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POL-023: Deceased Client / Party Management Policy

Effective Date: 2026.05.01

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Purpose
This Policy establishes a clear, consistent, and lawful framework for managing legal matters where a client or a material party to a matter is deceased. It ensures that the Firm responds with professionalism, sensitivity, procedural integrity, and strict compliance with legal, ethical, and confidentiality obligations.

Scope
This Policy applies to:
- All attorneys-at-law, trainee attorneys, paralegals, and support staff;
- All active, dormant, or recently closed matters where a client or party becomes deceased;
- All practice areas including civil, litigation, probate, conveyancing, criminal, and corporate matters.

Guiding Principles
The Firm's management of deceased client or party matters shall be guided by the following principles:
- Dignity and sensitivity in communications and conduct;
- Legal authority first – no action without proper standing;
- Strict confidentiality until lawful disclosure is authorised;
- Risk containment to avoid invalid filings, professional breaches, or unenforceable instructions;
- Court and statutory compliance at all times.

Immediate Actions Upon Notification of Death
Upon becoming aware (formally or informally) of the death of a client or party, the assigned attorney or file handler must:
1. Immediately suspend substantive work on the matter (excluding preservation or urgent court-mandated steps);
2. Record the notification in the file notes, including date, source, and circumstances;
3. Notify the Practice Manager or Compliance Officer within one business day;
4. Flag the matter status in the Firm's case management system as *"Deceased – Pending Authority"*.

No legal advice, filings, settlements, or instructions are to proceed until authority is verified.

Verification of Death
Where practicable, the Firm shall request and securely retain documentary confirmation of death, which may include:

- Certified copy of the Death Certificate;
- Court-issued declaration of death;
- Other legally acceptable proof as advised by counsel.

Receipt or non-receipt of such documentation must be logged on file.

Authority to Act After Death

The Firm shall not accept instructions or take substantive action following a client's death unless authority is established through one of the following:

- Executor or Executrix named in a valid Will;
- Administrator duly appointed by the Court;
- Personal Representative authorised by law;
- Court Order expressly permitting continuation or specific actions.

All authority documents must be:

- Verified for validity;
- Saved to the official matter file; and
- Reviewed by the supervising attorney or Practice Manager before action is taken.

Court Proceedings and Litigation Matters

Where the deceased was a party to court proceedings:

- The assigned attorney must immediately assess whether abatement, substitution, or stay applies;
- The Court must be notified where procedurally required;
- No filings shall be made in the name of a deceased person;
- Substitution of parties must strictly follow applicable procedural rules.

Urgent procedural steps (e.g. to prevent default or preserve rights) require managerial sign-off.

Client Funds, Trust Monies, and Property

In matters involving client monies or property:

- All funds remain protected in accordance with trust accounting rules;
- No disbursement may occur without proper authority;
- Where necessary, funds may be held pending probate or court direction;
- Finance and Compliance must be notified immediately.

This section operates in conjunction with the Firm's trust accounting and client money policies.

Communication Protocols

External Communications

- Communications must be measured, empathetic, and factual;
- No legal advice is to be given to family members without authority;
- All correspondence must clearly state that the Firm is awaiting formal authority where applicable.

Internal Communications

- Matter status updates must be circulated to relevant teams;
- Informal assumptions or speculative discussions must be avoided;
- All discussions are confidential and need-to-know only.

File Management and Preservation

- Files must be secured to prevent unauthorised access;
- Access permissions may be restricted during the interim period;
- Statutory limitation, court deadlines, and document retention obligations must continue to be monitored;
- Where the Firm is unable to continue acting, the disengagement process must be followed.

Conflict of Interest and Ethical Considerations

Staff must:

- Be alert to conflicts between potential representatives;
- Refrain from favouring any party without proper authority;
- Escalate ethical concerns immediately to the Compliance Officer;
- Comply fully with professional conduct and confidentiality rules.

Disengagement and Matter Closure

Where authority is not obtained within a reasonable or legally permissible time:

- The Firm may formally disengage in writing;
- The matter may be closed, archived, or transferred as appropriate;
- All disengagement steps must be documented and approved by management.

Breach of Policy

Failure to comply with this policy may result in corrective action in accordance with firm procedures, up to and including disciplinary measures.

Effective Date

This Policy takes effect on the date of formal approval and remains in force until amended or revoked.

Review and Updates

This policy will be reviewed periodically to ensure it remains aligned with operational needs, regulatory requirements, and best practices in client care.

Employee Acknowledgement and Confirmation

I, ____, acknowledge that I have received, read, and understood the contents of the **Deceased Client and Party Management Policy**.

I confirm that:

- I understand my obligations under this Policy and the standards expected of me;
- I agree to comply with the requirements set out herein and any related procedures, guidelines, or standard operating documents;
- I understand that failure to comply with this Policy may result in corrective or disciplinary action in accordance with organisational policies;
- I undertake to seek clarification where any aspect of the Policy is unclear.

I further acknowledge that this signed confirmation forms part of my official HR and compliance record in accordance with organisational requirements.

Employee Name: ____

Signature: ____

Date: ____

Position: ____