

Implementation Update: *Preserving the financial futures of vulnerable Queenslanders: A review of Public Trustee fees, charges and practices*, 10 March 2022

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.

One year on, it is important to monitor progress on the 32 reform recommendations included in the report, most of which were directed to the Public Trustee and/or the Queensland Government for action.

The Public Trustee provides an essential service for a significant number of Queensland's most vulnerable citizens. This includes being appointed as the administrator for people with impaired decision-making ability for financial matters who do not currently have a suitable person to perform that role.

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 over the last year.

A comprehensive fees and charges review is now underway, being led by the independent consultancy firm PricewaterhouseCoopers. It is due for completion by the end of this financial year.

In addition, some 'fees and charges' changes have already been made. The Public Trustee, for instance, has changed its 'Community Service Obligations rebate calculation' to remove a person's main residence in determining the person's assets (for that calculation). Several transparency initiatives have also been developed, including a fees and charges 'ready reckoner', a new customer investment strategy, and the establishment of a customer advocate office.

At the same time, a new 'advisory and monitoring' Board is in the process of being established, following the introduction of the *Public Trustee (Advisory and Monitoring Board) Amendment Bill 2021* into the Queensland parliament. An inquiry conducted by the Parliament's Community Support and Services Committee has recommended that the draft legislation become law.

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

A small number of recommendations will not be implemented.

For instance, the Public Trustee has relied on a competing legal view (to that articulated in the report) on the topic of the retention of the 'interest differential' (the difference in income from monies invested in the common fund as against monies paid to estates). Legal arguments aside, the Public Advocate is seeking action aligned with the 'spirit' of recommendations related to interest earnings, driven by concerns about the reasonableness of the Public Trustee's fees and charges. This is something that the fees and charges review will address.

The Public Advocate will continue to monitor activity surrounding the recommendations included in this report 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	Current Status (Accepted/Not Accepted/ In part/ In principle/ further consideration)	Public Trustee Update 10 March 2022	Government Update 10 March 2022
<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>Public Trustee</p> <p>Accepted - In Progress</p>	<p>In line with recommendation 1 of the Public Advocate, the Public Trustee has engaged Price Waterhouse Coopers (PwC) to lead an independent and comprehensive review (Review) of all of the Public Trustee's fees and charges, including all aspects of the fees and charges that were referred to in the Public Advocate's recommendation.</p> <p>The Review has included a public consultation process to inform and develop the options for the future fees and charges model. The first round of public consultation, which was conducted through the Public Trustee website, one-on-one sessions, and detailed written submissions, closed on 13 August 2021. Further consultation will occur in 2022.</p> <p>It is anticipated that the Review will be completed by the end of the 2021 - 2022 financial year, with a draft report to be provided subsequently to the Queensland Government. The Review includes independent benchmarking of fees and detailed data analysis to ensure the future sustainability of the Public Trustee business.</p> <p>In addition to the Review, the Public Trustee is strengthening its future approach on fees and charges through the introduction of a Fees and Charges Integrity and Governance Framework. In 2021-22, the Public Trustee has developed and implemented an Integrity training and awareness calendar.</p> <p>The Public Trustee has provided \$32 million in rebates of fees to 11,251 customers with limited assets in 2020-21. In addition to, and after the Public Advocate's report, the Public Trustee implemented the following immediate steps to provide support to its customers:</p> <ul style="list-style-type: none"> - Through a change to its Community Service Obligations (CSO) rebate calculation, the Public Trustee has removed the inclusion of the principal place of residence in the asset value that is used for those calculations (implemented in August 2021). As a consequence of this change, a saving of \$1M is anticipated for customers over a twelve-month period. - The Public Trustee has introduced a policy whereby customers are not charged outlays for expert financial advice, if that advice only recommends investing in Public Trustee products. 	<p>The Public Trustee has provided a response to this recommendation.</p>

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		<p>Regarding recommendation 1c, please refer to the specific recommendation 11 and our response.</p> <p>Regarding recommendation 1d, please refer to the specific recommendation 14 and our response.</p>	
<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>Public Trustee Accepted & Implemented</p>	<p>In 2021, the Public Trustee delivered a range of initiatives to improve customers' ease of access to, and understanding of, key fee-related information.</p> <p>These initiatives included:</p> <ul style="list-style-type: none"> - Co-designing a new Customer Budget document (available at https://www.pt.qld.gov.au/financial-administration/guide-for-financial-management-customers/), to improve the detailed content and ease of understanding for customers. - Publishing a Ready Reckoner (available at https://www.pt.qld.gov.au/media/1949/ready-reckoner_public-truste_fees-and-charges.pdf) to summarise all PT fees and charges. - Developing an online Fee Estimator for Deceased Estate Fees (available at https://www.pt.qld.gov.au/about/fees-and-charges/fee-estimates/). - Redesigning the Public Trustee website content into Easy English for any information about fees for Trusts, Financial Management and Deceased Estates. - Commencing the design of a new customer financial statement to improve its ease of use for customers and their support networks. - Establishing a Customer Advocate Office as an important interface between the Public Trustee and the customers and their support networks (including advocacy groups). - Promoting the Public Trustee's Structured Decision-Making Framework, which ensures that customers and their support networks are actively involved in all decisions that affect them, including investment of their funds. - Making it easier for customers to make appointments, through our new online booking system, and to lodge complaints (see our response to recommendation 25). <p>In the 2021 calendar year, fee-related information on the Public Trustee's website was accessed over 50,000 times by members of the community and customers.</p> <p>Further, 70% of customers surveyed since the new budget was launched in July 2021, indicated that the new Customer Budget is easy to understand and read. Further improvement work will continue through 2022, based on the customer feedback and insight that has been received.</p>	<p>The Public Trustee has provided a response to this recommendation.</p>

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		<p>The Public Trustee will continue to look to make further improvements to make our fees even more transparent and easier to access and understand.</p>	
<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 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>	<p>Government Recommendation</p> <p>Noting the Public Trustee has implemented administrative solutions and initiatives with respect to this item</p>	<p>Any proposed legislative amendment to the <i>Guardianship and Administration Act</i> in response to this recommendation is properly a matter for the Queensland Government, and any consequential changes are properly matters for the relevant Court or Tribunal.</p> <p>However, we would note that the Queensland Civil and Administrative Tribunal (QCAT) will usually only appoint the Public Trustee as an administrator if it is either not appropriate to appoint another person or entity to be the administrator, or if no other person or entity is available to accept the appointment.</p> <p>In circumstances where the Public Trustee is to be appointed and the Public Trustee is on notice of this proposed appointment, where possible, a Public Trustee representative attends the initial QCAT hearing, providing a full description of the Public Trustee's relevant fees and charges. When the Public Trustee's appointment is being reviewed by QCAT, the Public Trustee submits a tribunal briefing report including the customer's current budget, which outlines all of the fees and any applicable rebates, tailored to the customer's individual circumstances.</p> <p>Further work will continue through 2022 to ensure the standard attendance of Public Trustee representatives at initial hearings (where that is possible) and additional support mechanisms are in place to provide fee-related information at the time of the appointment of the Public Trustee.</p> <p>The Public Trustee is committed to working with tribunal members to identify what further education and related support can be provided to assist with the understanding of the Public Trustee fees. This commitment is strengthened by our establishment of a QCAT referral panel designed to identify opportunities to improve</p>	<p>The recommendation is that legislative amendments be made to ensure that the Queensland Civil and Administrative Tribunal (QCAT) and courts consider the implications of the Public Trustee's fees in making a decision on whether to appoint the Public Trustee.</p> <p>The Government notes that the Public Trustee has proactively put in place a number of administrative measures and processes, including ensuring that, where possible, QCAT is provided with information on the Public Trustee's fees at the initial hearing.</p> <p>This allows Government time to fully consider the issues and consult with key stakeholders to decide if, where recommended, legislative amendments are required in addition to these administrative measures; and what the legislative amendments should include.</p> <p>Stakeholders are currently being consulted in relation to this recommendation.</p>

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		<p>interactions with QCAT and to provide better outcomes for customers.</p> <p>This focus is coupled with the Public Trustee's Financial Independence Pathway Program (see https://www.pt.qld.gov.au/financial-administration/steps-to-financial-independence-pathway/), which is designed to support customers to be able to apply for a declaration of capacity with QCAT, and then ultimately remove the need for the Public Trustee's appointment.</p>	
<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>Public Trustee Accepted & Implemented</p>	<p>In line with recommendation 4, 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.</p> <p>Additionally, to enhance our internal legal capability, we are establishing a Legal Expert Transformation Panel, which will provide guidance for the Official Solicitor – Customer Legal Services regarding any policies of the office.</p> <p>The Public Trustee approved changes, effective 1 April 2021, to its financial planner's fee for providing the service to ensure that customers are not charged for financial advice where it recommends customer funds be invested solely in Public Trustee products.</p> <p>In respect of the remainder of recommendation 4, upon review, the Public Trustee has determined that the cost of providing internal financial advice (and not obtaining external advice) would be prohibitive to customers, in that it would be likely to lead to higher costs for customers.</p> <p>Public Trustee customers benefit from the economies of scale that are possible through investment in the Public Trustee's products. Without the administrative efficiencies that are achieved from the use of Public Trustee products, such investments for our customer base of over 10,000, would otherwise be cost-prohibitive.</p> <p>The Public Trustee's Customer Investment Strategy requires that we always consider our customers' needs, views and wishes and, if appropriate, an alternative investment strategy can be formulated to meet the financial circumstances of particular customers.</p> <p>The Public Trustee has also established a Customer Advocate Office, which is an important interface function between the Public Trustee and the customers and their support networks (including advocacy groups).</p> <p>The Public Trustee is currently finalising a procurement process that will result in the appointment of a provider or providers of financial planning, investment administration</p>	<p>The Public Trustee has provided a response to this recommendation.</p>

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		<p>and aged care funding advice. As part of this process, the Public Trustee will ensure that external financial advice will only be sought where it is in the best interests of the customer to do so. It is also a key requirement of the procurement process that the successful provider is to consider investment products other than the products offered by the Public Trustee.</p> <p>It is noted that conducting Total and Permanent Disability (TPD) insurance claims under our customers' superannuation arrangements can be complex. The Public Trustee has determined that obtaining external professional assistance to provide advice in respect of TPD insurance claims is more cost efficient and will achieve better value for money for our customers.</p>	
<p>5 Discontinue general fees for incidental outlays The Public Trustee should cease the practice of charging general fees for incidental outlays to administration clients and only charge the actual costs of these outlays on each client's file, if they are capable of being accurately costed.</p>	<p>Public Trustee Further Consideration - In Progress</p>	<p>The charging of incidental outlays is being considered as part of the independent PwC review that is currently being undertaken by the Public Trustee. The Review includes independent benchmarking of fees and detailed data analysis to ensure the future sustainability of the Public Trustee business.</p>	<p>The Public Trustee has provided a response to this recommendation.</p>
<p>6 Seek a Goods and Services Tax exemption 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>	<p>Government Recommendation Noting the Public Trustee is seeking an exemption from the Australian Taxation Office with the support of Government</p>	<p>Further to this recommendation, the Public Trustee is currently developing, with an external financial services firm, an application to be provided to the ATO seeking a GST exemption. It is intended that, if an exemption is obtained, the consequential financial savings will be directly passed on to Public Trustee customers.</p>	<p>The Public Trustee is making an application to the Australian Tax Office for an exemption with the support of Government.</p>
<p>7 Review Community Service Obligations 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>	<p>Public Trustee Accepted in principle - In Progress</p>	<p>The Public Trustee remains committed to continuing to support generous Community Service Obligations (CSOs), as we continue our strong commitment to providing value and care for our customers and the community.</p> <p>However, in response to recommendation 7 of the Public Advocate, the Public Trustee is reviewing how it fulfils its current CSOs. The level of CSOs provided is also being considered as part of the independent PwC review. The review is focused on ensuring that fees for our customers are fair and proportionate to our customers' individual circumstances.</p> <p>In implementing the findings and recommendations of the independent review, the Public Trustee will work to ensure the sustainability of its CSOs, while balancing its commitment to support all of our customers, and particularly our Financial Management customers.</p>	<p>The Public Trustee has provided a response to this recommendation.</p>
<p>8 Discontinue client subsidisation of Community Service Obligations 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>	<p>Public Trustee Further Consideration - In Progress</p>	<p>The allocation of Community Service Obligations (CSOs) to our customers is being considered as part of the independent PwC fees and charges review.</p> <p>However, it is important to note that the Public Trustee does not fund or subsidise its CSOs from the fees and charges provided by Financial Management customers.</p>	<p>The Public Trustee has provided a response to this recommendation.</p>

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		<p>Rather, CSOs are funded through the interest differential and retained surpluses. This is consistent with the <i>Public Trustee Act</i>, which states that after paying interest to customers, the interest earned may be applied towards the operating and capital expenses of the Public Trust Office.</p> <p>Regarding our practice of pooling customer funds to maximise returns for Public Trustee customers, please refer to recommendation 11 and our response.</p>	
<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>	<p>Public Trustee Further Consideration - In Progress</p>	<p>The Public Trustee is reviewing how it fulfils its current Community Service Obligations (CSOs). The Public Trustee remains committed to continuing to support generous CSOs, as we continue our strong commitment to providing value and care for our customers and the community.</p> <p>However, in recognition of recommendations 7 and 9 of the Public Advocate, the level of CSOs provided is being considered as part of the independent PwC review. The review is focused on ensuring that fees for our customers are fair and proportionate to our customers' individual circumstances.</p> <p>In implementing the findings and recommendations of the independent review, the Public Trustee will work to ensure the sustainability of CSOs, while balancing our commitment to support all of our customers, and particularly our most vulnerable, such as those under Financial Management arrangements.</p>	<p>The Public Trustee has provided a response to this recommendation.</p>
<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 clients and members of the public know how the policy operates. 	<p>Public Trustee Accepted - In Progress</p>	<p>Recommendation 10 is currently being considered as a part of the comprehensive and independent PwC fees and charges review.</p> <p>Additionally, the Public Trustee has recently made changes to its Community Service Obligation (CSO) rebate calculation to remove the inclusion of the principal place of residence in the asset value used for those calculations (implemented August 2021). A saving of \$1M is anticipated for customers over a twelve-month period.</p>	<p>The Public Trustee has provided a response to this recommendation.</p>
<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</p>	<p>Government Recommendation</p>	<p>The Public Trustee strongly agrees that it must always comply with its legal and fiduciary duties owed to its customers in dealing with administration customer funds, including that it should not "profit" from those funds.</p>	<p>The Government notes the Public Trustee's comments on this recommendation.</p> <p>The recommendation raises complex legal issues that require detailed consideration and further</p>

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<p>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>Having reviewed its practices in response to recommendation 11, and as explained below, the Public Trustee remains firmly of the view that it always complies with its legal and fiduciary duties owed to administration customers in the way it manages and invests funds.</p> <p>This recommendation refers to the "Interest Differential" retained by the Public Trustee, which is the difference between what the Public Trustee earns in income from the investment of moneys from estates having moneys in the Common Fund, as compared to what the Public Trustee must credit as interest to those estates under the <i>Public Trustee Act</i>. The Public Trustee is, and always has been, fully compliant with its legal and fiduciary duties owed to its customers in dealing with the Interest Differential.</p> <p>The relevant authorising legislation and the powers of the Public Trustee have been tested for more than a century by the Courts, Parliament, oversight agencies and the public.</p> <p>Monies are reinvested back into the Public Trustee to ensure that the organisation is sustainable and is continually evolving as an organisation to meet the changing needs of our customers.</p> <p>The clear legislative intent, as evidenced by various statements made over time in the Queensland Parliament, has always recognised that the Interest Differential would remain at the Public Trustee's disposal to ensure that the Public Trustee is self-sufficient and can operate without expense to the taxpayer - relying in part on the Interest Differential. Indeed, in today's difficult economic conditions, the cost to provide the Public Trustee's services to administration customers exceeds the fees received from those customers.</p> <p>The Public Trustee is committed to encouraging customers to make use of its Financial Independence Pathway Program (see https://www.pt.qld.gov.au/financial-administration/steps-to-financial-independence-pathway/), which is designed to support customers to be able to apply for a declaration of capacity with QCAT, and then ultimately remove the need for the Public Trustee's appointment.</p> <p>The ongoing independent review of fees and charges by PwC will consider the reasonableness of the Public Trustee's fees and charges. It includes independent benchmarking of fees and detailed data analysis to ensure the future sustainability of the Public Trustee business.</p>	<p>consultation with stakeholders as to whether legislative reform is required. The Government will take the Public Trustee's views into account, alongside other key stakeholders, in further considering this recommendation.</p> <p>Stakeholders are currently being consulted in relation to this recommendation.</p>

<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>Public Trustee Accepted & Implemented</p>	<p>The Public Trustee is committed to remaining transparent and accountable so that customers know how their money is invested, and the likely returns on investments managed by the Public Trustee relative to actual earnings.</p> <p>The Public Trustee's Annual Report provides information about our financial and non-financial performance, objectives, functions, and governance arrangements. The costs and income received from the Common Fund (in which administration customers' funds are pooled to maximise investment yield) are declared in its Annual Report. The Annual Report is prepared in accordance with the <i>Financial Accountability Act 2009</i> and <i>Financial and Performance Management Standard 2019</i>. The Public Trustee also follows the Australian Accounting Standards and the Treasury Financial Reporting Guidelines each financial year.</p> <p>As part of this reporting, customers can understand the overall returns on those investments, and the value of the interest differential retained by the Public Trustee.</p> <p>Additionally, the Public Trustee:</p> <ul style="list-style-type: none"> - has published a document informing the community about how the Public Trustee invests customer administered funds (available at https://www.pt.qld.gov.au/other-services/investments/how-does-the-public-trustee-of-queensland-invest-customer-administered-funds/); - published in 2021 updated fee-related information on the PT website; and - is subject to annual audits of its financial statements by the Queensland Audit Office. <p>We are also focusing on constant improvements in transparency and accessibility of information through:</p> <ul style="list-style-type: none"> - conducting targeted communications campaigns to encourage and empower customers to better understand how their finances are being managed; - understanding our customers better, through our Social Impact Report; - creating the Public Trustee's Customer Advocate Office, which has an important interface function between the Public Trustee and the customers and their support networks (including advocacy groups); and - establishing the Public Trustee's Structured Decision-Making Framework, which ensures that customers and their support networks are actively involved in all decisions that affect them, including investment of their funds. <p>The Public Trustee will continue to review and enhance the information we provide to our stakeholders, to ensure that it is both clear and accessible.</p>	<p>The Public Trustee has provided a response to this recommendation.</p>
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<p>13</p>	<p>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>Public Trustee Accepted & Implemented</p>	<p>In its Annual Report, the Public Trustee declares all costs and income received from the Common Fund in accordance with Australian Accounting Standards and the Treasury Financial Reporting Guidelines. The Public Trustee continues to frequently review and enhance our practices in relation to the disclosure of fees and charges and we will continue to do so.</p> <p>The Financial Statements are audited on an annual basis by the Queensland Audit Office.</p> <p>In March 2021, recognising recommendation 13, and as part of our ongoing commitment to increasing transparency and accessibility for our customers, the Public Trustee published a new Fees and Charges Ready Reckoner on the Public Trustee website. The Ready Reckoner was downloaded over 2,700 times in the 2021 calendar year and will help make our fees and charges easier to understand and more accessible for our customers, which is line with our Customers First Agenda.</p> <p>In addition, the Public Trustee has published a document informing the community about how the Public Trustee invests customer administered funds (available at https://www.pt.qld.gov.au/other-services/investments/how-does-the-public-trustee-of-queensland-invest-customer-administered-funds/).</p> <p>We are also focusing on ensuring transparency through:</p> <ul style="list-style-type: none"> • the Public Trustee's Customer Advocate Office, which is an important interface function between the Public Trustee and the customers and their support networks (including advocacy groups); and • the Public Trustee's Structured Decision-Making Framework, which ensures that customers and their support networks are actively involved in all decisions that affect them, including investment of their funds. 	<p>The Public Trustee has provided a response to this recommendation.</p>
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<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>Public Trustee</p> <p>Further consideration - In Progress</p>	<p>The Public Trustee strongly agrees that fees charged to administration customers for a service should not be duplicated.</p> <p>The Public Trustee has therefore carefully considered recommendation 14, and can verify that it does not double charge or charge fees for no service, and it is not aware of any instances of customers being double charged fees or charged fees where no relevant service has been provided. All fees and charges charged by the Public Trustee are for separate and distinct services it provides.</p> <p>All Public Trustee fees and charges are made pursuant to the requirements of the <i>Public Trustee Act</i>, and are subject to review by Parliament and the Public Trustee. They are set with Community Service Obligations and the public expectations at their heart. The Public Trustee takes very seriously its responsibility to keep its fees modest, flexible, and attuned to our customers' individual circumstances. All fees are charged based on the degree of care, responsibility, skill or special knowledge that is required to manage a particular customer's investments. We are taking a number of steps, as outlined in our response to recommendation 12, to ensure that customers are always kept informed and empowered to inquire about how their finances are being managed.</p> <p>The Public Trustee's fees, including the Asset Management Fee (AMF), appear in the Gazette Notice published each year by the Queensland Government. The AMF always reflects the Public Trustee's obligation to understand each adult's individual financial circumstances, and to invest and manage their assets in accordance with the <i>Guardianship and Administration Act</i>, through our commitment to maximising value for our customers, and providing excellent value-for-money financial services. Additionally, the Public Trustee is required to review (at least annually) the performance of a customer's investments, individually and as a whole.</p>	<p>The Public Trustee has provided a response to this recommendation.</p>
<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 accumulate. Any reserves exceeding the cap should be returned to clients in reduced or rebated fees.</p>	<p>Government Recommendation</p>	<p>The Public Trustee agrees that there are appropriate limits on the surpluses that the Public Trustee should retain, and will continue to monitor these reserves, in line with the comments below.</p> <p>The Public Trustee aims to deliver a balanced budget each year. Higher than expected returns or changes to the economic environment can result in operating surpluses or deficits. Sufficient reserves are required to enable the Public Trustee to continue to operate as a self-funded agency during difficult economic circumstances such as the current COVID-19 pandemic.</p> <p>Since 2020, the Public Trustee has made significant gains in effectiveness and suitability of its processes, including an expansive overhaul of its ICT infrastructure.</p> <p>As a self-funded organisation, the Public Trustee uses surpluses and reserves for transformation initiatives that</p>	<p>The Government notes the Public Trustee's comments on this recommendation.</p> <p>The Government will carefully consider this issue in consultation with key stakeholders to determine the best outcome for the Public Trustee's clients and will take the Public Trustee's comments into account.</p> <p>Stakeholders are currently being consulted in relation to this recommendation.</p>

		<p>are designed to lead to enhanced customer experience and service delivery.</p> <p>We are taking a number of steps, as outlined in our response to recommendation 12, to ensure that customers are always kept informed and empowered to inquire about how their finances are being managed.</p> <p>The requirement for the Public Trustee to ensure that it is a self-funding organisation is reflected in the terms of the <i>Public Trustee Act</i>, and is evidenced by numerous statements in the Queensland Parliament since the establishment of the Public Trustee.</p> <p>This focus is coupled with the Public Trustee's Financial Independence Pathway Program (see https://www.pt.qld.gov.au/financial-administration/steps-to-financial-independence-pathway/), which is designed to support customers to be able to apply for a declaration of capacity with QCAT, and then ultimately remove the need for the Public Trustee's appointment.</p>	
<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>	<p>Public Trustee Accepted & Implemented</p>	<p>The Public Trustee has accepted and implemented recommendation 16.</p> <p>After the Public Trustee's Customer Investment Strategy was independently reviewed in December 2020, the recommendations from that review have been considered and a revised Customer Investment Strategy has been approved. An implementation plan for that Strategy is currently being developed to ensure that the Strategy is up and running for customers during 2022.</p> <p>The Public Trustee has reviewed its investment practices, as well as its Prudent Person Manual (Manual) (see response to recommendation 17 below), to ensure it reflects prudent investment practices. Under the Manual, all investment activities undertaken by the Public Trustee on behalf of customers are for their direct benefit.</p> <p>Investment activities are informed by customer preferences and needs, as well as expert financial advice (where applicable). We are taking a number of steps, as outlined in our response to recommendation 12, to ensure that customers are always kept informed and empowered to inquire about how their finances are being managed.</p> <p>The Public Trustee's Structured Decision-Making Framework also ensures that customers and their support networks are actively involved in all decisions that affect them, including investment of their funds. The Customer Advocate Office serves as an important customer interface improving transparency in the provision of financial advice.</p> <p>This focus is coupled with the Public Trustee's Financial Independence Pathway Program (see https://www.pt.qld.gov.au/financial-administration/steps-to-financial-independence-pathway/).</p>	<p>The Public Trustee has provided a response to this recommendation.</p>

			pathway/), which is designed to support customers to be able to apply for a declaration of capacity with QCAT, and then ultimately remove the need for the Public Trustee's appointment.	
17	<p>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. 	<p>Public Trustee</p> <p>Partly Accepted & Implemented</p>	<p>The Public Trustee has recently reviewed its Prudent Person Manual (referred to as the Public Trustee's Prudent Person Rule Policy Framework) to ensure it reflects prudent investment practices and its obligations as a trustee and fiduciary. The revised Prudent Person Manual, which was first published on the Public Trustee's website in May 2020 and is subject to an annual review, is available at https://www.pt.qld.gov.au/media/1845/prudent-person-rule-manual.pdf.</p> <p>The Public Trustee's Structured Decision-Making Framework ensures that customers and their support networks are actively involved in all decisions that affect them, including investment of their funds.</p> <p>Regarding recommendation 17b, the Public Trustee always considers customers' needs, views and wishes under our Customer Investment Strategy (Strategy). After our Strategy was reviewed in December 2020, the Public Trustee determined that it remained most appropriate that all customer types should prioritise capital (asset) preservation over-growth, except for some Trust matters which have greater capacity for growth assets, with income also being a priority.</p> <p>However, of course, if it is appropriate in the circumstances, an alternative investment strategy can be formulated to meet the financial circumstances of particular customers.</p>	The Public Trustee has provided a response to this recommendation.
18	<p>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>	<p>Public Trustee</p> <p>Accepted & Implemented</p>	<p>The Public Trustee has reviewed its Prudent Person Manual to ensure that it reflects prudent investment practices. The revised version was published on the Public Trustee's website in May 2020 and is available at https://www.pt.qld.gov.au/media/1845/prudent-person-rule-manual.pdf.</p>	The Public Trustee has provided a response to this recommendation.
19	<p>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>	<p>Public Trustee</p> <p>Further Consideration</p>	<p>In response to recommendation 19, the Public Trustee has conducted a review of its approach to "conflict transactions". The Public Trustee will consider this issue further as part of its annual review of its Prudent Person Manual.</p> <p>The Public Trustee has taken this issue very seriously, and having conducted this review, remains of the view that it has always has been, and remains, fully compliant with its duties owed to its customers as both a trustee and fiduciary.</p> <p>The Public Trustee agrees that it is important that all investments for customers are made in their best interests, and that potential conflicts of interest are managed appropriately.</p>	The Public Trustee has provided a response to this recommendation.

		<p>The Public Trustee is a self-funded organisation that does not receive government funding. Our operations are supported by the fees and charges regime, along with other income earned from interest on customers' investments and our own financial reserves, as well as management fees that are charged on our own investment products.</p> <p>Public Trustee customers benefit from the economies of scale that are possible through the investment in the Public Trustee's products. Without the administrative efficiencies that are achieved from the use of Public Trustee products, such investments for our customer base of over 10,000, would otherwise be cost prohibitive.</p> <p>We have taken steps to enhance our accountability and governance framework and implemented new key cultural attributes and behaviours that support the implementation of the Customer First Agenda.</p> <p>The Public Trustee is also establishing a Legal Expert Transformation Panel, to provide guidance for the Official Solicitor – Customer Legal Services regarding any policies of the office. This underlines our commitment to ensuring customers are provided with the best legal assistance possible.</p>	
<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>Public Trustee Partly Accepted - In Progress</p>	<p>The Public Trustee is taking steps, in addition to the transparency measures noted in response to recommendation 12, to clarify the process by which it invests customer funds.</p> <p>The Public Trustee's expert financial advisor can consider a range of investment products outside of the Public Trustee's products, depending on a customer's individual circumstances. As at 1 April 2021, the Public Trustee does not charge customers for financial advice where that advice solely recommends investment in Public Trustee products.</p> <p>The Public Trustee is currently finalising a procurement process for a provider or providers of financial planning, investment administration and aged care funding advice. As part of this process, the Public Trustee will ensure that the successful provider considers investment products other than just those of the Public Trustee.</p>	<p>The Public Trustee has provided a response to this recommendation.</p>
<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: 	<p>Public Trustee Accepted & Implemented</p>	<p>The Public Trustee's Customer Investment Strategy was independently reviewed in December 2020 in accordance with industry best practice. We have considered the recommendations and are in the process of implementing a revised Customer Investment Strategy to transition to customers in 2022 which incorporates all aspects of recommendation 21.</p> <p>The Public Trustee has also separately been reviewing all agreements with providers of direct services to Public Trustee customers, to ensure that customers are receiving value for money.</p>	<p>The Public Trustee has provided a response to this recommendation.</p>

<ul style="list-style-type: none"> (i) ensure that the interests of administration clients are at the centre of all investment considerations and decisions affecting their financial interests; (ii) 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 (iii) 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. <p>d. 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.</p> <p>e. Reviewing the 'Value of Assets' approach as the principal mechanism that determines whether independent financial advice is required. This 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> <ul style="list-style-type: none"> 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. 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>Public Trustee Accepted & Implemented</p>	<p>The Public Trustee obtains external financial advice where it is reasonable and appropriate to do so, to further the customer's interests and comply with our fiduciary and statutory duties. In all cases, this only occurs where, after reviewing each individual matter, the Public Trustee considers that there is a justifiable basis for the expenditure based on the amount and complexity of the customers' assets and the potential investment benefits for the customer.</p> <p>As noted in respect of recommendation 21, the Public Trustee is in the process of implementing a revised Customer Investment Strategy to transition to customers in 2022.</p> <p>As of 1 April 2021, the Public Trustee implemented changes to its fees for financial advice to ensure that customers are not charged for financial advice where that advice recommends customer funds be invested solely in Public Trustee products.</p> <p>In all cases, the Public Trustee complies with its legal obligation to annually review the performance of all of its trust investments.</p> <p>The Public Trustee has also separately been reviewing all agreements with providers of direct services to Public Trustee customers, to ensure that customers are receiving value for money.</p> <p>In accordance with recommendation 22b, the Public Trustee is currently finalising a procurement process to engage a provider or providers of financial planning, investment administration and aged care funding advice.</p>	<p>The Public Trustee has provided a response to this recommendation.</p>

<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> <ol style="list-style-type: none"> 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; 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 take advice about whether the fees charged to administration clients for the financial advice referred to in b. (above), should be refunded. 	<p>Public Trustee</p> <p>Further Consideration - In Progress</p>	<p>In recognition of recommendation 23, the Public Trustee is currently finalising a procurement process to engage a provider or providers of financial planning, investment administration and aged care funding advice. As part of this process, the Public Trustee will ensure that the successful provider considers the suitability of investment products for customers other than the Public Trustee's products.</p> <p>Regarding recommendation 23b, wholly suspending external financial advice is not supported at this time. This is because it is always entirely open to the expert financial advisor to recommend an approach which differs from the Customer Investment Strategy. The Public Trustee relies on expert investment advice that considers a range of investment products outside of the Public Trustee's products, depending on a customer's individual circumstances.</p> <p>The Public Trustee has reviewed its practices and does not consider that it is necessary or appropriate to refund financial advice outlays.</p> <p>The Public Trustee has also separately been reviewing all agreements with providers of direct services to Public Trustee customers, to ensure that customers are receiving value for money.</p>	<p>The Public Trustee has provided a response to this recommendation.</p>
<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> <ol style="list-style-type: none"> the structure of the arrangements between the Public Trustee and the Official Solicitor and whether they are appropriate and sufficiently transparent; 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; whether lawyers providing legal advice and services to people under administration should be required to hold practising 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); 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; 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 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>Recommendation 24 (except 24 c))-</p> <p>Public Trustee</p> <p>Accepted - In Progress</p> <p>Recommendation 24 (c) – Joint Government and Public Trustee Recommendation –</p> <p>In Progress by the Public Trustee</p>	<p>In late 2019, the Public Trustee undertook a Governance and Structure review, which recommended the separation of the Official Solicitor function into an Official Solicitor – Corporate Legal Services, and Official Solicitor – Customer Legal Services. These functions were separated in April 2020 to ensure there is a clearer delineation between the services and advice provided to our customers and internal advice provided to the Public Trustee in legal matters. This will minimise the risk of conflicts of interest, while ensuring a dedicated focus on the delivery of customer-centric legal services.</p> <p>The Public Trustee has also introduced a policy that requires all permanently appointed lawyers currently working within the Official Solicitors' Offices to hold current practising certificates, which will be funded by the Public Trustee. All role descriptions for any new lawyers have been amended to include the requirement for Public Trustee lawyers to hold a practising certificate.</p> <p>As part of our continuous improvement, the Public Trustee is also in the process of establishing a Legal Expert Transformation Panel, which will be available to provide guidance to the Official Solicitor, Customer Legal Services.</p>	<p>The Government and the Public Trustee are jointly responsible for recommendation 24(c) (considering whether lawyers providing legal advice and services to people under administration should be required to hold practising certificates and be subject to oversight by the Legal Services Commission).</p> <p>The Government notes the Public Trustee has proactively put in place administrative reforms to address this recommendation, including introducing an administrative policy requiring all permanently appointed lawyers working within the Official Solicitors' Offices to hold current practising certificates.</p> <p>This allows Government time to fully consider the issues and consult with key stakeholders to decide if legislative amendments should be made in addition to these administrative measures, and what these legislative amendments should include.</p> <p>Stakeholders are currently being consulted in relation to this recommendation.</p> <p>The Public Trustee is otherwise responsible for implementing the remainder of recommendation 24.</p>

<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>Public Trustee Accepted & Implemented</p>	<p>The Queensland Audit Office released its report entitled "Responding to complaints from people with impaired capacity - Part 1: The Public Trustee of Queensland" in September 2020. The Report is available at https://www.qao.qld.gov.au/reports-resources/reports-parliament/responding-complaints-people-impaired-capacity-part-1-public. The Public Trustee is currently implementing the six Audit recommendations to enhance the accessibility, effectiveness and responsiveness of our complaints management system.</p> <p>We have also published a "Your Complaints Journey" brochure (available at https://www.pt.qld.gov.au/media/1947/your-complaints-journey.pdf) to explain in clear language the Public Trustee's complaint and resolution process. We have also reviewed our Complaints Management Policy and Procedure.</p> <p>We have also published resources in plain English to better inform and guide customers and their support networks in how to make a complaint. Since its launch in mid-2021, this Public Trustee website content has been accessed over 3,500 times. A downward trend in the number of substantiated complaints has also been observed, even though our online complaints form is more accessible than ever, and is supported through increased staff training and development in customer service. This will be monitored closely throughout 2022.</p> <p>Education sessions have also been delivered to frontline and other staff involved in responding to complaints. These sessions have focussed on promoting the rights of complainants and tailoring the responses of the Public Trustee to individual circumstances. Actions to monitor response times have also resulted in improvements to the timeliness of the services provided.</p> <p>The Public Trustee is currently finalising a procurement process for a new Complaints Management System to support effective complaints handling. When implemented, it is anticipated that this system will significantly enhance monitoring and reporting on complaint outcomes.</p> <p>The Public Trustee has also established a Customer Advocate Office, which is an important interface function between the Public Trustee and the customers and their support networks (including advocacy groups).</p>	<p>The Public Trustee has provided a response to this recommendation.</p>
<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> <ol style="list-style-type: none"> while performing their role, have regard to the 'fundamental duties of solicitors' as set out in the solicitors' rules (as defined by section 217 of the <i>Legal Profession Act</i>); and be subject to conduct and disciplinary investigations by the Legal Services Commission. 	<p>Government Recommendation Noting the Public Trustee has commenced administrative solutions with respect to this item</p>	<p>While the amendment of the <i>Public Trustee Act</i> is properly a matter for the Queensland Government, the Public Trustee has taken steps that support the intent of recommendation 26.</p> <p>The separation of the Official Solicitor function was completed in April 2020 following the 2019 Governance and Structure Review (discussed above in relation to recommendation 24) and the Public Trustee is in the process of establishing a Legal Expert Transformation Panel. A Terms of Reference has been developed and it</p>	<p>The Government notes that this recommendation is connected to recommendation 24(c) (considering whether lawyers providing legal advice and services to people under administration should be required to hold practising certificates and be subject to oversight by the Legal Services Commission).</p> <p>The Government understands the Public Trustee has proactively put in place administrative reforms to address this recommendation, including introducing</p>

		<p>is intended that this Panel will include specialists in legal costs, ethics and legal efficiencies.</p> <p>Once this Legal Expert Transformation Panel is established, it will be available for the Official Solicitor, Customer Legal Services to seek guidance regarding any practices of the Office.</p> <p>The Public Trustee has also implemented a policy requiring all permanently appointed lawyers currently working within the Official Solicitors' Offices to hold current practising certificates. This change means that they are now regulated by the Legal Services Commission. In addition, all Role Descriptions for new lawyers have been amended to include a requirement for the officer to hold a practicing certificate. This will assist lawyers in keeping up to date with changes in the law and to receive reminders in relation to their ethical duties, and greater oversight will be provided through the Legal Services Commission.</p> <p>The Public Trustee's intent is providing a modern legal practice for its customers that operates in accordance with industry best practice.</p>	<p>an administrative policy requiring all permanently appointed lawyers working within the Official Solicitors' Offices to hold current practising certificates (funded by the Public Trustee).</p> <p>This allows Government time to fully consider the issues and consult with key stakeholders to decide if legislative amendments are required in addition to these administrative measures, and what these legislative amendments should include.</p> <p>Stakeholders are currently being consulted in relation to this recommendation.</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> <ol style="list-style-type: none"> 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; outline the law in relation to the duties of trustees, fiduciaries and lawyers and their duties to always act in their clients' interests; 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; 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; 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 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>Public Trustee Accepted - In Progress</p>	<p>In late 2019, the Public Trustee undertook a Governance and Structure review, which resulted in the separation of the Official Solicitor function into an Official Solicitor – Corporate Legal Services, and an Official Solicitor – Customer Legal Services.</p> <p>The separation of the legal services in this way minimises the risk of conflicts of interest and ensures that the focus of the Official Solicitor – Customer Legal Services is on the delivery of customer-centric legal services.</p> <p>As part of providing customer-centric legal services, when considering any potential legal action, lawyers for the Official Solicitor consider the commerciality of the case, the customer's views, wishes and preferences, the <i>Human Rights Act 2019</i>, and the benefit to the customer.</p> <p>In addition, the Public Trustee's Structured Decision Making Framework ensures that customers and/or their support network are consulted, where possible, before commencing any legal process.</p> <p>Legal fees for customers are reviewed and monitored to ensure they are fair and reasonable.</p> <p>The Public Trustee has put in place processes to allow a customer to attend a Public Trust Office and review relevant legal advice to ensure that legal professional privilege, and importantly the customer's interests, are protected.</p> <p>Legal fees are reviewed before invoices are sent to the customer. These fees are currently being considered as</p>	<p>The Public Trustee has provided a response to this recommendation.</p>

		<p>part of the independent and comprehensive review of fees and charges.</p> <p>In addition, a process has been implemented to enable Public Trustee Officers to query any of the legal fees charged to a customer. This additional review mechanism assists in the monitoring of legal fees charged.</p> <p>The Public Trustee also has discretion to not charge legal fees to a customer in some instances or provide a rebate on fees through its generous Community Service Obligations.</p> <p>The Legal Expert Transformation Panel will be available for the Official Solicitor – Customer Legal Services to provide guidance regarding any of the policies or practices of the office, including charging practices.</p>	
<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> <ol style="list-style-type: none"> a. consideration of changes over time in the: <ul style="list-style-type: none"> - economic environment and financial markets; - 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. 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; 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 d. consideration of alternative and innovative ways the Public Trustee can deliver services to administration clients at a lower cost. 	<p>Public Trustee Accepted - In Progress</p>	<p>As referenced in our response to recommendation 1, the Public Trustee has engaged PwC to undertake an independent and comprehensive review of all its fees and charges. The review focuses on ensuring its fees and charges are transparent, fair, reasonable, and reflective of the service provided.</p> <p>This review is intended to encompass all aspects of recommendation 28.</p> <p>The review is being overseen by a Fees and Charges Steering Advisory Board which includes representatives from the Department of Premier and Cabinet, Queensland Treasury, Department of Justice and Attorney-General, Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships, the Integrity Commissioner, and an independent member.</p>	<p>The Public Trustee has provided a response to this recommendation.</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> <ol style="list-style-type: none"> 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 b. require the Public Trustee to report its earnings on client funds in its annual financial statements. 	<p>Government Recommendation</p>	<p>Any decision as to whether the <i>Public Trustee Act</i> should be amended is properly a matter for the Queensland Government.</p> <p>However, regarding recommendation 29a, it is noted that the operations of the Public Trustee, including the intended scope and legality of its investment practices, have been extensively scrutinised for more than 100 years.</p> <p>The <i>Public Trustee Act</i> clearly provides for the Public Trustee to invest customer funds for the benefit of those customers. The investment of customer funds under the <i>Public Trustee Act</i> also enables the Public Trustee to remain a self-funded entity operating for the public benefit.</p>	<p>The Government notes that this recommendation is connected with a number of other recommendations in the report, including recommendations 11 and 15.</p> <p>The Government will fully consider these recommendations in consultation with stakeholders. Stakeholders are currently being consulted in relation to this recommendation.</p>

		<p>The Public Trustee has undergone, and continues to undergo, a continual reform of all its policies and practices including as regards the investment of customer funds.</p> <p>Regarding recommendation 29b, the Public Trustee is required to review and report on the performance of a customer's investments, individually and as a whole, at least annually.</p> <p>The Public Trustee is a self-funded organisation that does not receive government funding. Our operations are supported by the fees and charges regime along with other income earned from interest on customers' investments and its own financial reserves, as well as management fees it charges on its own investment products.</p> <p>Public Trustee customers benefit from the economies of scale that are possible through the investment in the Public Trustee's products. Without the administrative efficiencies that are achieved from the use of Public Trustee products, such investments for our customer base of over 10,000 would otherwise be cost prohibitive.</p> <p>The Public Trustee has taken this issue very seriously, and wishes to clarify that it is, and always has been, fully compliant with its duties owed to its customers as a trustee and fiduciary.</p>	
<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>Government Recommendation</p> <p>Noting the Public Trustee has implemented administrative solutions and initiatives with respect to this item</p>	<p>This recommendation is properly a consideration for the Queensland Government. We note that the Queensland Government has committed to establishing a statutory board to provide oversight of the Public Trustee. This work is being led by the Department of Justice and Attorney-General. The amended legislation was introduced to Parliament on 28 October 2021 with the Parliamentary Community Support and Services Committee releasing its report into the Public Trustee (Monitoring and Advisory Board) Amendment Bill 2021 on 21 January 2022. The Committee has recommended that the Bill be passed with a small number of amendments.</p> <p>It is noted that the Public Trustee is subject to the same extensive scrutiny and oversight that applies to other Government Agencies. Notwithstanding this, in acknowledgement of recommendation 30, the Public Trustee has established increased governance and accountability measures through its Customers First Agenda. These oversight mechanisms include the oversight roles undertaken by the Customer and Government Reference Groups that have been established by the Public Trustee. These oversight mechanisms provide input back to the Public Trustee and represent some of the most stringent accountability measures across State and Public Trustees in Australia.</p>	<p>On 28 October 2021, the Government introduced the Public Trustee (Advisory and Monitoring Board) Amendment Bill 2021 (the Bill). The Bill proposes to amend the <i>Public Trustee Act 1978</i> to establish the Public Trustee Advisory and Monitoring Board, which will provide additional oversight over the Public Trustee and improve the Public Trustee's performance, transparency and public accountability.</p> <p>The Bill was referred to the Community Support and Services Committee, which tabled its report on 21 January 2022.</p> <p>Government also notes that the Public Trustee has proactively put in place administrative oversight initiatives to complement the establishment of the Board, including the formation of the Customer and Government Reference Group.</p>
<p>31 Update the Public Trustee Act to better acknowledge rights and interests of people with impaired decision-making capacity</p>	<p>Government Recommendation</p> <p>Noting the Public Trustee has implemented administrative</p>	<p>Any decision as to whether the <i>Public Trustee Act</i> should be amended is properly a matter for the Queensland Government.</p>	<p>The Government notes that the recommendation is that a comprehensive review of the <i>Public Trustee Act 1978</i> be undertaken. While legislative reform is a matter for Government, the Government notes that</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>solutions and initiatives with respect to this item</p>	<p>However, in recognition of the issues raised by the Public Advocate in recommendation 31, the Public Trustee implemented in 2020 a 7-Step Structured Decision-Making Framework, which supports Public Trustee officers in making all customer decisions (not just those made by frontline teams).</p> <p>In 2021, the Public Trustee designed a Strategic Policy function. Recruitment processes for these roles are currently underway. This policy function will work closely with relevant teams across the Public Trustee and the guardianship sector to drive policy review and reform modernisation.</p>	<p>the Public Trustee has proactively put in place administrative reforms in relation to this recommendation, including designing a Strategic Policy function to drive policy review and reform modernisation.</p> <p>This allows Government time to fully consider the issues and consult with key stakeholders to decide if legislative amendments are required and what they should include.</p> <p>The Government will consider whether a review of the Act should be undertaken and the scope of any such review, particularly given the breadth of the Public Trustee's functions and the range of representative capacities of the Public Trustee.</p> <p>Stakeholders are currently being consulted in relation to this recommendation.</p>
<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>Government Recommendation</p> <p>Noting the Public Trustee has implemented administrative solutions and initiatives with respect to this item</p>	<p>Any decision as to whether the <i>Guardianship and Administration Act</i> should be amended is properly a matter for the Government.</p> <p>Notwithstanding this, with respect to the issue raised by recommendation 32(a), the Public Trustee notes that it is generally the case that the Public Trustee is the appointment of last resort made by the Queensland Civil and Administrative Tribunal (QCAT) - that is, the Public Trustee is usually only appointed if there is conflict within a person's support network or there is no one willing or able to accept the appointment.</p> <p>With respect to recommendation 32(b), it is noted that in all cases QCAT has the jurisdiction to periodically review the Public Trustee's appointment as administrator, and the customer can apply to QCAT for a review of the Public Trustee's appointment at any time.</p> <p>In both instances, as noted in our response to recommendation 3 above, the Public Trustee has established a QCAT referral panel, which will continue to identify opportunities to improve interactions with QCAT and provide better outcomes for customers.</p>	<p>The Government notes that the recommendation is that amendments are made to the <i>Guardianship and Administration Act 2000</i>. While legislative reform is a matter for Government, the Government notes that the Public Trustee has proactively put in place administrative reform relating to this recommendation, by establishing the QCAT referral panel.</p> <p>The recommendation raises complex issues that require detailed consideration and further consultation with stakeholders.</p> <p>Stakeholders are currently being consulted in relation to this recommendation.</p>