

A guide for Beneficiaries

“The Public Trustee is
here to help you.”



100
YEARS
since 1916



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About this guide

We have written this guide to help explain the process the Public Trustee goes through when we are administering an Estate. It explains how an Estate is distributed to Beneficiaries, and how we will help you during this time. We will provide a fair and impartial service, while carrying out the deceased's last wishes with understanding and professionalism.



Our vision

The independent trustee for Queenslanders providing security and peace of mind.

Our purpose

Lead the evolution and delivery of trustee, estate and administration services that make a positive difference in the lives of Queenslanders.

The Public Trustee

– who are we?

The Public Trustee of Queensland is a self-funding statutory authority that has been serving Queenslanders since 1916. We have more than 550 staff, located at service centres throughout Queensland, who provide a range of trustee and administration services to meet the changing needs of our community.

We look after deceased Estates, administering over 2,000 Estates each year. These range from simple to complex, large to small. Our professional and skilled staff deal with all aspects of Estate administration, including managing property, investing funds, and taking care of paperwork and legal matters.

We can also administer an Estate when someone else is appointed Executor but does not want to take on that role, or in the case where someone dies without a valid Will in place (this is called intestate).

Key terms – what do they mean?

Will

A legal document that sets out how assets are distributed when a person dies.

Intestacy

The Estate of a person who did not leave a Will. In this case the Estate is divided among the next of kin as provided for in the *Succession Act 1981*.

Estate

All of a person's assets after their death.

Executor

The person appointed in the Will to administer the Estate.

Administrator

If there is no Executor able to act or if there is no Will then the person appointed to carry out these duties is called an Administrator.

Administration

The authority from the Supreme Court for a person to administer the Estate of the deceased, it can be called 'probate' if it is granted to the Executor or letters of administration if it is granted to an Administrator. For the Public Trustee it is called an order to administer. There are also other simplified forms of administration depending on the value of the Estate.

Trustee

The person who looks after a Beneficiary's entitlements and includes ongoing trusts such as managing funds for children until they turn 18 years. Often the Executor or Administrator and the Trustee are the same person.

The main steps – what are they?

Meet with the Beneficiaries

- Obtain details of the Estate
- Explain what is involved
- Listen to your views

Confirm assets

- Identify and confirm assets
- Arrange valuation

Obtain administration

- Prepare legal paperwork to obtain administration
- Advertise intention to apply if necessary
- Lodge legal paperwork and obtain administration

Deal with assets

- Manage assets
- Ensure assets are protected – arrange insurance if necessary
- Decide how to deal with assets
- Hold, collect, sell or transfer assets

Pay debts and taxes

- Pay funeral costs
- Identify and confirm valid claims
- Finalise taxation
- Pay debts and claims

Distribute the Estate

- Locate Beneficiaries
- Confirm entitlement
- Pay legacies
- Pay or transfer Estate to Beneficiaries

Account

- Prepare statement of account
- Send to Beneficiaries

How do we help?

We will provide a professional and impartial service that is supportive, compassionate and ethical.

When the Public Trustee is the Executor of a Will, we provide a complete deceased Estate administration service. This includes:

- guiding you and providing relevant information to you throughout the process
- listening to your views, consulting with you and keeping you informed
- properly protecting and managing your inheritance until it can be passed to you
- being independent and fair if there are any issues or disputes.

When the Public Trustee is the Executor and Trustee of an Estate we appoint a Trust Officer to look after the Estate administration process. Our Trust Officers are highly skilled specialists who understand the management of all types of Estates. We also have a team of legal, financial, property, tax and investment professionals to provide support.



The Trust Officer works with Beneficiaries to ensure the terms of the Will and the laws that apply to the distribution of the Estate are followed without favour. They will listen to the views of Beneficiaries and consult with them on important decisions, offering impartial advice and working to resolve any difficulties to keep things moving.

If there is no Will then the *Succession Act 1981* sets out how the Estate will be distributed among the next of kin. In this case we will also research the family tree, locate Beneficiaries and determine their entitlement in the Estate.



What do we do?

Reporting the Estate

The first step is to locate the Will, if there is one, and identify the Beneficiaries. We like to meet with the Beneficiaries to get details of the deceased including all known assets and liabilities.

We will explain what is involved with the administration of the Estate and will talk about any issues that may affect the Estate. During this meeting we will also provide an approximate time frame as to how long we believe it will take to complete the administration of the Estate.

Confirming assets

The Public Trustee will contact banks, insurers, financial and government agencies and other institutions to identify full details of what the Estate owns. We will arrange for assets to be transferred to the Estate, and also arrange valuations and appraisals of assets to help Beneficiaries in making decisions regarding their transfer, sale or retention.

Obtain administration

We will prepare any necessary legal paperwork to obtain administration (probate) in the Estate. This includes the insertion of any necessary legal advertisements and dealing with any questions the court may have.

Dealing with the assets

While we ensure the terms of the Will are carried out, we also seek your views on the handling of assets. We manage the paperwork, close bank accounts, finalise pensions, household accounts and other outstanding matters. We also ensure any assets held are protected by insurance and managed properly until the Estate is settled.

We will collect, sell or transfer assets depending on the terms of the Will and take into account the wishes of the Beneficiaries. If assets are to be held in trust for a Beneficiary, unless the Will appoints another person as the Trustee, we will manage the assets until the trust ends.

Paying debts and taxes

Before a final distribution can be made to Beneficiaries, the personal representative must pay all debts. We will pay the funeral expenses, confirm the debts, prepare and lodge any tax returns that are required and pay any monies owed to creditors.



Distributing the Estate

Legislation governing the administration of deceased Estates provides eligible people a period of six months, from the date of death of the deceased whose Estate is administered, to provide notice of their intention to make an application seeking provision from the Estate. This means that we cannot start transferring assets or distributing money until after six months has passed since the date of death. In cases of hardship we can consider an earlier release of funds in certain circumstances as allowed under the law.

Once we have gone through these steps, and the six months have passed and if no notice is received, we can start distributing the Estate to the Beneficiaries if it is a simple Estate. Some assets may take longer to sell or transfer and in this case we may make some partial payments to Beneficiaries before making the final distribution when all assets and claims are settled.

Final accounting

When we've completed everything we will prepare and send you a final statement with all the details of the assets, how they were distributed, debts paid and all costs and expenses.

What do you need to do?

There are some things you can do to help in the process:

- contact us if someone dies leaving a Will with us
- provide us with as many details as you can about the deceased, their assets and liabilities and any other relevant paperwork you might have
- let us know what you would like done with your share in the Estate, any assets you want transferred to you and any particular requests you might have
- keep us informed of any change in your personal details such as name, address or bank account
- contact us at any time if you have any questions or queries
- respond to us promptly if we make any requests of you during the administration of the Estate.



How long will it take?

The law provides that Estates should not be distributed within six months from the date of death to provide time for claimants to lodge or give notice of any claims they might have. Where there are assets to sell or some other complexity such as a taxation liability or there is a claim or dispute in the Estate, then the time taken will be longer.

Your Trust Officer will discuss with you how long it is expected to take at the initial interview and we will provide you with an estimate as part of the Estate plan. We will also keep you fully informed of progress in the Estate and if there are likely to be any delays.

What will it cost?

The Public Trustee charges a fee-for-service to administer deceased Estates. This is based on the number and type of assets and liabilities, and the number of Beneficiaries. We do not charge a commission based fee.

We will give you an estimate of our fee when we first meet and a final fee quote when we have full details of all assets and liabilities.

Other costs

Other costs that may be paid from the Estate include:

- professional fees of auctioneers, real estate agents, tax agents, valuers
- transfer fees for property title or motor vehicle registration
- filing fees to the Supreme Court
- out of pocket expenses such as photocopying, postage and telephone calls.

Our fee covers the following steps in administering an Estate:

- confirming the Will is valid
- obtaining administration (probate) in the Estate
- locating and notifying the Beneficiaries
- consulting with Beneficiaries and keeping them informed of progress
- verifying and protecting the assets
- arranging asset valuations and inventories (if required)
- confirming or arranging insurance
- collecting or transferring assets
- determining debts and liabilities
- paying any debts and claims
- managing the accounts, including the preparation and lodgement of tax returns and other financial statements
- distributing the Estate to the Beneficiaries.

If there are activities that are outside the standard administration, such as preparation or reconstruction of records, matters involving a business or partnership, or any legal action, an hourly rate will be charged to resolve these issues. We will advise you if any of these situations arise.

All Estate money is held in the Public Trustee of Queensland's Common Fund where it earns market interest calculated on daily balances.

What if there is a dispute?

There may be disputes against the Estate about the entitlement in the Estate, how assets are to be disposed of or claims against the Estate. Sometimes as the Executor, we have to decide whether we need to make a claim against another person. Some of these disputes will involve legal action against the Estate.

These disputes or other contested claims on the Estate will complicate and delay the administration of the Estate. Our role is to make sure everyone's interests are recognised and dealt with fairly and that the law and the entitlements in the Estate are complied with.

What if there is a trust?

There may be a need to set up a trust as part of the Estate administration. For example, if there are minors entitled to a share in the Estate, their share cannot be paid to them until they turn 18 years of age, or another age greater than 18 years as stipulated in the Will.

In keeping with the terms of the Will or the entitlement in the Estate, we handle every aspect of the financial affairs of the trust, from managing property and investing funds, to taking care of the paperwork and legal matters, and advancing money for the Beneficiary's benefit such as covering costs for school fees.

If we are holding money or assets in trust for a Beneficiary we will ask about their needs and consider any specific requests. We will then work out an appropriate strategy for managing the assets and investments. The Trustee has the final responsibility for managing assets and investments and is required by law to act prudently and in the best interests of all Beneficiaries.

What are the charges for managing a trust?

Charges depend on the nature of the trust and what we are required to do. There are fees for managing the assets and investments, and fees for professional services such as taxation. These will be calculated and fully explained in our correspondence to you.

We stay in touch

Initially we like to meet with the deceased's Beneficiaries or next of kin. We will explain what is involved in the administration of the Estate and talk about any issues that may affect the Estate.

An assigned Trust Officer will work closely with you and all the Beneficiaries during the course of the Estate administration and we will provide regular written updates to let you know where we are at with the different stages of the administration.

If you have a question or would like some information, please contact your Trust Officer who will be happy to assist.

How do I give feedback?

We are committed to ensuring that the services we provide are relevant to your situation and that Beneficiaries are satisfied with this service. We also place a high value on feedback from our clients.

If you or any other Beneficiary have any concerns, please speak to your Trust Officer. If these concerns remain unresolved, contact the Regional Manager of your Public Trustee office. These contact details can be found on our website at www.pt.qld.gov.au/locations.

For any concerns or to lodge a complaint, we can be contacted by:

Phone: **1300 360 044**

Email: complaints@pt.qld.gov.au

Mail: The Public Trustee,
GPO Box 1449,
Brisbane QLD 4001

If you or any other Beneficiary lodges a complaint, we will ask about the matter and your preferred contact details. We will carry out an assessment of the complaint and respond by phone, email or letter.

If you or any other Beneficiary requires further assistance in relation to a complaint, you can contact the Queensland Ombudsman:

Phone: **1800 068 908**

Email: ombudsman@ombudsman.qld.gov.au

Web: www.ombudsman.qld.gov.au



Protecting your **privacy**

The Public Trustee collects and manages personal information in the course of performing its activities, functions and duties in accordance with the *Public Trustee Act 1978* (QLD).

We respect the privacy of the personal information held by us. The way in which the Public Trustee manages personal information is governed by the *Information Privacy Act 2009* (QLD).

This means there are restrictions on how we can use, and when we can disclose, your personal information. When you supply us with your personal information as part of providing us with feedback or lodging a complaint, we will generally use this information only to assist us to address your concerns.

We generally do not disclose your personal information outside of the Public Trustee unless we are required to do so by law or unless you have given us your consent to such disclosure.

If you would like to read our Privacy Statement, please visit our website at **www.pt.qld.gov.au**

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The Public Trustee

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Your nearest Public Trust Office

Brendale

Brisbane

Bundaberg

Cairns

Gladstone

Ipswich

Mackay

Maryborough

Mount Isa

Nambour

Redcliffe

Rockhampton

Southport

Sunshine Coast

Toowoomba

Townsville

We also offer a range of outreach services in other areas of Queensland. Phone us to find out about your nearest service centre.

1300 360 044

www.pt.qld.gov.au

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