

**LEGISLATIVE COUNCIL**  
**Question On Notice**

**Wednesday, 26 October 2022**

**1078. Hon Nick Goiran to the Parliamentary Secretary representing the Attorney General**

I refer to the performance audit undertaken by the Office of the Auditor General into the Public Trustee's administration of trusts and deceased estates, and I ask:

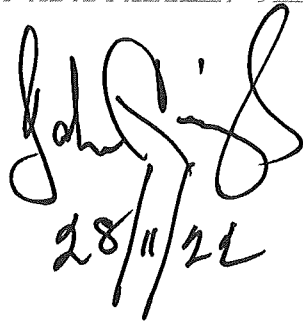
(a) will you table the most recent briefing note or similar document you have received about these these systemic concerns of the Public Trustee's administration of trusts and deceased estates?

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**Answer**

(a) I table the briefing note, with confidential personal information relating to a deceased estate redacted. The attachment to the briefing note is not tabled as it is a private communication between the office of the Public Trustee and an individual which contains extensive confidential personal information.

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28/11/22

Contact: Brian Roche  
Title: Public Trustee  
Telephone: [REDACTED]

Min Ref: 67-  
DoJ Ref: 03316-2022

## **ATTORNEY GENERAL**

### **PENDING ABC NEWS STORY ON PUBLIC TRUSTEE WA**

#### **Purpose**

To provide background information on a pending ABC news story on the Public Trustee.

#### **Background Information**

On 5 October 2022 ABC Perth News journalist Rebecca Turner sought an interview with me (though DoJ Media) in relation to a story she is researching about Wills and the administration of deceased estates, including fees.

I was advised the story will run across TV, online and radio.

On the same day the DoJ Public Affairs team advised I was unavailable for interview and provided links to the Public Trustee's fees for drafting Wills and administering deceased estates.

Ms Turner countered with the following list of questions – with a deadline for a written response by 5pm Friday.

1. A recent report by WA's Auditor General highlighted that the Public Trustee's schedule of fees was written in "formal" and "complex" language. Are there any plans to simplify these fee schedules to ensure that clients understand exactly what they're paying for?
2. What are the options for Public Trustee clients who wish to challenge their fees or make a complaint? Are there any options for an independent assessment of their concerns?
3. We have spoken to one WA Public Trustee client who was charged senior lawyer rates to handle the transfer of assets, such as bank accounts and shareholdings. These were not complicated assets, for example, the shares were in large, Australian publicly listed companies. Why would a senior lawyer need to be involved?
4. This client also said it was difficult to contact the Public Trustee – phone calls to the main phone number were not answered and went through to voicemails. Is this an appropriate level of service for an organisation which charges commercial fees?
5. Some estate lawyers say public trustees around Australia may be overservicing and overcharging in their administration of estates and trusts. What is your response to this?
6. What oversight measures does the WA Public Trustee have in place to ensure it is not charging its clients more than is required?
7. What is the estimated cost to draw up a will where the Public Trustee or spouse (or de facto partner) is not the executor?

My office asked if it could be provided with the name of the 'client' or the Estate to be able to look into questions #3 and #4.

Ms Turner advised DoJ Media she had sought the permission of the 'client' for his name to be released and he agreed.

[REDACTED]  
[REDACTED]  
[REDACTED].

[REDACTED]  
[REDACTED]  
[REDACTED].

[REDACTED] claim that the Public Trustee's senior lawyers deal with the transfer of assets is without basis, and his claim that phone calls were not answered is also without basis.

### **Current Situation**

My office has prepared the attached response to Ms Turner's questions.

### **Recommendation**

Submitted for information.

Noted \_\_\_\_\_

Signature

Date \_\_\_\_\_



Dr Adam Tomison  
**DIRECTOR GENERAL**  
**DEPARTMENT OF JUSTICE**

7 October 2022

Attachment: EBM letter to [REDACTED] 31 August 2022

## Public Trustee WA response to questions from Rebecca Turner ABC News

1. The Public Trustee WA Scale of Fees is subsidiary legislation, and the OAG finding related to trust management clients, not Wills clients or deceased estate beneficiary/ies. These clients receive information on fees in person when making their Will or an itemised Fee Estimate document if they are a deceased estate beneficiary/ies.

The Public Trustee has engaged an independent consultancy, to continue its review to stream-line and simplify trust and deceased estate fees.

2. Clients can contact the Public Trustee directly with their concerns or use the Department of Justice's Customer Feedback System – details of which are available from [Department of Justice Feedback](#).

If a client remains dissatisfied with the way in which their complaint has been dealt with, they can refer their concerns to the Ombudsman of Western Australia for investigation, details of which are available at [Ombudsman WA](#).

S39(9) of the *Public Trustee Act 1941* also empowers to Public Trustee to consider a written request for a waiver of fees and waive fees if there is proper cause.

3. Public Trustee lawyers do not handle the transfer of bank accounts and shares, and the Public Trustee does not charge the rates of its senior in-house lawyers for doing this work.
4. The client concerned has already had their complaint addressed in writing so the Public Trustee recommends you seek further information from the client as to how their complaint was dealt with and what fees were waived.
5. Chapter 16 (page 232) of the Public Trustee WA's [Freedom vs Protection](#) lists the 14 ways in which the Public Trustee WA is accountable.
6. No comment.
7. Information on the Public Trustee WA's Will drafting service is available from [Wills and Enduring Powers of Attorney](#)