

Memorandum of Understanding

between

the
Commissioner for Children and Young People
and Child Guardian

and

the
Department of Justice and Attorney-General

2014

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Part 1 - Introduction

Purpose

The purpose of this Memorandum of Understanding is:

- To build and maintain a professional relationship based on effective administrative practices and open communication between the Office of Fair and Safe Work Queensland and the Commission for Children and Young People and Child Guardian.
- To establish and implement administrative processes for the Office of Fair and Safe Work Queensland and the Commission for Children and Young People and Child Guardian to share information. This information will relate to fatalities of children in Queensland which fall within the coverage of the *Work health and Safety Act 2011* and the *Electrical Safety Act 2002*.

Legislative scope

The relevant legislation that applies to this Memorandum of Understanding is the:

- *Commission for Children and Young People and Child Guardian Act 2000*;
- *Work Health and Safety Act 2011*; and
- *Electrical Safety Act 2002*.

Part 2 – Responsible agencies for this Memorandum of Understanding

At the commencement of this Memorandum of Understanding, the departments responsible for its administration are:

- The Commission for Children and Young People and Child Guardian (CCYPCG).
- The agencies of Workplace Health and Safety Queensland (WHSQ), and the Electrical Safety Office (ESO) within the Office of Fair and Safe Work Queensland (OFSWQ) under the Department of Justice and Attorney-General.

A reference to an agency in this Memorandum of Understanding may be extended to include the responsible department.

This Memorandum of Understanding has been developed at the agency level. If there is a change to the department responsible for an agency due to portfolio reassignment or redistribution, or there is a change to the name of a department or agency, there should be negligible effect on the operation of the Memorandum of Understanding. That is, Machinery of Government changes or changes to the name of agencies will not void the Memorandum of Understanding or automatically necessitate renegotiation.

An amendment or replacement of legislation administered by the agencies, to the extent that the new legislation has consistent objects to that which it amends or replaces, will not limit the application of this Memorandum of Understanding.

Any such Machinery of Government or legislative changes will be incorporated at the time of the scheduled review.

The Commission for Children and Young People and Child Guardian

CCYPCG is an independent statutory body charged with responsibility for protecting and promoting the rights, interests and wellbeing of Queensland children and young people under the age of 18.

As part of its mandate, CCYPCG:

- promotes laws, policies and practices that uphold the rights, interests and wellbeing of children and young people, particularly those at risk;
- conducts research into matters affecting the safety and wellbeing of children and young people;
- administers an employment screening system of certain types of child-related employment including educating the community about their obligations to comply with the Commission's Act;
- monitors, audits and reviews systems, policies and practices relating to services provided to children and young people receiving child protection or youth offending services;
- administers a state-wide Community Visitor Program for children and young people in foster care, residential services or detention;
- resolves and investigates complaints about services to children and young people;
- maintains a register of deaths of all children and young people in Queensland, and analyses the information contained in the register to improve laws, policies and practices to help reduce the likelihood of child deaths occurring.

Office of Fair and Safe Work Queensland

The Department of Justice and Attorney-General provides services to support a fair and equitable industrial relations system, safe work environments and improved personal and public electrical safety. The Office of Fair and Safe Work which sits within the Department of Justice and Attorney-General includes the agencies of WHSQ and the ESO.

WHSQ's goal is to foster safe and healthy work environments for all workers in Queensland. The key outcome is a reduction in work-related death, injury and disease in Queensland. WHSQ works with all stakeholders to improve workplace health and safety performance by:

- working cooperatively with other states, territories and the Commonwealth Government to improve national consistency in workplace health and safety and workers' compensation arrangements;
- delivering information and education activities to improve the ability of workplace participants to identify and manage risks pertaining to workplace health and safety;
- implementing targeted compliance programs at state and local levels and participating in national compliance activities; and
- continued implementation of enforcement activities.

The ESO plays an important role in improving electrical safety in both workplaces and homes. As Queensland's electrical safety regulator, the ESO undertakes a range of activities to support electrical safety, with the key outcome being to reduce electricity-related deaths and injuries in Queensland. The ESO's goal is "electrically safe homes, workplaces and other environments".

The functions of the ESO cover the provision of advice to the Minister and statutory bodies, including the Electrical Safety Board and its three committees, the development of legislation and standards, and the management of the registration, licensing and approval regimes established under the Electrical Safety Act 2002. The ESO also prepares and implements education and awareness activities to better inform industry and the community and undertakes state-wide compliance and enforcement activities through a state-wide inspectorate.

Part 3 – Co-operation between agencies

The parties agree to observe and comply with this Memorandum of Understanding:

Each party will:

- Ensure that agency officers affected by the Memorandum of Understanding are provided with appropriate training and resources to enable them to give effect to the Memorandum of Understanding.
- Develop mechanisms to enable each agency to give effect to and monitor the implementation of the Memorandum of Understanding within the respective agencies.

Notification of incidents

The OFSWQ responds to incidents which fall within the coverage of the *Work Health and Safety Act 2011* and the *Electrical Safety Act 2002*. The two Acts have slightly different coverage of incidents:

- The *Work Health and Safety Act 2011* covers workers and other persons whose health and safety is affected by work carried out as part of a business or undertaking. There may be some situations where the *Work Health and Safety Act 2011* does not have coverage. For example, a fatality which occurs in a residential part of a property and is unconnected with the workplace or with work undertaken by the business or undertaking is outside the jurisdiction of the OFSWQ.
- In contrast, the *Electrical Safety Act 2002* covers electrical incidents occurring at both workplaces and residences.

Where an incident falls within OFSWQ's jurisdiction, it will promptly notify the nominated contact email address for the CCYPCG of a fatality relating to a child or young person under the age of 18.

The notification will be emailed to the CCYPCG and will normally be within 7 working days of OFSWQ receiving notification of the incident.

It will include:

- the name of the affected worker or other person at the workplace
- location of the incident
- summary of the incident

In order to assist CCYPCG to conduct more detailed analyses of child deaths in Queensland, OFSWQ will, in relation to matters involving the death of a child or children, provide CCYPCG with advice (as soon as practicable) about:

- whether an investigation was conducted in relation to the incident and/or reasons for not conducting an investigation, and
- details about the outcome/s of any investigations conducted, including the provision of copies of relevant investigation reports (if available) to assist CCYPCG in performing its child death review functions under provisions specified by the *Commission for Children and Young People and Child Guardian Act 2000*.

Notification of child deaths

The CCYPCG receives notification from the Coroner about child deaths, including child deaths that may have occurred at a workplace. Recognising that other notification pathways may not be aware of OFSWQ's jurisdiction, and to ensure that OFSWQ is notified about all relevant deaths, the CCYPCG will notify OFSWQ of all fatalities relating to a child or young person under the age of 18, where an incident falls within OFSWQ's jurisdiction.

The notification will normally be emailed to the nominated contact email address for OFSWQ within 7 working days of the CCYPCG receiving notification of the incident. The notification will include:

- the name of the child or young person
- date of birth
- date of death
- location of death incident (address), and
- summary of relevant circumstances

OSWQ will assess the notification and provide feedback to the CCYPCG on the status of these deaths following the agreed process outlined under 'Notification of Incidents' above.

Information sharing/disclosure of information

The agencies acknowledge that general information sharing, where it is considered practical and appropriate, will minimise duplication of government resources. The agencies agree that, subject to legislative provisions, information available to one agency, which is relevant to the responsibilities of another agency, will be shared as requested. Each agency will provide relevant information to the other agencies on a "best endeavours" basis. This will be subject to any relevant legal and operational considerations and any conditions which the provider of the information might place upon the use or disclosure of the information including compliance with the *Right to Information Act 2009* and *Information Privacy Act 2009*.

When sharing information, the agencies acknowledge the confidentiality requirements of the legislation applicable to each. The agency providing the information has the right to specify the level of confidentiality attached to the information being provided in order to protect that information from unauthorised use or disclosure. The agency receiving the information will take all reasonable steps to ensure the information is used or disclosed for the purpose for which it was obtained. The *Right to Information Act 2009* provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies. The *Right to Information Act 2009* requires that documents be disclosed upon

request, unless the documents are exempt or on balance, disclosure is contrary to the public interest.

The agencies are also required to comply with the *Information Privacy Act 2009*. The Information Privacy Principles in the *Information Privacy Act 2009* set out how personal information should be responsibly collected, stored, used and disclosed. The agencies acknowledge that personal information may only be disclosed to another party in accordance with the requirements of the Information Privacy Principles.

Meetings

The parties agree to meet as required to discuss the progress of the Memorandum of Understanding including opportunities to collaborate to achieve a reduction in deaths, injuries and illness, particularly those relating to children.

Part 4 - Governance

Term of Memorandum of Understanding

This Memorandum of Understanding will commence and be effective from the date of execution by both parties and will continue in force until terminated by either party.

Maintenance, review and evaluation of Memorandum of Understanding

This Memorandum of Understanding may be varied or withdrawn at any time by an agreement in writing executed by the agencies.

The agencies agree to maintain the currency of this Memorandum of Understanding as required.

Minor information updates which do not affect the operation or validity of the Memorandum of Understanding may be undertaken at any time with the updated information forwarded to the other agencies and appended to this Memorandum of Understanding. For example, updating the contact details listed in Schedule 2.

The agencies agree to review and evaluate the operation of the Memorandum of Understanding within three years of the Memorandum of Understanding commencing. Following the evaluation, the agencies will, where appropriate or necessary, develop mechanisms to discuss, share learnings and improve the Memorandum of Understanding and/or ways in which the agencies are operating under the Memorandum of Understanding.

Availability of Memorandum of Understanding

The agencies agree to circulate the signed Memorandum of Understanding to all affected officers in their respective agencies.

The agencies agree to publish the signed Memorandum of Understanding on their respective web sites.

Resolution of issues regarding the application of the Memorandum of Understanding

If there is an issue between agencies in relation to the application of the Memorandum of Understanding, the agencies will:

- firstly, ensure agency contact officers, listed in Schedule 2, use their best endeavours and act in good faith to resolve the issue in a timely manner;
- secondly, if the issue(s) can not be resolved in the first instance, the agency that has an issue with a component of the Memorandum of Understanding refers the matter in writing to the relevant chief executive officer of the other agency(s) to which this Memorandum of Understanding applies and;
- finally, in the event that the issue(s) cannot be resolved to the satisfaction of each agency, each agency will refer the issue to its departmental chief executive for timely resolution.

What is not intended

This Memorandum of Understanding is not intended to:

- Be legally binding. An alleged or real breach of any provision of this agreement is not intended to give rise to a legally enforceable cause of action.
- Entitle or require a person to disclose information that is the subject of legal professional privilege or affect the law or practice relating to legal professional privilege.
- Restrict the statutory duties, directions and powers available to the Queensland Government agencies impacted by this Memorandum of Understanding.

Signatories

Signed for and on behalf of
the Commission for Children and Young People and Child Guardian
by Mr Steve Armitage, Commissioner for Children and Child Guardian

Dated this _____ day of _____ 20 ____

Signed for and on behalf of
the Department of Justice and Attorney-General
by Dr Simon Blackwood, A/Deputy Director-General

Dated this _____ day of _____ 20 ____

SCHEDULE 1 CONTACT DETAILS

	Contact Officer	Incident notification
Commission for Children and Young People and Child Guardian	Manager, Child Death Review Systemic Monitoring and Review Program Phone (07) 3211 6964 Child.Death@ccypcg.qld.gov.au	N/A
Workplace Health and Safety Qld www.worksafe.qld.gov.au and Electrical Safety Office www.electricalsafety.qld.gov.au	Manager, Coronial Liaison and Investigations Support Service Workplace Health and Safety Queensland Phone (07) 4687 2896 ohscoronialliaison@justice.qld.gov.au	1300 369 915 For emergencies where death or serious injury occur as a result of electric shock ring (07) 3235 4596