

## LETTER OF AGREEMENT

between

### WESTERN AUSTRALIA POLICE AND DEPARTMENT OF EDUCATION

#### Provision of Information under the *Children and Community Services Act 2004 (WA)*

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#### 1.0 GENERAL

- 1.1 Section 24A of the *Children and Community Services Act 2004 (WA)* ('the Act') and regulation 20A of the *Children and Community Services Regulations 2006 (WA)* ('the Regulations') provide that the Police Service (as per the *Public Sector Management Act 1994*) and the Police Force (as per the *Police Act 1892*), herein referred to as the 'Western Australian Police' and the Department of Education are "prescribed authorities".
- 1.2 Prescribed authorities under the Act may exchange information of a type outlined in 1.4 below, notwithstanding confidentiality requirements contained in another written law.
- 1.3 The purpose of this letter is to facilitate the exchange of information under the Act and Regulations between the Department of Education and the Western Australia Police.
- 1.4 The exchange of information pursuant to this letter is subject to the CEO requesting the information and the CEO disclosing the information both being of the opinion that the release of the information is, or is likely to be, relevant to the wellbeing of a child or a class or group of children<sup>1</sup>.
- 1.5 The CEO of the Western Australia Police is the Commissioner of Police and the CEO of the Department of Education is the Director General of the Department.

#### 2.0 EXCHANGE OF INFORMATION

- 2.1 The overriding principle for the exchange of information under the Act is that the information is, or is likely to be, relevant to the wellbeing of a child or a class or group of children.
- 2.2 A decision concerning any specific request for information will be at the discretion of the relevant CEO.
- 2.3 Under the Act there are no limits placed on the kind of information that may be exchanged providing it relates to the wellbeing or a child or a class or group of children.
- 2.4 The following provides an indication of the type of information each agency may exchange.

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<sup>1</sup> Section 24A(2) and (3) of the Act.

- 2.5 Subject to clause 2.1 the Commissioner of Police generally agrees to release the listed information to the Director General of the Department of Education for matters that are relevant to a particular place or premises that the Director General has a direct interest:
- The name of a person<sup>2</sup>;
  - Relevant details of an alleged incident/offence;
  - Details regarding the progress of a particular matter and other matters such as bail conditions, court appearances and court decisions including restraining orders and prohibited behaviour orders; and/or
  - Details of any persons that may be involved or affected by the matter.
- 2.6 Subject to clause 2.1 the Director General of the Department of Education generally agrees to release the listed information to the Commissioner of Police:
- The name of a person;
  - Enrolment details of a student<sup>3</sup>;
  - Home address and contact details of a student;
  - Attendance and suspension records of a student;
  - Details of an incident(s);
  - Family Court Orders relevant to a student; and/or
  - Information relating to any special learning or behavioural needs of the student.
- 2.7 Where there is a request for the Department of Education to regularly disclosure information to monitor a prolific offender, the matter must be referred to the relevant Regional Executive Director for approval.
- 2.8 Both parties acknowledge that information relating to criminal investigations or any other investigative purpose is not part of the information exchange arrangements under this letter.

### **3.0 PROCEDURES**

- 3.1 All requests for information must be made in writing, electronically or otherwise.
- 3.2 Records of all information exchanged must be retained.
- 3.3 Records must document the reason for the disclosure (or non-disclosure). Where a request for information is denied, written advice, electronically or otherwise, will be provided to the other agency outlining the reasons.
- 3.4 Requests for information are to be dealt with as soon as possible.

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<sup>2</sup> A person may include a child (defined in the *School Education Act 1999* as a person who has not reached the age of 18, a student enrolled in a school or an adult.

<sup>3</sup> The *School Education Act 1999* defines a student as a person who is enrolled in a school.

- 3.5 Any information exchanged is confidential and cannot be disclosed to a third party or used for any other purpose.

#### **4.0 CURRENT ARRANGEMENTS NOT AFFECTED**

- 4.1 The arrangements for the exchange of information under this letter do not affect any release or exchange of information of a general or administrative nature that currently already occurs or the provision of information required by any other law<sup>4</sup>. The arrangements under this letter relate to information that, were it not for the Act, would otherwise be precluded from exchange because of a secrecy or confidentiality provision in another law.

#### **5.0 DELEGATION**

- 5.1 Section 24(6) of the Act provides that the CEO may delegate to another person their powers under the Act.
- 5.2 The Commissioner of Police has separately delegated the decision-making powers in respect to the exchange of information under the Act to:
- a Police Officer appointed under Part 1 of the *Police Act 1892*; and
  - a Public Sector Employee employed under Part 3 of the *Public Sector Management Act 1994*, who from time to time is attached to the Child Assessment and Interview Team of the Western Australia Police, limited only to when they are actually attached to that Team.
- 5.3 The Director General has separately delegated the decision-making powers in respect to the exchange of information to:
- Principals of public (government) schools;
  - Coordinators of Regional Services and Coordinators of Regional Operations in regional education offices;
  - Regional Executive Directors;
  - Assistant Executive Director, Statewide Services;
  - Executive Director, Statewide Services;
  - Principal Allocation Officer, Standards and Integrity;
  - Director Standards and Integrity;
  - Executive Director, Professional Standards and Conduct; and
  - Deputy Director General, Schools.

#### **6.0 ISSUES RELATING TO THE EXCHANGE OF INFORMATION**

- 6.1 Any issues concerning this exchange of information arrangement are to be discussed and resolved between the CEOs or their nominees.

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<sup>4</sup> Such as an order to produce a business document under Part 6 of the *Criminal Investigation Act 2006* (WA).

**7.0 REVIEW**

7.1 This arrangement for the exchange of information may be reviewed or terminated by either agency at any time. The other agency is to be notified of any such review or termination.

**8.0 SIGNATORIES**

8.1 Signed on behalf of the Western Australia Police by:

Signature  .....

K J O'CALLAGHAN APM  
COMMISSIONER OF POLICE

Dated this 17 day of MAY 2012

8.2 Signed on behalf of the Department of Education by:

Signature  .....

SHARYN O'NEILL  
DIRECTOR GENERAL  
DEPARTMENT OF EDUCATION

Dated this      day of                      2012

6 JUN 2012