

APPOINTMENT AND FUNCTIONS OF AUTHORISED PERSONS PROCEDURES

This procedure must be read in conjunction with the *Appointment and Functions of Authorised Persons* Policy.

1. Overview
	1. These procedures set out the requirements in relation to appointing authorised persons who carry out specific statutory functions on behalf of the Education and Training Directorate (the Directorate) and how their powers are exercised.
2. Rationale
	1. The *Education Act 2004* (the Act) establishes authorised persons to undertake functions in relation to government and non-government schools and home education.
3. Procedures
	1. The Directorate will keep a register of all current authorised persons. The register will:
* record the provisions of the Act under which a person is appointed
* include details of receipt and return of an identity card.

Appointment

* 1. An authorised person can be a Directorate employee, an employee of another ACT Government agency or a person outside ACT Government.
	2. The Act sets out mandatory appointment criteria. Appointees must:
* be an Australian citizen or permanent resident of Australia
* be considered by the Director-General as a suitable person having regard in particular to any convictions and the person’s employment record
* satisfactorily complete adequate training relevant to their appointment.
	1. Criminal history checks are mandatory unless a check has been completed in the past 12 months.
	2. An authorised person may be appointed for a period of up to three years at the discretion of the Director-General. An appointment’s duration must be set out in the instrument of authorisation.
* an authorised person who is a Directorate employee may be appointed for a period of up to three years. This appointment may be reviewed on an annual basis or as-required basis.
* the appointment of a person who is external to the government will generally be made to fulfil a specific purpose and will be for a specific (short-term) timeframe.
	1. The Director-General may limit an authorised person’s role to specific functions. This will be set out in the instrument of authorisation.
	2. The Director-General may appoint additional authorised persons on an as-required basis, for the period of time stated on the instrument of authorisation.

ACT Government employees

* 1. The Director-General may appoint individuals as authorised persons or identify positions within the agency that require the holder to be appointed an authorised person.
	2. A person appointed in a particular position who moves into another position, either temporary or permanent, which requires the holder of the position to be an authorised person, can retain the status of an authorised person until the normal expiry date.

Appointment of non-ACT Government persons

* 1. When appointing a non-ACT Government person as an authorised person (government), the Director-General must be satisfied that the eligibility criteria has been complied with, including that the person has completed relevant training.

Training

* 1. Persons must have satisfactorily completed adequate training to exercise the powers of an authorised person proposed to be given to that person.
	2. Training must be completed by persons nominated to be authorised persons prior to the appointment being made.
	3. The Directorate or another agency will provide training for authorised persons.

Identity card

* 1. The Directorate will provide authorised persons (government) and authorised persons (non-government) with an identity card that states the person is an authorised person for the Act or stated provision/s of the act.
	2. The identity card must show, as required by section 68(1) and section 120(1) of the Act
* a recent photograph of the person
* the name of the person
* the date of issue of the card (as stated on the instrument of authorisation)
* the expiry date of the card (as stated on the instrument of authorisation)
* the specific parts of the Act under which the person is authorised.
	1. An authorised person must acknowledge receipt of an identity card and be provided with an acknowledgement on return of the card.
	2. As required in sections (69(1) and (2) (government) and 121(1) and (2) non-government, and authorised person:
* must show their identity card to the principal of a school prior to entering the school and exercising any powers under the legislation
* must not remain in a school if they fail to show an identity card when asked by the principal of the school.
* as required under section 68(2) and section 120(2) of the Act, an authorised person must return their identity card within 21 days of cessation of appointment. Failure to do so is a strict liability offence and may incur a fine.

Cessation of appointment

* 1. An appointment as an authorised person ceases when:
* the expiry date on the instrument of appointment is reached
* the Director-General revokes the appointment.
	1. The Director-General will revoke an appointment of an authorised person when:
* a person no longer meets the conditions set out in section 67 or section 119 of the Act, including if the Director-General determines that a person is no longer a suitable person to be appointed
* there is no longer a need for the appointment
* the person is no longer employed in a position appropriate to perform the duties of an authorised person.
	1. The factors that the Director-General may consider in determining whether or not to revoke an appointment may include:
* breach of law
* breach of government or departmental policies
* breach of Code of Ethics.

Consent to entry – obligations of authorised person (non-government)

* 1. The following obligations apply if the authorised person (non-government) intends to ask the principal of a non-government school to consent to the entry of the authorised person:
	2. Before asking for consent to enter, the authorised person (non-government) will tell the principal:
* the reason for the entry
* that the principal is not required to consent
	1. If the consent is given the authorised person (non-government) will ask the principal to sign an acknowledgement of the consent.
	2. The acknowledgement must state that:
* the principal was told the reason for the entry and that the principal is not required to consent
* the principal gives an authorised person (non-government) consent to enter the school and exercise powers under the Act
* the time and date the consent was given.
	1. If the principal signs an acknowledgement of consent, the authorised person (non-government) will immediately give a copy to the principal.
1. Contact
	1. The Director, Governance and Assurance is responsible for this procedure.
	2. For support contact Governance and Assurance Branch on (02) 6205 4379 or email det.legal.liaison@act.gov.au.
2. Complaints
	1. Any concerns about the application of this procedure or the procedure itself, should be raised with:
* the school principal in the first instance
* the Directorate’s Liaison Unit on (02) 6205 5429
* online at <http://www.det.act.gov.au/contact_us>.
* See also the *Complaints Policy* on the Directorate’s website.
1. References
	1. **Related Policies and Documents** -
* *Appointment and Functions of Authorised Persons* policy
* *Attendance at ACT Public Schools*
* *Attendance at Non-Government Schools*
* *Education Participation (Enrolment and Attendance)* Policy
* [*Registration of Home Education in the ACT*](http://www.det.act.gov.au/__data/assets/pdf_file/0008/483479/Registration-of-Home-Education-in-the-ACT-Manual.pdf)