



**The Public Trustee**

# **Declaration of Interests Policy & Procedure**

**December 2018**

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## Document Information

### Approved

Name	Position	Signature	Date
Peter Carne	The Public Trustee of Queensland	FILE COPY SIGNED	13.12.18

### Endorsed

Name	Action taken	Date
Executive Management Team	Endorsed at meeting	20.11.18
Audit & Risk Management Committee	Endorsed at meeting	05.12.18

### Revision History

Version	Date	Responsible officer	Action
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
1.2	20/11/2018	Senior Advisor, Governance	Annual review incorporating information re: conflicts of interest

### Contact

<b>Policy owner:</b>	Governance and Risk Directorate (GRD)
<b>Contact Details:</b>	<a href="mailto:governance@pt.qld.gov.au">governance@pt.qld.gov.au</a>
<b>Document Status:</b>	FINAL v1.2
<b>TRIM Document ID:</b>	D18/21275

## 1. Purpose

Public service employees are responsible for fully disclosing all 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.

This document outlines matters which must be disclosed by employees when directed by the Minister, The Public Trustee of Queensland or when managing a conflict of interest. It details 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 chief executive and all employees of the Public Trustee (PT) whether full time, part time, casual or temporary including:

- employees appointed to the position set out in Schedule A ([Appendix 1](#)), or otherwise identified in that Schedule;
- 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 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 and promoting public confidence through maintaining an internal ethical culture. The PT will manage conflicts of interest, both perceived and actual, in accordance with best practice and ensure openness and transparency in all decision making. In line with its vision to be the independent trustee for Queenslanders providing security and peace of mind, the PT will ensure accountability, integrity and professionalism in its service provision.

## 4. Legislative and policy basis

- [Public Service Act 2008](#) (PS Act)
- [Public Sector Ethics Act 1994](#)
- [Integrity Act 2009](#)
- [Right to Information Act 2009](#) (RTI Act)
- [Information Privacy Act 2009](#) (IP Act)
- Public Service Commission (PSC) [Directive No. 01/15](#) – Declaration of Interests – Chief Executives
- PSC [Directive No. 03/10](#) – Declaration of Interests – Public Service Employees (other than departmental Chief Executives)
- [Code of Conduct for the Queensland Public Service](#) (Code of Conduct)
- Crime and Corruption Commission [PREVENTION in focus: Conflicts of interest – are you managing yours appropriately?](#)

## 5. Procedure for declaring interests

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 PSC [Directive No. 01/15](#) and [Declaration of Interests policy – Senior Executive Service and Equivalent Employees including Statutory Office Holders](#) apply.

Section 185 of the [PS Act](#) (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.

In accordance with section 186 of the PS Act, if a PT employee has an interest that conflicts, or may conflict, with the discharge of the employee's duties, the employee:

- a) must disclose the nature of the interest and conflict to The Public Trustee of Queensland as soon as practicable after the relevant facts come to the employee's knowledge; and
- b) must not take action or further action relating to a matter that is, or may be, affected by the conflict unless authorised by The Public Trustee of Queensland.

Conflicts must be disclosed by way of declaration, as detailed below. The Public Trustee of Queensland may direct an employee to resolve a conflict, or possible conflict, between an interest of the employee and the employee's duties. In accordance with the Code of Conduct, all employees must ensure that any conflict of interest is resolved in the public interest. Failing to disclose and manage the conflict appropriately is likely to be wrongdoing.

Declarations are to be provided on commencement or on request, and then annually by 1 March, in the form of a Statutory Declaration ([Appendix 2](#)) using the relevant PSC forms:

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

In the event that the interests of an employee change, the employee should notify The Public Trustee of Queensland of the change as soon as practicable.

## 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. Recordkeeping

- Completed Declarations are stored in a confidential file, secured in a locked cabinet and held within the Governance and Risk Directorate.
- The records are also 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, Declarations 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 [PSC](#) 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 GRD 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 PS Act, may direct persons employed in the PT to provide a statement about their interests.
Senior Director, Governance & Risk	Administers the Declaration of Interests policy and: <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 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 disclosures;</li> <li>• ensures effective systems and procedures are in place for issues arising for conflicts to inform improvements to service delivery,</li> </ul>

Role	Responsibility
	<p>business processes and internal controls;</p> <ul style="list-style-type: none"> <li>• provides a mechanism for regular evaluation and monitoring of the effectiveness of 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 to The Public Trustee of Queensland;</li> <li>• maintains a Conflict of Interests register, which contains and indexes all Declarations provided by employees;</li> <li>• ensures appropriate steps are taken in relation to identified conflicts; and</li> <li>• maintains secure storage and recordkeeping for completed Declarations and related documentation.</li> </ul>
Employees	<p>All employees, in accordance with this policy are responsible for:</p> <ul style="list-style-type: none"> <li>• providing a Declaration of Interests on request; or within two weeks of appointment to a position or level noted in <a href="#">Schedule A</a> (whether permanent or temporary); or, for employees relieving at such levels or in such positions, if that relieving continues for a period of two weeks or longer; and then annually by 1 March;</li> <li>• fully disclosing all interests that may have a bearing, or be perceived to have a bearing, on their ability to properly and impartially discharge their duties;</li> <li>• when appointed to another role in the same organisation, reviewing their existing Declarations 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 the PS Act), 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 way of declaration as detailed above; and</li> <li>• complying with this policy and with the provisions of the PS Act, PSC Directives and the Code of Conduct.</li> </ul>

## 11. Definitions

Term	Definition
Executives	<ul style="list-style-type: none"> <li>• An executive appointed as a senior executive under section 110 of the PS Act; or</li> <li>• An executive appointed on a fixed term contract of employment with remuneration at the equivalent Senior Executive Service (SES) level or above under section 122 of the PS Act; or</li> </ul>

Term	Definition
	<ul style="list-style-type: none"> <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 PS Act.</li> </ul>
Delegate	Position to which a power is delegated by The Public Trustee of Queensland. For Declarations of Interests, the delegate is the Senior Director, Governance and Risk.
Interests	Include a direct or indirect personal interest, whether pecuniary or non-pecuniary as defined by section 65(4) of the PS Act.
Employees	Includes all persons employed under the PS Act as a public service officer, general employee or temporary employee in accordance with section 9 of that Act.
The Public Trustee (PT)	Refers to the agency.
The Public Trustee of Queensland	Refers to the appointed statutory individual as chief executive of the agency. Used when referring to the person, their role or statutory functions.

## Appendix 1

### Schedule A

Identified positions and levels required to provide Declarations of Interests include, but are not limited to:

- the Deputy Public Trustee and Official Solicitor;
- all employees at 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

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**Statutory Declaration**

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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 \_\_\_\_\_ )

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This \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ )

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**A Justice of the Peace**

for the State of Queensland