

**From:** PT Media  
**To:** Penni Pappas  
**Cc:** Samay Zhouand; Elloise Waite; Jacob Fredericks  
**Subject:** ABC media enquiry  
**Date:** Friday, 19 March 2021 12:50:14 PM

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Hi Penni,

I hope you are well.

Just a quick heads up we received the below media enquiry from Stephanie Zillman, ABC State Political Reporter.

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Is the PT agitating for an urgent legislative review, given recommendation 11 in the Public Advocates report?

Why are you continuing to charge clients while the fees and charges review is underway? Should there not be a total moratorium while it is being assessed?

Does the fees and charges review include a review of the use of the official solicitor?

Any questions, please feel free to give me a bell.

Thanks,  
Elloise



1300 360 044  
[www.pt.qld.gov.au](http://www.pt.qld.gov.au)

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# DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL

## BRIEF FOR NOTING

**Date:** 8 March 2021  
**To:** Attorney-General and Minister for Justice  
Minister for Women and Minister for the Prevention of Domestic and Family Violence  
**From:** Acting Public Trustee of Queensland and CEO  
**Subject:** Public Advocate Report: Inquiry into the Public Trustee fees and charges  
**Requested by:** Internally generated

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### RECOMMENDATION

That you:

1. note the Public Advocate has completed her Report 'Inquiry into the Public Trustee's fees and charges' (the Report) (**Attachment 1**);
2. note the Public Trustee response to the Report which is included as Appendix 1 in the Report; and
3. note the draft Public Trustee media statement (**Attachment 2**).

NOTED or APPROVED / NOT APPROVED		
Comments		
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<b>SHANNON FENTIMAN MP</b> Attorney-General and Minister for Justice Minister for Women and Minister for the Prevention of Domestic and Family Violence	<b>Chief of Staff</b>	<b>Policy Advisor</b>
/ /	/ /	/ /
Contact Officer:	Name: Jacob Fredericks Position: A/Executive Director, Strategy and Governance Phone: 3564 2393 Date: 05/03/0021	
Approved by:	Name: Samay Zhouand Position: A/Public Trustee of Queensland and CEO Phone: 3564 2787 Date: 05/03/2021	Endorsed: David Mackie Director-General  / /
<input type="checkbox"/> Election Commitment <input type="checkbox"/> CBRC / Cabinet related <input type="checkbox"/> ECM related		

## POTENTIAL MEDIA

1. There is the potential for media interest following the tabling of the Report, and any media release from the Public Advocate. The Public Trustee has prepared a media statement (**Attachment 2**).
2. In addition, the Public Trustee is preparing media responses to potential questions and talking points. These will be provided to your office when they are finalised.

## BACKGROUND SUMMARY

3. The Public Advocate has a statutory systems advocacy role under the *Guardianship and Administration Act 2000*.
4. The Public Advocate commenced making inquiries into the Public Trustee's fees and charges for financial management customers in late 2018. The first formal request for information was made in January 2019.
5. During the course of the Public Advocate's inquiries the Public Trustee has been cooperative, responding to five formal requests for information, in addition to informal information requests and meetings.
6. The scope of the Report considers the Public Trustee's fees and charges, investment practices, fee relieved and Community Service Obligations, application of the Prudent Person Rule and the fees charged by the Office of the Official Solicitor.

## ISSUES

7. The Report makes 32 recommendations relating to the Public Trustee's fees and charges regime, transparency, sustainability and provision of legal services.
8. The Public Trustee accepts (fully, partially or in-principle) 19 of the recommendations. Six recommendations are marked for further consideration as they will require a decision to be made by the Government, for example legislative amendments.
9. Seven recommendations are not supported, either because the premise of the recommendation is factually incorrect, or the recommendation cannot be accepted without significant impacts on customers.
10. A table summary of the Public Trustee's response to each of the recommendations is attached (**Attachment 2**)
11. Through the Public Trustee's industry leading Customers First Agenda, considerable work is already underway to address the Public Advocate's findings, including:
  - a. undertaking a comprehensive independent review of the Public Trustee's gazetted and non-gazetted fees and charges to ensure they are transparency, efficient and fair;
  - b. undertaking an Easy English project to rewrite existing customer communication in an easier to understand format;
  - c. developing a fees ready reckoner to clearly and transparently provide information to customers on the fees and charges they may incur during the Public Trustee's appointment;
  - d. commissioning an independent review of the Customer Investment Strategy to ensure customers' needs are being met now and into the future;



- e. establishing a Customer Advocacy function to provide a voice for customers inside the organisation, which will be an Australian first among state trustees;
  - f. implementing an external complaints review mechanism to provide customers with greater confidence in the Public Trustee's practices, which will be an Australian first among states and territories;
  - g. establishing an integrity and ethics unit and framework, which will be another Australian first among state trustees;
  - h. introducing greater levels of transparency of relevant fees and charges; and
  - i. establishing a Government Reference Group and Customer Reference Group to share information, provide guidance and deliver insights that can help the Public Trustee deliver on the Customer First Agenda and improve services for customers.
12. As indicated above, two national first initiatives for Australian trustees are underway as part of the Customers First Agenda – the establishment of a Customer Advocate and an External Review of Complaints process.
13. The objective of Customer Advocate is to provide the customer with a voice inside the Public Trustee.
14. The Customer Advocate will advocate for fair and equitable outcomes for customers of the Public Trustee and will have three primary roles:
- a. *Customer support*: for individual customers through Public Trustee processes;
  - b. *Review*: of Public Trustee decisions and actions to identify systemic issues and opportunities for improvement; and
  - c. *Fair complaint outcomes*: to assist the organisation to better understand the customer's perspective and impact of decisions on customers.
15. Your office will be consulted on the timing and form of the announcement of the Customer Advocate and external review of complaints process.
16. The Public Trustee's Government and Customer Reference Groups will help implement these and other key initiatives. The Public Advocate is represented on the Government Reference Group, as well as on relevant internal working groups.
17. In addition, the Public Trustee has recently developed its five-year Customers First Strategy 2021–2026 to guide the strategic direction of the agency.
18. The Strategy will further advance the Public Trustee's response to the Report findings.
19. The Strategy is complemented by the Public Trustee's inaugural Social Impact Report, which has been developed to support engagement with key stakeholders on the changes the Public Trustee is making through its Customers First Agenda.

## **HUMAN RIGHTS IMPACT ASSESSMENT**

20. The Report does not raise concerns about any potential impacts on human rights. However the Report does raise that a number of the Public Trustee's practices may be contrary to the general principles in the *Guardianship and Administration Act 2000*.

## **CONSULTATION WITH STAKEHOLDERS**

21. The Public Trustee has undertaken considerable consultation with the Public Advocate and her staff during the course of the inquiries.

22. The Public Trustee has undertaken high level briefings on the development of the Report.

## **FINANCIAL IMPLICATIONS**

23. Not applicable.

## **EMPLOYMENT IMPACT**

24. Not applicable.

# DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL

## BRIEF FOR NOTING

Date: 30 November 2020  
To: Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence  
From: Acting Public Trustee and Chief Executive Officer  
Subject: Public Advocate's inquiries into the Public Trustee's fees and charges  
Requested by: Internally generated

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### RECOMMENDATIONS

That you:

1. note the Public Advocate is preparing a report into the Public Trustee's fees and charges: *The Value of Trust: Public Trustee fees and charges for people under financial administration* (the Report);
2. note the Public Advocate's draft recommendations at **Attachment 1**;
3. note the key areas of disagreement between the Public Trustee and the Public Advocate at **Attachment 2**; and
4. note it is expected that the Public Advocate will provide the final Report to your office by 31 December 2020.

### BACKGROUND SUMMARY

1. The Public Advocate has a statutory systems advocate role under the *Guardianship and Administration Act 2000* (GA Act).
2. The Public Trustee has responded to five formal Information Notices from the Public Advocate since January 2019 and has recently received a sixth Information Notice.

### ISSUES

3. The Public Advocate has advised that the catalyst for the Report is in response to concerns raised by people under the financial management of the Public Trustee, their carers and support network about the Public Trustee's fees and charges and the negative effect on financial outcomes for people under financial administration.
4. The scope of the Report considers the Public Trustee's fees and charges, investment practices, fee relieved and Community Service Obligations, application of the Prudent Person Rule and the fees charged by the Office of the Official Solicitor.
5. A central argument of the Report appears to be that the Public Trustee's fees are not reasonable for customers living more autonomously in the community which is contrary to the general principles of the GA Act.
6. The Public Trustee has actively supported the Public Advocate with her inquiries and welcomes the findings as part of the agency's focus on continuous improvement and its Customers First commitment.



7. It is acknowledged that the current fees and charges model is complex and that is why the Public Trustee is engaging Queensland Treasury Corporation to undertake a comprehensive review of all gazetted and non-gazetted fees and charges.
8. While the Public Advocate's draft recommendations are generally accepted in-principle, there are a number of areas in the draft Report which the Public Trustee takes a differing view to the Public Advocate. These include:
  - a lack of oversight – the Public Advocate questions whether the Public Trustee's expenditure and fees and charges system is or has been subject to sufficient scrutiny by Parliament, Queensland Ombudsman, central agencies and the annual State Budget process;
  - legislation shortcomings – the Public Advocate suggests loose drafting and ambiguity from legislation has potentially encouraged some less than appropriate practices by the Public Trustee;
  - fees and charges – the Public Advocate is of the view that the Public Trustee charges customers for fees for no services, and its fees and charges may not be reasonable and therefore may be unlawful; and
  - investment practices – the Public Advocate is of the view that the investment practices adopted by the Public Trustee are in the interests of the agency rather than for the customer.
9. The Public Advocate also questions the sustainability and legislative basis of the Public Trustee's self-funding model. Further information on the areas of difference is at **Attachment 2**.
10. The Public Trustee has provided feedback on each of the eight draft chapters to the Public Advocate, however it is not clear how much of this has been accepted or will be reflected in the final Report.
11. In parallel with the Report, the Public Trustee has commenced implementing its Customers First Agenda (CFA) which is expected to address a large number of the concerns raised in the Report.
12. The CFA sets the strategic vision to position the Public Trustee to become a more modern, socially and financially responsible service that values human rights, puts the customers first and continues to embed greater levels of trust, transparency and engagement.
13. Key initiatives under the CFA include:
  - undertaking a comprehensive independent review of the Public Trustee's gazetted and non-gazetted fees and charges to ensure they are transparency, efficient and fair;
  - commissioning an independent review of the Customer Investment Strategy to ensure customers' needs are being met now and into the future;
  - establishing a Customer Advocacy function to provide a voice for customers inside the organisation, which will be an Australian first among state trustees;
  - implementing an external complaints review mechanism to provide customers with greater confidence in the Public Trustee's practices, which will be an Australian first among states and territories;
  - establishing an integrity and ethics unit and framework, which will be another Australian first among state trustees;
  - introducing greater levels of transparency of relevant fees and charges; and

- establishing a Government Reference Group and Customer Reference Group to share information, provide guidance and deliver insights that can help the Public Trustee deliver on the CFA and improve services for customers.

14. The Public Trustee has established working groups to implement these and other key initiatives and the Public Advocate is represented on the Government Reference Group, as well as on relevant internal working groups.

15. The feedback from the Government Reference Group has been supportive of the changes being as part of the CFA.

#### **HUMAN RIGHTS IMPACT ASSESSMENT**

16. The Report has written may raise concerns by some customers that their human rights have been impacted by the Public Trustee's actions.

#### **FINANCIAL IMPLICATIONS**

17. Significant internal resources have been used in responding to the Public Advocate's Information Requests and draft Chapters.

#### **POTENTIAL MEDIA**

18. There is the potential for significant negative media following the release of the Report.

19. The Public Trustee is developing a communications plan to manage its response to the Report, including how it will respond to media enquiries.



NOTED or APPROVED / NOT APPROVED  
**Attorney-General and Minister for Justice,  
 Minister for Women and Minister for the  
 Prevention of Domestic and Family  
 Violence**  
**Comments**

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**Shannon Fentiman MP**  
**Attorney-General and Minister for Justice,  
 Minister for Women and Minister for the  
 Prevention of Domestic and Family  
 Violence**

**Chief of Staff**

**Policy Advisor**

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Contact Officer:	Name: Jacob Fredericks Position: Acting ED, Strategy and Governance Phone: 3564 2393 Date: 26 / 11 / 2020	Approved by:	Name: Jacob Fredericks Position: Acting ED, Strategy and Governance Phone: 3564 2393 Date: 26 / 11 / 2020
Approved by:	Name: Samay Zhouand Position: Acting Public Trustee and CEO Phone: 3564 2787 Date: 26 / 11 / 2020	Endorsed: David Mackie Director-General	_____ / /
<input type="checkbox"/> Election Commitment <input type="checkbox"/> CBRC / Cabinet related <input type="checkbox"/> ECM related			

# DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL

## BRIEF FOR NOTING

**Date:** 19 April 2021  
**To:** Attorney-General and Minister for Justice  
Minister for Women and Minister for the Prevention of Domestic and Family Violence  
**From:** Samay Zhouand, Acting Public Trustee of Queensland  
**Subject:** Public Trustee of Queensland Financial Position - Update  
**Requested by:** Internally generated

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### RECOMMENDATIONS

That you:

1. s.73(2)
- 2.
- 3.

NOTED or APPROVED / NOT APPROVED			
Comments			
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<b>SHANNON FENTIMAN MP</b> Attorney-General and Minister for Justice Minister for Women and Minister for the Prevention of Domestic and Family Violence		<b>Chief of Staff</b>	<b>Policy Advisor</b>
/ /		/ /	/ /
Contact Officer:	Name: Manuela Malton Position: Director, Finance Phone: (07) 3564 2102 Date: 16/04/2021	Approved by:	Name: Shane Sullivan Position: A/ED, Investment & Finance & CFO Phone: (07) 3564 2613 Date: 16/04/2021
Approved by:	Name: Samay Zhouand Position: A/Public Trustee of Queensland & CEO Phone: (07) 3564 2787 Date: 16/04/2021	Noted: David Mackie Director-General	<hr/>
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<input type="checkbox"/> Election Commitment <input type="checkbox"/> CBRC / Cabinet related <input type="checkbox"/> ECM related			

## POTENTIAL MEDIA

1. Not applicable.

## BACKGROUND SUMMARY

s.73(2)

## ISSUES

s.73(2)

8. The recent Public Advocate report, Preserving the financial futures of vulnerable Queenslanders, issued in January 2021, questioned the level of reserves accumulated by the Public Trustee over time and how this accords with section 19A of the *Public Trustee Act 1978*. The report recommended that the Public Trustee limit the amount of its operating surpluses and reserves. The Public Trustee's response noted that the Public Trustee has in prior year's budgeted for a balanced budget, and surpluses have occurred as a result of the broader economic situation and associated interest rate environment.

s.73(2)



s.73(2)

#### **HUMAN RIGHTS IMPACT ASSESSMENT**

12. Sections 58(5) and 13 of the *Human Rights Act 2019* have been considered and there are no human rights that are adversely affected as a result of the subject matter of this brief.

#### **CONSULTATION WITH STAKEHOLDERS**

s.73(2)

## 3-1 Fees and charges review

Partially supported in-principle

The Public Trustee is committed to delivering services that are valued by the community and the Government, and to providing service excellence.

The Public Trustee recognises the need to provide financially and ethically responsible leadership and governance to ensure that we can continue to meet our obligations our customers and the broader community

The Public Trustee has committed to undertake an independent and comprehensive review of all of its gazetted and non-gazetted fees and charges. The review focuses on ensuring its fees and charges are transparent, fair, reasonable and reflective of the service provided.

The Public Trustee's fees and charges should be reviewed to achieve the following:

- (a) The fee regime for financial administration clients be simplified so that clients and their supports can easily understand what the fees are, what services are provided for the fee, and how and when the fees will be charged.
- (b) The Public Trustee's fees for financial administration clients should be reasonable, considering the financial circumstances of the clients and their level of income. Where clients have a limited income, the fees should be limited to a specific proportion of that income to ensure that they are not oppressive and do not negatively impact client's lives, deplete their assets or push them into poverty.
- (c) The fees charges to financial administration clients should have a direct correlation to the actual cost to the Public Trustee of providing those services. These costs should not be inflated to provide for cross-subsidisation of services for other Public Trustee clients or activities or to provide for a level of 'profit' for the Public Trustee, unless specifically permitted by legislation.
- (d) Where financial administration clients have been charged an asset management fee on an asset, the Public Trustee should not impose any additional charge on the management or investment of those clients' fund. There should be no overlap or duplication of fees or charges to financial administration clients.
- (e) The Public Trustee should cease the practice of charging clients fees on assets such as superannuation holdings or other investments that are managed by third parties and for which clients are already paying management fees to that third party.
- (f) The fee structure relating to the financial administration clients should support and encourage them to exercise their autonomy and to lead independent lives. Financial administration clients should not be charged higher fees where they require more support to exercise their capacity.

## 3-2 Transparency of fees and charges

(a)	The Public Trustee should provide clear and accessible information to financial administration clients about its fees and charges and the services clients will receive for their fees	Accepted	The Public Trustee website provides accessible information on its fees and charges, including case studies which assist customers to relate the fees and charges to their individual circumstances.
(b)	The Public Trustee's policies and manuals guiding what services financial administration clients receive and how the fees and charges for those services are calculated and applied, should be transparent and accessible by the public. This information should include scenario examples to clearly demonstrate how the funds and assets of financial administration clients will be managed and the fees they will pay for that service.	Accepted	As part of the Public Trustee's Customers First agenda and commitment to continuous improvement, we will continue to explore options to make information about fees and charges more accessible. The Public Trustee is committed to transparency of its policies and procedures.  As part of its Customers First Agenda, the Public Trustee has an initiative underway to publish relevant policies and manuals on its website. This has already resulted in clearer information on the Public Trustee's fees and charges, and the Prudent Person Rule Manual being published.
(c)	Soon after appointment, annually, and after any significant change of financial circumstances, the Public Trustee should send each client personalised correspondence detailing the services they will receive and the fees for those services. All correspondence to financial administration clients should explain how to locate relevant fees and charges information and policies and manuals on the Public Trustee website. Where clients do not have access to the internet, the Public Trustee should make this information available in hard copy on request.	Accepted in-principle	The Public Trustee is continually looking at ways to improve how we engage with our customers. We are currently reviewing our customer correspondence and will consider this moving forward.
(d)	The Public Trustee should adopt clear policies and practices encouraging staff to be responsive to queries of clients and their supporters, particularly in relation to fees and charges. This would improve transparency of information, client participation in the management of financial affairs and client satisfaction with Public Trustee services.	Accepted	The Public Trustee is committed to placing the customer at the centre of all that we do.  The Public Trustee endeavours to be responsive to customer enquires in relation to its fees and charges. That is why the Public Trustee is continually looking at ways to improve the accessibility of this information.
(e)	The Public Trustee should improve the way information is presented in client statements of account to make them more transparent, and easy to understand. The statement should include summary information about categories of income and expenses. Any special purpose payments should be the subject of separate correspondence that fully explains these costs and why they were incurred.	Accepted in-principle	The Public Trustee will develop additional training and support materials for front line staff to better support them to respond to fees and charges queries. The Public Trustee is committed to supporting customers to exercise their independence and autonomy in the community by increasing financial literacy.  As part of the Customers First Agenda, the Public Trustee has a project underway to improve the readability of the customer statement of accounts.
3-3			
legislative amendments relating to fees			
	The <i>Guardianship and Administration Act 2000</i> should be amended to require a court, or tribunal, when considering appointing the Public Trustee as a person's financial administrator, to consider the level of the Public Trustee's fees, and their effect on the person's financial circumstances over time, especially when there may be an alternative appointment of a family member or friend who would not be charging fees.	For further consideration	The Public Trustee welcomes the opportunity to participate in discussion around this recommendation to work towards better outcomes for its customers and Queenslanders more generally.
3-4			
Review of the practice of obtaining independent financial advice			
	In relation to the practice of obtaining external financial advice, the Public Trustee should review its practice of routinely obtaining annual financial advice from an independent financial advisor, for which clients have to pay. The review should consider whether:	Accepted	The Public Trustee is committed to continuous improvement and identifying opportunities to streamline processes that result in improved outcomes for customers.



	i.	obtaining financial advice for most Public Trustee clients is reasonably necessary, considering the Public Trustee's expertise as a professional trustee;		The Public Trustee is undertaking a review of its Prudent Person Rule Manual with a view to ensuring it is current and continues to reflect prudent investment practices.
	ii.	obtaining the financial advice represents value for money for the clients, considering: <ul style="list-style-type: none"> <li>the Public Trustee's conservative investment policies which limit where and how clients' funds can be invested, and the returns they earn; and</li> <li>the relatively low value of client assets for which the Public Trustee obtains independent financial advice;</li> </ul>		The Public Trustee continues to be of the view that obtaining external financial advice is appropriate in some circumstances to ensure the best financial outcomes for the customer are achieved.
	iii.	the thresholds for obtaining independent financial advice should be reviewed and raised significantly (clients should not have to bear the cost of the Public Trustee's low tolerance of risk exposure for its own decisions);		Developing the capacity for internal financial planners is not supported at this time. The cost of providing internal financial advice would be prohibitive and may lead to higher costs for customers.
	iv.	financial advice should only be obtained where clients indicate they want the advice; and		The Public Trustee is committed to undertaking a procurement process for a financial advice services in 2021.
	v.	follow-up financial advice should only be obtained where there has been a change in the clients' financial circumstances or in the markets that would justify the cost of a review of their investment arrangements, and there is a genuine likelihood that the advice will lead to a change in the clients' investment arrangements.		
3-5		incidental outlays		
		The Public Trustee should cease the practice of charging general fees for incidental outlays to financial administration clients and only charge the actual costs of these outlays on each client's file if they are capable of being accurately costed.	Accepted in-principle	Incidental outlays will be considered as part of the independent fees and charges review.
<b>Chapter 4</b>			4	
4-1		The Public Trustee review its Community Service Obligations in consultation with the Attorney-General and consider whether its current Community Service Obligations should continue to be provided and/or provided in their current form.	For further consideration	This is a matter for the Government however the Public Trustee would be pleased to participate in discussions around this recommendation to work towards better outcomes for its customers and Queenslanders more generally
4-2		The Public Trustee ceases the practice of using financial administration clients' fees and charges to fund or subsidise the cost of providing Community Service Obligations.	Agree in-principle	The Public Trustee does not currently fund or subsidise its Community Service Obligations from the fees and charges of financial management customers.  This will be further considered as part of the independent fees and charges review.
4-3		The Public Trustee should limit the provision of its Community Service Obligations in accordance with what it can reasonably fund.	Agreed in-Principle	The Public Trustee's Community Service Obligations provide essential assistance to some of Queensland's most vulnerable people.  The independent fees and charges review will ensure that the Public Trustees fees and charges are transparency, relevant, sustainable and cost effective for our customers.
4-4		The Public Trustee should review its complex system of fee rebates and hardship scheme to achieve more equitable and balanced outcomes, especially for financial administration clients on very limited incomes, such as pensions. The fee rebate scheme should be designed to ensure that no financial administration client will experience an unavoidable depletion of assets because of the amount of the fees and the inadequacy of the rebates.	Agree in-Principle	The independent fees and charges review will ensure that the Public Trustees fees and charges are transparency, relevant, sustainable and cost effective for our customers.
<b>Chapter 5</b>			5	
5-1		The Public Trustee, as a fiduciary and financial administrator, should not profit from the funds of administration clients unless expressly permitted	For further consideration	This is a matter for the Government but the Public Trustee notes that sufficient reserves are required by the PT to enable us to continue to operate as a self funded agency during difficult economic circumstances such as the current Covid 19 crisis



	by legislation. Any such legislative provisions should set clear limits on the amount and purpose of any income or 'profit'.		
5-2	The way the Public Trustee sources revenue or uses client funds to raise revenue should be transparent and accountable so that all members of the public who choose the Public Trustee as their executor or enduring attorney, and those who are placed under financial administration (including their supporters and tribunal members making those decisions), know how their money will be used and the likely returns on investments managed by the Public Trustee.	Agree in-principle	The Public Trustee declares the costs and income received from the Common Fund in its Annual Report. However, consideration will be given as to how this can more thoroughly be reflected in the Annual Report moving forward.
5-3	The Public Trustee should be transparent in reporting the fees and costs associated with the operation and management of its various investment products and their effect on clients' investment returns. Clients should not be subjected to double charges where they pay an annual asset management fee on their funds and additional fees to the Public Trustee and/or others to manage investments involving those funds, or earn reduced interest on their funds due to the operation of the interest differential.	Agree in-principle	<p>The Public Trustee is committed to transparency of its fees and charges. Work is progressing to update the Public Trustee website and customer information with clearer information on fees and charges.</p> <p>The Public Trustee does not agree with the view that there are double charges. Each of the Public Trustee's fees and charges are for a specific service depending on the specific role the PT is undertaking.</p>
5-4	The Public Trustee should be subject to limits on the level of annual operating surpluses that it is permitted to deliver.	Not supported	<p>The Public Trustee aims to deliver a balanced budget year. Higher than expected returns or changes to the economic environment can result in operating surpluses or deficits.</p> <p>Any limits on the level of annual operating surpluses are a matter for the Government.</p>
5-5	The Public Trustee should be limited in the amount of reserves and surpluses that it is permitted to accumulate. Any accumulated surpluses exceeding those amounts should be returned to clients in reduced or rebated fees.	Not supported	<p>Sufficient reserves are required by the PT to enable us to continue to operate as a self-funded agency during difficult economic circumstances such as the current Covid 19 crisis.</p> <p>Any limits on the level of annual operating surpluses are a matter for the Government.</p>
<b>Chapter 6</b>		6	
6-1	<p>The Public Trustee should adopt a new client investment strategy.</p> <p>In relation to the Public Trustee's overall investment strategy, the Public Trustee, should:</p> <p>(a) Review all policies, manuals and guidance documents relating to the management and investment of client assets to properly explain and reflect the duties of a trustee and fiduciary.</p> <p>(b) Review the purpose and continuing need for an overarching Client Investment Strategy and Primary Investment Strategy. Whatever strategy or investment approach is adopted, it should not over-ride consideration of the individual circumstances and other needs of clients.</p> <p>(c) Implement investment decision-making policies that will:</p> <p>i. Ensure that the clients' interests are at the centre of all investment considerations and decisions affecting their financial interests;</p> <p>ii. Use the client's individual financial profile and living circumstances as the initial basis to assess the client's future</p>	Agreed	The Public Trustee has recently completed an independent review of its Customer Investment Strategy which has confirmed that the Public Trustee is operating in accordance with industry best practice.

investment needs before considering a change to other investment options;

- iii. determine the client's expressed or implied risk appetite in accordance with the General Principles, the client's investment history and individual financial circumstances.

(d) Review the definition of 'complex asset' in light of the Public Trustee's acknowledged high level of professionalism and skill as trustee and administrator in the areas of financial planning and investing to reflect a more current view of what constitutes a complex asset for a professional trustee.

(e) Review the current 'Value of Assets' approach as the principal mechanism that determines whether independent financial advice is required with a view to replacing this with guidance based on a holistic appraisal of all of the things affecting the client's life (e.g. pending legal action, involvements in partnerships, trusts or companies, or complex tax arrangements) as well as the value, diversity and location of assets held by the client.

6-2 Reconsider the need for external financial advice

(a) The Public Trustee should reconsider the need to obtain external financial advice. The Public Trustee should acknowledge and build its capacity as a professional trustee with qualified staff capable of assuming responsibility for financial and investment decisions made on behalf of financial administration clients. With the growth of its capacity, the need for it to obtain independent financial advice should be minimal and reduce over time.

Not Supported

The Public Trustee continues to be of the view that obtaining external financial advice is appropriate in some circumstances to ensure the best financial outcomes for the customer are achieved.

The PT has established procedures to identify the circumstances in which customers will benefit from external financial advice based on the value and complexity of their financial arrangements.

The economic environment, financial planning options and financial planning regulations continue to grow ever more complex.

Developing internal financial planners is not supported at this time. The cost of developing and maintaining the requisite financial planning skill set in house makes providing internal financial advice cost prohibitive and may lead to higher costs for customers.

The Public Trustee is committed to undertaking a procurement process for a financial advice services in 2021. As part of this process the PT will consider the cost effectiveness of implementing a panel arrangement for financial planners. If the cost of procuring financial planning services becomes prohibitive the PT will review the cost effectiveness of developing an in house financial planning capability.

(b) The Public Trustee should immediately cease the routine practice of charging financial administration clients to obtain external financial advice. External financial advice should only be obtained at a client's expense as an exception and when clients or their supporters request this advice and there is a justifiable basis for the expenditure based on the amount and complexity of the clients' assets.

(c) If the Public Trustee intends to continue contracting external financial advice services, even on a more limited basis, it should establish a panel of providers and have transparent policies about when and why this advice would be obtained.



6-3	Obtain advice about refunding financial advice fees		The Public trustee is committed to reviewing its current contractual arrangements for external financial advice.
	The Public Trustee should:		
	(a) Review its current contractual arrangements for obtaining external financial advice for clients.	Partially supported	The Public Trustee remains of the view that its current practice for seeking external financial advice for customers based on their individual circumstances remains prudent.
	(b) Cease requiring clients pay for advice that recommends nothing more than what is outlined in its Client Investment Strategy (while the review of contractual arrangements is being undertaken).		
	(c) Take advice about whether the fees charged to clients for such advice should be refunded.		
<b>Chapter 7</b>		7	
7-1	There be an urgent and comprehensive review of the role and operations of the Official Solicitor to the Public Trustee. Any review should give particular consideration to: <ul style="list-style-type: none"> <li>the structure of the arrangements between the Public Trustee and the Official Solicitor and whether they are appropriate and sufficiently transparent;</li> <li>whether the use of the Official Solicitor to provide legal services to financial administration clients is appropriate considering the potential conflicts in the Official Solicitor's role, issues of legal professional privilege and the Public Trustee financially benefiting from the Official Solicitor's fees;</li> <li>whether lawyers providing legal advice and services to people under financial administration should be required to hold practising certificates and be subject to oversight by the Legal Services Commission (this includes administration clients being able to make a complaint to the Legal Services Commission);</li> <li>review of the scale of fees of the Official Solicitor, with particular consideration of the reasonableness of the fees for the particular cohort of vulnerable people that comprise the majority of the Public Trustee's administration clients;</li> <li>publication of the scale of fees of the Official Solicitor to financial administration clients and/or their supporters, particularly when consideration is being given to obtaining legal advice for which the client will be required to pay; and</li> <li>whether the Public Trustee should establish a panel of legal service providers and barristers to provide legal advice and services to Public Trustee clients that meet quality standards and are value-for-money, and whose fees are reasonable having regard to the vulnerabilities and financial disadvantage of many of the Public Trustee's administration clients.</li> </ul>	Agreed in-principle	<p>The Public Trustee has recently implemented a new functional structure which has separated the Official Solicitor in the Official Solicitor Corporate Legal Services and Official Solicitor Customer Legal Services. The separation of Customer Legal Services ensures that the customer is at the centre of all decision-making and provides greater clarity in the separation from corporate services.</p> <p>The Official Solicitor Customer Legal Services is undertaking a broad review of Customer Legal Services which includes reviewing the billing practices. Work is progressing to establish a panel of legal services providers to provide services to Public Trustee customers.</p> <p>The Public Trustee is also committed to establishing a Legal Expert Transformation Panel to guide changes to the Official Solicitors. The Panel will include representatives from the Queensland Law Society and Legal Services Commission.</p>
7-2	The Public Trustee should develop a policy outlining how it will support administration clients to make complaints against itself and to seek support to investigate claims, obtain legal advice and seek redress when a client alleges that the Public Trustee has, by act or omission, caused the client loss or harm. This should include identifying an appropriate process for referral of client matters that warrant investigation, legal advice and/or redress. This will require broad community consultation to develop an appropriate and efficient model that protects people's rights while containing costs. The final process for managing complaints and conflicts may require legislation.	Agreed in-principle	<p>The Public Trustee is committed to providing essential services that provide security and peace of mind for Queenslanders. We recognize that we don't always get it right and that is why the Public Trustee has a robust complaints management process to support customers or their support network to raise concerns with the Public Trustee.</p> <p>The Public Trustee is also in the process of establishing an independent Customer Advocate Office to provide customers with a voice inside the organisation. This includes implementing an external review of complaints process to provide an additional avenue for customers to have their complaint independently reviewed.</p>



			The Public Trustee is also subject to the rigorous oversight by the Queensland Ombudsman, Queensland Audit Office, Crime and Corruption Commission, Queensland Human Rights Commission, QCAT and Parliament.
7-3	<p>The Public Trustee Act 1978 be amended to provide that solicitors employed by the Public Trustee must:</p> <ul style="list-style-type: none"> <li>While performing their role, have regard to the 'fundamental duties of solicitors' as set out in the Australian Solicitors Conduct Rules 2012 published by the Queensland Law Society; and</li> <li>Be subject to conduct and disciplinary investigations by the Legal Services Commission</li> </ul>	Agreed in-principle	<p>The Public Trustee holds its self to the highest standards in providing customer centric services that enhance and protect the rights, dignity and interests of the Queenslanders.</p> <p>Public Trustee lawyers are subject to range of statutory specific to the public sector, including Model Litigant Principles, and Public Services Code of Conduct.</p> <p>Further, the client agreements specifics that the Public Trustee will comply with the <i>Legal Profession Act 2007</i> in regards to its legal fees and charges. It also remains available for government lawyers to be referred to the Legal Services Commission by the agency chief executive or other lawyers.</p>
7-4	<p>If the Public Trustee continues to provide legal advice and representation to its clients using the Official Solicitor, it should review and update its policies, procedures and other guidance to Public Trustee lawyers to develop a comprehensive set of policies and procedures that:</p> <ul style="list-style-type: none"> <li>clarify who the client is in all legal matters and distinguish between the interests of the Public Trustee as the corporate entity, and the Public Trustee as the representative of a person under financial administration;</li> <li>outline the law in relation to the duties of trustees, fiduciaries and lawyers and their duties to always act in their clients' interests;</li> <li>require lawyers in every case to consider the costs and benefits of any prospective legal action and ensure clients' funds are only spent then they are satisfied the expenditure is in the clients' interests, taking into account their individual needs, the risks, costs and likely outcomes;</li> <li>develop a policy around obtaining consent from clients (where appropriate), their guardians or personal support network, to engage a lawyer and disclose the likely costs, benefits and outcomes for the client;</li> <li>review the Official Solicitor's policy denying Public Trustee clients access to the legal advice they have paid for and to the invoices for that advice and develop a policy that is more appropriate to the Public Trustee's role and duties under the Guardianship and Administration Act 2000, including to support clients to participate in decisions affecting their lives; and</li> <li>as part of the process for issuing an invoice for legal fees, staff of the Office of the Official Solicitor should review and assess the reasonableness of the fees in the context of the clients' overall financial circumstances, and the likely outcomes and benefits of the proposed legal action.</li> </ul>		
<b>Chapter 8</b>			
8-1	<p>To maintain its long-term financial viability, the Public Trustee should initiate a comprehensive review of its fees and charges. This review should include:</p> <ul style="list-style-type: none"> <li>consideration of changes over time in: <ul style="list-style-type: none"> <li>i. the economic environment and investment markets;</li> <li>ii. the Public Trustee's sources of revenue; and</li> <li>iii. the financial profile of Public Trustee clients.</li> </ul> </li> <li>examination of the various systems of fees and charges applied by other State and Public Trustees to ensure consideration of a wide range of fee options that will assist it to adopt the most fair and</li> </ul>	Agreed in-principle	<p>The Public Trustee is committed to delivering services that are valued by the community and the Government, and to providing service excellence.</p> <p>The Public Trustee has committed to undertake an independent and comprehensive review of all of its gazetted and non-gazetted fees and charges. The review focuses on ensuring its fees and charges are transparent, fair, reasonable and reflective of the service provided.</p> <p>The review will consider the systems of fees and charges applied by other state and public trustees, including benchmarking of fees and charges.</p>

	<p>equitable system taking into account clients' incomes and assets, and the value of the services provided;</p> <ul style="list-style-type: none"> <li>• examination of the Public Trustee's costs of operation, including comparative analyses with other State and Public Trustees, which should include consideration of their levels of service provision, efficiency, productivity and service quality; and</li> <li>• consideration of alternative and innovative ways the Public Trustee can deliver services to people who may need a financial administrator that may be able to be delivered at a lower cost.</li> </ul>		
8-2	<p>In the interests of clarity and transparency, and to remove all doubt about the lawfulness or propriety of the Public Trustee earning revenue from client funds, the Public Trustee Act should be amended to:</p> <ul style="list-style-type: none"> <li>• clarify what the Public Trustee is permitted to do, in terms of the investment of client funds, the circumstances in which it can earn revenue on those funds, and the conditions or limitations on those earnings; and</li> <li>• require the Public Trustee to report its earnings on client funds in its annual financial statements.</li> </ul>	Partially supported	Any changes to legislation is a matter for Government. The Public Trustee remains of the view the interest earned on the Common Fund is consistent with industry best practice.
8-3	<p>The Queensland Government consider whether the Public Trustee and its clients would benefit from additional oversight or reporting mechanisms to improve its transparency and public accountability.</p>		
8-4	<p>The Public Trustee Act be reviewed to update and modernise the Act to ensure that it reflects modern views about the rights and entitlements of people with impaired decision-making capacity whose affairs are administered by the Public Trustee.</p> <p>The review of the Act should specifically address or provide for the following:</p> <ul style="list-style-type: none"> <li>• provisions in the Act that appear to permit breaches of the trustee's fundamental duties should be reviewed and if they are to be retained, should be redrafted to ensure the conflicts or breaches of duty are clearly acknowledged, the extent to which they are permitted and the limitations on those conflicts, including any profits that can be earned;</li> <li>• the Act should require the Public Trustee to provide clear, accessible information to its clients and the public to ensure the transparency of its operations, fees and charges and the various sources of its revenue, including revenue earned from the Official Solicitor, on client funds invested in the Common Fund and from the management of other funds in which client funds are invested.</li> <li>• Consideration should be given to amending the Guardianship and Administration Act 2000:</li> <li>• to provide for the appointment of the Public Trustee as administrator to be an appointment of last resort;</li> <li>• to provide that the appointment of the Public Trustee and other trustee companies as a person's administrator be subject to periodic review, at least every five years.</li> </ul>	Deferred	The Public Trustee would be pleased to assist in any review of the <i>Public Trustee Act 1978</i> , however this is a matter for the Government.