to protection of families and children is potentially limited, it’s limited in a way that is reasonable and justifiable and supported by legislation. |
| [S.36](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2019-005#sec.36) Right to education  | ***Applications for enrolment*** Children of compulsory school age and young people in the compulsory participation phase may apply to enrol in a Queensland state school (including an SDE).The right to education is generally promoted as a principal must enrol a prospective student if they are entitled to be enrolled at the state school under the EGPA. However, certain circumstances affect a prospective student’s entitlement to enrol in an SDE as set out in legislation.  | Legislation and policy stipulate the circumstances under which an enrolment application may be **not be** accepted:* prospective student does not meet Prep age eligibility requirement
* school does not offer year level or subject prospective student is seeking to be enrolled in
* prospective student has no remaining semester allocation of state education
* the principal has decided that, if enrolled, the student would pose an unacceptable risk to the safety or wellbeing of members of the school community
* prospective student is subject to suspension (on grounds other than charge-related) from a state school at the time of enrolment application
* prospective student does not have an approved flexible arrangement with the school.

For SDEs, if the distance education fee is not paid, the student is not entitled to be enrolled in, or undertake, the program of distance education, and the chief executive (or SDE principal as the chief executive’s delegate) may cancel the student’s enrolment.Students have other education pathways available including enrolling in another school or registering for home education. | The decision is compatible with human rights. While the right to education may be limited, it’s limited in a way that is reasonable and justifiable and supported by DoE policy and legislation. |
| ***Request for fee exemption / waiver / payment plan***The right to education is potentially limited by the requirement to pay fees, unless a person meets certain criteria. | [S.52](https://www.legislation.qld.gov.au/view/html/current/act-2006-039#sec.52) of the EGPA provides that a prescribed fee under a regulation (i.e. the EGPR) must be paid for the provision of distance education to the student.In [s.53](https://www.legislation.qld.gov.au/view/html/current/act-2006-039#sec.53), the EGPA goes on to prescribe a wide range of circumstances under which a fee is not payable (including living in a remote area; inability attend a regular state school due to their health; having itinerant lifestyle; suspension or is exclusion from other state school; carer responsibilities; inability to attend a mature age state school; or being in custody).Where a student does not meet any of those criteria but still chooses to undertake a distance education program, fees are payable. [S.54](https://www.legislation.qld.gov.au/view/html/current/act-2006-039#sec.54) of the EGPA allows for the SDE principal to waive fees, either entirely or partly if satisfied that: * the person would suffer a significant educational disadvantage if they were not able to continue in the program; and
* payment of the fee would cause financial hardship to the person liable to pay it; or
* the SDE principal is satisfied the waiver is appropriate and reasonable because exceptional circumstances exist in relation to the person.

Fee-paying students are also able to request to negotiate a payment plan.If the fee is not paid, the student is not entitled to be enrolled in, or undertake, the program of distance education, and their enrolment can be cancelled.SDE students whose enrolment has been cancelled due to failure to pay the required fee have the option to enrol in another school or register for home education. | The decision is compatible with human rights. While the right to education may be limited, it’s limited in a way that is reasonable and justifiable and supported by legislation. |
| <Insert any other human right that is engaged, otherwise delete row> | <Insert related impact> | <Insert justification> | <Insert related outcome> |

**Approval to progress**

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| --- | --- |
| Assessed by: *Name* | <Insert name of principal> |
| *Position* | Principal, <Insert name of school> | Date | <Insert date> |

(Guide: [When human rights may be limited](https://www.forgov.qld.gov.au/sites/default/files/when-human-rights-may-be-limited-human-rights-act-guide.pdf?v=1561930542))