

Department of Education

Legislative Delegations

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

Child Protection Act 1999

(Version 15 – August 2023)

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 authorisations.

INSTRUMENT OF DELEGATION

Director-General's Power under the *Child Protection Act 1999*

I, Michael De' Ath, Director-General of the Department of Education, under section 282 of the *Public Sector Act 2022*, DELEGATE those powers and functions conferred or imposed on me under the provisions of the *Child Protection Act 1999*, which are specified in **Column 1** of Schedule 1, subject to the limitations (if any) specified in **Column 3** of Schedule 1, to the persons who are from time to time the holders of the positions specified in **Column 4** of Schedule 1.

This Instrument of Delegation is comprised of this page, and Schedule 1 comprising 9 pages. No other material forms part of the Instrument.

This Instrument of Delegation revokes and replaces any Instrument of Delegation previously issued with respect to the powers and functions of the Director-General under the *Child Protection Act 1999*.



MICHAEL DE'ATH
DIRECTOR-GENERAL
DEPARTMENT OF EDUCATION

DATED AT BRISBANE THIS 22 day of August, 2023.

**SCHEDULE 1 – Table of Delegated Powers of Director-General
Child Protection Act 1999**

Schedule 1 – Table of Director-General’s Delegated Powers – <i>Child Protection Act 1999</i>			
Column 1	Column 2	Column 3	Column 4
Reference	Nature of Power	Observations / Limitations	Delegate
Chapter 5A Service delivery coordination and information sharing			
Part 4 Information sharing			
s.159MA	<p>Sharing information—reporting suspicion to chief executive</p> <p>A prescribed entity or service provider (each a <i>holder</i>) may give a prescribed entity or service provider (each a <i>recipient</i>) information if the holder reasonably believes the information may help the recipient—</p> <p>(a) decide whether information about suspected harm or risk of harm to a child should be given to the chief executive; or</p> <p>(b) decide whether information about an unborn child who may need protection after birth should be given to the chief executive.</p>	<p>Prescribed entities and service providers are defined in s.159M of the <i>Child Protection Act 1999</i>.</p> <p>Section 159MF – information that may be given to an entity may be comprised of facts or opinions.</p> <p>Section 159NA – Despite sections 159MA to 159N, information may not be shared under this part to the extent it relates to—</p> <p>(a) a conviction included in a person’s criminal history—</p> <p>(i) for which the rehabilitation period under the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> has expired under that Act; and</p> <p>(ii) that is not revived as prescribed by section 11 of that Act; or</p> <p>(b) an expunged conviction or expunged charge.</p> <p>(2) In this section— expunged charge see the <i>Criminal Law (Historical Homosexual Convictions Expungement) Act 2017</i>, schedule 1. expunged conviction see the <i>Criminal Law (Historical Homosexual Convictions Expungement) Act 2017</i>, schedule 1.</p> <p>Departmental procedure <i>Information sharing under the Child Protection Act 1999</i> should also be followed by all delegates.</p> <p>Limitations * Delegates may only exercise power in relation to ss.159MC</p>	<ul style="list-style-type: none"> • Principal • Deputy Principal • Guidance Officer • Associate Director-General, Early Childhood and State Schools • Deputy Director-General, Schools and Student Support • Assistant Director-General, Disability, Inclusion and Student Services • Executive Director, Student Protection and Wellbeing • Director, Student Protection • Manager, Students in Care, Student Protection+ • Registered nurses employed as registered nurses by Schools and Student Support • Executive Director, Performance Monitoring and Reporting • Manager, Home Education Unit • Assistant Manager, Home Education Unit • Deputy Director-General, People, Information and Communication Services • Assistant Director-General, Information and
s.159MB	<p>Sharing information—assessment or investigation</p> <p>(1) A prescribed entity or service provider (each a <i>holder</i>) may give the chief executive or an authorised officer (each a <i>recipient</i>) information if the holder reasonably believes the information may help the recipient—</p> <p>(a) investigate an allegation of harm or risk of harm to a child or assess a child’s need for protection; or</p> <p>(b) take action, or decide whether the recipient reasonably suspects a child is in need of protection, under section 14; or</p> <p>(c) investigate or assess, before the birth of a child, the likelihood that the child will need protection after the child is born.</p> <p>(2) The chief executive or an authorised officer (each also a</p>	<p>(2) In this section— expunged charge see the <i>Criminal Law (Historical Homosexual Convictions Expungement) Act 2017</i>, schedule 1. expunged conviction see the <i>Criminal Law (Historical Homosexual Convictions Expungement) Act 2017</i>, schedule 1.</p> <p>Departmental procedure <i>Information sharing under the Child Protection Act 1999</i> should also be followed by all delegates.</p> <p>Limitations * Delegates may only exercise power in relation to ss.159MC</p>	<ul style="list-style-type: none"> • Principal • Deputy Principal • Guidance Officer • Associate Director-General, Early Childhood and State Schools • Deputy Director-General, Schools and Student Support • Assistant Director-General, Disability, Inclusion and Student Services • Executive Director, Student Protection and Wellbeing • Director, Student Protection • Manager, Students in Care, Student Protection+ • Registered nurses employed as registered nurses by Schools and Student Support • Executive Director, Performance Monitoring and Reporting • Manager, Home Education Unit • Assistant Manager, Home Education Unit • Deputy Director-General, People, Information and Communication Services • Assistant Director-General, Information and

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	<i>holder</i>) may give a prescribed entity or a service provider information (each also a <i>recipient</i>) if the holder reasonably believes giving the information may help the recipient decide whether to give the holder information under subsection (1).	and 159MD. +Delegate may only exercise power in relation to s.159MC. ^Delegates may only exercise power in relation to s.159MD.	Technologies • Assistant Director-General, People and Chief People Officer • Executive Director, Safety, Wellbeing and Capability
s.159MC	<p>Sharing information—assessing care needs and planning services</p> <p>(1) A prescribed entity or service provider (each a <i>holder</i>) may give the chief executive or an authorised officer information if the holder reasonably believes the information may help the chief executive or authorised officer—</p> <p>(a) develop, or assess the effectiveness of, a child’s case plan; or</p> <p>(b) assess or respond to the health, educational or care needs of a relevant child; or</p> <p>(c) otherwise make plans or decisions relating to, or provide services to, a relevant child or the child’s family; or</p> <p>(d) offer help and support to a pregnant woman under section 22.</p> <p>(2) The chief executive, an authorised officer or a prescribed entity (each also a <i>holder</i>) may give a prescribed entity or a service provider (each a <i>recipient</i>) information if the holder reasonably believes the information may help the recipient—</p> <p>(a) participate in case planning; or</p> <p>(b) assess or respond to the health, educational or care needs of a child in need of protection; or</p> <p>(c) otherwise make plans or decisions relating to, or provide services to, a child in need of protection or the child’s family; or</p> <p>(d) help the chief executive offer help and support to a</p>		<ul style="list-style-type: none"> • Executive Director, Integrity and Employee Relations • Director - within Integrity and Employee Relations • Manager - within Integrity and Employee Relations • Deputy Director-General, Early Childhood • Executive Director, Early Childhood Regulatory Authority • Director, Regulation • Manager, Regulation • Regional Director • Executive Director, Regional Operations Officer • Director Regional Services • Principal Advisor, Regional Services • Director, Education Services • Principal Advisor, Education Services • Director, Student, Child and Family Connect • Principal Advisor, Student Protection • Principal Education

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	<p>pregnant woman under section 22.</p> <p>(3) A service provider may give a prescribed entity information if the service provider reasonably believes the information may help the prescribed entity do a thing mentioned in subsection (2)(a) to (d).</p>		<p>Officer, Students in Care+</p> <ul style="list-style-type: none"> • Court Liaison Officer* • Director, Student Services • Principal Education Officer, Student Services • Senior Guidance Officer
s.159MD	<p>Sharing information— decreasing likelihood of child becoming in need of protection</p> <p>The chief executive, an authorised officer or a prescribed entity (each a <i>holder</i>) may give a prescribed entity or a service provider (each a <i>recipient</i>) information if the holder reasonably believes the information may help the recipient—</p> <p>(a) assess or respond to the health, educational or care needs of a child to decrease the likelihood of the child becoming a child in need of protection; or</p> <p>(b) otherwise make plans or decisions relating to, or provide or offer to provide services to, a child or the child’s family to decrease the likelihood of the child becoming a child in need of protection.</p> <p>(2) A service provider may give a prescribed entity information if the service provider reasonably believes the information may help the prescribed entity do a thing mentioned in subsection (1)(a) or (b).</p>		<ul style="list-style-type: none"> • Psychologist* • Social Worker* • Senior Advisor, Psychology* • Senior Psychologist* • Senior Advisor, Social Work* • Senior Social Worker* • Transition Pathways Officer^ • Director, Partnerships and Programs • Manager, Early Childhood • Director, State School Improvement (South East Region) • Director, State Schools (North Queensland Region) • Project Manager, Youth Engagement (North Queensland Region)
s.159N	<p>Information requirement made by chief executive or authorised officer</p> <p>(1) The chief executive or an authorised officer may ask any of the following entities for stated information, about a child or another person or an unborn child, in the entity’s possession or control—</p> <p>(a) the public guardian;</p>		<ul style="list-style-type: none"> • Principal Education Officer, Youth Engagement (North Queensland Region) • Senior Manager, Engagement and Behaviour (South East Region)

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	<p>(b) a prescribed entity; (c) a licensee; (d) the person in charge of a student hostel.</p> <p>(1A) For subsection (1), the stated information must be information the chief executive or authorised officer reasonably considers relevant for the performance of a function or exercise of a power under this Act.</p> <p>(2) The entity must comply with the request to the extent it relates to information in the entity’s possession or control.</p> <p>(2A) For subsection (2), information is not taken to be in the entity’s control merely because of an agreement between the entity and another entity under which the other entity must give the information to the entity.</p> <p>(3) Subsection (2) does not apply to information if the entity reasonably considers that—</p> <p>(a) giving the information could reasonably be expected to—</p> <p>(i) prejudice the investigation of a contravention or possible contravention of a law in a particular case; or (ii) prejudice an investigation under the Coroners Act 2003; or (iii) 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 (iv) endanger a person’s life or physical safety; or (v) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; and</p> <p>(b) it would not be in the public interest to give the information.</p>		<ul style="list-style-type: none"> • Principal Education Officer – Student Engagement and Wellbeing (South East Region)* • Complex Case Support Manager (South East Region)*

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	(4) A person does not commit an offence merely by failing to comply with subsection (2).		

Chapter 7A Internal agency reviews following child deaths or injuries

Part 2 When reviews must be carried out

s.245H	<p>Other relevant agency review following involvement with child</p> <p>(1) This section applies in relation to a relevant agency other than the department.</p> <p>(2) As soon as practicable after receiving a notice under section 245G, the agency head must—</p> <p style="padding-left: 20px;">(a) determine whether the agency provided a service to the child within 1 year before the child’s death or serious physical injury; and</p> <p style="padding-left: 20px;">(b) if so, carry out a review about the agency’s involvement with the child.</p> <p>(3) On request by the agency head, the chief executive or the head of another relevant agency may give information to the agency head for use in determining whether a review is required under subsection (2).</p> <p><i>Examples of information that may be requested—</i></p> <ul style="list-style-type: none"> • the child’s address during the year before the child’s death or serious physical injury • the names of the child’s parents and their contact details 	<p><u>Observation</u></p> <p>Delegates should refer to and follow “Guidelines: Internal review following a child’s death or serious physical injury” when exercising these powers.</p>	<ul style="list-style-type: none"> • Assistant Director-General, Disability, Inclusion and Student Services • Executive Director, Student Protection and Wellbeing • Director, Student Protection • Manager, Internal Reviews, Student Protection
s.245I	<p>Other relevant agency review at Minister’s request</p> <p>(1) This section applies in relation to a relevant agency other than the department.</p> <p>(2) The agency head must carry out a review about the agency’s involvement with the child if the agency’s Minister requests a review under this section.</p>	<p><u>Observation</u></p> <p>Delegates should refer to and follow “Guidelines: Internal review following a child’s death or serious physical injury” when exercising these powers.</p>	<ul style="list-style-type: none"> • Assistant Director-General, Disability, Inclusion and Student Services • Executive Director, Student Protection and Wellbeing • Director, Student Protection • Manager, Internal Reviews, Student

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	<p>(3) In exceptional circumstances, the agency’s Minister may ask the agency head to review the agency’s involvement with the child even though no notice under section 245G has been given to the agency head or no review is required under section 245H.</p> <p>(4) The agency’s Minister may make the request if the Minister considers it would be appropriate, having regard to the circumstances of the child’s death or serious physical injury and the purpose of reviews stated in section 245(3).</p> <p>(5) The agency head may notify the head of another relevant agency that a review is being carried out under this section.</p>		Protection

Part 3 Scope of reviews

s.245K	<p>Scope of relevant agency review</p> <p>(1) This section applies to a review about a relevant agency’s involvement with a child.</p> <p>(2) The agency head must decide the extent of, and terms of reference for, the review.</p> <p>(3) Without limiting subsection (2), the terms of reference may include any of the following matters so far as they are relevant to the purpose of reviews stated in section 245(3)—</p> <p>(a) finding out whether the agency’s involvement with the child complied with legislative requirements and the agency’s policies;</p> <p>(b) considering the adequacy and appropriateness of the agency’s involvement with the child;</p> <p>(c) commenting on the adequacy of the agency’s involvement with other entities in the provision of services to the child;</p> <p>(d) commenting on the adequacy of legislative</p>	<p>Observation</p> <p>Delegates should refer to and follow “Guidelines: Internal review following a child’s death or serious physical injury” when exercising these powers.</p>	<ul style="list-style-type: none"> • Assistant Director-General, Disability, Inclusion and Student Services • Executive Director, Student Protection and Wellbeing • Director, Student Protection • Manager, Internal Reviews, Student Protection
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	<p>requirements and the agency’s policies relating to the child;</p> <p>(e) making recommendations relating to matters mentioned in paragraphs (a) to (d) and suggesting strategies to put into effect the recommendations.</p> <p>(4) The terms of reference must not include considering whether disciplinary action should be taken against an employee of the agency.</p>		
Part 4 Conduct of reviews and reporting			
s.245N	<p>Review to be completed and report prepared</p> <p>(1) As soon as practicable, and not more than 6 months, after the triggering event for a review, the agency head or litigation director must—</p> <p>(a) decide the extent of, and terms of reference for, the review; and</p> <p>(b) complete the review; and</p> <p>(c) prepare a report about the review (the <i>review report</i>); and</p> <p>(d) give the review report to the entities required under sections 245O to 245Q.</p> <p>(2) In carrying out an internal agency review, an agency head must seek to—</p> <p>(a) work with other relevant agencies to coordinate the reviews and other processes carried out in that agency and other relevant agencies; and</p> <p>(b) avoid unnecessary duplication of the reviews and other processes carried out in that agency and other relevant agencies.</p>	<p>Observation</p> <p>Delegates should refer to and follow “Guidelines: Internal review following a child’s death or serious physical injury” when exercising these powers.</p>	<ul style="list-style-type: none"> • Assistant Director-General, Disability, Inclusion and Student Services • Executive Director, Student Protection and Wellbeing • Director, Student Protection • Manager, Internal Reviews, Student Protection
s.245O	<p>Giving report to child death review board</p> <p>(1) This section applies in relation to a review following the death of a child.</p>	<p>Observation</p> <p>Delegates should refer to and follow “Guidelines: Internal review following a child’s death or serious physical injury” when</p>	<ul style="list-style-type: none"> • Assistant Director-General, Disability, Inclusion and Student Services • Executive Director, Student Protection and Wellbeing

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	<p>(2) The agency head or litigation director who carries out the review must give the child death review board—</p> <p>(a) a copy of the review report; and</p> <p>(b) copies of any documents obtained by the agency head or litigation director and used for the review.</p>	exercising these powers.	<ul style="list-style-type: none"> • Director, Student Protection
s.245P	<p>Giving report to State Coroner</p> <p>(1) This section applies in relation to a review following the death of a child that is a reportable death under the <i>Coroners Act 2003</i>.</p> <p>(2) The agency head or litigation director who carries out the review must give a copy of the review report to the State Coroner for use by the coroner to help in an investigation under the <i>Coroners Act 2003</i>.</p> <p>(3) If the report does not identify the child, the copy given to the State Coroner must be accompanied by a document stating—</p> <p>(a) the child’s name and date of birth; and</p> <p>(b) the date of the child’s death.</p>	<p><u>Observation</u></p> <p>Delegates should refer to and follow “Guidelines: Internal review following a child’s death or serious physical injury” when exercising these powers.</p>	<ul style="list-style-type: none"> • Assistant Director-General, Disability, Inclusion and Student Services • Executive Director, Student Protection and Wellbeing • Director, Student Protection

Part 5 Information sharing and protection from liability

s.245T	<p>Confidential information may be given to relevant agencies</p> <p>(1) The head of a relevant agency who is carrying out an internal agency review may ask another entity for stated information that may be relevant to the review.</p> <p>(2) Any entity may give confidential information to the head of a relevant agency for the purpose of an internal agency review.</p> <p>(3) The head of a relevant agency may give confidential information to the head of another relevant agency for the purpose of sharing</p>	<p><u>Observation</u></p> <p>Delegates should refer to and follow “Guidelines: Internal review following a child’s death or serious physical injury” when exercising these powers.</p>	<ul style="list-style-type: none"> • Assistant Director-General, Disability, Inclusion and Student Services • Executive Director, Student Protection and Wellbeing • Director, Student Protection • Manager, Internal Reviews, Student Protection
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	<p>the outcomes of an internal agency review.</p> <p>(4) Information may be given to the head of a relevant agency under subsection (2) or (3) whether or not the agency head requested the information.</p> <p>(5) Subsections (2) to (4) do not apply to information about the identity of a notifier under section 186.</p> <p>(6) Section 186(2)(a) does not apply to a disclosure of the identity of a notifier, in the course of performing functions under this part, to or by the head of a relevant agency other than the department.</p> <p><i>Note—</i> Chapter 6, part 6 provides for the confidentiality of information obtained under this part. See, in particular, the offences under sections 186 to 188 for disclosing particular information other than as authorised under those sections.</p>		