



Report 3: 2022-23 | 10 August 2022

PERFORMANCE AUDIT

Public Trustee's Administration of Trusts and Deceased Estates



**Office of the Auditor General
Western Australia**

Audit team:

Aloha Morrissey
Jordan Langford-Smith
Adam Dias
RSM

National Relay Service TTY: 133 677
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The Office of the Auditor General acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders both past and present.

WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

Public Trustee's Administration of Trusts and Deceased Estates

Report 3: 2022-23
10 August 2022

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**THE PRESIDENT
LEGISLATIVE COUNCIL**

**THE SPEAKER
LEGISLATIVE ASSEMBLY**

PUBLIC TRUSTEE'S ADMINISTRATION OF TRUSTS AND DECEASED ESTATES

This report has been prepared for submission to Parliament under the provisions of section 25 of the *Auditor General Act 2006*.

Performance audits are an integral part of my Office's overall program of audit and assurance for Parliament. They seek to provide Parliament and the people of Western Australia with assessments of the effectiveness and efficiency of public sector programs and activities, and identify opportunities for improved performance.

This audit assessed if the Public Trustee effectively administers the deceased estates and trusts it manages.

I wish to acknowledge the entity's staff for their cooperation with this audit.

A handwritten signature in black ink, appearing to be 'C Spencer'.

CAROLINE SPENCER
AUDITOR GENERAL
10 August 2022

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Auditor General's overview

The Public Trustee plays an important role in the lives of thousands of Western Australians, including some of the most vulnerable, managing more than \$1.4 billion of their assets. It is imperative that the public has confidence in all government institutions, particularly those that are responsible for vulnerable members of our community.



This audit looked at two of the Public Trustee's core functions: the administration of trusts and the handling of deceased estates. It is vital the Public Trustee acts in its clients' best interest, particularly when it has control over an individual's finances and, through this, control of a great many aspects of their lives. While sometimes this level of intervention will be necessary and indeed essential, particularly as a last resort where there is a loss of capacity and the absence of immediate family or friends who can assist, it must be acknowledged that such service delivery is a profound intrusion of the State into an individual's affairs. Therefore, it must be done with the utmost care, diligence, respect and accountability, especially as many clients do not have a choice but to have the Public Trustee manage their affairs.

Examining the application and appropriateness of fees by the Public Trustee was a key part of my Office's audit. We found that although fees are charged in accordance with the gazetted fee schedule, some trust clients were charged large fees for relatively little work performed on their behalf. We also found that the Public Trustee needs to better inform its trust clients of both what could be charged and what has been charged to their accounts. It is important that as a financial manager the Public Trustee clearly communicates its fees to trust clients, particularly where individuals may be vulnerable. Similar issues also appeared as a concern for private sector financial managers in the Hayne Royal Commission¹ and, in recent months, public trustee services across Australia have been the focus of media investigations and criticism.

Our audit notes that in the current funding model, some clients do not just pay for the services they use, but also subsidise the costs of those that cannot pay. Many trust clients have little means, and in these cases the Public Trustee waives most of its fees. But the costs of administering these trusts are recovered through the fees paid by other clients with means. This model delivers an inherent incentive to maximise fees from clients regarded by the Public Trustee as having the capacity to pay, but who by community standards would not be considered wealthy. This is not appropriate.

While people should pay for the services they receive, it is not fair for a public institution entrusted to act in their best interests to have them unknowingly subsidise others.

This audit has revealed an urgent need to review the Public Trustee's funding and oversight model, to align it with governance arrangements for other State government entities that hold private monies in trust, and deliver essential services under community service obligations.²

In particular, the Public Trustee's 'self-funding' model needs examination. Theoretically, this funding model is a reasonable approach and one adopted by public trustees in some other Australian jurisdictions. It is also the model employed by other public entities where users pay for service delivery. However, many other such entities in Western Australia delivering essential services on a fee-for-service basis are subject to close scrutiny of their service

¹ Kenneth M Hayne, [Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry](#), Commonwealth of Australia, Canberra, 2019, Volume 1, p. 163.

² Community service obligations (CSOs), including funding by government, are separately appropriated and reported for some State entities. Transparency and consistency in reporting of CSOs generally has improved in Western Australia since this matter was examined by the Parliament's Public Accounts Committee in [Report No. 48, Community Service Obligations in the Western Australian Public Sector](#), 16 November 2000. The Public Trustee was not part of the Committee's examination.

standards and performance, and have an independent governing board.³ The Public Trustee does not receive this type of scrutiny or oversight, and it is quite clear that its current governance arrangements do not reflect modern expectations around public accountability.

An option to support the most vulnerable in our community without the capacity to pay, would be government funding through appropriation from Parliament, with a transparently reported community service obligation. This enables scrutiny by Treasury and parliamentary committees, and increases oversight for an entity that currently has relatively little, and holds a sizable amount of other people's money.

Our audit also reviewed, at a high level, the Public Trustee's fraud controls. While many of the controls we would expect to find were in place, more can be done to protect clients from the risk of fraud, including from suppliers. It was encouraging to see the Public Trustee acted on early findings to strengthen some concerning areas of weakness in relation to client cash (store) cards. This highlights one of the values of our no surprises performance auditing approach to help entities fix issues as soon as they are identified.

Our scrutiny of the Public Trustee's operations is ongoing. My Office has commenced a more in-depth forensic audit, using data analytics, to review procurement services, and in particular to see whether there are any anomalies in contract management systems and transactions on behalf of clients. This work is not indicative of specific concerns, rather a targeted examination of some control weaknesses identified in this audit and a previous audit in 2013.⁴ Findings from this work will be reported separately to Parliament when complete.

I would like to recognise that we found Public Trustee staff work hard to fulfill their duties, often in trying circumstances. Caseloads are high, particularly in the trusts area, and the work can be mentally and emotionally demanding. I was pleased to hear that during the audit the Public Trustee secured the option for additional staff, which will hopefully relieve some of that pressure, so services can be delivered even more effectively to vulnerable members of our community.

³ For example, the Government Employees Superannuation Board has an independent governing board and is also subject to oversight by the Australian Prudential Regulation Authority, while power and water entities are overseen by the Economic Regulation Authority, in the interests of the consumer.

⁴ Office of the Auditor General, [Public Trustee: Administration of the Financial Affairs of Vulnerable People](#), OAG, Perth, 2013, p. 4.

Executive summary

Introduction

This audit assessed if the Public Trustee effectively administers the deceased estates and trusts it manages. Our findings are set out in this report as follows:

- charges applied to trusts
- charges and timeliness of administering deceased estates
- a high-level review of the Public Trustee's fraud and corruption controls.

During the audit we also started a more detailed forensic audit of the Public Trustee's transactions. This work was still ongoing at the time of reporting and any results will be reported separately.

Background

The Public Trustee is formed under the *Public Trustee Act 1941* (the Act), and the CEO is both the statutory officer and accountable authority. The WA Public Trustee does not operate with a board, unlike other State entities that hold private monies in trust.⁵ It offers all Western Australians a range of services, including administering the assets of people who are vulnerable and unable to manage their own financial affairs (trust clients)⁶ and administering the estates of people who have died (deceased estates).

Clients may choose to use the services of the Public Trustee or may be appointed by the courts or the State Administrative Tribunal (SAT). When appointed, clients have no choice but to use the Public Trustee. In 2020-21, the Public Trustee reported it directly managed assets valued at roughly \$1.4 billion across 6,722 trusts and 1,275 deceased estates.⁷

When administering estates or trusts, the Public Trustee acts on behalf of its clients. For deceased estates, the Public Trustee assumes the role of executor or administrator, to finalise the estate. With trusts, the Public Trustee takes full control of a person's assets, or part of their assets, managing them for the individual's benefit (Table 1).

Deceased estates	Trusts
<p>When a person dies, they may have an estate that needs administering.</p> <p>The Public Trustee may become executor or administrator, if:</p> <ul style="list-style-type: none">• they are appointed in a will• the executor cannot or there is no-one who wishes to deal with the estate• there is no will. <p>As executor, the Public Trustee manages and distributes the deceased person's estate to its beneficiaries. The Public Trustee will typically:</p> <ul style="list-style-type: none">• value the estate and secure assets such as property, valuables, securities, and business interests	<p>A trust is a legal arrangement, where property or money is managed by one person or entity, for the benefit of another.</p> <p>The Public Trustee can take this role:</p> <ul style="list-style-type: none">• when appointed by the courts, because a person is injured and unable to manage their money themselves• through a will, where the Public Trustee is named as trustee• when nominated through a trust deed. <p>The Public Trustee manages trusts established by individuals or the courts. These trusts are often established to protect assets or provide</p>

⁵ Such as the Government Employees Superannuation Board.

⁶ For example, people under 18 or those with impaired decision-making ability.

⁷ Public Trustee, *2020-21 Annual Report*, Public Trustee, Perth, 2021, p. 4 and 5.

Deceased estates	Trusts
<ul style="list-style-type: none"> deal with assets by transferring or selling property/shares, valuables, and personal effects wind up the estate by paying its debts, finalising the estate's tax matters, and distributing cash and other valuables to beneficiaries. 	<p>ongoing financial security for family, dependents, or charities.</p> <p>The SAT can appoint the Public Trustee as administrator for people who, due to a mental disability, are unable to make reasonable judgments about their estate (represented persons).⁸</p> <p>In these cases, the Public Trustee acts in the represented person's best interests and manages their assets and finances. This includes providing money for day-to-day needs (such as clothing, accommodation, and food), lodging tax returns, and managing investments. It may choose to invest some of the money in the Public Trustee Investment Fund (PTIF) or in superannuation.</p>

Source: OAG based on Public Trustee information

Table 1: Summary of services for deceased estates and trusts

The Public Trustee self-funds its operations by charging scheduled fees for services and does not receive appropriations from Parliament. It charges trust and deceased estate clients for the services it provides.⁹ The scheduled fees are reviewed annually by the Public Trustee, approved by the Attorney General, and published on the Public Trustee's website and in the WA Government Gazette.¹⁰

Trust fees are predominantly based on the type and value of assets being managed, and the complexity of the work performed, while deceased estate fees are based on the work performed (Appendix 1). However, the Public Trustee can decide not to charge a client or decide to charge a reduced fee.¹¹ The Public Trustee can also recoup from its clients expenses it incurs in managing the estate, including expenses to investigate the possible misappropriation of assets.¹² The cost of client asset repairs and maintenance are paid directly by the estate.

Trust and deceased estate services are delivered by the Trustee Services directorate within the Public Trustee. Staff in this directorate manage individual caseloads. In 2020-21, the most junior trust manager had on average 198 clients. The 2022-23 budget included expenses for 18 additional staff, including 12 new trust manager positions.

Like all financial managers, the Public Trustee must act in the best interests of its client and carefully manage fraud risks. However, the vulnerable nature of its clients makes the risks and impacts more significant. In considering the Public Trustee's approach to managing fraud risks, we considered the Australian Standard AS 8001-2008 *Fraud and Corruption Control* (the Standard) as well as the Public Sector Commissioner's Integrity Checklist.

⁸ *Guardianship and Administration Act 1990*, section 64 (1).

⁹ It is required to develop its schedule of fees and charges in line with Treasurer's Instruction 810.

¹⁰ For example, Western Australian Government, [Western Australian Government Gazette No. 105](#), State of Western Australia, Perth, 2021.

¹¹ *Public Trustee Act 1941*, section 38 (9).

¹² Western Australian Government, [Western Australian Government Gazette No. 105](#), State of Western Australia, Perth, 2021, Part 23 section 90 (9).

Conclusion

The Public Trustee's administration of trusts and deceased estates is only partly effective. While trusts are charged in line with the schedule of fees, clients will not know what fees they have been charged unless they ask, and some are charged considerable fees for little work. The Public Trustee charges deceased estates in line with the published schedule of fees. However, the Public Trustee has not met its target timeframe of finalising 64% of estates within 12 months. The Public Trustee has many, but not all, key fraud controls in place. Controls to reduce the misuse or loss of client cash cards were inadequate at the time of our audit and were only strengthened during the audit, and more needs to be done to reduce the risk of supplier fraud.

Fees and charges are not well communicated to trust clients. Trust clients are not given easy to understand information about the fees they are likely to be charged and are directed to the complicated schedule of fees. Further, the Public Trustee has decided not to regularly inform its trust clients of actual charges on their accounts. Clear and regular communication of the fees these vulnerable people pay would inform their clients, and better align with transparency requirements for private sector trustees and the principles outlined in the Hayne Royal Commission.

Other than for trust clients with very low asset balances, the Public Trustee does not actively consider waivers or reductions of fees to reflect actual work effort on a client's account. While it can do so, discretion is only exercised when trust clients complain or request a fee review. We identified no instances where the Public Trustee charged trust clients more than the scheduled fees, but we did find instances where these clients had been charged considerable fees for relatively little work. Actively waiving and reducing fees to reflect actual work effort would better align with the Public Trustee's stated fee for service approach and promote equity and value for money for individual clients.

The appropriateness and transparency of the Public Trustee's self-funding fee and current governance model warrants review by the Department of Treasury to provide advice and options to Government. Treasury's review should consider whether services provided to those with limited financial means should be funded by Government, through appropriations from Parliament. Currently, the cost of these services is paid through fees charged to other clients, who may not be aware their fees help to meet these costs. It should also consider whether additional governance oversight arrangements are necessary, including the role of a governing board, to better align the Public Trustee with other State entities that hold private monies in trust.

The Public Trustee has implemented many of the key fraud controls required by the national fraud Standard. However, we found:

- limited controls in place to safeguard cash cards purchased using client funds while in the Public Trustee's possession. The Public Trustee strengthened these controls in response to our audit
- weak financial controls to reduce the risk of duplicate or fraudulent suppliers in its supplier master file. The Public Trustee advised us these controls have now been strengthened
- the Public Trustee does little to confirm that repairs and maintenance work on trust and deceased estate properties, undertaken by the Public Trustee's contracted suppliers, were appropriate, completed and represented value in the use of client funds.

Findings

Trust fees did not always reflect actual work effort and were not effectively communicated to clients

Scheduled fees can exceed actual work effort

The Public Trustee charges its trust clients in line with its schedule of fees. We reviewed 40 trusts and found clients were charged in line with the schedule of published fees. Generally, we were able to confirm that the fees charged reasonably reflected the work done.

However, in some cases the full scheduled fee had been charged where the actual work done was minimal or automated. We noted this happened when charging the establishment and asset management fees on trusts with higher asset values, primarily because these fees scale with the total value of the trust. That is, larger trusts automatically attract considerable charges. While some clients' needs might be complex and need additional work, this is not always the case (Case study 1). It is possible for clients to incur considerable fees for relatively little work by the Public Trustee on their trusts.

Trust managers consider adjusting a client's fees if a complaint or request to do so is received. This approach can place considerable responsibility on its vulnerable clients, their guardians and carers, and requires them to understand when charges may not be appropriate. The Public Trustee told us its current approach is necessary given its high case load and staffing issues, and that managers have also on occasion requested adjustments for clients who have not complained.

Case study 1: High fees charged for minimal account management

Client A	Client B
<p>This client had \$135,000 in court awarded funds to be held by the Public Trustee until the client turned 18. Based on the size of the account, client fees paid to the Public Trustee amount to around \$6,300 over a 14-month period:</p> <ul style="list-style-type: none">\$4,500 establishment fee charged to open the file\$1,800 asset management fees. <p>The funds are held in a bank account requiring little input by the trust manager once established. After the initial setup, the trust manager has not had to perform any ongoing tasks or respond to requests from the client.</p>	<p>This client's main income is a mental disability support pension of \$1,906 per month. They also have an estate of roughly \$190,000 invested in the Public Trustee Investment Fund (PTIF).</p> <p>This client is charged \$927.83 by the Public Trustee in fees per month (or over \$11,000 per annum).¹³ The majority of this (\$780 per month) is a personal financial administration fee which in part covers client contact with the Public Trustee. Most payments on behalf of this client are automated. In 2021, trust managers only had to make two manual payments.</p> <p>In addition, the PTIF charges annual management fees of up to 2% of the funds invested.</p>

Source: OAG based on Public Trustee information

The Public Trustee does not charge full fees to trust clients without financial means and very low balances, regardless of the work performed. It automatically applies a rebate to these accounts when the fees are more than 5% of their total asset value or if fees would reduce

¹³ The client is charged a monthly asset management fee (\$181.92), and a personal financial administration fee (\$779.67). The Public Trustee provides the client with a rebate of \$33.76 as the total annual fees are more than 5% of the total account value.

the account to less than \$5,000 in cash. In 2020-21, about 4,500 (64%) of trust clients received a rebate. While these clients do not pay the full fee, they still pay at least \$35 per month. As a self-funded (rather than appropriation-funded) entity, the cost of these rebates is effectively covered by the fees charged to those clients that can afford to pay.

In 2020, the Public Trustee engaged an external reviewer to assess the appropriateness of its approved fees in comparison with public trustees in other jurisdictions and private trustees. The review found the regime was fair, reasonable, and appropriate in most instances. During our audit, the Public Trustee advised it would further review its fees to determine how they could be improved and simplified.

Trust fees are not clearly communicated to clients

Trust clients are not provided with a clear and easy to understand explanation of the fees that are more likely to be charged to their account. Clients are given a high-level overview, but this does not include amounts. They are then directed to the schedule of fees on the Public Trustee's website. However, we found clients are unlikely to easily understand the schedule, as it is written in formal and complex language, with potential fees spread throughout (Case study 2). Clients may benefit, and better understand the risks to their finances, if fees are presented to them in a simplified and guided way, as private trustees are obliged to do.

Case study 2: Example of complex language in the trust fees schedule

The Public Trustee's schedule of fees is written in complicated language. While some parts are clearly laid out, others are dense and complex. For example:

Establishment fees for represented persons (Part 6, 31)

The establishment fee for commencing to act as administrator of a represented person, or pursuant to an order made under section 65 of the *Guardianship and Administration Act 1990*, is \$918. This fee does not apply if immediately prior to the Public Trustee commencing so to act, the Public Trustee was already performing a function or providing a service under section 124 and Schedule 5 of the *Guardianship and Administration Act 1990*, acting as administrator pursuant to section 64 of the *Guardianship and Administration Act 1990*, or acting pursuant to an order made under section 65 of the *Guardianship and Administration Act 1990*.

Residence and real property fees (Schedule 8, 2)

If the Public Trustee is performing a function or providing a service under section 124 and Schedule 5 of the *Guardianship and Administration Act 1990*, acting as administrator pursuant to section 64 of the *Guardianship and Administration Act 1990*, acting pursuant to an order made under section 65 of the *Guardianship and Administration Act 1990*, or donee of an enduring power of attorney, the fee referred to in item 1 is remitted if it is with respect to—

- (1) the principal place of residence of the client;
- (2) the principal place of residence of a spouse, de facto partner and/or minor child of the client; and/or
- (3) the former principal place of residence of the client if—
 - (a) it was the principal place of residence of the client at any time in the previous 12 months; and
 - (b) it is not being rented to a third party.

Source: Western Australian Government Gazette June 2021, Public Trustee's Scale of Fees

Additionally, trust clients are not regularly told what fees they have been charged and why. The Public Trustee provides clients, or their guardians, with a financial statement if requested, when the account is closed or as required by a SAT order. This reflects the Public Trustee's concern that financial statements in the wrong hands increase the risk of clients being financially exploited. However, not all clients face this risk, and the approach reduces transparency of charges for all trust clients. Some clients remain with the Public Trustee for long periods, during which they may not know what funds they have or the fees they have paid.

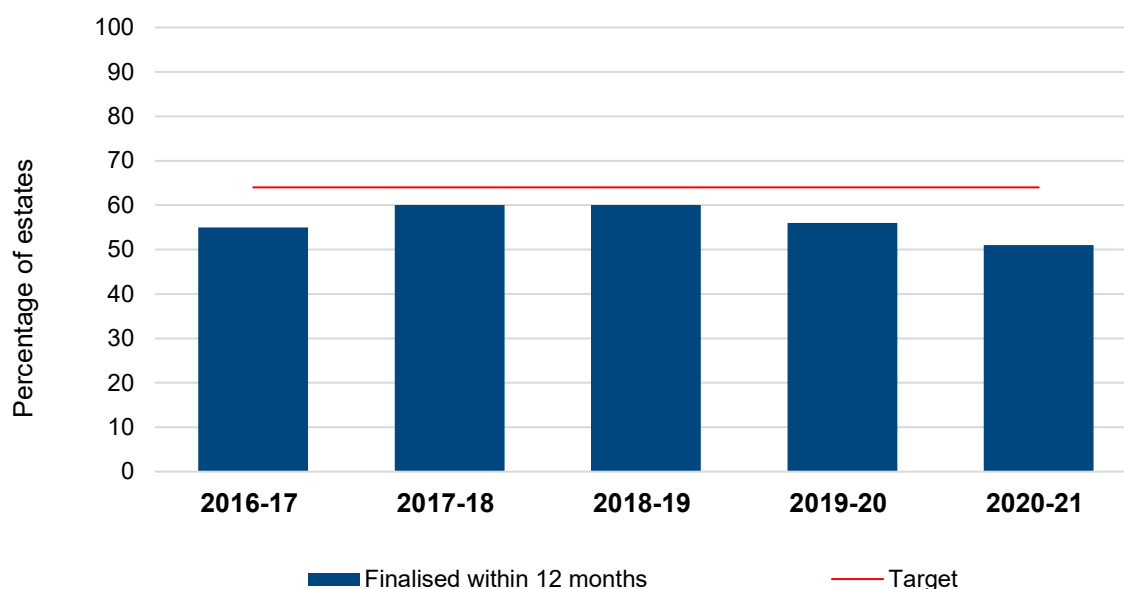
The Public Trustee charged deceased estates in line with the fee schedule, but did not meet its administration timelines

We reviewed 39 deceased estate files and found clients were charged in line with the schedule of fees. The Public Trustee communicated its deceased estate fees well, provided clients with clear explanations, and where possible, quoted on likely fees.

However, the Public Trustee has failed to meet its own target timeframe for finalising deceased estates. It has an annually audited key performance indicator (KPI) of the percentage of estates finalised within 12 months, with a target of 64%. Over the past five years the Public Trustee has publicly reported:

- it has not met the target with the percentage of estates completed having fallen from 55% in 2016-17 to 51% in 2020-21
- the average time taken to finalise an estate has risen from 7.1 to 7.4 months (Figure 1).

This means beneficiaries are waiting longer for proceeds to be distributed to them. The Public Trustee's 2020-21 Annual Report¹⁴ attributed the decreased performance to COVID-19 and the subsequent delays in dealings with financial institutions, overseas services, government offices and property sales.



Source: OAG using information from Public Trustee annual reports 2016-17 to 2020-21

Figure 1: Percentage of deceased estates finalised within 12 months

¹⁴ Public Trustee, *2020-21 Annual Report*, Public Trustee, Perth, 2021, p. 14.

Other timeframes for key activities in the administration of deceased estates were also not met. The Public Trustee has target timeframes for four activities. We found delays in three (Table 2). Some delays were beyond the Public Trustee's control, for example, delays in receiving death certificates.

Activity	Target timeframe	Number of estates tested ¹⁵	Number and percentage of files where the timeframe was not met
Opening the file	7 days from the date activity is initiated	38	3 (8%)
Instruction sent to prepare authority application	28 days from the date activity is initiated	36	7 (19%)
Acting on authority	28 days from the date the authority is collected	36	0 (0%)
Referred for distribution	56 days from when the authority is collected or 14 days from when realty has been disposed	33	1 (3%)

Source: OAG

Table 2: Summary results for timeliness of key deceased estate activities

The Public Trustee has controls to manage many but not all of its fraud risks

Many key fraud framework controls are in place

The Public Trustee understands its high-level fraud risks and has a coordinated approach to manage them. A detailed fraud and corruption control plan is in place and we found the plan and related policies covered the key elements from the Standard, such as:

- fraud and corruption risk assessments conducted every two years
- a dedicated fraud and corruption risk register
- appropriate employee screening procedures
- multiple avenues to report concerns of fraud or corruption.

This plan has been regularly reviewed and was appropriately informed by an assessment of the fraud risks across the organisation. Additional integrity policies, such as a code of conduct and conflicts of interest policy, are in place and are actively promoted by management. These core approaches position the Public Trustee to manage its fraud risks.

Additional steps have been taken to improve the management of fraud risks. The Public Trustee appointed an independent chair to its audit and risk committee in June 2020, and in June 2021 it completed a review of its fraud and corruption controls against the Public Sector Commission's self-assessment checklist. This review found the Public Trustee's approach to be generally adequate. These additional measures make the Public Trustee more resilient to fraud.

¹⁵ The number of estates tested varied as some were newer estates, which had not progressed through the process.

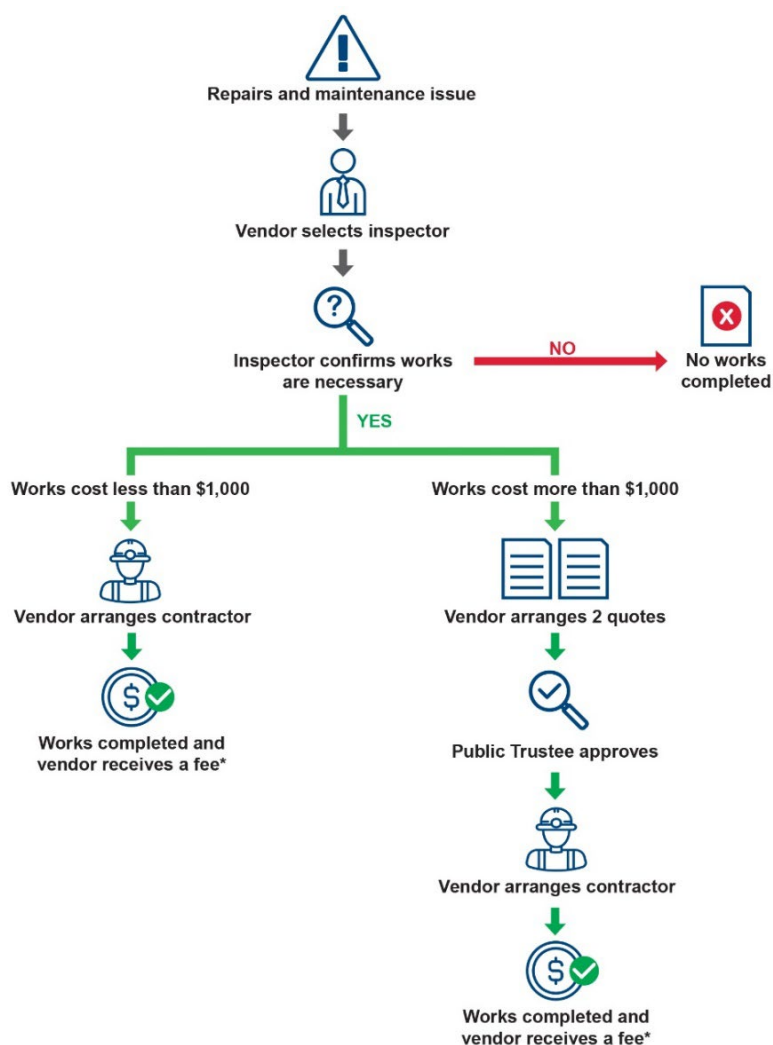
Weak supplier controls increase fraud risks

The Public Trustee has not implemented appropriate controls to manage its supplier fraud and corruption risks. These weaknesses expose the Public Trustee and its clients to an increased risk of fraud.

The Public Trustee did not check that client property repairs and maintenance were necessary and performed

Existing controls do not provide appropriate oversight of maintenance and repair work at client properties. The Public Trustee does not know if work was necessary, performed correctly or suitably priced to offer value to the client. Property assets can represent a substantial portion of a client's account and appropriate asset maintenance is integral to preserving the client's finances.

Inspections to identify the need for repairs and maintenance are not fully independent. Since 2015, the Public Trustee has contracted its current vendor to handle client property repairs and maintenance. This vendor also chooses, and pays, the inspector who establishes if the work is necessary (Figure 2). This lack of independence could result in additional costs for clients from unnecessary work being performed or high quotes.



* The vendor receives a fee of 15% to 17% of the value of all work performed. This reduces by 1% if the total expenditure in a year exceeds \$350,000.

Source: OAG based on Public Trustee information

Figure 2: Process for repairs and maintenance of trust and deceased estate properties

The Public Trustee does not have a reference table of common repair prices for staff to consult when selecting quotes or approving invoices. Without guidance on common repair costs, managers are not supported to assess if invoices or quotes represent value for clients. The Public Trustee told us developing a table is difficult as works can vary substantially, but it does have set rates for some minor works, such as smoke alarm installs and security checks.

There is no requirement for the vendor to provide evidence to confirm repairs or maintenance works are complete before the Public Trustee pays invoices. Without evidence, the Public Trustee cannot be sure that clients receive the services they pay for. The Public Trustee told us it meets with the vendor monthly to discuss a sample of four works valued at less than \$1,000, and future tenders will include a requirement for photographic evidence of work performed.

This process places heavy reliance on clients or guardians to complain when works are unsatisfactory. The Public Trustee told us it has acted when it has received complaints about unsatisfactory work. However, this places the burden of quality control on clients, not all of whom will be able to complain.

Inadequate supplier vetting does not reduce fraud or corruption risks

The Public Trustee's *Fraud and Corruption Control Plan* does not appropriately consider supplier vetting when engaging suppliers to help its clients (for example with gardening and cleaning services). The Standard recommends a range of checks for new suppliers. These include credit rating checks, searches of legal proceedings, searches for bankrupt or disqualified directors, searching the company register, and ABN confirmation. The Public Trustee's plan does not specify these measures; however, in practice ABNs of new suppliers are verified. Consideration of additional checks, where appropriate, would provide the Public Trustee with greater assurance their suppliers are legitimate and reputable, and minimise the risk of fraud.

The Public Trustee told us it has considered and understands this risk but has decided not to implement further supplier checks based on a cost/benefit business decision.

Poor management of its supplier master file increases risk of fraud

Controls over the supplier master file are inadequate. We reviewed the supplier master file for duplicates and compared the bank account numbers in the supplier list to employee account numbers. We found:

- 2,655 duplicate supplier bank accounts. In 2,431 cases the duplicate account was associated with a different business name. Duplicates may be the result of suppliers (such as accommodation venues) using the same bank account for multiple facilities and therefore pose little risk
- 831 duplicate supplier names, 607 of which had a different bank account. This is an extremely high duplicate rate
- no matches between supplier and employee bank accounts.

The supplier master file is a central, comprehensive record that holds the bank accounts, ABNs and contact details of the Public Trustee's suppliers. Inadequate controls over this type of information have led to instances of fraud across all sectors in Australia.

During our audit the Public Trustee's system did not allow the deletion or modification of entries in the master file. When duplicate suppliers were created, the original entry remained active and staff could still accidentally or deliberately make payments to the original supplier entry. This increases the risk of mistaken or fraudulent payments and heightens the risk such

payments would go undetected. The Public Trustee advised it implemented changes to its systems in May 2022, to allow duplicate accounts to be closed or deactivated.

In 2019 we reported¹⁶ issues with the Public Trustee's management of its supplier master file. That report identified duplicate entries, amendments to records without confirming changes with suppliers and changes being made by unauthorised employees. Since that audit, the Public Trustee has implemented additional controls including limiting the positions that can add entries to the file, and requiring changes to bank accounts details of existing suppliers to be validated through a call to the supplier.

Poor controls were in place to safeguard cash cards in the Public Trustee's custody

The Public Trustee did not have appropriate processes to protect cash cards while they remain in its possession. Policies were not in place to guide staff on when to purchase cash cards or how many to purchase.

Roughly 10% of represented person trust clients, typically those without bank accounts, use cash cards purchased on their behalf by the Public Trustee. In 2020-21, 679 of the Public Trustee's 6,772 trust clients used cash cards for core purchases such as food and clothing.

At the time of our audit, cards were not securely stored within the Public Trustee and there was no policy regarding their storage. Trust managers often purchased multiple cards at once and stored them in their lockable desk drawers. One trust manager we spoke with purchased up to \$1,000 worth of cards for a client at a time. If a trust manager bought cards for multiple clients, there was a risk cards could become mixed in the drawer. The cards function as cash and poor storage presents a risk clients' money could be lost, stolen, or given in error to other clients.

There was no receipt process in place to confirm clients receive their cards. Cards could be handed to a client at the Public Trustee's offices but are often sent in the mail. The client was not required to advise they had received them, and the Public Trustee did not check. As a cash card can be used by anyone, there is a risk that the client's funds could be misappropriated by anyone with access to their mail. This could go unnoticed for some time.

In November 2021, the Public Trustee acted to implement new policies and procedures to substantially improve controls over cash cards in response to our audit findings. The new cash card policy sets limits on the value of cards that can be purchased, requires all physical cards to be securely held by the Finance section, and specifies procedures for how staff receive, handle, and distribute cards. We performed a spot check of card handling, looking at the purchasing and storage of a small number of cards. In all cases, we found staff had followed the new policy.

¹⁶ Office of the Auditor General, *Management of Supplier Master Files*, OAG, Perth, 2019.

Recommendations

The Public Trustee should:

1. actively consider a credible and practical approach to assess whether full scheduled fees reasonably reflect the work on a trust account and should be charged

Implementation timeframe: 30 September 2023

Entity response:

The Public Trustee will explore what practical changes can be made to its client file review processes, for clients paying full scheduled fees, that would warrant a review of the reasonableness of those fees.

2. review and improve its communication of trust fees, to help clients understand potential and actual fees, including:
 - a. developing a simplified explanation of potential fees for new clients, tailored to their circumstances
 - b. regularly communicating actual charges levied on clients' accounts

Implementation timeframe: 30 September 2023

Entity response:

- a. The Public Trustee will review and develop new simplified fee brochures, tailored to suit the different trust client types.
- b. The Public Trustee will perform a review to determine which trust clients are suitable to receive regular financial statements and then implement system changes to automate the sending out of the statements.
3. improve controls for the management of property repairs and maintenance:
 - a. increase independence between property contracted service providers and inspectors
 - b. consider implementing a schedule of common repair costs to help staff assess if proposed charges are reasonable
 - c. collect and review photographic evidence that works have been completed, and conduct risk-based targeted spot checks

Implementation timeframe: 31 January 2023

Entity response:

- a. The Public Trustee will consider what measures could be taken to improve the independence between contracted service providers and inspectors.
- b. The Public Trustee will investigate the feasibility and practicality of developing a schedule of common repair costs.
- c. The Public Trustee will make photographic evidence mandatory for all completed minor works and also broaden its risk-based targeted spot checks.

4. improve fraud and corruption controls through:
 - a. improved supplier vetting processes, in line with Australian Standards on Fraud and Corruption Control
 - b. ensuring controls to prevent and deactivate duplicate entries in the supplier master file, and unauthorised payments, are effective

Implementation timeframe:

- a. 31 December 2022
- b. Completed

Entity response:

- a. The Public Trustee will review the type of payments that we make on behalf of our clients to suppliers, to determine if any have a risk profile that warrants a higher level of vetting.
- b. The Public Trustee has in place controls that minimize duplicate entries and unauthorised changes to the supplier master file.
- c. In May 2022, implemented system changes now allows for the deactivation of duplicate suppliers or suppliers that have not been used for a pre-determined period. Associated reporting assists to identify suppliers for deactivation from the supplier master file.

The Department of Treasury should:

5. review the appropriateness and transparency of the Public Trustee's fees and self-funding model. In particular:
 - a. if the cost of work for clients without, or with limited, financial means to pay should continue to be paid for through the fees charged to clients with financial means or through an appropriation from Parliament
 - b. whether current governance arrangements should be aligned with practices at other State entities that hold private monies in trust, including establishing a governing board.

Entity response:

The Department accepts the recommendation, and acknowledges the findings and concerns raised in relation to the Public Trustee's fees and self-funding model.

The Department will undertake a review of the appropriateness and transparency of the Public Trustee's fee-for-service and self-funding model, with the aim of providing Government with options to improve equity and value-for-money for the Public Trustee's clients, particularly given the vulnerable nature of its client base.

The review will include a focus on governance structures and practices, and involve consultation with the Public Trustee and other government entities that hold private monies in trust.

Response from the Public Trustee

The Public Trustee welcomed the opportunity for an external review by the Auditor General to “examine whether deceased estates and trusts are administered effectively and whether effective controls are in place to prevent fraud”.

It is comforting to read that the Auditor General found that the Public Trustee understands its high-level risks, has a coordinated approach to manage them and has a detailed fraud and corruption control plan in place.

It is particularly pleasing to note that the Auditor General, after conducting exhaustive data analytics of three years of financial transactions, found no evidence of fraud or corruption.

Prior to the audit by the Auditor General, the Public Trustee had commissioned an external review by a leading independent economics and public policy firm to undertake a review of its fees and charges. The review in July 2020, found the Public Trustee’s current work effort fee regime is fair, reasonable, and appropriate in most instances.

The Public Trustee has further engaged the independent consultancy, to undertake an investigation into stream-lined and simplified trust and deceased estate fees.

The Public Trustee believes its clients receive a quality service at an affordable price.

The Public Trustee will fully co-operate with any planned review by the Department of Treasury to assess the appropriateness of its self-funding model and related governance arrangements.

The Public Trustee believes it offers its clients fees and charges transparency. It provides clients with financial statements if requested when an account is closed or when required by a Tribunal Order. It is reluctant to provide regular financial statements to some clients, based on a risk concern that these vulnerable clients maybe exploited.

The Public Trustee welcomed the decision by Government in the 2022/23 State Budget to enable our office to significantly increase staff numbers to address the escalating demand for administration services from people with decision-making disabilities.

It was the largest staffing increase in the history of the agency and will see staff numbers increase by more than 10%.

The Auditor General’s report acknowledged that the Public Trustee has already addressed the findings related to the need for better supplier master file controls, including concerns raised about supplier duplicates, and has strengthened controls associated with cash cards.

Recognising the findings raised in the report, the Public Trustee remains fully committed to a program of continuous improvement to deliver effective and efficient services to its diverse range of clients.

The Public Trustee accepts the Auditor General’s Report recommendations which, once implemented, will further improve its business operations and processes for the benefit of its clients.

Please see the next page for the Auditor General’s response to this comment.

Comment in response from the Auditor General

I am concerned that paragraph three of the Public Trustee's response overstates the extent of data analytics work performed during the audit and infers an audit conclusion that provides a level of assurance about fraud or corruption beyond the scope of this audit.

My Office's work was limited to that stated in this report, including examining a sample of case files for fee calculations in accordance with gazetted (approved) fees. On this aspect, we examined only 79 files (40 trusts, 39 deceased estates) of approximately 8,000 that are open during the year.

Given this organisation represents an inherently high fraud risk operating environment, the audit also included an examination, on a sample basis, of the Public Trustee's controls for the prevention, detection and response to fraud and corruption. It is important that control weaknesses identified during the audit are promptly addressed, and ongoing vigilance maintained.

No audit can ever provide absolute assurance, as our procedures do not examine and re-perform every transaction. As stated on page 7, my Office's audit scrutiny of the Public Trustee's operations is ongoing.

Audit focus and scope

The audit assessed if the Public Trustee effectively administers deceased estates and trusts that it manages. We based our assessment on the following criteria:

- Are deceased estates and trusts administered effectively to protect vulnerable people?
- Are effective controls in place to prevent fraud?

The audit focused on the Trustee Services directorate within the Public Trustee, as the area charged with trust management and deceased estate administration.

During this audit we:

- performed walkthroughs of major processes
- interviewed key staff including trust managers and estate managers of varying levels
- reviewed key policies and procedures against legislative requirements
- sample tested fees in respect to 40 client trust files and 39 deceased estate files
- sample tested the implementation of protections for cash cards by examining electronic records for four card purchases, eight entries in the card register and an unannounced inspection of a random sample of 11 staff desks
- performed a gap analysis to evaluate if the Public Trustee's fraud risk management practices were fit for purpose in line with better practice, outlined in Australian Standard AS 8001-2008 *Fraud and Corruption Control*
- sample tested the Public Trustee's controls related to the prevention, detection and response to fraud and corruption
- performed due diligence background checks on a sample of employees to identify any links to suppliers or businesses associated with the Public Trustee.

We considered several factors including legislative compliance, effectiveness of the Public Trustee's policies and procedures, as well as the overall appropriateness of service provision to individual clients.

This audit did not consider if individuals should be clients of the Public Trustee, the effectiveness of the Public Trustee's investment fund or if the fee amounts the Public Trustee can charge are reasonable.

This was an independent performance audit, conducted under section 18 of the *Auditor General Act 2006*, in accordance with Australian Standard on Assurance Engagements ASAE 3500 *Performance Engagements*. We complied with the independence and other ethical requirements related to assurance engagements. Performance audits focus primarily on the effective management and operations of entity programs and activities. The approximate cost of undertaking the audit and reporting was \$445,000.

Appendix 1: Simplified summary of some common fees for trusts and deceased estates

The table below sets out a high-level summary of the major fees the Public Trustee charges to its trust and deceased estate clients. This table is not exhaustive and reflects fees applicable to new clients. Clients from previous years may be subject to different fees.

Trusts	Deceased estates																								
<p>Establishment fee</p> <p>This is a once off fee for court appointed trusts, charged at the start of the account.¹⁷</p> <table> <tr> <th>Value of trust</th><th>Fee</th></tr> <tr> <td>\$0 to 5,500</td><td>\$0</td></tr> <tr> <td>\$5,501 to \$50,000</td><td>\$612</td></tr> <tr> <td>\$50,001 to \$100,000</td><td>\$1,530</td></tr> <tr> <td>\$100,001 to \$400,000</td><td>\$4,590</td></tr> <tr> <td>\$400,001 or more</td><td>\$7,650</td></tr> </table> <p>Personal financial administration fee</p> <p>This is an annual fee.</p> <p>Represented persons can be charged from six levels of fee¹⁸, ranging from \$1,530 to \$15,912 depending on:</p> <ul style="list-style-type: none"> • where the client lives (for example hospital or independently) • where the main source of income is paid • who assists the client in managing their daily finances (for example the hospital, family, or the Public Trustee) • how frequently the client has contact with the Public Trustee. <p>Court appointed trusts are also charged an annual financial administration fee.¹⁹ This varies according to the number of transactions processed per year, from:</p> <ul style="list-style-type: none"> • \$765 for two to five transactions to • \$6,120 for more than 200 transactions. 	Value of trust	Fee	\$0 to 5,500	\$0	\$5,501 to \$50,000	\$612	\$50,001 to \$100,000	\$1,530	\$100,001 to \$400,000	\$4,590	\$400,001 or more	\$7,650	<p>Deceased estate fees</p> <p>Fees for administering deceased estates reflect the amount and types of work the Public Trustee has performed.</p> <p>The schedule of fees assigns “units of work” to 36 types of activities.²³ For example:</p> <table> <tr> <th>Activity</th><th>Units of work</th></tr> <tr> <td>General administrative duties</td><td>90</td></tr> <tr> <td>Obtaining grant of probate</td><td>70</td></tr> <tr> <td>For each item or sum of money bequeathed</td><td>5</td></tr> <tr> <td>Dealing with wages, holiday pay and other pay entitlements</td><td>20</td></tr> <tr> <td>Dealing with a pension</td><td>15</td></tr> </table> <p>The total number of units of work is then used to determine the fee.²⁴ There are 19 set levels ranging from:</p> <ul style="list-style-type: none"> • \$2,754 for one to 90 units of work • \$40,239 for 1,116 to 1,315 units of work. <p>Estates needing more than 1,315 units of work are charged at an hourly rate of \$306.</p>	Activity	Units of work	General administrative duties	90	Obtaining grant of probate	70	For each item or sum of money bequeathed	5	Dealing with wages, holiday pay and other pay entitlements	20	Dealing with a pension	15
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¹⁷ Western Australian Government, [Western Australian Government Gazette No. 105](#), State of Western Australia, Perth, 2021, Schedule 15.

¹⁸ *ibid.*, Schedule 6.

¹⁹ *ibid.*, Schedule 9.

²³ *ibid.*, Schedule 3.

²⁴ *ibid.*, Schedule 4.

Trusts	Deceased estates
<p>Asset management fee²⁰</p> <p>This is an annual fee, which scales with the value of the assets in the trust and is in addition to the fees charged by PTIF. Only accounts valued at more than \$5,000 attract the fee, across 13 levels ranging from:</p> <ul style="list-style-type: none"> • \$213 for accounts valued \$5,001 to \$10,000 • \$15,300 for accounts valued at more than \$2.5 million. <p>Residence and real property fee²¹</p> <p>Clients pay a fee of \$3,060 for each property or mobile home they own. For some clients, their principal place of residence does not attract this fee.²²</p> <p>PTIF management fees</p> <ul style="list-style-type: none"> • Additional management fees are charged where the trustee has invested a represented person's funds into the PTIF • Clients can be charged a fee not exceeding 2% per annum of the value of the assets in the PTIF, minus external management fees and charges. 	

Source: Western Australian Government 2021 *Gazette No 105*

²⁰ *ibid.*, Schedule 7.

²¹ *ibid.*, Schedule 8.

²² For example, if the Public Trustee is providing a service under section 124 and Schedule 5, acting as administrator pursuant to section 64, or acting pursuant to an order made under section 65 of the *Guardianship and Administration Act 1990*.

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Auditor General's 2022-23 reports

Number	Title	Date tabled
1	Opinion on Ministerial Notification – Wooroloo Bushfire Inquiry	18 July 2022
2	Financial Audit Results – Universities and TAFEs 2021	21 July 2022

**Office of the Auditor General
Western Australia**

7th Floor Albert Facey House
469 Wellington Street, Perth

T: 08 6557 7500
E: info@audit.wa.gov.au

www.audit.wa.gov.au



@OAG_WA



Office of the Auditor General
for Western Australia