

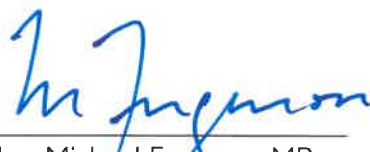
GOVERNMENT BUSINESS ENTERPRISES ACT 1995

MINISTERIAL CHARTER

July 2022

PUBLIC TRUSTEE

This Ministerial Charter is jointly approved by:



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Hon Michael Ferguson MP  
Deputy Premier  
Treasurer



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Hon Elise Archer MP  
Minister for Justice

Date:

20/7/22

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## **I. INTRODUCTION**

- This Ministerial Charter has been prepared by the Treasurer and the Minister for Justice (Shareholding Ministers), following consultation with the Public Trustee, in accordance with sections 36 and 37 of the *Government Business Enterprises Act 1995* (GBE Act).
- The Public Trustee must comply with this Charter in accordance with Section 38 of the GBE Act.
- The Charter sets out the Government's broad policy expectations and requirements for the Public Trustee, as the owner of the business.
- The Charter should be read in conjunction with the following Acts and their respective Regulations:
  - *Public Trustee Act 1930* (Portfolio Act);
  - *Guardianship and Administration Act 1995*;
  - *Tasmanian Civil and Administrative Tribunal Act 2020*;
  - *Government Business Enterprises Act 1995*;
  - *Trustee Act 1898*;
  - *Administration and Probate Act 1935*;
  - *Wills Act 2008*; and
  - any other legislation as may be advised by the Shareholding Ministers from time to time.
- This Charter takes effect from the date it is signed and remains in effect until it is amended or revoked.
- The Charter is to be tabled in Parliament by the Portfolio Minister and published on the website of the Public Trustee.

## **2. PURPOSE AND STRATEGIC EXPECTATIONS**

### **2.1 Government Objective**

- To safeguard the personal, legal and financial interests of vulnerable clients, including represented persons, acting with regard to the will, preference and rights of clients to the extent possible.

### **2.2 Primary Purpose**

- The primary purpose of the Public Trustee is to provide independent and professional trustee services to the Tasmanian community, irrespective of the value of any particular

matter or an individual's circumstances. In providing these services, the Public Trustee will provide trusted advice and support to clients that is relevant and accessible.

### **2.3 Strategic Expectations**

- In undertaking its core business, the Shareholding Ministers expect the Public Trustee to:
  - protect, promote and support the rights, dignity, choices, views and preferences of all clients to the degree possible, in accordance with the requirements specified in any relevant legislation and orders;
  - ensure that decisions that affect a represented person's life are informed by the represented person's views and preferences and are least restrictive of their freedom of decision and human rights as far as possible;
  - act in such a way as to encourage and support represented persons to become capable of administering their own estate, and/or prolong their ability to make their own decisions;
  - act in consultation with represented persons, taking into account as far as possible the will, preference and rights of the represented persons;
  - perform its community service obligation activities with proficiency, while acting at all times with regard to the will, preference and rights of clients as far as possible;
  - undertake its statutory obligations;
  - minimise operational and capital expenditure outlays through improved operational efficiency and asset management strategies while meeting the needs of its clients;
  - prudently manage business risk through an effective and efficient risk management framework that reduces risks for the Public Trustee and the State;
  - understand the impact of climate change on the business, including identifying any risks and implementing risk mitigation strategies;
  - consider diversity and inclusion principles in its strategies;
  - operate in accordance with sound commercial practice; and
  - maintain a culture of continuous improvement in business operations, systems and processes.
- The Shareholding Ministers acknowledge the important contribution the Public Trustee makes to the Tasmanian community and expect the Public Trustee to be cognisant of its role in supporting the personal, legal and financial interests of its vulnerable clients.

### **2.4 Compliance with Government Policies**

- In pursuing the strategic expectations detailed in section 2.3, and undertaking its functions and exercising its powers, the Public Trustee shall act in accordance with:
  - the governance framework for Government businesses;

- Treasurer's Instructions and guidelines that are applicable to the Public Trustee;
- any Government policies specifically applying to the Public Trustee as advised in writing by the Shareholding Ministers; and
- the provisions contained in funding agreements between the Government and the Public Trustee.

### **3. NATURE AND SCOPE OF OPERATIONS**

#### **3.1 Core Business**

- The core business of the Public Trustee is to:
  - manage the financial interests of individuals under a legal, physical or intellectual disability where the Public Trustee is appointed to act on their behalf;
  - provide relevant and accessible services that meet the needs of the community, including represented persons and clients which is the subject to a funding agreement between the Government and the Public Trustee;
  - provide the general community access to trusted advice and services in relation to trustee services including wills, estate administration, trust management and powers of attorney;
  - administer estates and trusts, irrespective of their value;
  - invest client funds;
  - invest reserves in accordance with the GBE Act and the Treasurer's Instructions; and
  - administer the Portfolio Act.

#### **3.2 Business Presence Outside the State**

- The Public Trustee is not expected to operate a business outside Tasmania.
- The Public Trustee must seek the written approval of the Shareholding Ministers before establishing any new business presence outside Tasmania. Any such proposal is to be on the grounds of risk mitigation for the Public Trustee and the State. Any request must be accompanied with a compelling business case.

#### **3.3 Non-commercial Activities**

- The Public Trustee's non-commercial activities are:
  - any activity that has been declared a community service obligation by the Treasurer; and
  - any activity that is identified as a non-commercial activity in an agreement between the Public Trustee and the Shareholding Ministers.
- Non-commercial activities are listed in Schedule I of this Charter.
- Where the Public Trustee is required to perform non-commercial activities, those activities are to be undertaken in accordance with service standards and reporting requirements established in any funding agreement with the Shareholding Ministers.

## 4. PERFORMANCE, OPERATING AND REPORTING EXPECTATIONS

### 4.1 Performance Expectations

- The Shareholding Ministers expect the Public Trustee to:
  - act responsibly and with regard to the will, preference and rights of clients;
  - act in a way that supports represented person clients to become capable of administering their own affairs, as far as possible;
  - act in a way that protects and promotes the dignity of represented person clients;
  - meet key performance targets, as set out in the annual Statement of Corporate Intent;
  - meet any key performance targets included in any funding agreement between the Public Trustee and the Government;
  - implement the business strategies contained in the Corporate Plan, which has been approved by the Shareholding Ministers; and
  - be proactive in identifying and implementing operational efficiencies and productivity measures to enhance financial performance.

### 4.2 Customer Service

- In delivering its services, the Shareholding Ministers expect the Public Trustee to take account of contemporary management, administration and service practices within the industry that it operates.
- The Public Trustee is to have in place and follow a customer service charter which is to be publicly available.
- The Public Trustee is to continue to improve customer services and service delivery in order to ensure activities are undertaken in accordance with the will, preference and rights of clients to the extent possible, and to strengthen the Public Trustee's brand and public image.

### 4.3 Reporting

- The Shareholding Ministers expect the Public Trustee to comply with any relevant reporting requirements specified in any legislation, funding agreement or guidelines issued by Treasury, and to satisfy all reporting requirements for the Tasmanian Civil and Administrative Tribunal (TASCAT).

### 4.4 Pricing

- The Shareholding Ministers expect the Public Trustee to set prices, fees and charges which:
  - meet the objectives of efficiency, and financial sustainability;
  - comply with all legislative and regulatory instruments; and
  - take into consideration any relevant Government policies and agreements.

- The Shareholding Ministers expect the Public Trustee to set prices, fees and charges that are fair and proportionate for clients covered by funding agreements with the Government.

#### 4.5 Borrowings and Investment Activities

- The Shareholding Ministers expect the Public Trustee's borrowings to be consistent with the *Guidelines for Government Businesses - Borrowing Arrangements* and any direction given under the *Tasmanian Public Finance Corporation Act 1985*.
- When investing any surplus funds, the Public Trustee should provide the Tasmanian Public Finance Corporation with the opportunity to offer its services.
- Capital structure and debt levels should be maintained at a level that is consistent with the overall strategic portfolio objectives of the Government as advised by the Shareholding Ministers from time to time.

#### 4.6 Capital Asset Management

- The Shareholding Ministers expect the Public Trustee to:
  - develop Strategic Asset Management Plans reflecting prudent commercial practice;
  - regularly review its asset holdings with the aim of identifying surplus non-performing and non-core assets for potential divestment in accordance with the GBE Act; and
  - subject any capital investment proposal to rigorous and considered analysis prior to any decision to commit resources.
- The Shareholding Ministers and Treasury, as principal financial adviser, are to be notified of all proposed major new capital investments (including in Information Technology systems), or major divestment proposals, as required by the *Guidelines for Tasmanian Government Businesses - Capital Investment* or as advised by the Shareholding Ministers from time to time.
- All major capital investment decisions must be approved in writing by the Shareholding Ministers prior to any significant expenditure being incurred.

#### 4.7 Risk Management

- The Shareholding Ministers expect the Public Trustee to have in place risk management strategies that recognise that the Government is a long-term risk-averse investor, identify business and financial risks, and provide for their ongoing management in a manner that is commensurate with the risk profile of the Government.

### 5. OTHER

#### 5.1 Director Appointment Process

- The Shareholding Ministers expect the Public Trustee to comply with the *Guidelines for Tasmanian Government Businesses - Board Appointments* and to work cooperatively

with relevant Director Selection Advisory Panels to ensure that the Director appointment process results in:

- an appropriate skills mix;
- diversity;
- a balance of renewal and continuity of Board membership; and
- the achievement of Government initiatives, such as the Women on Boards Strategy.

## **5.2 Employee and Industrial Relations**

- The Shareholding Ministers expect the Public Trustee to:
  - adhere to any Government policy and relevant Guidelines in regard to senior executive remuneration including performance pay or other forms of rewards;
  - be cognisant of any Government policy in regard to employee remuneration, consistent with contemporary public sector wages policy; and
  - provide a high level of safety throughout the organisation, taking all practical steps to provide its employees and its contractors with safe working conditions.
- The Shareholding Ministers are to be notified prior to any significant changes to the employee relations policy of the Public Trustee, including the finalisation of any workplace or enterprise agreements.

## **5.3 Integrity and Ethics**

- The Shareholding Ministers expect the Board, management and employees of the Public Trustee to exhibit the highest level of integrity and professionalism in undertaking their duties.

## **5.4 Significant Developments**

- The Shareholding Ministers are to be kept informed of any matters of significance. Specifically, the Shareholding Ministers expect to be notified of any adverse developments that may:
  - significantly affect outcomes to customers;
  - prevent the achievement of performance objectives;
  - materially impact the achievement of any performance targets;
  - significantly affect prices;
  - significantly affect the financial viability or operating ability of the Public Trustee; or
  - significantly impact on Government policy, stakeholder relations or environmental issues or that have a wider public interest.



## 5.5 Provision of Information

- The Shareholding Ministers expect to be:
  - informed of any potential material transactions not in the ordinary course of business before they take place;
  - informed well in advance of any material or significant events, transactions or other issues relating to the business which could have a wider public interest; and
  - provided with any information or reports requested, in an accurate and timely manner.

**SCHEDULE I**  
**NON-COMMERCIAL ACTIVITIES**

The following non-commercial activities, as defined under Clause 3.3, shall be performed by the Public Trustee:

- Administration of Absolute Estates with a gross asset value of less than \$60 000.
- Administration of Continuing Trust and Life Tenancy Estates with a gross asset value of less than \$100 000.
- Administration and management of Minor Trusts with a gross asset value of less than \$20 000.
- Management of assets for Represented Persons with a gross asset value of less than \$100 000.

The list of non-commercial activities may be amended, at any time, by agreement in writing between the Public Trustee and Shareholding Ministers.