



What to do when you receive a section 158 notice

What is a section 158 notice?

A section 158 notice is a legal document requiring you to provide information to the Department of Education, Skills and Employment. It explains what to do, when you need to do it by, what information you need to provide, and how you need to provide it.

Why would I receive a section 158 notice?

You can receive a notice because the Department of Education, Skills and Employment has reason to believe that you have information that will assist the department in administering the Family Assistance Law, including making decisions and undertaking compliance and enforcement activities.

For example, the department may require a person to give information or produce a document which may be relevant to:

- an application for a provider or service approval under the Family Assistance Law
- whether an approved child care service should continue to be approved
- whether a person is or was entitled to family assistance
- the amount of family assistance a person should be paid
- whether a person or any other person who was paid family assistance was entitled to the payment (this includes providers and services).

Information or documents can be requested from the following:

- a current or former approved child care service
- a current or former provider of a current or former approved child care service
- an individual (for example, a family member or educator)
- organisations (for example, State Regulatory Authorities, law firms, Registered Training Organisations (RTOs)).

Who has the authority to issue a section 158 notice?

The Family Assistance Law gives officers of the Department of Education, Skills and Employment the authority to request information, documents or records to help in administering and making decisions under the law.

Please be aware the section 158 notice may be issued by a departmental officer in a State or Territory that is different to where your child care service is located.

What do I need to do when I get a section 158 notice?

You will need to follow the instructions in the notice and provide the information or documents and records requested by the deadline listed. You may also be required to give information by appearing before a departmental officer to answer questions about certain matters. This will be specified in the notice.

All notices from the Department of Education, Skills and Employment are important legal documents, and you should read them carefully.

If you are unsure about or believe you are unable to comply with anything in a section 158 notice, you should contact the person or team who sent you the notice, quoting the reference number. Their contact details will be included in the notice.

Before preparing your response to the notice, it is important to note the department will not accept submissions or supporting documents which are sent via an external file share site (for example, Dropbox, Google Drive, OneHub).

I am not an approved child care provider, involved in or use child care, why am I getting a notice?

Even if you are not directly involved in child care, you may have information that is relevant to the department's work. This work is necessary to ensure that the Child Care Subsidy system continues to operate in a fair and sustainable manner.

What happens if I do not comply with the section 158 notice?

It is an offence under the Family Assistance Law for you to refuse or fail to comply with a requirement to give information or produce documents or records and there may be serious legal consequences.

However, the offence:

- only applies to the extent to which the person is capable of complying with the notice; and
- does not apply if the person has a reasonable excuse for not complying with the request.