

## **Government Response to the Independent Review of the Public Trustee Tasmania**

The Tasmanian Government recognises that the Public Trustee interacts with Tasmanians at the most difficult times in their lives, providing essential services to the Tasmanian community assisting around 2,000 people at any one time to manage and act as Trustee, Attorney, Executor or Administrator for their financial affairs.

In June 2021, in response to community concerns raised and to ensure that appropriate responses and improvements are made to service delivery, the Attorney-General and Minister for Justice, on behalf of Government, called for an Independent Review into the administrative and operational practices of the Public Trustee. Highly respected barrister, Damian Bugg AM QC, was appointed to carry out this work.

The Government decided it was necessary for a review to be carried out, independent of government, to provide the opportunity for issues to be raised and recommendations appropriately identified on how best to rectify them ('the Bugg Review').

The Government supports, or supports in-principle, all 28 recommendations of the Independent Review of the Public Trustee, and we are pleased that the Public Trustee also supports the recommendations (see page 3 onwards).

We all recognise that the Public Trustee is more than just a financial or accounting institution, and that improvements are needed to ensure that its clients' needs across the vast range of services it provides – not just that of financial management – are equally met.

This is critical to ensure the community maintains confidence in this vital service, which is why our Government will do all that we can to assist the Public Trustee to improve the processes and systems, in order to meet its statutory obligations and community expectations.

Accordingly, the Government will continue to progress the work that is already underway to make necessary improvements to better meet clients' needs and meet community expectations. The focus of this work and the necessary reforms will help to resolve concerns raised about the Public Trustee and allow it to continue to deliver its important services into the future.

The implementation of the actions and reform program to respond to the Bugg Review recommendations is being carried out as a matter of priority within government and the Public Trustee, with a clear focus on delivering the following key elements:

- progressing a clear cultural and policy shift of the Public Trustee towards a human rights and supported decision-making approach, to be embedded in the Guardianship and Administration legislative framework through the next tranche of significant legislative reforms;
- funding arrangements that support the implementation of the Bugg Review recommendations;
- increasing and strengthening oversight of the Public Trustee, through a revised and updated Ministerial Charter that clarifies the Government's policy expectations and service delivery requirements for the Public Trustee; and
- supporting the Public Trustee in the significant work underway to progress improvements to its internal operational and administrative practices, reflecting the clear shift in focus to an improved and revised client and customer-centric service delivery model.

Importantly, the reforms to be progressed in the *Guardianship and Administration Act 1995* will provide the legislative basis for the definitive shift to a 'rights, will and preference' decision-making approach. This represents a change in the way the Public Trustee and representative decision-makers understand and uphold their duties and functions under the Act, moving away from the current 'best interests' model.

Implementation of the recommendations of the Bugg Review will be completed by the Public Trustee, and the Departments of Justice and Treasury.



**Hon Elise Archer MP**  
**Attorney-General and Minister for Justice**

## Bugg Review Recommendations

	RECOMMENDATION	GOVERNMENT RESPONSE	NOTE	TARGET COMPLETION DATE
1.1	<b>The TasCAT ensure that hearings are held for the granting of all emergency orders and explain the emergency order process and outcome to the subject and his or her family and support group</b>	Support	On 8 December 2021, the Tasmanian Civil and Administrative Tribunal (TASCAT) issued a statement that as of 8 November 2021 all emergency requests would be determined by formal hearing. This allows for the direct involvement of the represented person, family or supports and other interested parties.	Implemented
1.2	<b>The TasCAT update the Annual Report pro forma for Administrators to include a report on section 57 duties and outcomes</b>	Support	In the last 12 months, the Guardianship and Administration Board and now TASCAT have been reviewing many of its forms, documents and procedures, handbooks and fact sheets. TASCAT has also updated its reporting form for the Public Trustee when it is appointed as	Implemented

			<p>administrator for a represented person. The Public Trustee is required to report to TASCAT on matters including health and lifestyle issues; action taken during the administration period; the exercise of their powers to act in the best interests of the represented person under section 57; and the income, expenditure, assets and liabilities relating to the represented person.</p>	
1.3	<p><b>The Attorney General introduce legislation to amend the <i>Guardianship and Administration Act 1995</i> in advance of implementing the recommendations of the TLRI:</b></p> <ul style="list-style-type: none"> <li>• to enable TasCAT to examine the extent of a conflict of interest. I suggest adopting the provisions in the WA Legislation; and</li> <li>• consider at the same time a minor amendment of the appeal provisions of the Act to incorporate the WA provisions.</li> </ul>	Support	<p>Work to draft a Bill to implement the amendments, which will be publicly consulted on, is currently underway, and will include further reforms related to the Tasmania Law Reform Institute's review of the <i>Guardian and Administration Act 1995</i>.</p>	By November 2022

<b>2.1</b>	<b>Review communications across all fields of work of the Public Trustee</b>	Support	After completion of the review the procedural requirements will be reinforced through the delivery of specific training to all Public Trustee teams statewide.	30 June 2022
<b>2.2</b>	<b>Consider the levels of service/communication required for represented persons and implement them</b>	Support	After completion of the review the Public Trustee will implement the outcomes.	30 September 2022
<b>2.3</b>	<b>Consider the appropriateness of the CAMs pooling model and settle performance standards</b>	Support	Completion of a Public Trustee review of its client service delivery model for represented persons will provide direction in updating performance standards.	31 December 2022
<b>2.4</b>	<b>Train all staff on record keeping, particularly accurate inventory recording when the Public Trustee takes possession of property</b>	Support	The Public Trustee will review the current procedures for dealing with represented persons' personal property, and provide specific training to staff on requirements.	30 June 2022
<b>2.5</b>	<b>Consider its resourcing requirements for CSO clients in the context of the next CSO Agreement</b>	Support	The Public Trustee is working with Treasury on funding arrangements.	30 June 2022

3.1	<b>Improve its file management practices and recording, including resubmit/reminders</b>	Support	After the completion of a review of file management, the requirements will be reinforced through the delivery of specific training and a system enhancement.	31 December 2022
3.2	<b>Review filing separation between the legal section and operational filing for the same matter</b>	Support	The recommendation is being addressed as part of the Public Trustee's broad review of its operational practices.	31 December 2022
4.1	<b>The Public Trustee develop appropriate information and presentations so that the Tasmanian community understands the various roles and powers of the Public Trustee especially:- (i) in areas of managing a represented person's estate and (ii) when entering an aged care facility and (iii) more generally about the Trustee's powers when administering a represented person's affairs.</b>	Support	The recommendation has been considered by Public Trustee in Corporate planning.  Marketing, media and stakeholder engagement plans are currently under development.	30 June 2022
5.1	<b>The Public Trustee engage with stakeholders and implement a Customer Reference Group to</b>	Support	Public Trustee meetings with stakeholders commenced in 2021 and are	30 June 2022

	<b>assist in the development of appropriate service initiatives and improve its services to clients.</b>		continuing, as part of implementing a Customer Reference Group.	
6.1	<b>Develop a customer centric model to support the journey of all Public Trustee clients with a focus on delivering best practice in the industry so that Tasmanians feel secure in their engagement whether that be as a represented person, executor or administrator of last resort</b>	Support	The Public Trustee has included key strategic themes in its 2022-23 Corporate Plan. In line with its improvement and innovation strategy, the Public Trustee is seeking to enhance its culture whereby the organisation recognises and embraces a more positive and constructive outlook on the vital role of the tasks they undertake for individuals and the community, with a focus on the 'will, preference and rights' of clients.	30 June 2022
6.2	<b>Provide training to staff about customer service standards and appropriate expectations as a professional trustee</b>	Support	The Public Trustee will review and align appropriate customer service training to the requirements of role and responsibilities of the service area. Once the review of the model is completed, the training	31 December 2022

			component will be delivered.	
6.3	<b>Implement a program of training for client account managers that covers the policies and procedures of the Public Trustee to better support staff</b>	Support	The Public Trustee has recruited for the previous Trustee Services Trainer position and will initiate a training program to reinforce policies and procedures.	30 June 2022
6.4	<b>Develop a policy to be able to identify and triage complex matters including legal/commercial and to obtain appropriate advice to avoid delays in the administration of estates</b>	Support	The Public Trustee currently triages files through the Client Management System ('CMS') with the completion of a 'complexity matrix' by the responsible manager. The Public Trustee will review the operation of the CMS complexity matrix including its completion and system capabilities to improve monitoring and management.	30 June 2022
6.5	<b>(a) Expand management reporting to the Board to include a regular Board report on compliance with administrator obligations under the Guardianship and Administration Act 1995; and (b) Include in the report under 6.5 (a) a separate section which</b>	Supported in principle	An annual reporting template will facilitate reporting (see response to rec 1.2).  The Public Trustee is considering the Australian Guardianship and	31 March 2023



	<b>addresses performance against best practice standards for administrators.</b>		Administration Council's National Standards for Financial Managers. The Public Trustee will develop a report to the Board on compliance with administrator obligations under the <i>Guardianship and Administration Act 1995</i> . It will also consider how to address and report on the National Standards for Financial Managers.	
7.1	<b>The Government appoint the Disability Services Commissioner to an oversight role for represented persons with a grievance</b>	Supported in principle	The Government's consultation on a proposed new Disability Commissioner is being led by the Department of Communities Tasmania. The proposed scope of that office, including whether the Commissioner will have a role in taking complaints from people with disability is to be determined.	Subject to appointment of Disability Services Commissioner.
C.1.1	<b>The Attorney General and Treasurer update the Public Trustee's Ministerial Charter to</b>	Support	The Ministerial Charter has been reviewed and will be subject to	30 June 2022

	reflect their expectations in respect of CSO and represented person clients and the management of funds held in trust.		consultation with the Public Trustee.	
C.1.2	<p>The Public Trustee include in its Statement of Corporate Intent performance measures relating to:</p> <ul style="list-style-type: none"> <li>• trustee industry financial performance targets;</li> <li>• its obligations under the <i>Guardianship and Administration Act 1995</i> to represented persons in respect of promoting their independence and communication in respect of their wishes;</li> <li>• client satisfaction with CSO delivery; and</li> <li>• its obligations under the <i>Public Trustee Act 1930</i> as a manager of trust funds.</li> </ul>	Support	This is being considered in the context of the finalisation of the 2022-23 Statement of Corporate Intent.	31 July 2022
C.3.1	<b>C3.1 The Treasurer request the Tasmanian Economic Regulator to undertake a review of the Public Trustee's fees and charges for those clients who are required by legislation to use its services.</b>	Supported in principle	Subject to further consideration of the most appropriate and timely mechanism for the review.	By 30 June 2023
C.3.2	<b>The Public Trustee match the fees charged to represented persons with those in the Northern Territory.</b>	Supported in principle	Linked to C.3.1.	By 30 June 2023 subject to completion of the review under C.3.1, with consideration and

				implementation of supported findings.
<b>C.3.3</b>	<b>The Public Trustee keep the Treasurer informed on the status of its request for a GST exemption for represented person fees.</b>	Support	The Public Trustee has made a request for GST exemption.	Ongoing. Subject to Commonwealth decision.
<b>C.4.1</b>	<b>The Attorney General and the Treasurer review the scope of the CSO services purchased from the PT where there appears to be private sector provision such as for the administration of estates under \$60k.</b>	Support	To be considered as part of the broader review of CSO and funding arrangements.	30 June 2022
<b>C.4.2</b>	<b>The Public Trustee include performance indicators relating to the quality of client service provided in the next CSO agreement.</b>	Support	Performance indicators are being prepared.	30 June 2022
<b>C4.3</b>	<b>The Attorney General and the Treasurer fully fund the Public Trustee's net avoidable costs of service provision in the next CSO agreement, with funding escalation to reflect demand growth.</b>	Supported in principle	Full funding is provided for in the 2022-2023 Budget.	Ongoing funding will be reviewed in the context of implementation of Review Recommendations.
<b>C4.4</b>	<b>The counterparty to the next CSO agreement should be the Minister for Community Services supported by the proposed Tasmanian Disability Commissioner.</b>	Supported in principle	The Government supports increased oversight of the Public Trustee in relation to the requirement to meet CSO responsibilities. The appropriate Ministers to perform this function will be	Subject to consideration. Including the appointment of Disability Services Commissioner.

			considered once the scope and functions of the Disability Services Commissioner role have been finalised.	
<b>C.6.1</b>	<b>The Attorney General and the Treasurer retain the existing GBE model for the Public Trustee and use the performance framework in the <i>Government Business Enterprises Act 1995</i> to improve service delivery to its CSO clients and represented persons.</b>	Supported in principle	Subject to final consideration of options.	New performance measures to be included in the Statement of Corporate Intent and to be considered in the context of new funding arrangements.