



**The Public Trustee**

## **INFORMATION BARRIER POLICY**

**Managing potential conflicts when acting in  
multiple or related capacities**

**February 2023**



## Information Barrier Policy – Managing potential conflicts when acting in multiple or related capacities

Version	Approved by	Approval date	Effective date	Next review
1.0	Board of Management	27 February 2023	27 February 2023	February 2025
Policy Statement				
Purpose	This Policy outlines the Public Trustee of Queensland (PTQ)’s position on managing conflicts of duties, protecting against the disclosure of confidential information between matters, and use of effective information barriers.			
Scope	This policy applies to all employees.  The Official Solicitor – Customer Services and Official Solicitor – Corporate Services may observe further policies and procedures in line with the Australian Solicitors Conduct Rules 2012.			
Policy Provisions				

### 1. The Public Trustee may act in more than one capacity

#### 1.1. Legislation

- 1.1.1 Section 137 of the *Public Trustee Act 1978* (Qld) (**PT Act**) recognises that, regardless of any other law or rule, the Public Trustee may act in two or more roles that have different or opposing interests.
- 1.1.2 The PT Act and other legislation set out the types of roles PTQ can perform when appointed. These include acting as
  - (a) an executor of a deceased estate;
  - (b) a trustee of a trust;
  - (c) a person's financial administrator or attorney;
  - (d) manager of a person's estate when they are serving certain terms of imprisonment.
- 1.1.3 PTQ also performs other functions for a public purpose, rather than acting for a particular individual. Some of these functions are:
  - (a) Sanctioning settlements of damages claims where one of the parties to the claim is a person under a legal disability (a child or person with impaired capacity)
  - (b) Holding property related to a crime when ordered under the *Criminal Proceeds Confiscations Act 2002* (Qld)
- 1.1.4 PTQ can also provide services without being appointed to a particular role. PTQ's services include:
  - (a) Making an enduring power of attorney for a person
  - (b) Preparing a Will for a person.

## **2. Conflicts to be managed**

- 2.1. PTQ must consider, identify and manage any conflict or potential conflict between duties owed in each role or service.
- 2.2. PTQ will consider its fiduciary and legal duties and the facts of each situation when determining if there is a conflict between the duties owed to customers and/or the interests of customers and how the conflict is to be managed.

## **3. Confidentiality to be maintained**

- 3.1. In all matters, PTQ must observe any obligations of confidentiality and privacy that apply to the information held by PTQ.
- 3.2. Unless expressly authorised, PTQ staff are not permitted to access personal or customer information held on PTQ systems (including hard copy files) unless the staff member
  - (a) Is the responsible officer,
  - (b) Is performing work directly related to the person or customer, and
  - (c) Requires access to the system or file to perform that work.

## **4. Information Barrier**

- 4.1. PTQ may use an Information Barrier as part of managing an identified:
  - (a) Conflict of duties between roles
  - (b) Conflict between the duties of a role or service performed by PTQ and the interests of PTQ.
- 4.2. An Information Barrier is a further measure designed to prevent the disclosure of confidential information, held by PTQ as a result of the performance of one of its roles, to the PTQ in its performance of another role or roles, particularly where there is a reasonable concern that the information would be significant and/or detrimental because of a relationship or shared matter between the roles.
- 4.3. An Information Barrier in PTQ includes
  - (a) Designation of the relevant customer matter(s) as an Information Barrier File (**IBF**)
  - (b) System controls to
    - i. Alert officers to the matter status as an IBF
    - ii. Restrict access to electronic records to Trust Officers and other relevant staff with express permission to access the records
  - (c) Physical controls to
    - i. Alert officers to the matter status as an IBF
    - ii. Restrict access to hard copy or paper records to Trust Officers and other relevant staff with express permission to access the records.
  - (d) Staff training and educational resources on IBF management processes.
- 4.4. Individual business areas will have procedures in place to implement this policy. These procedures will reflect the nature of their respective functions and responsibilities and will be regularly reviewed to support continuous improvement and respond to changing business practices.

## **5. Policy review**

- 5.1. This policy will be reviewed at least every two years and upon any relevant legislative changes.

Accountabilities				
Policy Owner		Executive Director, Strategy and Governance		
Policy Delegate		Director, Governance & Risk		
Contact Details		<a href="mailto:governance@pt.qld.gov.au">governance@pt.qld.gov.au</a>		
Supporting Information				
File Number		D23/8507		
Definitions and Acronyms				
Attorney		As defined under the <i>Powers of Attorney Act 1998</i> (Qld) and equivalent or superseded legislation.		
Employee		In this policy, includes temporary and permanent employees, consultants, contractors, students or any other person who provides PTQ with services on a paid or voluntary basis.		
Executor		The person appointed under a testator’s Will to administer the testator’s estate		
Financial Administrator		An administrator as defined under the <i>Guardianship and Administration Act 2000</i> (Qld) and equivalent legislation		
IBF		Information Barrier File		
Person		Includes an individual, corporation or body as relevant		
PT Act		<i>Public Trustee Act 1978</i> (Qld)		
PTQ		Public Trustee of Queensland		
Responsible officer		A person directly responsible for working on a file or matter.		
Revision History				
Version	Approved by	Approval date	Effective date	Sections modified