



COMMUNITY SUPPORT AND SERVICES COMMITTEE

Members present:

Ms CP McMillan MP—Chair
Mr SA Bennett MP
Mr MC Berkman MP
Ms CL Lui MP
Mr RCJ Skelton MP

Staff present:

Ms L Pretty—Acting Committee Secretary
Ms K Longworth—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE PUBLIC TRUSTEE (ADVISORY AND MONITORING BOARD) AMENDMENT BILL

TRANSCRIPT OF PROCEEDINGS

MONDAY, 15 NOVEMBER 2021

Brisbane

MONDAY, 15 NOVEMBER 2021

The committee met at 10.31 am.

CHAIR: Good morning, everyone. I declare open this public briefing for the Community Support and Services Committee's inquiry into the Public Trustee (Advisory and Monitoring Board) Amendment Bill 2021. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and I pay our respects to elders past, present and emerging. I would especially like to acknowledge Cynthia Lui—a great colleague—the member for Cook, who is a First Nations woman. We pay our respects to her and her community. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people whose lands, winds and waters we are lucky now to all share.

On 28 October 2021 the Public Trustee (Advisory and Monitoring Board) Amendment Bill 2021 was referred to this committee for examination with a reporting date of 21 January 2022. My name is Corrine McMillan, member for Mansfield and chair of the committee. Mr Stephen Bennett, the member for Burnett, is the deputy chair. The other committee members are: Mr Michael Berkman, member for Maiwar; Mr Jon Krause, who is an apology for the interim this morning but may join us a little bit later; Ms Cynthia Lui, member for Cook, as I mentioned; and Mr Robert Skelton, member for Nicklin. The committee's proceedings are proceedings of this Queensland parliament and are subject to the standing rules and orders of the parliament. The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Thank you, Bonnie and Hansard. Media may be present and will be subject to the chair's direction at all times.

The media rules endorsed by the committee are available from committee staff if required. All those present today should note that it is possible you might be filmed or photographed during these proceedings by media and that images may also appear on the parliament's website or on social media pages. I ask everyone present to turn mobile phones off or to silent mode. Only the committee and invited officers may participate in the proceedings. As parliamentary proceedings under the standing orders, any person may be excluded from the hearing at my direction as chair or by order of the committee.

The purpose of today is to assist the committee with its examination of the Public Trustee (Advisory and Monitoring Board) Amendment Bill. I remind committee members that officers are here to provide factual or technical information. Any questions seeking an opinion about policy should be directed to the minister or should be left to debate on the floor of the parliament. I ask that responses to questions taken on notice today are provided to the committee by midday on Monday, 22 November 2021.

The program for today has been published on the committee's webpage, and there are hard copies available from committee staff. In line with the COVID-safe guidelines issued by our Chief Health Officer, I remind everyone to maintain social distancing and, wherever not possible, a mask is advised to be worn. I welcome representatives from the Department of Justice and Attorney-General: Leanne Robertson, Assistant Director-General, Strategic Policy and Legal Services; Kim Chandler, Director, Strategic Policy and Legal Services; and Ellen Corrigan, Senior Legal Officer, Strategic Policy and Legal Services. These are very familiar faces to our committee. Thank you for being with us.

CHANDLER, Ms Kim, Director, Strategic Policy and Legal Services, Department of Justice and Attorney-General

CORRIGAN, Ms Ellen, Senior Legal Officer, Strategic Policy and Legal Services, Department of Justice and Attorney-General

ROBERTSON, Mrs Leanne, Assistant Director-General, Strategic Policy and Legal Services, Department of Justice and Attorney-General

CHAIR: I invite you to make an opening statement, after which I am sure committee members will have lots of questions for you.

Mrs Robertson: Thank you, Chair, and thank you for the opportunity to brief the committee regarding the Public Trustee (Advisory and Monitoring Board) Amendment Bill 2021. The department, I understand, has already provided some briefing material to the committee on the amendments in the bill.

The bill amends the Public Trustee Act 1978 to establish the Public Trustee Advisory and Monitoring Board to monitor and review the operations of the Public Trustee. I think it is important to note at the outset that the Public Trustee operates as a corporation sole in Queensland and is governed by the Public Trustee Act 1978, providing a broad range of services to Queenslanders including: state administration services when acting as executor or administrator of deceased estates; financial administration and financial attorney services for people with impaired decision-making capacity; legal services; trust administration including for testamentary trusts and family trusts; investment services; life planning services; and the storage of wills.

On 10 March 2021 a report by the former Public Advocate called *Preserving the financial futures of vulnerable Queenslanders: A review of the Public Trustee's fees, charges and practices* was tabled in the Legislative Assembly. The report makes 32 recommendations in relation to many aspects of the operation of the Public Trustee including the Public Trustee's fees and charges regime, investment practices and provision of legal services. The majority of the recommendations are for the Public Trustee to implement. The government response to the report, also tabled on 10 March 2021, stated that the government is responsible for the implementation of 10 recommendations, including one jointly with the Public Trustee.

This bill is in response to recommendation 30 of the Public Advocate's report. Recommendation 30 of the report was that the government consider additional oversight and reporting mechanisms to improve the Public Trustee's performance, transparency and public accountability. In response, on 10 March 2021 the government announced its commitment to establish a Public Trustee board that would have an advisory and monitoring function. The remaining nine recommendations for the government in the report remain under consideration by government.

The Public Trustee Advisory and Monitoring Board will monitor the performance of the Public Trustee's functions and provide advice and make recommendations about how the performance of these functions can be improved. Specifically, the bill provides that the board will have the following functions: to monitor and review the performance of the Public Trustee's functions; to monitor complaints received by the Public Trustee about the performance of the Public Trustee's functions; and to monitor and review the Public Trustee's processes for managing these complaints. The board may also give written advice or make written recommendations to the Attorney-General about: changes to legislation or improvements to the policies, practices, resources, services or training of the Public Trustee to ensure the Public Trustee can effectively perform its functions; and improvements on enhancements to the Public Trustee's functions to promote the interests of the Public Trustee's clients, particularly clients with impaired decision-making capacity.

Under the bill, the minister can also request the board to give advice or make recommendations to the minister about specific matters relating to the performance of the Public Trustee's functions. Separate to this, the board may also give advice or make written recommendations to the Public Trustee about matters relating to the performance of the Public Trustee's functions. In performing its functions the board must act independently and in the public interest and is not subject to direction by anyone, including the minister, about how to perform its functions. The board will not have any management functions or the ability to direct the Public Trustee. In this sense it is not a governance board capable of giving binding directions to the Public Trustee about the operations of the Public Trustee Queensland.

The board will have a membership of up to 10 people comprising of up to five ex-officio members or permanent board members and at least four, but no more than five, members appointed by the minister. The proposed membership of the board is intended to reflect the broad nature of the Public Trustee's role and functions as discussed earlier. The bill proposes that the board is comprised of persons with relevant knowledge, qualifications and skills including in relation to: management and delivery of public sector services including executive experience in management of human, physical and financial resources; legislation; policy and programs of seniors and people with a disability including people with impaired capacity; finance, banking and financial services; and legal frameworks and practices relevant to succession law, powers of attorney, duties and obligations of trustees, substituted decision-making for adults with impaired capacity, commercial litigation, and the principles and rules of equity.

With this in mind the permanent board members will be the chief executive or nominated senior executive of the following departments: the department that administers the Public Trustee Act 1978; the department in which the Financial Accountability Act 2009 is administered; the department in Brisbane

which the Disability Services Act 2006 is administered; the department mainly responsible for seniors; and the department in which the Aboriginal Cultural Heritage Act 2003 and the Torres Strait Islander Cultural Heritage Act 2003 are administered.

There is flexibility in the bill to account for possible future changes to administrative arrangements. Under the current administrative arrangements, the permanent board members would be representatives from the Department of Justice and Attorney-General, Queensland Treasury, and the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships.

The appointed board members will comprise: at least one person with knowledge, qualifications or skill in corporate governance, finance and banking, financial investment, financial services, insurance, or the management of financial funds, financial risks or trusts; at least one person with knowledge, qualifications or skills in relation to advocacy, services and support for seniors and persons with a disability, including persons with impaired capacity; at least one person with legal knowledge, qualifications or skills in commercial litigation, duties and obligations of trustees, powers of attorney, substituted decision-making for adults with impaired capacity, succession law, or the principles and rules of equity; at least one person with knowledge, qualifications or skills in relation to human resource management and culture change management; and any other persons with the knowledge, qualification or skills the minister considers appropriate. When appointing appointed board members, the minister must ensure that the members reflect the diversity of the Queensland community and that at least one is an Aboriginal person or a Torres Strait Islander.

Given that the purpose of the board is to provide oversight of the operations of the Public Trustee, the Public Trustee will not be a member of the board. However, the bill allows for the board to invite a person to attend a board meeting for the purposes of advising or informing the board on any matter. The chairperson of the board is to be appointed by the minister and will be an appointed board member, not a permanent board member. The bill includes provisions in relation to board meetings and ensuring the integrity of board members, including through criminal history screening and processes for dealing with members' conflicts of interest. Given the sensitivity of the information the board will likely be exposed to, there is also a prohibition on board members disclosing personal information except to the extent the use or disclosure is necessary to perform the person's functions under the act or as otherwise required or permitted under the act or another law. This prohibition extends to including personal information in any recommendation or advice to the minister.

The board will report separately in the Public Trustee's annual report on the exercise of its functions and powers during the relevant financial year. Chair, thank you again for the opportunity to brief the committee on the bill and we are happy to take questions.

CHAIR: Thank you very much, Assistant Director-General.

Mr BENNETT: I make the statement that we are creating another level of bureaucracy now by having chief executives of a lot of departments that already exist. How do we see the advisory board adding any value to, say, the chief executive of the Public Trustee, who I would have thought might have had the role of implementing those 32 recommendations, and the need for the board to be created in the first place?

Ms Chandler: I suppose the Public Advocate's report did make those 32 recommendations, but one recommendation in particular was about seeing the benefit of another additional layer, I guess, of oversight over the Public Trustee. The Public Advocate's report talked about bringing a fresh perspective. If you look at the mix of membership of the board, it is quite relevant to the diverse and quite distinct functions of the Public Trustee, which is around trust management, administration for adults with impaired capacity, making of wills and enduring powers of attorney. We are looking at board members who will bring that expertise, particularly appointed board members from the community. Also, the Public Trustee is a public sector organisation, and those public sector appointees will bring expertise around human resource management and the executive level from government.

There are a number of provisions that for an oversight board mean they can monitor the performance of the board and get information from the Public Trustee, so they have powers and the Public Trustee must provide that information. They would decide their agenda, which I think would also be interesting. It is an independent board that will bring a fresh perspective and decide what they want to focus on. They can look at the complaints that the Public Trustee receives and how the Public Trustee manages those complaints, which is another fresh pair of eyes, I guess, over some of the systemic issues that might be arising out of the performance of the Public Trustee's functions.

Mr BENNETT: You used the words ‘independent board’ and I will not contradict you on that. The whole vision statement of the Public Trustee is to be an independent statutory authority. Because we have now put in a level of bureaucracy that is picked by the minister effectively and government agencies, can the public still have faith that it will maintain its independence?

Ms Chandler: Apart from the mix of the board, which is the mix of permanent ex-officio board members and also appointed board members, there are provisions in the act that state that the board must exercise its functions independently and not under the direction of the minister. The chairperson is an appointed member so not one of the ex-officio members. As the presiding member, if there is ever an equal vote in relation to a resolution, it is the presiding member, the chairperson, who has the final vote or the final say. There are some provisions in the bill that enhance the independence of that board.

Ms LUI: The Public Advocate recommended additional oversight mechanisms to monitor the Public Trustee as an agency with extensive powers and responsibilities, and you have touched on some of that. This bill, we know, would establish a Public Trustee board. Can you advise how the department settled on this model of oversight and did the department look to other jurisdictions for similar models?

Ms Chandler: The first thing to say is that it really was a policy decision of government to create the particular model of the board that, as you have said, is an advisory and monitoring board. We did look at other jurisdictions when we were looking at the bill. As far as we understand, with public trustees in other states and territories there is no comparable board to this one, which is only advisory and monitoring. Part of the reason for that is the corporate structure of the state trustees in other states such as Tasmania and Victoria, which have a board.

In Victoria, for example, the Public Trustee is a state owned company, the State Trustees Victoria. It operates as a corporation. The Victorian State Trustees board is appointed by the Treasurer on behalf of the state of Victoria. There is a chief executive officer of State Trustees Victoria, and they are appointed by and are accountable to the board. In Tasmania, the Public Trustee is a business enterprise owned by the Tasmanian government and it is also governed by a board. The board of the Public Trustee is responsible to the Treasurer and to the Attorney-General for managing and conducting the business affairs of the Public Trustee Tasmania.

In Queensland our Public Trustee has a different corporate structure. It is a corporation sole, which means it is a corporation comprised of one person, an office holder. It is that person, the Public Trustee, who owns all the fiduciary, statutory and common law duties. Keeping that corporate structure and having a board that could give binding directions to the Public Trustee could be quite problematic in that the Public Trustee is responsible for discharging their duties and not the board, whereas in Tasmania and Victoria it is the board that has responsibility for discharging those duties. That is a bit of a longwinded answer but, in the end, it was a matter for government and they decided on the policy model for an advisory and monitoring board.

Mr BERKMAN: I am interested in the role of providing written advice or making recommendations to the minister about the various issues listed. This has come off the back of some really comprehensive work by the Public Advocate. Do we anticipate that this new board will pick up directly on the work of the Public Advocate? How much duplication might we see in terms of the recommendations or advice coming from the new board?

Ms Chandler: It is hard to say. As an independent board they will have to set their own agenda. The chairperson is one of the appointed members and will convene the board meetings and, with the members, decide the agenda and the work business plan for the board. That really will be a matter for the board in terms of what agenda they have, whether they pick up on, as you say, how those recommendations are being implemented from the Public Advocate’s report or they focus on particular areas.

Mr BERKMAN: My question really acknowledges the breadth of the work that the board is anticipated to do, which in a lot of ways reflects the breadth of the work that the Public Advocate has done already in some respects. As a follow-up question, are you able to give us a sense of where we are up to in terms of the response to the remainder of those recommendations? Obviously this is quite squarely focused on recommendation 30. Is there any progress on the implementation of the other recommendations that you can advise the committee of?

Ms Chandler: The report made 32 recommendations and at the same time as the Public Advocate’s report was tabled the government tabled its response to the report and recognised that the majority of the recommendations were for the Public Trustee to implement. In terms of the progress on the implementation of those recommendations, we would direct you to the Public Trustee.

However, the government accepted that 10 recommendations were for the government to implement. One is this one, recommendation 30. The bill represents the implementation of the government's response to that recommendation with the creation of the advisory and monitoring board. The other nine recommendations are still under consideration, and the government is committed to working with the Public Trustee and the Public Advocate to further consider those recommendations.

CHAIR: Member for Nicklin?

Mr SKELTON: I would only be rephrasing what has already been said in answer to questions, so I am fine.

CHAIR: In terms of the appointment of members to the board, can you advise of the department's plans for board members to be recruited and their appointment?

Mrs Robertson: Ultimately that would be a matter for the government and the minister in that space.

CHAIR: That will happen undoubtedly as we roll out the legislation?

Mrs Robertson: That is right, obviously subject to the passage of the bill.

CHAIR: In terms of the explanatory notes, nothing was mentioned in relation to that process.

Mrs Robertson: That is correct.

Mr BENNETT: I am curious about the bill and the policy position that was taken. With the monitoring role and all those very important functions of the Public Trustee, there is mention of an expectation that the board meet only three times a year. I wonder about that time line. Considering the huge number of issues and problems associated with the Public Trustee that we all get in our electoral offices, I am wondering where that number of three times a year came from?

Ms Chandler: It is 'at least' three times.

Mr BENNETT: I am sorry if I misread that.

Ms Chandler: That is making sure that the board meets at least three times per year. It will be at the discretion of the chairperson who convenes the meetings as to how often the board meets.

CHAIR: To follow on from the member for Burnett, the bill proposes that the board would monitor complaints received by the Public Trustee about the performance of the Public Trustee's functions. Obviously as members of parliament we tend to be a port of call for our constituents who are having some issues in relation to that. Can you talk the committee through the process that complainants would follow? Once complaints or a flavour of complaints were received, how would that be managed? What would be the process of the board overseeing those issues and how would that play out?

Ms Chandler: That is quite difficult to say given that, again, it will be at the board's discretion. I suppose one of the reasons for having that function for the board was complaints and how the Public Trustee manages complaints, what is the focus of the Public Advocate's report and, in oversight bodies looking at complaints, the nature of the complaints and if there are common themes that are emerging. That is quite a good way of monitoring performance and monitoring systemic issues. I guess it was thought that that would be quite an important function for the board.

There are lots of statistics that the Public Trustee and, in fact, any executive body produces on the nature of complaints and the outcomes of those complaints. It may be that the board focuses on particular types of complaints or issues arising from complaints, including how many complaints about human rights the body receives. It is hard for me to say how the board will perform that function.

CHAIR: That is good, thank you.

Mr BERKMAN: At the risk of being repetitive, I will return to the question of the interface between the Public Advocate's recommendations and the board. From what you have said, it sounds like the work program and how they pursue those discrete issues will be very much at the board's discretion. Alongside that, I am assuming there is no specific role for the board in monitoring or tracking the implementation of those recommendations that fall to the Public Trustee as opposed to government?

Mrs Robertson: That is correct, but the reality is—and, again, we do not want to pre-empt what the board itself might do—the board would be very cognisant of the Public Advocate's report. Given the board's functions, you would think that they would have regard to that in how it actually sets its work agenda, for want of a better expression. I do not want to in any way pre-empt how the board might perform its functions and how it goes about it.

Mr BERKMAN: We would not anticipate that anyone is keen to reinvent the wheel when they take these new seats.

Ms LUI: You may have already answered this question. The bill would require the board to report annually on the performance of the board or the exercise of the board's powers during a financial year. Can you comment on how the board might report on its performance? I acknowledge that a question was asked around the processes, but this is around the performance indicators.

Ms Chandler: Clause 5 of the bill, which is the very last clause on the last page of the bill, has a requirement for the Public Trustee to include in its annual report information about the performance of the board's functions and the exercise of the board's powers during that year. It does not have its own separate annual report, but information about how it performs its functions must be included in the Public Trustee's annual report. I think that is quite interesting because the annual report will report on the performance of the Public Trustee and then you will also have the board's report on how it has monitored the performance of the Public Trustee, which I think is a nice way to increase accountability and transparency.

Mr BENNETT: We are talking a lot about reporting. The Public Trustee already has a mechanism in place for their strategic planning for 2020 to 2024 and other documents that have set out a pathway that the chief executive officer has articulated. My question is about the reporting strategies around how this will affect the CEO and their role. Secondly, for the committee's benefit, could you talk about the hierarchy of management that exists currently underneath the CEO? If you do not know, that is fine. I am curious about who they are and what they have been doing.

Mrs Robertson: I am not in a position to outline the management structure of the Public Trustee.

Mr BENNETT: You do not know who exists under the CEO?

Mrs Robertson: No, I cannot give you any of those details.

Mr BENNETT: They are not public servants?

Mrs Robertson: Off the top of my head I do not know. I do not know what their status is. I could not give you that answer.

Mr BENNETT: I could have a look on the website perhaps.

Mrs Robertson: Yes. The Public Trustee would obviously have that information. It is probably publicly available. I am just not in a position to—

Mr BENNETT: What about the reporting strategies in terms of the contradictions about strategic planning and other documents that have been in place now for a period of time? There is the strategic planning, the 'customers first' policy and all of those things. Do you anticipate they will be rewritten?

Ms Chandler: It goes back to the functions of the board. Again, I cannot pre-empt what the board might want to do and how the Public Trustee might respond to the board's recommendations. The model of the board is only advisory and monitoring. The Public Trustee is still responsible through the Attorney-General to parliament. It is responsible for all of those other accountability mechanisms that the Public Trustee currently has for discharging their duties. The board will not be able to direct the Public Trustee in the discharge of those duties. There is nothing contradictory there or in conflict. It really will be a matter for whether the Public Trustee adopts any of the board's recommendations.

Mr BENNETT: They will do their own annual report and so will the chief executive officer of the Public Trustee. That is what we are hearing.

Ms Chandler: Yes, there will be a section in the Public Trustee's annual report for a report on the exercise of the board's functions.

CHAIR: Ms Chandler, earlier you mentioned the work of Tasmania and Victoria in terms of their model. Could you share with the committee your knowledge of the other states and the path or the model that they have considered or what is in place, particularly in places like New South Wales and South Australia, in terms of the Public Trustee and their functions?

Ms Chandler: If the committee wanted us to provide further information at a later date, we could. However, our preliminary investigations only found two other jurisdictions with boards, and they were those governance boards in Tasmania and Victoria.

CHAIR: As the chair of the committee, I would appreciate it if we could have some clarity around particularly South Australia and New South Wales. That would be appreciated, thank you.

Mr BERKMAN: I wish to turn back to the advice function, whether it is written advice or recommendations about legislation and improvements to policies, practices and the like. From a brief reading my understanding is that the Public Trustee will have to be given an opportunity to respond to any proposed recommendations that will be made. I am interested to know how transparent that process will be. Will the proposed recommendations or advice be publicly available? Will the Public Trustee's response be available? I am curious to know how much of that internal process we will be able to see without the intervention of the board or the Public Trustee in their reporting functions?

Ms Chandler: The board can give advice or recommendations to the minister. Before they do that, they must give the Public Trustee a chance to put his or her views forward as well. The minister is under no obligation to publish or table those recommendations or reports but would be free to do so if they wanted. The only public facing reporting on the exercise of the board's functions is in that annual report. So it is assumed that those advice and recommendations and any response by the Public Trustee would be in that annual report.

Mr BERKMAN: To the extent that they are not completely included, there is nothing in the bill that will directly preclude any access through RTI or other avenues?

Ms Chandler: No, there is not. The RTI Act would apply, as it does currently, to the Public Trustee as an agency under the RTI Act subject to the usual exemptions around personal information and confidential information.

Ms LUI: Could you speak a bit more on the make-up of the board and if there are specific skills or qualities that you would be looking for in the selection process?

Ms Chandler: The mix of the board membership was really informed by the broad but quite distinct functions of the Public Trustee, which people have gone through already today in the hearing around estates management, trustee services and real estate services. It was considered that board members' knowledge, qualification and skills needed qualification in relation to management and delivery of public sector services including that executive level experience in the management of human resources and financial resources; legislation; policy and programs in relation to people with disability, including adults with impaired capacity and older people; financial and banking services; and very complex areas of the law which the Public Trustee deals with around succession law, powers of attorney, obligations on trustees, substituted decision-making for adults with impaired capacity, commercial litigation and the principles and rules of equity.

On that basis, there is a mixture of those ex-officio members who bring that executive level experience from government, particularly in those portfolios that have subject area expertise from DJAG, Treasury, as well as the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships. Then from the appointed board members there is a mix of those same types of experience, if you like, around financial management, people with experience in support and advocacy for people with disability and seniors, and those complex areas of the law around commercial litigation, powers of attorney and succession law, as well as human resource management and culture change management.

Mr BENNETT: You have probably picked up that I have a concern about this new board. We already have an investment board which exists in the Public Trustee. We have a board of management. We have a communication committee. We have an Audit and Risk Management Committee. Some of those members are collecting \$50,000 to \$60,000 and they are external members to the committee. How do we see all of this coming together—and the remuneration of those members will be something that we will never find out about? If the role of the new board is only monitoring and reporting into an annual report and it does not have any influence, how do we anticipate that this monitoring capacity of a new board will add any value when the public may perceive that there are already so many management structures within the Public Trustee that should be taking on this role anyway? How do we see this new board offering anything of value to the Public Trustee's functions and efficiencies?

Ms Chandler: I do not want to do the government's job of justifying the policy of why to adopt a board. Certainly the Public Advocate's report saw a value in a fresh pair of eyes, a fresh perspective and an additional layer of accountability and transparency. That, in the end, was a policy decision of government to decide on an advisory and monitoring board in addition, as you say, to the other accountability and management structures.

CHAIR: The explanatory notes talk about an alternative way of achieving the policy objective, and that is for the Public Trustee to establish the board administratively rather than through legislation. I am really interested in the positive contribution that a board created through legislation will bring to

the Public Trustee. You spoke about the skills of the private workforce, the skills of financial management, accountability and human relations expertise. Could you talk a little bit more about the positives of the legislative approach rather than the administrative approach?

Ms Chandler: As you point out, the alternative model is to have a reference group or a reference committee that could meet and advise the Public Trustee in oversight. There are a number of positives to adopting a legislative model. It allows you to be more prescriptive—that is, there must be a board and they must meet at least three times a year, for example. It allows you to prescribe the qualifications of the people who must be on the board. It allows you to say that the board must not be under the direction of the minister—that it must operate in the public interest and be independent.

Quite importantly, it puts in place integrity measures to ensure the integrity of the board members through criminal history screening and to ensure they have the other financial integrity measures and deal with conflicts of interest in a prescribed way. Also, for the board to do its job, it is going to have to have access to a lot of information, so the legislation gives them that power to ask for that information from the Public Trustee. Without a legislative authority it could not provide that information because of the secrecy and confidentiality provisions in the Public Trustee Act and the Guardianship and Administration Act. A legislative scheme brings a lot of benefits.

Mrs Robertson: Additionally, there is the annual report requirement, because it is a requirement about what the board has actually been doing in that previous 12-month period.

CHAIR: Do you see that board members would bring formal university qualifications and have previous board experience? We know that, for example, the Australian Institute of Company Directors provide tremendous professional support and development and registration of board members here in our country. Do you see that those formal qualifications will be essential?

Mrs Robertson: The language of the provisions of the new section 117ZD is about qualifications or skills. It may be the piece of paper; it may be that you have somebody with experience or, arguably, people who have a mixture of both. It is really flexible in that respect.

Mr BERKMAN: I have one more quick question. This has been very informative, thank you. The board's functions include monitoring complaints received by the Public Trustee. Does the bill anticipate any mechanism—I cannot see it; I am just curious if we are anticipating complaints going directly to the board. Will there be a public interface there, or is it only maintaining visibility of what is going on at the level of the Public Trustee itself?

Ms Chandler: You are right. There is no provision for complaints to go directly to the board.

Mr BENNETT: I am looking through the explanatory notes. What I am looking for is confirmation, as I alluded to before, about the anticipated cost. Is that cost to government for the new board provided in the explanatory notes?

Ms Chandler: I think the explanatory notes just say that the costs of the board will be met within existing resources, so that would be met by the department. The permanent board members, the ex-officio members, will not be remunerated, but it is up to the minister as to whether the minister would, in their terms and conditions—

Mr BENNETT: I am sorry if I put you on the spot. Did you just say that they would not be remunerated?

Ms Chandler: No. The permanent board members would not be remunerated. The ex-officio public servant members would not be paid, obviously. It is up to the minister to decide the terms and conditions of appointed board members. If they are remunerated, again that is up to the minister, but reference would probably be had to the remuneration procedures for part-time chairs and members of Queensland government bodies.

Mr BENNETT: In the annual report of the Public Trustee it clearly disseminates how much ex-officio members are remunerated for positions on boards that exist within the Public Trustee. For transparency, would you not expect that those remuneration fees would be made available at some point in time, or is that a matter for the government? I am not trying to put you on the spot.

Mrs Robertson: That is ultimately a matter for government in that space.

Mr BENNETT: Obviously, annual reporting would be something we would have to have a look at.

Mrs Robertson: Yes.

Mr BENNETT: You said your anticipation would be that no costs would be met within Public Trustee's existing budget?

Mrs Robertson: Met within existing resources, yes.

CHAIR: Ms Chandler, you did mention, though, that there is a policy in relation to executive members of boards and members of government boards. There is a publication. What is the name of that publication?

Ms Chandler: Yes. It is called *Remuneration procedures for part-time chairs and members of Queensland government bodies*.

Mr BENNETT: That document exists?

Mrs Robertson: Yes.

CHAIR: That is right. So that would be referred to generally?

Mrs Robertson: Yes. I do not want to pre-empt decision-making around this board, but that is normally what they have regard to. That sets out the nature of particular types of boards.

Mr BENNETT: Thank you, that is good. That is all I was seeking.

CHAIR: The secretariat will include a link to that document in the committee's notes. I commend the department for their work around their encouragement of board members to reflect diversity in Queensland. Can you talk to the committee a little bit about the importance of that and the work of the Public Trustee generally speaking and, in relation to some of the different groups within our diverse and decentralised Queensland community, how important the diverse make-up of boards is?

Ms Chandler: It is very important that board members and those oversight mechanisms do reflect the diversity of the community, particularly if you are wanting to bring a challenging perspective, a fresh pair of eyes and a fresh perspective. So often, even with the best of our intentions, our policy services and programs are not designed with some of the more marginalised groups in our society—often women, people from rural and regional areas, and Aboriginal people and Torres Strait Islanders—in mind. So it is important that our boards do reflect that diversity.

CHAIR: You talked about minority groups, but one of my areas of concerns is people with a disability and their accessibility of the Public Trustee. You may or may not be able to answer this, but can you comment on the extent to which the Public Trustee has concern for, and responds to, those sorts of issues?

Ms Chandler: Again, I cannot really answer for the Public Trustee, but you are exactly right. So much of what the Public Trustee does in its administration services for adults with impaired capacity is acting as an administrator or an attorney for an adult with impaired capacity. It is important that board members have a really good understanding of the needs of people with disability—in particular, as the bill does point out, adults with impaired decision-making capacity—and expertise around substituted decision-making for adults with impaired capacity.

CHAIR: It is very important work.

Mr BERKMAN: I have one more question around the powers of the board. Clause 117Z frames those powers in very general terms. It states, 'The board may do anything necessary or convenient to be done in the performance of its functions.' It sounds very broad, but what does that mean in practical terms for the board—for example, compelling the production of documents or materials by the trustee? Is there another analogous body that is given the same legislative powers? How does that work in practice?

Ms Chandler: There is one other specific section. Clause 117ZT of the bill says, '... the board may, by written notice, ask the Public Trustee to give the board information ...' That is a very specific power. The provision that you point to is a provision that you often see in statutory schemes for boards. Because you give the board functions, they generally are given that broad power to exercise their functions as necessary to perform those functions.

Mr BERKMAN: Clause 117ZT is precisely what I was wondering about within the broader power.

Mr BENNETT: I think you have been very thorough and I thank you for that. I guess we will see as it unfolds how the monitoring and advice is disseminated down. Let's hope it puts some new structures and supports in place for those people who need the Public Trustee as time goes on. I am happy with that.

Mr BERKMAN: Similarly, it has been very helpful. Thank you for your time.

CHAIR: I thank each one of you sincerely. There was one question taken on notice. It would be useful for the committee to understand the broader context. WA and the Northern Territory are quite different to the Queensland context. It would be interesting to see where New South Wales and

South Australia are up to with managing this very complex area in relation to Queensland's administration of state government services and resources. The committee would appreciate it if we could get something by midday on Monday, 22 November. If there is any issue with that, please feel free to reach out to the secretariat and we can look at that.

Mr BENNETT: Chair, I take your guidance about the structure of the Public Trustee. I appreciate that the officers could not assist with that, but is it something that DJAG might be able to provide? It is a statutory authority, as I understand it. Or could we do that ourselves?

CHAIR: We could probably do that ourselves. Is that something that you—

Mrs Robertson: Chair, we are happy to reach out to the Public Trustee and see what they can provide.

CHAIR: The committee secretariat will write to the Public Trustee.

Mrs Robertson: Just to clarify, you will write directly? I think that is better, to be honest.

CHAIR: I think so. I think you have enough work to do, Leanne, so we will do that. If you would not mind providing a couple of paragraphs around where the other jurisdictions of interest are, that would provide an interesting comparison for the work this committee will do.

Mrs Robertson: Yes.

CHAIR: That concludes this briefing. On behalf of the committee, I would like to thank you for your attendance today. Thank you to our Hansard reporters; thank you, Bonnie. A transcript of these proceedings will be available on the committee's parliamentary webpage in due course. I now declare the public hearing closed.

The committee adjourned at 11.24 am.