



**The Public Trustee**

## **Declaration of Interests Policy**

November 2017

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## Document Information

### Approved

Name	Position	Signature	Date
Peter Carne	Public Trustee of Queensland	SIGNED	8/12/17

### Endorsed

Name	Position	Signature	Date
Josephine Giles	Senior Director, Governance and Risk	SIGNED	7/12/17

### Revision History

Version	Approval date	Actioned by	Change
0.1	16/07/2012	Principal Governance Officer	Created document
0.2	16/07/2012	A/Director, Governance & Executive Directorate	Review draft prior to presentation to EMG
0.3	02/08/2012	A/Director, Governance & Executive Directorate	Final draft; EMG comments included
0.4	26/06/2014	Governance Officer	Review and update
0.5	07/2015	Governance Officer	Review
0.6	07/2016	A/Senior Director, Governance & Risk	Annual review
1.0	05/12/2016	Public Trustee	Policy approved
1.1	23/11/2017	Senior Advisor, Governance	Annual review incorporating EMT comments

### Contact

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## 1. Purpose

Public service employees are responsible for fully disclosing their interests that may have a bearing, or be perceived to have a bearing, on their ability to properly and impartially discharge the duties of their office.

The purpose of this policy is to outline matters which must be disclosed by employees when directed by The Public Trustee of Queensland, how those matters must be disclosed, the purpose of the disclosure, and specific requirements for the storage of, and access to, disclosures.

## 2. Application

This policy applies to the following employees, referred to as 'relevant employees':

- employees appointed to the position set out in Schedule A ([Appendix 1](#)), or otherwise identified in that Schedule; and
- employees relieving at such levels or in such positions as detailed in [Schedule A](#) if that relieving continues for a period of greater than two weeks.

## 3. Policy statement

The Public Trustee (PT) is committed to creating and maintaining a work environment that encourages and facilitates the disclosure of any private interest by:

- eliminating unlawful, negligent or improper conduct in the workplace;
- promoting public confidence through maintaining an internal ethical culture;
- ensuring openness and transparency in all our decision making; and
- ensuring accountability, integrity and professionalism in our service provision.

## 4. Legislative and policy basis

- [Public Service Act 2008](#)
- [Public Sector Ethics Act 1994](#)
- [Integrity Act 2009](#)
- [Right to Information Act 2009](#) (RTI Act)
- [Information Privacy Act 2009](#) (IP Act)
- Public Service Commission [Directive No. 03/10](#) – Declaration of Interests – Public Service Employees (other than departmental Chief Executives).
- [Code of Conduct for the Queensland Public Service](#).

## 5. Information to be declared

Section 72C of the [Integrity Act 2009](#) requires The Public Trustee of Queensland, as a statutory head, to provide upon appointment and annually a Declaration of Interests to the relevant Minister and the Integrity Commissioner. The Public Service Commission [Declaration of Interests policy – Senior Executive Service and Equivalent Employees including Statutory Office Holders](#) applies.

Section 185 of the [Public Service Act 2008](#) (in accordance with section 22 of that Act) provides that The Public Trustee of Queensland may direct an employee to prepare and give The Public Trustee of Queensland a statement about the employee's interests. [Directive No. 03/10](#) applies, detailing those matters which must be disclosed, how they must be disclosed, the purpose of the disclosure and the requirements for storing and accessing declarations.

The information required to be provided under [Directive 03/10](#) is the same information required under a Directive issued to comply with section 101(3) of the [Public Service Act 2008](#). In the event that the interests of a relevant employee change, the relevant employee should notify the Public Trustee of Queensland of the change.

Declarations are to be provided annually, in the form of a Statutory Declaration ([Appendix 2](#)) using the relevant Public Service Commission forms:

- Declaration of interests ([statutory head](#)) ([executives](#)) ([other employees](#))
- Variation of interests ([statutory head](#)) ([executives](#)) ([other employees](#))
- No change to interests ([statutory head](#)) ([executives](#)).

## 6. Access to Declarations of Interests

- Declarations are to be maintained in the strictest confidence. Unless required by law, access to declarations is limited to the employee and The Public Trustee of Queensland or delegate or, in the case of the statutory head, to the relevant Minister and Integrity Commissioner.
- Declaration of Interests records may be the subject of applications for access under the RTI Act and/or the IP Act. Both Acts have a pro-disclosure bias. In general, there are two types of applications:
  - i. an individual seeking access to their own information contained in the Declaration of Interests may make application under the IP Act; and
  - ii. a third party seeking access to the information contained in a Declaration of Interests may make application under the RTI Act.
- Each application for access is considered on a case by case basis before a decision is made as to whether it is in the public interest to release the document.
- In the event of receipt of an application under the RTI Act, the PT will consult the employee who made the declaration about their views on the application prior to any decision being made to release the documents.
- Where an individual seeks access to their Declaration of Interests form, the PT will consider releasing the form containing their personal information administratively without the need for a formal application.

## 7. Storage of records

- Completed Declaration of Interests will be stored in a confidential file, secured in a locked cabinet and held within Governance and Risk.
- The records will also be stored electronically in the PT Electronic Documents and Records Management System (eDRMS) – Records Mate.
- Access to both the physical file and electronic record is restricted to The Public Trustee of Queensland or delegate.
- Upon an employee ceasing employment, Declaration of Interests documentation is to be securely filed on the employee's personnel file.

## 8. Public service employees to be fully informed

- 8.1 Employees are responsible for acquiring and being familiar with the information released from time to time by the [Queensland Integrity Commissioner](#), the [Public Service Commission](#) and the [Crime and Corruption Commission](#) concerning conflict of interest issues.

8.2 Public service employees who are senior officers or senior executives should be aware of the role of the [Queensland Integrity Commissioner](#) and seek counsel on any issue that may arise as a conflict of interest or potential conflict of interest.

## 9. Policy review and evaluation

This policy will be reviewed by the Senior Director, Governance & Risk on a regular basis and at least annually.

## 10. Roles and responsibilities

Role	Responsibility
The Public Trustee of Queensland (statutory head)	Pursuant to section 185 of the <i>Public Service Act 2008</i> , may direct persons employed in the Public Trustee to provide a statement about the employee's interests.
Senior Director, Governance & Risk	<p>Administers the Declaration of Interests policy and:</p> <ul style="list-style-type: none"> <li>• has direct access to the Public Trustee of Queensland for Declaration of Interests matters;</li> <li>• accesses resources to properly manage Declarations of Interests made;</li> <li>• ensures that appropriate internal reporting for Conflicts of Interest is in place and there is a communication strategy for awareness about the PT's procedure for making Conflict of Interest disclosures;</li> <li>• ensures effective systems and procedures are in place for issues arising for Conflicts of Interests to inform improvements to service delivery, business processes and internal controls;</li> <li>• provides a mechanism for regular evaluation and monitoring of the effectiveness of the Declaration of Interests policies and procedures;</li> <li>• implements all the above measures related to the Declaration of Interests Policy;</li> <li>• reports on Declarations of Interests to The Public Trustee of Queensland;</li> <li>• maintains a Conflict of Interest register, which will contain and index the Declarations of Interests and revised Declarations of Interests as provided by the 'relevant employees';</li> <li>• ensures appropriate steps are taken in relation to identified Conflict of Interest disclosures</li> <li>• maintains secure storage and recordkeeping for completed Declarations of Interest and related documentation.</li> </ul>
Relevant Employees	<p>All identified 'relevant employees' in accordance to this policy, who are either relieving or newly appointed to a position or level provided for in <a href="#">Schedule A</a>, are responsible for:</p> <ul style="list-style-type: none"> <li>• providing Declaration of Interests within two weeks of the commencement of the relieving period or appointment to the relevant position or level and then annually;</li> <li>• fully disclosing their interests that may have a bearing, or to be perceived to have a bearing, on their ability to properly and impartially discharge their duties;</li> </ul>

Role	Responsibility
	<ul style="list-style-type: none"> <li>• when appointed to another role in the same organisation, reviewing their existing Declaration of Interests and either certifying that no change is required or submitting a revised declaration within one (1) month of taking up duty in the new role;</li> <li>• disclosing the interests of their partner and/or dependants only if those interests have a bearing, or may be perceived to have a bearing, on their ability to properly and impartially discharge their duties;</li> <li>• notifying The Public Trustee of Queensland in the event that an interest changes (pursuant to section 186 of <i>Public Service Act 2008</i>), to the extent that the potential for a conflict of interest is altered, by submitting a revised Declaration of Interests within one (1) month after the relevant facts of the change come to the knowledge of the person;</li> <li>• notifying The Public Trustee of Queensland immediately if they identify a conflict of interest, or if there is a potential for a conflict of interest in the course of performing their duties by: <ul style="list-style-type: none"> <li>– disclosing the circumstances to the authorised delegate; and</li> <li>– not taking any action in the matter unless otherwise approved by the authorised delegate.</li> </ul> </li> <li>• complying with this policy and with the provisions of the <i>Public Sector Act 2008</i> – section 185, Public Service Commission Directive 3/10 and the Code of Conduct for the Queensland Public Service.</li> </ul>

## 11. Definitions

Term	Definition
Executives	<ul style="list-style-type: none"> <li>• An executive appointed as a SES executive under section 110 of the <i>Public Service Act 2008</i>; or</li> <li>• An executive appointed on a fixed term contract of employment with remuneration at the equivalent SES level or above under section 122 of the <i>Public Service Act 2008</i>; or</li> <li>• A person remunerated at the equivalent SES level or above employed in a government entity under any Act, as defined by section 24 of the <i>Public Service Act 2008</i>.</li> </ul>
Delegate	Position to which a power is delegated by The Public Trustee of Queensland.
Interests	Include a direct or indirect personal interest, whether pecuniary or non-pecuniary as defined by section 65(4) of the <i>Public Service Act 2008</i> .
Relevant employees	<p>Refers to:</p> <ul style="list-style-type: none"> <li>• employees appointed to the position set out in Schedule A (<a href="#">Appendix 1</a>), or otherwise identified in that Schedule;</li> <li>• employees relieving at such levels or in such positions as detailed in Schedule A if that relieving continues for a period of greater than two weeks; and</li> <li>• any employee directed by The Public Trustee of Queensland under section 185 of the <i>Public Service Act 2008</i> to provide a statement about the employee's interests.</li> </ul>

The Public Trustee (PT)	Refers to the organisation.
The Public Trustee of Queensland	Refers to the appointed statutory individual. Used when referring to the person, their role or statutory functions.

## Appendix 1

### Schedule A

Below are the identified positions and levels required to provide Declaration of Interests and revised versions of Statements, but is not limited to:

- Deputy Public Trustee and Official Solicitor;
- All employees at Senior Executive Service (SES) or Senior Officer (SO) level;
- All officers in the Investment Sub Program who assume positions at the classification level of an Administrative Officer (AO) Level 5 and above.

Oaths Act 1867

Statutory Declaration

QUEENSLAND )
TO WITNESS )

I of in the State of Queensland, do solemnly and sincerely declare that,

Particulars of my private interests, and those of my partner and/or dependants, of which I am aware are set out in the attached form.

I confirm that I shall advise you should a situation arise where an interest of mine or an interest of a member of my immediate family of which I am aware, whether that interest is pecuniary or otherwise, conflicts or may reasonably be thought to conflict, with my public duty.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1867.

Taken and Declared before me, at )
This day of 20 )

A Justice of the Peace
for the State of Queensland