



Speech By
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MEMBER FOR GREGORY

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PUBLIC TRUSTEE (ADVISORY AND MONITORING BOARD) MANAGEMENT BILL

 **Mr MILLAR** (Gregory—LNP) (11.52 am): As their local state member of parliament, I am often asked by constituents for advice about navigating government services and departments. In Gregory people often talk to or email me about their experiences with different government departments and, by and large, we usually find a way through. I have only praise for our valued public servants who provide frontline services and advice across the Central Highlands and the central-west. Only in relation to the Queensland Public Trustee have those two strands come together in such a way that my only advice to constituents considering the services of the Public Trustee for a loved one or for their own estate is, simply, 'Don't. Find another way. Any other way would be better.'

This is a disgraceful state of affairs. Many of the people needing those services are unable to make decisions for themselves through disability or old age. For many, the additional factor that drives them into the arms of the Public Trustee is that they are alone in the world. I have heard of bequests to charities such as the Royal Flying Doctor Service and BUSHKids being severely diminished by the Public Trustee's charges against the estate, but that is just the surface. In fact, I could almost guarantee that every country member in this House has their own collection of sad stories in relation to this institution. However, we are not at liberty to talk about them, which is the key point, and neither is the media.

The Queensland Public Trustee operates under such strict confidentiality and privacy laws that the media literally cannot report on its activities, even if clients want the media to do so. The ABC is to be commended on its recent *Four Corners* report and follow-up coverage, but it had to go to the Queensland Supreme Court to lift a ban on identifying former clients of the Queensland Public Trustee in order to run the story. Having achieved the right to report that story, the ABC had to hire forensic accountants to gain a sufficient understanding of each situation in that report. That is because of the complicated and exorbitant charges levied against clients' accounts.

I raise this to demonstrate that the Public Trustee is the very opposite of what many Queenslanders believe it to be. It is not simply a government department subject to all the checks and balances that apply to government departments. It is essentially being run as a corporation with a monopoly over the services it provides to its so-called clients, but trading on the government brand. It sets its own fees and charges as if it were a firm of solicitors but, unlike dealing with a private solicitor, you cannot just walk away. If a private solicitor proves to be incompetent or the client thinks they are overcharging, the client can end the relationship and find another solicitor. Clients of the Public Trustee cannot do that because they are not really clients at all. That is a weasel word being used to smooth over the fact that, by law, people living under public guardianship automatically cede significant human and civil rights and find it hard to get them back.

On 15 March, the ABC news website put it this way—

Lawyers say it is almost impossible to escape the Public Trustee because it controls a person's bank account and can refuse to release funds for them to hire a lawyer.

Right there is another problem: how can it be possible that any Australian—any Queenslander—can be denied access to their own money and then also be denied access to the legal representation that they need to get that access restored? There seem to be limited rights to information, dispute resolution and mediation. There is no right to a solicitor and clients have almost lost the right to publicise their situation in the media. We must remember that those clients are, by definition, some of Queensland's most vulnerable citizens. It was to protect them that historically the Public Trustee was brought into existence. Clearly the Public Trustee Act has not kept pace with modern times, not just in terms of charges to estate management but also in terms of human rights concerns and justice concerns as well. For all of those reasons I was pleased and hopeful that the 2020 review by the Public Advocate would result in fruitful change, not least in the much needed area of safeguards.

The bill before us today essentially deals with recommendation 30 of 32 recommendations made by the Public Advocate as a result of the review. That recommendation asks the Queensland government to consider whether the Public Trustee and its clients would benefit from additional oversight or reporting mechanisms to improve the Public Trustee's performance, transparency and public accountability. Clearly, the answer is, yes. It was envisaged that this could be achieved through a method similar to Legal Aid Queensland or State Trustees Victoria, where a vigorous and independent board of directors provides governance and oversight.

The bill establishes an advisory and monitoring board, but the spirit of recommendation 30 has been betrayed. The board is granted no real power. It can give advice but cannot give directions. It cannot force anyone to correct errors or change their approach at a micro or meta level. The reporting requirements set out in the bill are also completely inadequate. They are so limited that it is almost as if they are designed to allow inconvenient advice to be permanently and deeply buried.

I also point out that, while this bill permits the board to give advice to the minister or make recommendations to the minister regarding the performance of the Public Trustee's functions, it contains no legal requirement for the minister to act on the board's recommendations. The board is essentially powerless and has no ability to direct either the Public Trustee or the minister, nor is there any requirement for the minister to publicly report board recommendations or table them in this parliament. In other words, they can just be buried. So much criticism was received from stakeholders about this arrangement that, in its report on the bill, the parliamentary committee recommended that clause 5 be amended so that the bill requires, by law, a separate annual report of the board of the Public Trustee be provided to the minister and tabled in parliament.

The third failure relates to the composition of the board. The bill requires the board, in performing its functions, to act independently and in the public interest. However, the bill also proposes that fully half the board be comprised of departmental representatives, that is, public servants whose contracts will not be renewed if they displease their political masters. In their position, to act independently and in the public interest would be to risk attracting a bite from the department.

Furthermore, under the current administrative arrangements, three of these five Public Service board members will be from the same department. In response to stakeholder criticism about the aspect of board membership, the parliamentary committee recommended an amendment to require the minister to ensure that at least one appointed board member has a lived experience with someone who has suffered an impaired capacity in terms of decision-making. This requirement will increase the board membership by one.

At this point, I have to say that the bill seems very close to pointless. I cannot see how we will be able to act with any independence or power, so nothing really has changed. It needs a board that brings independent thought with a depth of experience including financial and legal, estate management, knowledge of superannuation, investment, property as well as advocacy for disability including Centrelink, NDIS entitlements, homelessness and community participation.

The LNP is proposing amendments to address the composition of the board and the experience it needs to reflect. We will be putting forward an amendment to ensure that government employees do not comprise a majority of the board. The LNP also proposes an amendment to legislate public reporting requirements. I very much support these amendments and hope that all members consider them in a positive light.

We have a real chance here to change a woeful situation. We cannot claim ignorance because the bill comes before us after the ABC Supreme Court action, after the *Four Corners* broadcast and in the context of the ongoing federal Royal Commission into Violence, Abuse, Neglect and Exploitation of People with a Disability. That report in 2023 will be heartbreaking, but we in the House should not wait to act until then. We have an opportunity right now by supporting the amendments to ensure that this piece of legislation functions effectively to ensure that the Public Trustee acts protectively in the interests of our vulnerable, as it was intended to do all along.