



## The Public Trustee's required clauses in Enduring Power of Attorney documents where the Public Trustee is the proposed Nominated Person for Financial Matters

The Public Trustee requests the clauses outlined in this document are included in Enduring Power of Attorney (EPA) documents where the Principal wishes to nominate the Public Trustee to receive information on their financial matters (that is, to act as their "Nominated Person").

The Public Trustee can only be effectively appointed as the Nominated Person for financial matters by the Principal under the Principal's Enduring Power of Attorney with the Public Trustee's consent. The Public Trustee's consent to act as the Nominated Person for financial matters will be evidenced by the execution of the Public Trustee's Nominated Person Service Fee Agreement by the Public Trustee after the Nominated Person Fee Agreement is executed by the Principal or the Principal's Attorney for financial matters.

Information regarding the Public Trustee's Nominated Person service is provided on the Public Trustee's website.

### General terms and instructions

In the *General terms and instructions* section on page 6 of the EPA Short Form or page 9 of the EPA Long Form, the Public Trustee requests the insertion of the following clauses if appointing the Public Trustee as the Nominated Person for financial matters.

"The clauses set out below apply in addition to the Terms and instructions (notifications or financial matters) in this Enduring Power of Attorney document.

1. Definitions:
  - 1.1 **Disclosable Information** is the information, data and documents that my Attorney for financial matters is required or authorised to disclose to the Nominated Person for financial matters whether such disclosure is pursuant to Clause 2, 4, the Terms and instructions (notifications for financial matters) or otherwise.
  - 1.2 **External Entities** means the Office of the Public Guardian (or its successor entity), the Queensland Civil and Administrative Tribunal (**QCAT**) (or its successor entity) and any other Tribunal or any Court.
  - 1.3 **Account by Attorney Form** means the Account by Attorney Form or similar form issued by the Public Trustee from time to time and appearing on the Public Trustee's website.
  - 1.4 **Public Trustee** means The Public Trustee of Queensland.
2. In addition to the categories of documents listed in the Terms and instructions



(notifications for financial matters) in this Enduring Power of Attorney document, my Attorney for financial matters may also share any other additional documents, data and/or information about my personal and/or financial affairs with the Nominated Person for financial matters at the discretion of my Attorney for financial matters.

3. My Attorney for financial matters may provide a copy of documents and is not required to provide the original documents to the Nominated Person for financial matters.
4. Upon my Nominated Person for financial matters receiving an Account by Attorney Form from the Attorney for financial matters or failing to receive an Account by Attorney Form from the Attorney for financial matters either when the Form is due to be delivered to the Nominated Person for financial matters or when requested by my Nominated Person for financial matter, my Nominated Person for financial matters may request further or additional documents and/or information relating to my financial matters, beyond that listed in the Terms and instructions (notifications for financial matters) and my Attorney for financial matters must provide such further or additional documents and/or information to the Nominated Person for financial matters as soon as practicable following the request.
5. My Attorney for financial matters shall wherever practicable provide to the Nominated Person for financial matters the Disclosable Information as requested by the Nominated Person for financial matters by email.
6. The Nominated Person for financial matters may provide the Disclosable Information to any one or more of the External Entities and, for the purposes of the *Information Privacy Act (Qld) 2009* and *Privacy Act (Cth) 1988*, I consent to my Nominated Person for financial matters providing the Disclosable Information to the External Entities regardless as to whether the Disclosable Information is confidential to me or whether it is Personal Information and/or Sensitive Information for the purposes of those Acts.
7. I intend to enter into a Nominated Person Service Fee Agreement with the Public Trustee and I direct my Attorney for financial matters to comply with the terms of the Nominated Person Service Fee Agreement once signed.
8. In the event that I have not entered into a Nominated Person Service Fee Agreement with the Public Trustee prior to losing capacity, I direct my Attorney for financial matters to enter into a Nominated Person Service Fee Agreement with the Public Trustee.”



## Terms and instructions (notifications for financial matters) “What to notify”

The Public Trustee requests the “What to notify” section of page 8 of the EPA Short Form or page 10 of the EPA Long Form to be completed as follows if appointing the Public Trustee as the Nominated Person for financial matters:

- written notice that my attorney(s) intend to begin exercising power for financial matters under this enduring power of attorney before exercising the power for the first time.
- Other – Provide details
  - “A completed and signed *Account by Attorney Form* or similar form issued by the Public Trustee of Queensland website from time to time together with all supporting documents to evidence the information contained in the *Account by Attorney Form*.”
  - *[Optional - with a view to minimising the cost of the administration of the Principal’s deceased estate the Public Trustee suggests, if the Principal is agreeable to disclosing the contents of their Will with the Attorney, the Principal consider the insertion of the following clause if the Public Trustee is also named as the executor or substitute executor in the Principal’s Will: “Records of all my Attorney’s dealings with my assets which will, after my death, enliven the provisions of section 61B of the Powers of Attorney Act 1998 (or its successor legislation) for the administration of my deceased estate.”]*

### **Please note:**

The costs of the Public Trustee acting as Nominated Person for financial matters will depend on the extent of the documents and/or information that are required to be provided to the Nominated Person for financial matters and the frequency that the documents and/or information are to be provided.

If the Principal is requesting the Public Trustee as the Nominated Person for financial matters to review all financial transactions, the Public Trustee’s preference is for the Attorney for financial matters to complete and provide to the Public Trustee, along with any supporting documents specified by the Principal in the Enduring Power of Attorney, an *Account by Attorney Form* which the Public Trustee will supply to the Attorney. The Public Trustee’s *Account by Attorney Form* will assist the Public Trustee to provide the service as a Nominated Person for financial matters as efficiently and cost-effectively as possible.



## Terms and instructions (notifications for financial matters) “When to notify”

A Principal should be aware that the frequency that documents and/or information are required to be provided by the Attorney for financial matters to the Nominated Person for financial matters will impact the costs of the Public Trustee in acting as the Nominated Person.

The Public Trustee may choose not to accept appointment as the Nominated Person for financial matters where the Principal directs the Attorney for financial matters to provide documents and/or information to the Nominated Person “on request at any time by the nominated person”. The Public Trustee envisages that such a broad discretion is likely to be the subject of criticism in circumstances where the Public Trustee’s service for acting as the Nominated Person for financial matters is a paid service.

Accordingly, the Public Trustee requests the Principal to nominate in the Enduring Power of Attorney when the documents and/or information are to be provided to the Nominated Person for financial matters.