



Hon Sue Ellery MLC
Minister for Education and Training
Leader of the Legislative Council

Your Ref: A776033
Our Ref: 61-18266



Hon Adele Farina MLC
Chair
Standing Committee on Public Administration

Email: lcpac@parliament.wa.gov.au

Dear Ms Farina

Thank you for your letter dated 5 September 2019 requesting a description of all government issued licences and authorities under the Minister for Education and Training.

The Department of Education relies on the *School Education Act 1999* for authority to deal with real property through leases and licences. In respect of licences and the authority to enter into a licence, section 218 of the Act provides the Minister for Education with the power to license the use of tangible property, principally school premises.

Section 218 provides that a licence may be granted for the use of property that does not adversely:

- a. affect the safety or welfare of students, teachers or others employed at the school;
or
- b. interfere with the normal operations of the school.

A licence may be granted by a Principal for up to two years or the Director General or Minister for Education for up to five years. The licence has the characteristics of a bare licence and does not give a right of exclusive possession. It permits a person to use the parts of the school premises for the purposes specified in the licence.

The licence can be revoked or cancelled pursuant to the contractual terms of the licence and the common law. The compensation and remedies available for the restriction or cancellation of the licence are determined pursuant to the contractual terms of the licence and the common law.

Section 218 of the Act also provides for a licence for the purposes of a joint arrangement as that term is defined in the Act at section 213. Section 213(K) of the

The Department of Training and Workforce Development (DTWD) and TAFE Colleges issue Deeds of licences (licences) on behalf of the VET (WA) Ministerial Corporation (Corporation) to third parties to occupy State-owned land and facilities. These licences are issued for an agreed period and for agreed purposes, and permit non-exclusive use and non-exclusive possession of the premises to the third party.

Licences issued by DTWD and TAFE Colleges may create in the holder of that licence a private property right, however, this has not been tested by a specific incident and these licences are issued over State-owned land and facilities. The DTWD and TAFE Colleges do not issue an authority.

I trust that this information assists with your inquiry.

Yours sincerely



SUE ELLERY MLC
MINISTER FOR EDUCATION AND TRAINING

19 SEP 2019