

Tasmanian State Service

# Workplace Practice Guideline

Understanding *State Service Act 2000* delegations



DPAC RM8: 14/100996 | 2015

# Workplace Practice Guideline

## CONTENTS

Introduction .....	3
Purpose Of This Guide.....	3
How The Legislation Operates On A Decision-Making Matter .....	3
What Is A Delegation?.....	4
Why Do We Need Delegations? .....	4
The Principles .....	4
Ministerial Delegations .....	4
Limitations And Exercising Ministerial Delegated Power Or Functions.....	5
Head Of Agency Delegations.....	5
Limitations And Exercising Head Of Agency Delegated Power Or Functions.....	6
Roles And Responsibility.....	6
Agency responsibility .....	6
Employee responsibility.....	7
Where Should Employees And Delegates Go To For Help? .....	8
Procedures For Conferring And Recording Delegated Powers.....	8
Organisational Monitoring, Evaluation And Practice.....	9
References And Further Reading.....	10
Appendix A: Human Resources Delegation Policy Framework.....	11
How To Use This Framework.....	11
Policy Elements To Include.....	11
Purpose.....	11
Application .....	11
Relevant legislation.....	11
Related policies.....	12
Date effective/date for review .....	12
Responsible officer/s .....	12
Definitions .....	12
Principles .....	13
General policy responsibilities, advice and guidelines .....	13
Suggested Policy Attachments.....	14
Attachment 1: Examples Of Delegations .....	15
Version 1 - instrument of delegation issued by ssmo under the <i>State service act</i> .....	15
Version 2 - instrument of delegation issued by agency under the <i>State service act</i> .....	16
Attachment 2: Sample Agency Register For Ministerial Delegations.....	17
Appendix B: Agency Checklist Of Key Delegation Considerations .....	18
Appendix C: Delegate Decision Making Checklist.....	19
Appendix D: Organisational Monitoring, Evaluation And Practice .....	20
Table 1: Examples of the types of factors that can be monitored .....	20

# Workplace Practice Guideline

## INTRODUCTION

Most employment decisions that affect individuals and agencies are made under express authorisation arising out of peoples' roles. Central to good decision making is a decision maker's understanding of the legal and administrative framework in which decisions should be made.<sup>1</sup>

## PURPOSE OF THIS GUIDE

This guide provides officers and employees with the general principles when exercising delegations specific to human resources (employment) activities. It does not cover delegations for financial or procurement matters.

This guide focuses on the principal delegations from the Premier as Minister administering the *State Service Act 2000* (Act) relating to the power of delegation in respect of employment decisions, where the authority to act is expressly approved by an Instrument of Delegation or via an Employment Direction.

The key points emphasised in this document are:

- that there is to be a clear line of authority and accountability;
- each instrument of delegation must identify the source of the legislative power to delegate and the limits on that authority granted;
- both the delegator and delegate understand their responsibilities;
- delegates possess the necessary skills and attributes to exercise the delegated powers and functions and receive appropriate instruction;
- regular internal audit, review and monitoring is undertaken; and
- evaluation and reports on the exercise of delegations.

## HOW THE LEGISLATION OPERATES ON A DECISION-MAKING MATTER

The *State Service Act 2000* may have its effect for a matter by:

- directly deciding the matter; or
- authorising someone else, that is, delegating the power to someone else, to decide the matter.

The *Acts Interpretation Act 1931* is an Act of the Parliament of Tasmania which establishes rules for the interpretation of Acts and other legislation. It contains provisions about how to interpret legislation and guiding principles relating to the legislation.

---

<sup>1</sup> Australian Government, Administrative Review Council, *Decision Making Best Practice Guides*, 2007.

## Workplace Practice Guideline

### WHAT IS A DELEGATION?

A delegation is a written document signed by a person (the **delegator**) conferring the **delegator's** power upon the **delegate**. The **delegate** makes decisions in place of the **delegator** and assumes the power to do this. Although a **delegate** acts in their own name (not for and/or on behalf of the **delegator**), the actions of a delegate (acting in accordance with an instrument of delegation) are nonetheless taken to be the actions of the delegator.<sup>2</sup>

### WHY DO WE NEED DELEGATIONS?

Delegation plays an important role in ensuring that the agency acts in accordance with the legal framework. Good delegation is about how an agency uses delegation arrangements:

- to contribute to effective decision making; and
- to ensure it meets the requirements of the law, regulations and published standards.

### The Principles

Delegation matters are underpinned by the State Service Principles (go to the SSMO Legislation overview<sup>3</sup> page) to achieve concordance with:

- Accountability—being answerable for decisions and having appropriate mechanisms in place to ensure the agency adheres to all applicable standards;
- Transparency and openness—having clear roles and responsibilities, and clear procedures for making decisions and exercising power; and
- Integrity—acting impartially, ethically and in the interests of the agency.

Elements that contribute to, and support these principles include:

- policy or guideline – to ensure that the person has the power to act or to make the decision;
- expectations – organisation-wide understanding of performance and behavioural expectations, through effective communication and the implementation of best practice state service management practices; and
- conformance – how an agency uses governance arrangements to ensure it meets the requirements of the law, regulations and published standards.

### MINISTERIAL DELEGATIONS

The *State Service Act 2000* provides for the delegation of employing powers and certain actions by the Minister administering the State Service Act to Heads of Agencies or persons nominated by the Head, in regard to:

---

<sup>2</sup> s23AA(4) of the Acts Interpretation Act 1931.

<sup>3</sup> <http://www.dpac.tas.gov.au/divisions/ssmo/legislation>

## Workplace Practice Guideline

- the Code of Conduct (Section 10(1) (a-f));
- the appointment or promotion of employees (Section 37(1));
- the termination of employees (Section 44(1) and Section 45(1)); and
- the determination of inability actions (Section 48(1) (a-e)).

The terms 'appointment', 'promotion', 'employment' and 'termination' include all related activities in the appointment/employment process (eg confirmation of appointment or extensions of probation).

The provisions of the Act indicate whether powers can be delegated, but the provisions of the *Acts Interpretation Act 1931*, spell out what a power to delegate allows. Sections 23AA and 23A regulate the powers to delegate and the powers of the delegate. Go to Tasmanian Legislation Online's Acts Interpretation Act<sup>4</sup> page.

### LIMITATIONS AND EXERCISING MINISTERIAL DELEGATED POWER OR FUNCTIONS

A delegated power or function to a Head of Agency may be limited, so that the Head of Agency may only exercise a power in certain circumstances—for example, the Instrument of Delegation for Section 44(4) of the *State Service Act 2000*, specifies that a Head of Agency can only exercise the power after consultation with the Director, State Service Management Office, Department of Premier and Cabinet.

In this instance it is required that a Head of Agency consult with the Director, however, the power to make a decision on a matter remains with a Head of Agency. It is inappropriate to limit a Head of Agency's judgment by limiting the evidence available to make a decision. Other examples of where it might be appropriate for a Head of Agency to exercise powers personally include:

- establishing written procedures for determining breaches of the Code of Conduct and sanctions where a breach has been found (section 10(1) (a-f))
- the appointment or promotion of employees (section 37(1))
- the determination of inability actions (section 48(1) (a-e)).

### HEAD OF AGENCY DELEGATIONS

A Head of Agency, under the *State Service Act 2000* has the power to delegate any of his or her functions and powers by reason of Section 35, other than:

- the power to delegate;
- the power of appointment or promotion delegated by the Head of the State Service.

---

<sup>4</sup> [http://www.thelaw.tas.gov.au/Section\\_23AA\\_and\\_23A](http://www.thelaw.tas.gov.au/Section_23AA_and_23A)

## Workplace Practice Guideline

The Tasmanian State Service Code of Conduct<sup>5</sup> (go to the SSMO Legislation overview page) applies to the exercise of power under delegation. Standards expected under the Code of Conduct include, the duty to behave with honesty and integrity, and to act with care and diligence. Agencies that have positions occupied by statutory office holders, the source of the power to delegate authority can be found in the legislation that establishes that office.

### LIMITATIONS AND EXERCISING HEAD OF AGENCY DELEGATED POWER OR FUNCTIONS

A Head of Agency may give directions to a delegate in relation to a delegated power or function. A Head of Agency may also limit the scope of a delegation so that the delegate may only exercise a power in certain circumstances. For example, the Instrument of Delegation could specify that a particular delegate could only exercise the power to appoint a person where the employee is to be engaged at a certain classification level (for example, 'Limited to the Tasmanian State Service Award General Stream, Bands 1 to 8 and equivalent salary levels within other salary streams, Industrial Awards and Agreements') or a geographical area. Similarly, where a Head of Agency delegates powers to a delegate without any limitation, it would be open to the delegate to impose limitations of this nature when delegating powers.

A delegation of this nature would limit the power which the delegate could exercise, but would not otherwise limit the discretion of the delegate, when exercising the power, to make a decision based on the delegate's own opinion. It would, be illegal to control the delegate's discretion or judgement with a limitation, for example, by saying the delegate can only exercise the power to make a favourable decision. The power to be exercised is the whole power to make the decision on a matter and forms part of the delegation.

### ROLES AND RESPONSIBILITY

#### Agency responsibility

A decision maker needs to be clear about where the source of power for that decision is derived from. This can be either an Act of Parliament or a subordinate law made by a person or body to whom Parliament has delegated law-making power. Examples of subordinate laws are regulations, statutory rules and ordinances.

---

<sup>5</sup> <http://www.dpac.tas.gov.au/divisions/ssmo/legislation>

## Workplace Practice Guideline

The rules of delegation are contained in the *Acts Interpretation Act 1931*. Under section 23AA<sup>6</sup>, (visit [Tasmanian Legislation Online website](http://www.thelaw.tas.gov.au/Section_23AA)), a Head of Agency may give directions to a delegate in relation to a delegated power or function. When the delegate has exercised the delegated authority properly, it will be taken as having been exercised on behalf of the person in whom the power is assigned by law. It is important that a level of oversight is applied to delegated authority, through internal auditing process evaluation, or another form of monitoring. Supervision is particularly relevant for employees who have recently been appointed to a role that has a delegation attached to check that they are exercising the delegated authority properly.

Where a Head of Agency delegates powers, an agency's administration is to include:

- A delegations policy or procedures that sets out the obligations and responsibilities associated with acting under delegation;
- Issue a written instrument to each delegate that may impose limitations such as, specifying a time limit or position to which the power is delegated and any classification level cut off;
- Maintain a central electronic register of all original Instruments of Delegation and associated documentation;
- Seek appropriate approvals from the Delegator for the delegation to be made and executed; and
- Make reports available on the exercise of delegated powers as required for accountability and reporting activities.

### Employee responsibility

Delegates apply their judgment when exercising the power or performing the function that they have responsibility for under delegation. The delegate is accountable for the decisions made under delegation and sign documents in their own name; therefore they should be able to justify the decisions made under delegation and by ensuring all required information is available in making their decision.

Agencies must have their own procedures for disclosure and management of conflicting interests. A delegate must disclose their interests to the agency, and the agency assesses and manages any conflict with the officer/employee's role as soon as practical. The *State Service Act 2000*, places all officers and employees under a legal duty to comply with the Code of Conduct.<sup>7</sup>

---

<sup>6</sup> [http://www.thelaw.tas.gov.au/Section 23AA](http://www.thelaw.tas.gov.au/Section_23AA)

<sup>7</sup> [Code of Conduct](#)

## Workplace Practice Guideline

Protocols should clearly define lines of accountability and, where necessary, identify the authority for any action pertaining to actual instances of undeclared conflict of interest. Delegates need to think about potential consequences and the effect of their decisions on others, and their duty to various people. The Institute of Public Administration and the Integrity Commission joint panel discussion titled "*Is that just the way it is?*" *Tackling conflict of interest in Tasmania* provides some key messages regarding the ethical dimensions of exercising judgment and responsibility, responding to authority, and undertaking different roles. View the Institute of Public Administration and Integrity Commission joint panel discussion.<sup>8</sup>

### WHERE SHOULD EMPLOYEES AND DELEGATES GO TO FOR HELP?

Agency human resources can assist employees and delegates to locate their agency's policies and procedures.

### PROCEDURES FOR CONFERRING AND RECORDING DELEGATED POWERS

The State Service Management Office (SSMO) maintains a central register of Ministerial delegations. Agencies wishing to vary these delegations will submit the proposed variations to the Minister administering the *State Service Act 2000*, through SSMO. When Heads of Agencies delegate powers, a similar record is required of what powers have been delegated and to whom, for reference when required.

Head of Agency delegations are normally set out in the same format as Ministerial delegations. Agencies are required to maintain a register containing Instruments of Delegation relating to both Ministerial and Head of Agency delegations. The delegations register should be kept in a central location in each agency (for example Human Resources) for review purposes by the Head of the State Service, the State Service Management Office or the Auditor-General.

Delegations should be addressed as part of the handover of duties to an employee acting in a role to which a delegation applies, to ensure that they firstly have authority to act and secondly understand their responsibilities.

In several agencies, a number of roles are occupied by statutory office holders. For these roles, the Instrument of Delegation must name an office holder rather than nominating the position. For this reason, it is necessary that arrangements are made in advance for periods of time where another employee or officer will be performing the duties of the statutory office holder. This is done by authorising the person acting in the role via a temporary exercise of powers. A delegation that names the delegate personally must be reviewed as soon as possible after the office holder leaves that position.

In this instance, when the delegator leaves their position, the delegation remains effective because the delegate is authorised to make a decision in their own right; they are not merely an agent who exercises power in the name of the principle. It is good practice to link delegations to position numbers.

---

<sup>8</sup> <http://vimeo.com/>



## Workplace Practice Guideline

It is important to note that s35 of the *State Service Act 2000*, is clear that a Head of Agency may delegate any of his or her functions or powers under this Act or any other Act (other than this power of delegation). Delegations cannot be further delegated unless the legislation specifically allows for this.

### ORGANISATIONAL MONITORING, EVALUATION AND PRACTICE

At the core of delegation is accountability. Monitoring may be described as 'a process of ensuring the delegated task is being completed competently in the manner required' that allows agencies to:

- ensure the delegate is informed to undertake the task;
- ensure the task is being completed appropriately and is compliant with instructions;
- modify the task and/or instruction as and when required;
- provide appropriate and ongoing support to delegates; and
- ensure the outcomes of the task are accurate and in accordance with conventions for applying powers in practice.

Evaluation forms an integral part of the delegation and monitoring process. Key elements of performance reporting against a set of performance indicators may include some/all of the processes listed below:

- Audit delegation practice
  - employee surveys
  - compliments and complaints register
  - incident register
- Audit delegations
  - Are they still utilised?
  - Are some delegations no longer delegated?
  - Do new delegations need to be written?
- Monitor supporting systems
  - Audit of induction and training

# Workplace Practice Guideline

## REFERENCES AND FURTHER READING

The list below, are the key documents used in preparing this guide.

AHA delegation, monitoring and evaluation @ WA Country Health Service (October 2009)  
<http://www.wacountry.health.wa.gov.au/>

[Australian Government, Administrative Review Council, \*Decision Making best practice guides 2007\*](#)

[Australian Public Service Commission \(APSC\) \*Delegations under the Public Service Act 1999 and subordinate legislation, August 2013\* <http://www.apsc.gov.au/publications-and-media/current-publications/>](#)

Auditor-General Special Report No.59 of 2006, *Delegations in Government Agencies, Local Government and Overseas Travel* <http://www.audit.tas.gov.au/media/Special-Report-No-59-Delegations-in-Government-Agencies-Local-Government-Delegations-and-Overseas-Travel-April-2006>

Auditor-General Report No.1 of 2014-15, *Recruitment practices in the State Service and Report*  
<http://www.audit.tas.gov.au/media/Follow-Up-Report-2009>

Chapman, A. Tannenbaum and Schmidt: Model of Delegation and Team Development  
<http://www.businessballs.com/delegation.htm#steps>

Department of Health 2012, Supervision and delegation framework for allied health assistants, Workforce Leadership and Development Branch, Victorian Government  
<https://sarah.org.au/sites/default/files/images/framework>

Independent Commission Against Corruption, NSW  
<http://www.icac.nsw.gov.au/preventing-corruption/knowning-your-risks/delegation-of-authority/>

Integrity Commission of Tasmania  
[http://www.integrity.tas.gov.au/prevention\\_and\\_education/misconduct](http://www.integrity.tas.gov.au/prevention_and_education/misconduct)

Integrity Commission of Tasmania Training Resources  
[http://www.integrity.tas.gov.au/prevention\\_and\\_education/](http://www.integrity.tas.gov.au/prevention_and_education/)

Public Service Commission of Canada, PSC appointment framework knowledge test to validate expertise  
<http://www.psc-cfp.gc.ca/plcy-pltq/learn-apprend/afkt-eccn/index>

Department of Treasury and Finance, Recording conflict of interest declarations – Guidelines for Agencies  
<http://www.purchasing.tas.gov.au/buyingforgovernment/>

University of Tasmania, Report on the Review of Delegations Register of 2012  
[http://www.utas.edu.au/\\_data/assets/pdf\\_file](http://www.utas.edu.au/_data/assets/pdf_file)

Victorian Public Sector Commission, Managing Conflicts of Interest, A Guide to policy development and implementation 2014 <http://vpssc.vic.gov.au/products/a-z/view-products/managing-conflicts-of-interest>

# Workplace Practice Guideline

## APPENDIX A: HUMAN RESOURCES DELEGATION POLICY FRAMEWORK

### HOW TO USE THIS FRAMEWORK

This can be used by agencies as a guide for developing an Agency delegation policy that will incorporate all the essential elements of the delegation policy framework. A policy should be tailored to the particular circumstances, activities and risks.

### POLICY ELEMENTS TO INCLUDE

#### Purpose

This section should explain the purpose of the policy and what it is intended to achieve for example:

This policy aims to make current human resources delegations clear and set out the obligations and responsibilities associated with acting under delegation. It provides:

- The instrument of delegation (attachment 1) by which the Head of Agency has delegated powers and functions to various positions in the agency;
- Provides a schedule of delegations (attachment 2) which details the powers and functions the Head of Agency has delegated, to whom they are delegated and the limitations determined.

#### Application

This section should explain to whom the policy applies, if it is specific to human resources activities and what it does not cover. In addition to standard provisions that apply to all employees, consider whether the policy should include special provision for:

- Executive management
- Employees in different geographical locations.

For example:

This policy applies to all employees. It is specific to human resource activities and does not cover any other form of delegation (such as financial or procurement delegations).

#### Relevant legislation

This section of the policy should refer to any relevant legislation. This should include service wide legislation such as listed below as well as any specific legislation that applies to the agency or to particular classes of employees within the agency (for example for particular professions such as ). For example:

- Legislation
- State Service Act 2000
- State Service Regulations 2011
- Other

## Workplace Practice Guideline

- State Service Code of Conduct
- State Service Principles
- Employment Directions
- Various [agency name] policies
- State Service Management Office
- Tasmanian Awards and Agreements covering State Service employees.

### Related policies

The policy should list other agency policies that have a bearing on the operation of the policy. For example the agency's conflict of interest, gifts, benefits and hospitality, procurement and recruitment policies.

### Date effective/date for review

This section should state the commencement date for the policy as well as when it will be reviewed.

### Responsible officer/s

Nominate and advise an individual/s as the responsible officer/s for overseeing delegations and explain the functions they will perform, such as:

- Maintaining records of delegation and disclosed conflicts of interest
- Maintaining the register of delegations and conflicts declared
- Ensuring the delegations policy is kept current
- Providing a point of contact for anyone wanting assistance in exercising delegation and authorisation
- Receiving complaints and grievances of possible breaches of the code of conduct, state service principles, the conflict of interest policy
- Organisational monitoring and evaluation to ensure that powers are exercised in accordance with the instrument of delegation and schedule of delegations.

### Definitions

This section should include any definitions that are necessary to assist with understanding the policy. Some of the basic definitions to include are:

Definition	Description
<b>Business unit Head</b>	An employee with management responsibilities who reports directly to a Division Head
<b>Delegate</b>	A person occupying a position to which the Premier, Minister, the Head of the State Service or Head of Agency has delegated some of their powers and functions

## Workplace Practice Guideline

Definition	Description
<b>Delegations</b>	State Service legislation allows the Premier, Minister, Head of the State Service and Head of Agency to delegate some of their powers and functions to others. These arrangements are formalised in instruments of delegation (see below)
<b>Division Head</b>	The Head of Agency or Chief Executive Officer or a Deputy Secretary who reports directly to the Head of Agency
<b>Instrument of Delegation</b>	An official document by which the Premier, Minister, Head of the State Service or Head of Agency delegates some of their powers and functions with regard to exercising administrative authority (see attachment 1)
<b>Line manager</b>	An employee with management responsibilities that reports to a Business Unit Head
<b>Schedule of Delegations</b>	A document developed by the agency that lists and describes the powers and functions delegated, to whom they are delegated and the limitations on the powers delegated (see attachment 2)

### Principles

The delegations policy framework set out three principles that should guide and underpin the agency's development of systems, policies and procedures to manage delegations:

- Accountability
- Transparency and openness
- Integrity

### General policy responsibilities, advice and guidelines

This section is the place to inform employees about the practical steps to exercising a delegation. A delegate will need advice about:

Principles	Responsibilities of a delegate
<b>Accountability</b>	Not to delegate their delegation
	Complying with limits of their delegation
	Only approve the matters for which they have delegation
	Ensuring they do not create precedents—approve standard processes only
	Assessing whether their private or personal interests conflict, or have the potential to conflict with their delegation

## Workplace Practice Guideline

Principles	Responsibilities of a delegate
Transparency, openness and integrity	Exercising their delegation in accordance with the legislation
	Their responsibility to act in the best interests of the agency
	Taking reasonable steps to restrict the extent to which a private interest could compromise, or be seen to compromise their impartiality when exercising their delegation
	How to communicate a decision made under their delegation
Process	Roles and responsibilities for managing the policy, ensuring that powers are exercised in accordance with the instruments of delegation and schedule of delegations and record keeping
	How is a delegation given
	Who can amend the register of delegations
	What action they should take when a delegate is absent
	How to sign forms using the delegated authority

### SUGGESTED POLICY ATTACHMENTS

Appendices are useful and provide more details or complementary information such as:

- Standard forms for instrument of delegation, including examples
- A register or schedule of delegations.

# Workplace Practice Guideline

## ATTACHMENT I: EXAMPLES OF DELEGATIONS

Version I – Instrument of delegation issued by ssmo under the *State service act*

### SCHEDULE

#### STATE SERVICE ACT 2000

#### INSTRUMENT OF DELEGATION

#### DESCRIPTION

AGENCY: [This section should name your agency]

AUTHORITY: The Minister delegates to the Office listed in this Schedule the authority to [This section should include reference to specific power including the specific section of the State Service Act] of the *State Service Act 2000*.

#### LIMITATIONS

The power delegated to the holder for the time being of any Office listed in the table below is limited as specified in the second column of that table.

OFFICE	LIMITATIONS
[This section should include the position title eg Head of Agency]	[This section should include any restriction eg Nil]

DATED this dd/mm/yyyy.

[Name of Head of Agency]

[Title]

[AGENCY]

## Workplace Practice Guideline

Version 2 - instrument of delegation issued by agency under the *State service act*

**NAME OF THE ACT 20XX**

### INSTRUMENT OF DELEGATION

I, **[This section should include the full name of Head of Agency]**, being and as the Secretary of the **[insert department name]**, pursuant to Section 35 of the *State Service Act 2000* hereby delegate to the person who for the time being holds or occupies the offices or positions listed in column 1 of the table below, those functions and powers listed in column 2 of the table, subject to any limitations or conditions set out in the table.

COLUMN 1	COLUMN 2
Office or position title	Delegated functions, powers and limitations including specific section of the Act
<b>[Complete this field]</b>	<b>[Complete this field]</b>

These delegations are subject to compliance with any specific administrative policies, procedures and guidelines currently in operation or issued from time to time by the Secretary of the **[This section should insert the department name]**.

DATED this **dd/mm/yyyy**.

**[Name of Head of Agency]**  
**[Title]**  
**[AGENCY]**



## Workplace Practice Guideline

### ATTACHMENT 2: SAMPLE AGENCY REGISTER FOR MINISTERIAL DELEGATIONS

Power and Function	Description	Facility	Position authorised (CURRENT)	Position authorised (NEW)	Conventions applying/ powers in practice (Limitations)	Legislation /Award/ Policy
<b>Authority to impose sanctions on an employee</b>	For breaches of the Code of Conduct	Letter	Secretary	Secretary	Secretary cannot delegate this power and function.	SSA: s 10(1)(a) to (f)
<b>Selection Report – permanent and fixed-term</b>	Selection of employee for permanent and fixed-term positions through a merit or suitability bases assessment.	Selection Report	Division Head	Division Head	Report to be supported by HR Director prior to exercising delegation. Positions reporting to Division Head to be approved by Secretary. Selection Reports for General Stream Bands 9 and 10 to be approved by Secretary. Power and function cannot be delegated further.	SSA: s 37(1) (2000) ED 1 (2013) Ministerial Delegation Instrument (2014)
<b>Instrument of appointment – permanent and fixed-term</b>	Contract for permanent or fixed-term employment following a merit or suitability based selection process. Applies to appointments from the fixed-term register.	Letter Contract	Division Head – Corporate Support	Division Head – Corporate Support	Appointments from the fixed-term register are generally not to exceed 3 months.	SSA: s 37(1) (2000) ED 1 (2013)
<b>Fixed-term contract extension approval</b>	Extend existing fixed-term arrangement without advertising.	Form – Recruitment and Establishment Contract	Division Head – Corporate Support	Division Head – Corporate Support	Appointments from the fixed-term register are generally not to exceed 3 months	SSA: s 37(1) (2000) ED 1 (2013)
<b>Terminate permanent employee</b>	A Secretary may at any time, by notice in writing, terminate the employment of a TSS employee. The requirement for a Secretary to consult is a restriction to follow any instructions issued by the Director State Service Management Office on the Secretary and not the power to terminate.	Minute from HR Director	Secretary	Secretary	Excludes the power to terminate a permanent employee on the grounds of underperformance in accordance with Section 44(3)(ca) of the <i>State Service Act 2000</i> Exercisable only after consultation with the Director, State Service Management Office, Department of Premier and Cabinet. Secretary cannot delegate this power and function.	SSA: s 44(1) (2000) Includes ED 26 (2013) Ministerial Delegation Instrument (2014)
<b>Terminate the employment of a fixed-term employee</b>	The power to terminate a fixed-term employee.	Minute from HR Director	Secretary	Secretary	Fixed term instruments of appointment individually fix the terms and conditions.	SSA: s 45(1) (2000) Ministerial Delegation Instrument (2014)
<b>Inability</b>	Where an employee is found to be unable to efficiently and effectively perform the duties assigned.	Letter	Secretary	Secretary	Investigation and determination of whether an employee is able to effectively perform duties.	SSA: s 48(1)(1) to (e)

### APPENDIX B. AGENCY CHECKLIST OF KEY DELEGATION CONSIDERATIONS

The following checklist may assist agencies to assess the quality of their systems and processes

---

#### Key points: for successful delegation

- Agencies should ensure that they have policies, schedules and procedures in place that clearly outline human resource delegation processes and principles regarding 'delegation down' and 'acting' arrangements. These policies, schedule and procedures should be made available to all relevant employees.
- Agencies should ensure that instruments of delegation are complete and that all functions subject to normal day-to-day processing are included to facilitate the identification of approving/authorising employees.
- Controls to ensure that delegated authorities are in accordance with agencies' delegation schedules and identify limitations in place, including arrangements for approval of exceptional delegation levels.
- Agencies should ensure that all employees are given adequate training in the delegation process to enable delegates to be fully aware of their responsibilities in managing the delegation process.
- Require all delegates to declare their conflict of interest status when exercising their delegation.

9

---

<sup>9</sup> Adapted from, the Auditor-General Special Report No.59 of 2006, *Delegations in Government Agencies, Local Government and Overseas Travel*, Report of the Auditor-General No.1 of 2014-15 *Recruitment practices in the State Service* and Report on the review of the University of Tasmania *Delegations Register of 2012*.

## Workplace Practice Guideline

### APPENDIX C: DELEGATE DECISION MAKING CHECKLIST

These questions will assist the delegate to determine whether they have the relevant authority to make the decision. This checklist may also be relevant to human resources when reviewing a decision made under delegation:

---

#### Delegate decision making checklist

1	Do I have delegated authority to act, in respect of this decision or action? (By virtue of either my substantive or acting position, or has a delegation been made to me personally?)
2	Will this decision or action fall within the scope of the authority granted?
3	Have I satisfied myself that it is appropriate for me to exercise this power, given the facts?
4	Does evidence exist that supports this decision?
5	Does this decision or action have potential to be contrary to law?
6	Have I applied my own independent thought and analysis to this decision?
7	Do I need more information before I make this decision? If yes, can I readily access this information?
8	Have I formally recorded my decision?

---

## Workplace Practice Guideline

### APPENDIX D: ORGANISATIONAL MONITORING, EVALUATION AND PRACTICE

In order to effectively monitor an agency's delegations, a number of factors (related to the task, employee, setting, competence and level of risk involved) will need to be considered.

Table 1: Examples of the types of factors that can be monitored

Factors	Effect
Nature of the delegation	<ul style="list-style-type: none"><li>• The complexity associated with undertaking the delegation (is it reasonable? Can it be relied on? How do you remove any doubt?)</li><li>• Whether the task carries risk of actual, perceived or potential conflict of interest</li></ul>
Characteristics of the applicant/employee and the employment decision	<ul style="list-style-type: none"><li>• The severity and complexity of the employment issue</li><li>• The stability of the conditions relating to the decision</li><li>• The risk of deterioration in the employee's behaviour</li><li>• The potential impact of the decision on the employee</li><li>• The level of employee anxiety</li></ul>
Characteristics related to the setting/environment	<ul style="list-style-type: none"><li>• Proximity to the delegate</li><li>• Frequency of contact with the delegate</li><li>• The setting (for example, whether working in a community, acute or school setting)</li><li>• Proximity to other professionals and other support infrastructure</li></ul>
Training and skills of the delegate	<ul style="list-style-type: none"><li>• Their current skills and competencies</li><li>• Their level of experience in undertaking the delegation or similar tasks</li></ul>
Level of risk	<ul style="list-style-type: none"><li>• Level of risk associated with undertaking the delegation<sup>10</sup></li></ul>

---

<sup>10</sup> Adapted from, *Department of Health Supervision and Delegation Framework for Allied Health Assistants*, Workforce Leadership and Development Branch, Victorian Government, 2012.

## Workplace Practice Guideline

### Understanding Delegation Guidelines

State Service Management Office  
Department of Premier and Cabinet  
GPO Box 123  
HOBART TAS 7000  
Phone: 03 6232 7040  
Email: [ssmo@dpac.tas.gov.au](mailto:ssmo@dpac.tas.gov.au)

[www.dpac.tas.gov.au/divisions/](http://www.dpac.tas.gov.au/divisions/)