

Implementation Update: Preserving the financial futures of vulnerable Queenslanders: A review of Public Trustee fees, charges and practices, 10 March 2023

On 10 March 2021 the above report, prepared under the leadership of the previous Public Advocate, Ms Mary Burgess, was tabled in the Queensland Parliament. The report identified significant concerns about the fees, charges, and practices of the Public Trustee.

Two years on, the implementation update (below) shows that the *Preserving the financial futures of vulnerable Queenslanders* report has led to some significant changes in the operations and governance of the Public Trustee.

A comprehensive fees and charges review has been completed by the independent consultancy firm PricewaterhouseCoopers, the results of which have been presented to government, with some immediate changes implemented.

Several transparency initiatives have also been developed, including a fees and charges 'ready reckoner', and the establishment of a customer advocate office.

Meanwhile the new Public Trustee Advisory and Monitoring Board has been established, following the passage through Queensland Parliament of the *Public Trustee (Advisory and Monitoring Board) Amendment Act 2022*.

Some other reforms recommended in the report are still under consideration or in progress.

The Public Advocate will continue to monitor Public Trustee reform developments and would like to thank the Public Trustee and the Queensland Government for their contributions to this implementation update.

Preserving the financial futures of vulnerable Queenslanders: A review of Public Trustee fees, charges and practices

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
<p>1 Undertake a full fees and charges review</p> <p>Review the Public Trustee's fees and charges regime for administration clients to achieve:</p> <ol style="list-style-type: none"> a simpler fee regime for administration clients. Administration clients and their supporters must be able to easily understand the Public Trustee's fees, what services are provided for the fees, and how and when the fees will be charged; fees that are more equitable and take into account clients' financial circumstances and their level of income. All clients should pay something towards the cost of the Public Trustee services they receive. The fee regime should include a mechanism that ensures the fees payable to the Public Trustee by administration clients with limited income do not reach a level where the fees become financially oppressive and negatively impact clients' lives, deplete their assets and/or drive them into poverty; fees that reflect the actual cost to the Public Trustee of providing the services. The fees charged should not be inflated to cross-subsidise services provided to other Public Trustee clients, other organisational activities or to provide 'profit' for the Public Trustee, unless specifically permitted by legislation; no duplication or overlap in fees. Where clients have been charged an Asset Management Fee on an asset, the Public Trustee should not impose any additional charges for the management or investment of those clients' funds; cease the practice of charging administration clients fees on assets (such as superannuation fund holdings or other investments) managed by third parties and for which the clients are already paying management fees to those third parties. At a minimum the Public Trustee should charge a lower fee for superannuation fund holdings where it can be shown that there is annual 'active' management of the clients' funds; and a fee structure that supports and encourages administration clients to exercise autonomy and lead independent lives. Administration clients should not be charged higher fees where they require more support to exercise their capacity and autonomy in relation to their financial affairs. 	<p>Accepted and in progress</p>	<p>Completed</p> <ul style="list-style-type: none"> Specialist consultancy led independent review of Public Trustee's fees and charges, including public consultation, has been completed and presented to Government for consideration Introduced Fees and Charges Integrity and Governance framework, to increase awareness and clarity about roles, responsibilities, policies and procedures that support integrity and governance around managing our fees and charges schedule Removed principal place of residence from asset test and removed charge to customers where expert financial advice for the customer results in a recommendation to invest in only Public Trustee financial products, simplifying the fee regime as well as reducing charges to customers Continued to build our awareness and capability with respect to integrity, supported through our training and awareness program, ethics and integrity unit and general practices such as complaints management The external review, in the context of the Public Advocate's recommendations, has been completed and tabled in Parliament. Acceptance and implementation of recommendations arising from that review are subject to further consultation, regulatory impact assessment processes and Government approval. 	

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
<p>2 Improve the transparency of fees and charges</p> <p>The Public Trustee adopt the following practices to improve the transparency of its fees and charges:</p> <ol style="list-style-type: none"> Provide clear and accessible information to administration clients about its fees and charges and the services clients will receive for those fees. The Public Trustee's policies and manuals that guide what services administration clients receive and how the fees and charges for those services are calculated and applied be published in accessible language and format. This information should include scenario examples to clearly demonstrate the fees to be paid for that service. On appointment and annually, the Public Trustee send each client personal correspondence detailing the services they will receive and the fees for those services. This should also occur after any significant change to the client's financial circumstances. This communication should be written in plain English with clear explanations of all terms used. All correspondence to administration clients should explain how to locate relevant fees and charges information, 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. Review its policies and practices to ensure they actively encourage staff to be responsive to clients and their supporters, particularly in relation to explaining its fees and charges. This is likely to improve information transparency, client participation in the management of their financial affairs, and client satisfaction with Public Trustee services. The information presented in client Statements of Accounts be improved to make the statements more transparent and easier to understand. The statements should include summary information about categories of income and expenses and provide a total of the Public Trustee's fees, charges, additional service fees and outlays for the relevant period. Any special purpose or professional services payments should be the subject of separate correspondence that fully explains these costs and why they were incurred. 	<p>Accepted and in progress</p>	<p>Implemented</p> <ul style="list-style-type: none"> Have provided greater clarity and accessibility to administration clients about fees and charges in multiples ways including the items that have been outlined below Have built on our suite of tools and guides that provide transparency and clarity for customers regarding our fees and charges, including a ready reckoner to explain Public Trustee fees and charges in plain language, and an online Fees Estimator for deceased estate fees In consultation with current and previous customers, developed the Customer Budget document to explain Public Trustee processes in plain language and are now designing a new Financial Statement to improve clarity for customers Established and implemented a Structured Decision-Making Framework. This helps to ensure our customers' human rights are protected and their wishes are considered, fostering customer participation in the management of their affairs, and transparency and accountability Established a Customer Advocate Office, a national first among state trustees, to help customers resolve issues Improved our website and accessibility, by continuing to grow plain language information we provide customers and introduced online portals for appointment bookings, complaints and compliments Published independent fees and charges review report 	
<p>3 Consider the effect of fees when appointing the Public Trustee as financial administrator</p> <p>The <i>Guardianship and Administration Act</i> be amended to require a court or tribunal, when considering appointing the Public Trustee as a person's administrator, to consider the level of the Public Trustee's fees and their likely effect on the person's financial circumstances over time. This is especially relevant when there may be an alternative appointment option of a family member or friend as</p>	<p>Under consideration by Government</p>	<ul style="list-style-type: none"> Public Trustee is appointed where deemed most appropriate, often when there are no family or friends to step in to take up the financial administration. In cases where a Public Trustee appointment is likely, Public Trustee officers attend the Queensland Civil and Administrative Tribunal specially to answer questions on fees and charges. Public Trustee officers also support Tribunal reviews by providing Tribunal briefings, laying out Public Trustee fees and charges within the customer budget context. Further work is underway to ensure Public Trustee representatives attend as many of these hearings as possible and review how the Tribunal's work on behalf of our customers can be better supported 	<ul style="list-style-type: none"> This recommendation remains under consideration by Government, noting that the Public Trustee has implemented administrative solutions and initiatives with respect to this item

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
<p>administrator who would not charge fees. The court or tribunal may need to request that the Public Trustee provide an estimate of annual fees and other usual charges and expenses associated with providing its services, prior to deciding the appointment.</p>		<ul style="list-style-type: none"> Public Trustee established a Customer Interests Safeguard Committee to identify opportunities to improve interactions with the Queensland Civil and Administrative Tribunal and to provide better outcomes for customers Public Trustee's Financial Independence Pathway Program supports customers' financial management skills, and to apply for a declaration of capacity with the Queensland Civil and Administrative Tribunal, removing the need for Public Trustee's appointment. Public Trustee's expanding suite of transparent and clear information, tools and guidance about fees and charges is publicly available and accessible 	
<p>4 Reconsider the practice of routinely obtaining external financial advice</p> <p>The Public Trustee review its practice of routinely obtaining annual financial advice from an external financial advisor and external legal advice to make Total Permanent Disability (TPD) insurance claims under clients' superannuation arrangements. The review should consider:</p> <ol style="list-style-type: none"> whether obtaining external financial advice for most Public Trustee clients is reasonably necessary, considering the Public Trustee's expertise as a professional trustee; whether obtaining the external financial advice represents value for money for clients, taking into account: <ul style="list-style-type: none"> the Public Trustee's conservative investment policies which limit where and how clients' funds can be invested, and the returns they earn; and the relatively low value of client assets for which the Public Trustee routinely obtains independent advice; whether the thresholds for obtaining external financial advice should be reviewed and raised significantly to ensure clients are not bearing the cost of the Public Trustee's mitigation of risk associated with its decisions; when financial advice should be obtained for clients; the circumstances in which follow-up financial advice should be sought for clients, considering the costs of the advice and the genuine likelihood of a change in client investments being made; and whether obtaining external legal advice routinely to make TPD insurance claims under clients' superannuation arrangements is reasonably necessary and represents value for money, considering the relative simplicity of TPD claims processes. 	<p>Accepted and in progress</p>	<p>Implemented</p> <ul style="list-style-type: none"> Completed reconsideration of the practice of seeking of external financial advice, and identified the significant benefit to some customers from expert external support, and removed charge to customers where expert financial advice for the customer results in a recommendation to invest in only Public Trustee financial products, simplifying the fee regime as well as reducing charges to customers Completed an open procurement process to guide and secure the appointment of a provider for financial planning, investment administration and aged care funding advice, including considering investment products other than Public Trustee's Confirmed that obtaining external professional assistance to provide advice in respect of Total Permanent Disability (TPD) insurance claims is the most cost-effective approach Established a network of legal experts and practices to seek advice and guidance for the Official Solicitor-Customer Legal Services in developing and improving its policies and procedures Established the Customer Advocate Office, an important interface between the Public Trustee and customers and their support networks 	
<p>5 Discontinue general fees for incidental outlays</p> <p>The Public Trustee should cease the practice of charging general fees for incidental outlays to administration clients and only charge the actual</p>	<p>Accepted and in progress</p>	<p>Implemented</p> <ul style="list-style-type: none"> Considered in specialist consultancy-led independent review of Public Trustee's fees and charges (completed) 	

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
costs of these outlays on each client's file, if they are capable of being accurately costed.		<ul style="list-style-type: none"> Incidental outlays and property fees are now not applied to financial management customers Fees and charges are subject to Government consideration including as part of any regulatory impact assessment processes 	
<p>6 Seek a Goods and Services Tax exemption</p> <p>The Public Trustee's Community Service Obligations be reviewed and consideration given to whether the Public Trustee's current Community Service Obligations should continue to be provided in their current form, and at current levels.</p>	Accepted and in progress	<ul style="list-style-type: none"> Public Trustee's application to the Australian Taxation Office for GST exemption has been lodged 	<ul style="list-style-type: none"> As per comments in the Public Trustee update
<p>7 Review Community Service Obligations</p> <p>The Public Trustee's Community Service Obligations be reviewed and consideration given to whether the Public Trustee's current Community Service Obligations should continue to be provided in their current form, and at current levels.</p>	Accepted and in progress	<p>Completed</p> <ul style="list-style-type: none"> Community Service Obligations considered in independent review of fees and charges The findings and recommendations of the review are subject to Government consideration 	
<p>8 Discontinue client subsidisation of Community Service Obligations</p> <p>The Public Trustee cease using revenue raised through administration clients' fees and charges to fund or subsidise the cost of providing Community Service Obligations on the basis that a fiduciary should not use the funds of one client to fund services to another.</p>	Accepted and in progress	<p>Completed</p> <ul style="list-style-type: none"> Community Service Obligations are funded from interest earned on investments, not customer fees and charges, and were examined in the specialist consultancy-led independent review of fees and charges (completed) Specialist consultancy-led independent review of fees and charges found that Public Trustee delivery of financial administration services is well below cost 	
<p>9 Limit the level of Community Service Obligations</p> <p>The Public Trustee's Community Service Obligations should be capped at a level that can be reasonably funded from revenue earned on its investments.</p>	Accepted and in progress	<p>Completed</p> <ul style="list-style-type: none"> Community Service Obligations are funded from interest earned on investments, not customer fees and charges, and were examined in the specialist consultancy-led independent review of Public Trustee's fees and charges (completed and published) The findings and recommendations of the review are subject to Government consideration 	
<p>10 Review fee rebate and financial hardship provisions to ensure client assets are not depleted by fees and charges</p> <p>The Public Trustee review its fee rebate and financial hardship schemes to:</p> <ol style="list-style-type: none"> achieve more equitable outcomes for administration clients, especially those with limited incomes, such as pensions, who own their own home. The review should consider raising the level of assets for financial hardship eligibility above \$5,000 and reviewing the practice of including the value of clients' principal place of residence in the value of assets for calculating fee rebates; ensure no administration client will experience an unavoidable depletion of assets because of the amount of Public Trustee fees they pay and the inadequacy of the rebates; and develop a new stand-alone Fee Rebate and Financial Hardship Policy that is accessible and easy to understand to ensure that administration 	Accepted and in progress	<p>Completed</p> <ul style="list-style-type: none"> Changed rebate calculation to remove customer's primary residence from asset test, increasing potential customer rebates Range of fees and charges funding models, such as capacity to pay, and Community Service Obligations considered in completed and published specialist consultancy-led independent review of fees and charges The findings and recommendations of the review are subject to Government consideration 	

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
clients and members of the public know how the policy operates.			
<p>11 Do not profit from administration clients unless expressly permitted by law</p> <p>As a fiduciary and financial administrator, the Public Trustee should not profit from administration client funds unless expressly permitted by legislation. Any such legislative provisions should set clear limits on the amount and purpose of any income or 'profit' (See recommendations 29 and 31).</p>	<p>Further consideration by Government</p>	<ul style="list-style-type: none"> Public Trustee strongly agrees that it must always (and has confirmed that it does) comply with its legal and fiduciary duties in dealing with administration customer funds, including the obligation not to "profit" from those funds Public Trustee is committed to encouraging customers to make use of its new industry-leading Financial Independence Pathway Program, designed to support customers to achieve a declaration of capacity with the Queensland Civil and Administrative Tribunal and remove the need for the Public Trustee's appointment Completed specialist consultancy-led independent review considered reasonableness of Public Trustee's fees and charges, finding them well within benchmarks and often below cost 	<ul style="list-style-type: none"> This recommendation remains under consideration by Government
<p>12 Improve transparency of Public Trustee revenue sources</p> <p>The Public Trustee improve reporting of its sources of revenue, particularly revenue earned on administration client funds so that it is clear where clients' money is being invested, the overall returns on those investments, and the value of the interest differential that is being retained by the Public Trustee. The Public Trustee's revenue sources and use of administration client funds to raise revenue should be transparent and accountable so that people know how their money will be used and the likely returns on investments managed by the Public Trustee relative to their actual earnings.</p>	<p>Accepted in part and in progress</p>	<p>Implemented</p> <ul style="list-style-type: none"> Every year, published Annual Report outlines the revenue sources, complies with Australian Accounting Standards and Government Reporting guidelines, and subject to annual Queensland Audit Office audit Published fact sheet about how customer administered funds are invested and continues to update fees and charges information on website Established Customer Advocate Office as important customer interface that improves transparency Established and embedded Structured Decision-Making Framework, supporting customer involvement in all decisions relating to them, including investment. 	
<p>13 Clearly report the fees and costs of managing Public Trustee investments</p> <p>The Public Trustee clearly report the fees it charges and other costs associated with the operation and management of its various investments (in particular the Common Fund, interest bearing term deposits and the Growth Trust) and its effect on clients' investment returns.</p>	<p>Accepted in part and in progress</p>	<p>Implemented</p> <ul style="list-style-type: none"> Every year, published Annual Report outlines expenses and outgoings, complies with Australian Accounting Standards and Government Reporting guidelines, and subject to annual Queensland Audit Office audit Built on tools and guides that provide transparency for customers, including ready reckoner to explain fees and charges in plain language, and published fact sheet on community administered funds investment Established Customer Advocate Office as important customer interface that improves transparency Established and embedded Structured Decision-Making Framework, supporting customers' involvement in all decisions relating to them including investment 	
<p>14 Stop requiring administration clients to pay double charges on their funds</p> <p>Administration clients should not pay double charges on their funds, where they pay an annual Asset Management Fee on their funds and additional fees to the Public Trustee and/or other organisations to manage investments dealing with those funds.</p>	<p>Not accepted</p>	<p>No further action required</p> <ul style="list-style-type: none"> Public Trustee has confirmed that each fee is for a separate service that customers are not double charged 	
<p>15 Limit the amount of Public Trustee surpluses and reserves</p> <p>There should be a limit on the amount of operating surpluses and reserves that the Public Trustee can</p>	<p>Further consideration by Government</p>	<ul style="list-style-type: none"> Public Trustee does not receive a funding allocation from government Public Trustee provides generous returns on client funds, in accordance with its published Customer Investment Strategy, returning to customers an additional 0.10% (+ rounding) over the average rates offered across the four major banks 	<ul style="list-style-type: none"> This recommendation remains under consideration by Government

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
accumulate. Any reserves exceeding the cap should be returned to clients in reduced or rebated fees.		<ul style="list-style-type: none"> While Public Trustee continues to find and implement improvements leading to further efficiency gains, sufficient reserves must be retained for Public Trustee to operate financially independently from government support 	
<p>16 Review investment practices and discontinue activities that do not directly benefit clients</p> <p>The policies and practices of the Public Trustee relating to the investment of administration client funds be reviewed, and any investment activities involving their funds that do not maximise direct benefits to those clients be discontinued.</p>	Accepted and in progress	<p>Implemented</p> <ul style="list-style-type: none"> Reviewed investments practices and have ensured systems are in place to benefit clients In addition, based on the review and assurance, changes have been progressed to threshold assessments and investment approaches, emerging from independent review of Customer Investment Strategy All investment practices and Prudent Person Manual are regularly reviewed to ensure customer benefit and prudential care are the guiding considerations in investing funds Provided further channels for understanding customers and making improvements, through establishment of Customer Advocate Office, in addition to regular business practices including Structured Decision-Making Framework 	
<p>17 Review and update the Prudent Person Manual</p> <p>Review and update the <i>Prudent Person Rule Manual</i> to ensure it appropriately reflects the law and the Public Trustee's obligations as a trustee and fiduciary. The review should include consideration, where appropriate, of a client investment approach that:</p> <ol style="list-style-type: none"> ensures that decisions about investing client funds demonstrate that each decision was made in the interests of the client; seeks to achieve more for clients than just the preservation of their assets; moves away from an inflexible standard template approach to investing, to one that takes the clients' individual circumstances into account (wherever possible); relies on an actual assessment of clients' individual investor risk profiles (where possible), rather than assigning profiles based on clients' ages, and makes a meaningful distinction between each of the risk profiles and the types of investments considered appropriate for that profile. 	Accepted and in progress	<p>Implemented</p> <ul style="list-style-type: none"> Reviewed and updated Prudent Person Manual, with established review cycle Amended Customer Investment Strategy, prioritising capital preservation over investment growth (while acknowledging that individual customer investment strategies may vary to suit specific circumstances) Established additional important customer interface through Customer Advocate Office Established and embedded Structured Decision-Making Framework to ensure customers are involved in all decisions relating to them. 	
<p>18 Publish the Prudent Person Manual</p> <p>The <i>Prudent Person Rule Manual</i> and all other Public Trustee manuals that guide the agency's decision-making about managing and investing administration clients' funds be published and re-written in accessible language.</p>	Accepted and in progress	<p>Implemented</p> <ul style="list-style-type: none"> Revised Prudent Person Manual, with continued regular review cycle Published on the Public Trustee's website 	
<p>19 Review position on conflict transactions</p> <p>The Public Trustee review its reliance on Supreme Court case No 5391 of 1996 as providing legal authority for all potential conflict transactions involving the investment of administration client funds in its own products, particularly the Growth Trust.</p>	Accepted in part	<p>Completed</p> <ul style="list-style-type: none"> Reviewed position and it can be confirmed that the Public Trustee has always been and remains fully compliant with trustee and fiduciary duties and responsibilities regarding the common fund for its customers Continued customer benefit through investment structures and arrangements providing economies of scale 	

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
<p>20 Review the practice of only investing in Public Trustee investment products</p> <p>The Public Trustee review its practice of investing administration client funds almost exclusively in its own investment products and seek advice about how it can fulfil its statutory and fiduciary obligations while managing client funds and earning revenue. Where the Public Trustee proposes to invest administration client funds in its own investment products it should seek appropriate approvals under the <i>Guardianship and Administration Act</i> or seek a specific legislative amendment to expressly permit these breaches of its obligations. Such arrangements should also be published in an accessible format and declared to clients.</p>	<p>Accepted</p>	<p>Finalised</p> <ul style="list-style-type: none"> • The Public Trustee has reviewed its practice of investments and can confirm that it does not exclusively invest in the internal investment products • Removal of charge for financial advice where advice solely recommends investment in Public Trustee products • Completed open procurement process to secure provider of financial planning advice • Continued arrangement for expert investment advice to consider a range of investment products outside of the Public Trustee's products, depending on a customer's individual circumstances, with a significant portion of customer assets out of the common fund and growth trust and one of the most open investible systems of all state trustees nation-wide • Continued transparency of investments in published Annual Report 	
<p>21 Adopt a new client investment strategy</p> <p>The Public Trustee develop a new client investment strategy, the process for which should involve:</p> <ol style="list-style-type: none"> Reviewing all internal policies, manuals and guidance documents relating to the management and investment of client assets to properly acknowledge and reflect the duties of a trustee and fiduciary. Reviewing the purpose and continuing need for an overarching Client Investment Strategy and Primary Investment Strategy. Any future strategy or investment approach should not over-ride consideration of the individual circumstances and other needs of administration clients. Implementing investment decision-making policies that will: <ol style="list-style-type: none"> ensure that the interests of administration clients are at the centre of all investment considerations and decisions affecting their financial interests; use the client's individual financial and risk profile and living circumstances as the starting point for decision-making, before considering a change of investment strategy; and determine the expressed or implied risk appetite of the administration client in accordance with General Principle 7(4) the principle of substituted judgement, the client's investment history and individual financial circumstances. Reviewing the definition of 'complex asset' (which currently includes shares and any amount of superannuation) in light of the Public Trustee's acknowledged high level of professionalism and skill as a trustee and administrator, to reflect a more current view of what constitutes a complex asset for management by a professional trustee. Reviewing the 'Value of Assets' approach as the principal mechanism that determines whether independent financial advice is required. This 	<p>Accepted and in progress</p>	<p>Implemented</p> <ul style="list-style-type: none"> • Completed and developed a new customer investment strategy in accordance with industry best practice • Continuing to review all agreements with providers of direct services to customers, to ensure customers are receiving value for money 	

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
<p>review should be conducted with the objective of considering an approach that is based on a holistic appraisal of the key issues affecting the client's life (e.g. legal action, involvements in partnerships, trusts or companies, or complex tax arrangements) as well as the value, diversity and location of their assets.</p>			
<p>22 Reconsider routinely obtaining external financial advice for certain types of assets</p> <p>In addition to recommendation 4 and in regard to the practice of routinely obtaining external financial advice for administration clients:</p> <p>a. External financial advice should only be obtained at a client's expense as an exception and when clients or their supporters request this advice or there is a justifiable basis for the expenditure based on the amount and complexity of the clients' assets and the potential investment benefits for the client.</p> <p>b. If the Public Trustee continues to contract external financial advice services (even on a more limited basis), it undertake an open tender process and appoint a panel of providers (no less than two) and review and reappoint panel members on a regular basis, at a minimum, every five years.</p>	<p>Accepted in part</p>	<p>Implemented</p> <ul style="list-style-type: none"> Reconsidered as per recommendation and have determined to continue to obtain external financial advice only where reasonable and appropriate, to further the customer's interests, comply with fiduciary and statutory duties, and considering the customer's individual circumstances Have implemented a process to ensure that customers are not charged a fee for external financial advice in circumstances where that advice recommends that all investment funds be only in Public Trustee products Continuing to implement revised Customer Investment Strategy Continuing to review all agreements with providers of direct services to customers, to ensure customers are receiving value for money 	
<p>23 Obtain advice about refunding financial advice fees</p> <p>In relation to the contractual arrangements the Public Trustee has with an external financial advisor for the provision of financial advice services to administration clients, the Public Trustee should:</p> <p>a. review the contractual arrangements to ensure they do not unduly limit the investments the advisor can recommend (by limiting those investments to Public Trustee products) or otherwise interfere with the independence of the advice provided to administration clients;</p> <p>b. suspend the practice of charging clients for external financial advice that merely recommends investments in accordance with the Client Investment Strategy while the review of contractual arrangements is occurring; and</p> <p>c. take advice about whether the fees charged to administration clients for the financial advice referred to in b. (above), should be refunded.</p>	<p>Accepted in part</p>	<p>Finalised</p> <ul style="list-style-type: none"> Continuing to obtain external financial advice only where reasonable and appropriate, to further the customer's interests, comply with fiduciary and statutory duties, and considering the customer's individual circumstances Have implemented a process to ensure that customers are not charged a fee for external financial advice in circumstances where that advice recommends that all investment funds be only in Public Trustee products. Continuing to implement revised Customer Investment Strategy and to review all agreements with providers of direct services to customers, to ensure customers are receiving value for money Completed open procurement process, to secure provider of financial planning advice, continuing to require expert investment advice to consider investment products outside of Public Trustee's products, depending on a customer's individual circumstances, and with that expert advisor able to recommend an approach which differs from the Customer Investment Strategy 	
<p>24 Review the role and operations of the Official Solicitor</p> <p>The Public Trustee initiate an urgent and comprehensive review of the role and operations of the Official Solicitor to the Public Trustee. The review should give particular consideration to:</p> <p>a. the structure of the arrangements between the Public Trustee and the Official Solicitor and whether they are appropriate and sufficiently transparent;</p>	<p>Recommendation 24 (except 24 c))- Accepted in part and in progress</p> <p>Recommendation 24 (c) – Joint Government</p>	<p>Implemented</p> <ul style="list-style-type: none"> Separated Official Solicitor function into Official Solicitor-Corporate Legal Services, and Official Solicitor-Customer Legal Services, better delineating services and advice between customers and internal clients, and in accordance with Governance and Structure Review Established requirements for all permanently appointed lawyers working in an Official Solicitor Office to hold a current practising certificate, in accordance with introduced policy and as included in all new Position Descriptions 	<ul style="list-style-type: none"> Recommendation 24c remains under consideration by Government.

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
<p>b. whether the use of the Official Solicitor to provide legal services to 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;</p> <p>c. whether lawyers providing legal advice and services to people under administration should be required to hold practicing certificates and be subject to oversight by the Legal Services Commission (this includes administration clients or their supporters being able to make a complaint to the Legal Services Commission);</p> <p>d. reviewing the scale of fees of the Official Solicitor, with particular consideration of the reasonableness and appropriateness of the fees for Public Trustee administration clients;</p> <p>e. making the scale of fees of the Official Solicitor available to 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</p> <p>f. whether the Public Trustee should establish a panel of solicitors and barristers to provide legal advice and services to Public Trustee administration clients that meet quality standards, deliver 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.</p>	<p>and Public Trustee Recommendation – Further consideration by government</p>	<ul style="list-style-type: none"> Established a legal expert network and practices to seek advice and guidance for the Official Solicitor-Customer Legal Services in developing and improving its policies and procedures Continued review of operations, leading to establishment of working group to review processes regarding family provision applications as well as the trial of new processes for file management and oversight by managing lawyers 	
<p>25 Develop a policy to support administration clients to make complaints about the Public Trustee</p> <p>Develop a policy for supporting administration clients to make complaints against the Public Trustee, including 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. The policy should establish an appropriate process for referring client matters that warrant investigation, legal advice and/or redress to appropriate professionals for advice. Broad stakeholder consultation should be undertaken to develop an appropriate and efficient model that protects people's rights while containing costs. The final model for responding to client complaints and managing conflicts may need to be supported by legislation.</p>	<p>Accepted</p>	<p>Implemented</p> <ul style="list-style-type: none"> Published 'Your Complaints Journey' brochure to clearly explain customer complaint process, and complaint handling resources in plain English Reviewed Complaints Management Policy, implemented accessibility, effectiveness, and responsiveness enhancements to complaints management system and worked to increase complaint handling times and monitoring Increased staff training and development in customer service, and complaints handling Established a Customer Advocate Office and an independent complaint review mechanism, both of which are a national-first for state trustees, to support customers to resolve issues and complaints 	
<p>26 Amend legislation so Public Trustee solicitors are overseen by the Legal Services Commission</p> <p>Amend the <i>Public Trustee Act</i> to provide that solicitors employed by the Public Trustee must:</p> <p>a. while performing their role, have regard to the 'fundamental duties of solicitors' as set out in the</p>	<p>Further consideration by Government</p>	<ul style="list-style-type: none"> Changes to legislation are a matter for Queensland Government Public Trustee established requirements for all permanently appointed lawyers working in an Official Solicitor Office to hold a current practising certificate, in accordance with introduced policy, with all such officers now holding current certificates 	<ul style="list-style-type: none"> This recommendation remains under consideration by Government

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
<p>solicitors' rules (as defined by section 217 of the <i>Legal Profession Act</i>); and</p> <p>b. be subject to conduct and disciplinary investigations by the Legal Services Commission.</p>			
<p>27 Review Official solicitor policies and practices</p> <p>If the Public Trustee continues to provide legal advice and representation to administration 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> <p>a. 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 the person under administration;</p> <p>b. outline the law in relation to the duties of trustees, fiduciaries and lawyers and their duties to always act in their clients' interests;</p> <p>c. require lawyers in every case to consider the costs and benefits of any prospective legal action and provide advice (consistent with Rule 7 of the Australian Solicitors Conduct Rules) to ensure clients' funds are only spent when they are satisfied the expenditure is in the clients' interests, taking into account their individual needs, the risks, costs and likely outcomes;</p> <p>d. develop a policy around obtaining consent from administration clients (where appropriate), their guardians or personal support networks to engage a lawyer and disclose the likely costs, benefits and outcomes for the client, prior to embarking on any legal process;</p> <p>e. 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. The policy review should also consider the Public Trustee's role and duties under the <i>Guardianship and Administration Act</i>, including to support clients to participate in decisions affecting their lives; and</p> <p>f. as part of the process for issuing an invoice for legal fees, 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 any proposed legal action.</p>	<p>Accepted and in progress</p>	<p>Implemented</p> <ul style="list-style-type: none"> • Separated Official Solicitor function into Official Solicitor–Corporate Legal Services, and Official Solicitor–Customer Legal Services, in accordance with Governance and Structure Review, better delineating services and advice between customers and internal clients • Established Structured Decision-Making Framework which ensures customers and their support networks are consulted, where possible, before commencing any legal process • Continued to review all legal fees charged to customers before invoices are issued, and implemented process for trust officers to query legal fees charged • Continued review of operations, leading to establishment of working group to review processes regarding family provision applications as well as the trial of new processes for file management and oversight by managing lawyers • Established processes for customer to attend a Public Trust Office and review legal advice, protecting customer interests and legal professional privilege • Continued discretion to not charge legal fees to a customer in some instances or provide a rebate on fees • Established legal expert network and practices to seek advice and guidance for the Official Solicitor in developing and improving its policies and procedures 	
<p>28 Considerations for the review of Public Trustee fees and charges</p> <p>The review of the Public Trustee's fees and charges for administration clients (see recommendation 1) should include the following to help maintain the organisation's long-term financial viability:</p> <p>a. consideration of changes over time in the:</p> <ul style="list-style-type: none"> - economic environment and financial markets; 	<p>Accepted in part</p>	<p>Completed</p> <ul style="list-style-type: none"> • Completed and published specialist consultancy-led independent review of Public Trustee's fees and charges • Review overseen by Fees and Charges Steering Advisory Board which included representatives from Department of the Premier and Cabinet, Queensland Treasury, Department of Justice and the Attorney-General, Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships, the Integrity Commissioner, and an independent member 	

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
<ul style="list-style-type: none"> - Public Trustee's sources of revenue; and - financial profile of administration clients and other clients of the Public Trustee that may impact their ability to pay fees. <p>b. examination of the various 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 equitable system, taking into account clients' incomes and assets, and the value of the services provided;</p> <p>c. 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</p> <p>d. consideration of alternative and innovative ways the Public Trustee can deliver services to administration clients at a lower cost.</p>			
<p>29 Amend legislation to clarify how the Public Trustee can invest client funds</p> <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 <i>Public Trustee Act</i> should be amended to:</p> <p>a. clarify the investments the Public Trustee is permitted to make using client funds, in particular addressing the issue of investments that are permitted that may amount to a conflict of interest, the circumstances in which it can earn revenue on those funds, and the conditions or limitations on those earnings; and</p> <p>b. require the Public Trustee to report its earnings on client funds in its annual financial statements.</p>	<p>Further consideration by Government</p>	<ul style="list-style-type: none"> • Changes to legislation are a matter for Queensland Government • Ongoing review and improvement of Public Trustee's investment strategies and how they are communicated, will continue 	<ul style="list-style-type: none"> • This recommendation remains under consideration by Government
<p>30 Consider additional oversight mechanisms</p> <p>The Queensland Government should consider whether the Public Trustee and its clients would benefit from additional oversight and/or reporting mechanisms to improve the Public Trustee's performance, transparency and public accountability.</p>	<p>Accepted</p>	<ul style="list-style-type: none"> • Queensland Government has amended the Public Trustee Act 1978 to establish the Public Trustee Advisory and Monitoring Board • Increased governance and accountability measures established by Public Trustee through its Customers First Agenda, including the role of the Customer and Government Reference Groups, will continue to strengthen oversight 	<ul style="list-style-type: none"> • Government established the Public Trustee Advisory and Monitoring Board (PTAM Board) to implement recommendation 30 of the OPA Report – the PTAM Board was established under the <i>Public Trustee (Advisory and Monitoring Board) Amendment Act 2022</i> (the PTAM Board Act) and commenced on 9 December 2022. The key functions of the PTAM Board are to monitor the performance of the PT's functions and provide advice and make recommendations about how the performance of these functions can be improved • The inaugural Appointed Board members are Mr Geoffrey Rowe (Chairperson), Professor Jennifer Cullen, Ms Aimee McVeigh, Mr Brendan O'Farrell, Ms Joanne

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
			<p>Peulen and Ms Kym Vickery who were appointed on 9 December 2022 for a term of 3 years. The Board also includes representatives from the Department of Justice and Attorney-General, Queensland Treasury and the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships</p> <ul style="list-style-type: none"> The Board held its first meeting on 21 February 2023
<p>31 Update the Public Trustee Act to better acknowledge rights and interests of people with impaired decision-making capacity</p> <p>The <i>Public Trustee Act</i> should be reviewed to update and modernise the Act to ensure that it reflects contemporary 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:</p> <ol style="list-style-type: none"> address issues relating to conflicts of interest or breaches of duty and ensure they are clearly acknowledged, the extent to which they are permitted and the limitations on those activities, including any profits that can be earned; address provisions in the Act that appear to permit breaches of the trustee's fundamental duties; and include amendments requiring greater accountability and transparency on the part of the Public Trustee about its fees and charges, various sources of 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 money is invested. 	<p>Further consideration by Government</p>	<ul style="list-style-type: none"> Changes to legislation are a matter for Queensland Government Continued consolidation of 7-Step Structured Decision-Making Framework introduced by the Public Trustee in 2020 to strengthen customer engagement in decisions which affect them, has been examined and found by La Trobe University Living with Disability Research Centre, as successfully implementing a new more rights based and customer centric way of working, and training delivered to staff having had a positive impact on their practice 	<ul style="list-style-type: none"> This recommendation remains under consideration by Government, noting the Public Trustee has implemented administrative solutions and initiatives with respect to this item
<p>32 Amend legislation to ensure the Public Trustee is an appointment of last resort and the appointment is periodically reviewed</p> <p>The <i>Guardianship and Administration Act</i> be amended to provide:</p> <ol style="list-style-type: none"> that the appointment of the Public Trustee as administrator for a person is an appointment of last resort; and consistency with other administration appointments, 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 (preferably more frequently). 	<p>Further consideration by Government</p>	<ul style="list-style-type: none"> Changes to legislation are a matter for Queensland Government Customer Interests Safeguard Committee, established by Public Trustee, will continue to identify opportunities to improve interactions with Queensland Civil and Administrative Tribunal and provide better outcomes for customers 	<ul style="list-style-type: none"> This recommendation remains under consideration by Government, noting the Public Trustee has implemented administrative solutions and initiatives with respect to this item

Recommendation	Public Advocate note on current status	Public Trustee Update 10 March 2023	Government Update 10 March 2023
----------------	--	--	------------------------------------

Additional comments – Public Trustee

The Public Trustee continues to be committed to advancing the intent of *Preserving the financial futures of vulnerable Queenslanders: A review of Public Trustee fees, charges and practices* tabled in the Queensland Parliament in March 2021.

The Public Advocate's report has been an important source of insights for the Public Trustee's continuing transformation agenda and focus on client service delivery across Queensland that helps it to meet the individual needs of its customers with humanity, respect, integrity and diligence. It has been compelling support for driving positive impact and change for the benefit of the Public Trustee generally, and importantly, for safeguarding the rights, wishes and interests of its most vulnerable customers.

The Public Trustee has undertaken a significant breadth of improvements over the past three years, steadily gaining traction with meaningful benefits being realised by those who need it most. This is shown, for example, through a downward trend in the number of complaints being made to the Queensland Ombudsman, a key oversight body.

The selection of key improvements and achievements above are just some of the many steps taken to improve the organisation and practices. Many effectively support a number of recommendations, as the Public Trustee continues to build on its practices, tools and programs to provide transparency, clarity and value for Queenslanders regarding its fees and charges and continues to support some of the most vulnerable Queenslanders to lead safe and fulfilling lives.

As a forward-thinking organisation committed to excellence, we have a commitment to ongoing improvement. This means that we will regularly build upon our changes and implement strategies to build upon our successes. By doing so, we will ensure that we remain at the forefront of our industry, delivering exceptional results for our stakeholders and administration customers.

The Public Trustee will continue to work with its customers and their support networks, and with key partners, collaborators and experts across the guardianship and trustee sector, to keep identifying improvements for ourselves and the sector for the benefit of Queenslanders and communities.