




Speech By  
**Michael Berkman**

**MEMBER FOR MAIWAR**

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**PUBLIC TRUSTEE (ADVISORY AND MONITORING BOARD) MANAGEMENT  
BILL**

 **Mr BERKMAN** (Maiwar—Grn) (6.46 pm): I rise to make my contribution on the Public Trustee (Advisory and Monitoring Board) Amendment Bill. This bill responds to recommendation 30 of the Public Advocate report on the Public Trustee's fees, charges and practices that was delivered in January last year by establishing the Public Trustee Advisory and Monitoring Board. The purpose of this recommendation, and the bill in turn, is to enhance the transparency and accountability of the Queensland Public Trustee.

As we all know, in March a *Four Corners* episode highlighted what has been a critical issue for years. Clients of the Public Trustee are often completely at its mercy and have in many cases been subject to shocking financial and emotional abuse by the actions of the Public Trustee. When the Public Trustee becomes administrator of a person's financial affairs, that person is often at their most vulnerable. There is no room for the state through the Public Trustee to undermine their autonomy, respect and trust, and we cannot tolerate the kind of conduct that has come to light more recently. It is our job as elected representatives to ensure that all Queenslanders can rely on the services of the Public Trustee with confidence that their best interests will be protected and that their financial and personal autonomy will be respected, not denied.

I support this bill and, for what it is worth, the amendments that have been circulated by the Attorney-General. As many submitters pointed out, the bill is not enough as it stands. The bill only implements one of the 32 recommendations from the Public Advocate's report and only one of the 10 recommendations that the government is wholly or partly responsible for implementing. In fact, the government has not even come up with a response for four of those 10 recommendations, with discussions still ongoing more than a year later, as I understand it. While the implementation of that one recommendation is welcome, it is yet another example of the government making an inch of progress when we really do have miles yet to run.

I, along with my constituents and submitters, am concerned that, without further legislative protections, the bill's promise of enhanced transparency and public accountability within the Public Trustee will not be achieved. We all know that the Public Trustee has some pretty shocking fees and charges structures and deeply unethical practices that have recently been made apparent. To really understand the impact that the Public Trustee can have on an everyday Queenslanders, I want to share some stories that I have heard from my constituents about their interactions with the Public Trustee. These are shared with permission.

One client who was awarded \$650,000 in a compensation settlement was told that the Public Trustee would take 15 per cent of that amount in a one-off fee. The client was paying \$9,900 a year in fees, amounting to \$270,000 in total. During this time, the Public Trustee refused to give the client enough to live on. While they were living alone and supporting themselves, the Public Trustee dropped their allowance to \$80 per week. I hazard a guess that most members of this chamber would struggle to live on \$80 a day, let alone \$80 a week!

One constituent described how after her mother battled with the Public Trustee for three years that they denied her money for a simple request of taking her mum out of aged care temporarily to share some time together. She was then hit by roadblocks when trying to remove the Public Trustee as their mother's administrator, and could not access legal services from Legal Aid Queensland because of the governmental conflict.

These stories are not new, but there are more and more coming to light now. As we know, *Four Corners* revealed some incredibly disturbing mistreatment of vulnerable clients and laid bare the kinds of exorbitant fees they have been charging. One Brisbane man with a memory disorder was left about \$1 million worse off following 4½ years under the administration of the Public Trustee. Another man was charged more than \$59,000 in fees over four years, including \$14,000 in realty fees to manage property valued at just \$20,000.

Christine Dalas from Australian Association to Stop Guardianship and Administrative Abuse, says—

The main concern for me is the Public Trustee has an open chequebook. It's an open chequebook to your finances and there's no checks and balances.

In that context, creating an oversight board is helpful, but manifestly inadequate. As Queensland Advocacy Incorporated put it in their submission—

Establishment of the Board alone is not sufficient to address the numerous issues of concern raised by the Public Advocate's report.

Although an accountability measure is well overdue and we welcome it, so are the basic legislative requirements not to profit, limit surpluses and reserves and clarification on how the Public Trustee can invest client funds. These are all government supported recommendations from the report of the office of the Public Advocate.

As a consequence, I will be moving an amendment in consideration in detail that aims to increase transparency and public accountability around the implementation of those remaining recommendations. The bill as it stands implements just one of 32 recommendations, as I mentioned. The objective of the amendment is to ensure that progress on implementing the remaining recommendations of the Public Advocate's report is publicly reported so these reforms get implemented and we can see how they are being implemented over time. The amendment would require the Attorney-General to table six-monthly reports on the progress of implementing the recommendations in the Public Advocate's report.

We must not forget that the Public Trustee is a public body with significant power over an individual's life. As elected representatives we owe it to Public Trustee clients to be transparent about the progress of improving an institution that is in a position of trust and incredible control over vulnerable Queenslanders.

These remaining recommendations are incredibly important to implement. Recommendation 11 of the OPA report—the no-profit rule—would require that the Public Trustee not profit from administration clients unless expressly permitted by law. This would provide a minimum safeguard for administration clients, and better transparency as to what is happening with client money.

Recommendations 15 and 29 require limitations on surpluses and reserves, and legislative amendments to clarify how the Public Trustee can invest client funds. The need for these rules is very clearly demonstrated by the many stories of overcharging due to excessive fees and opaqueness of what is happening to client funds.

Recommendation 32 suggests legislative amendment be made to ensure the Public Trustee is an appointment of last resort, and that this appointment is periodically reviewed. This would avoid the need to rely on legal action to remove the Public Trustee, just like my constituent's mother had to.

All these recommendations should be implemented to protect our most vulnerable Queenslanders at a time when they need it most. That is why I am putting forward the amendment to ensure reporting on progress of these recommendations and their implementation for the Public Trustee's clients and all Queenslanders.

The proposed amendment sits alongside and complements several ongoing reviews related to the Public Trustee. As the Attorney-General has mentioned, she tabled a progress overview on the Public Advocate's recommendations earlier this year. Another review was conducted by the Public Advocate one year on, which included contributions by the Queensland government. The Attorney-General has said that the government will continue to work with the Public Trustee, the Public Advocate and other experienced stakeholders for the detailed consideration of the remaining nine recommendations that are the government's responsibility. Frankly, I think people are tired of hearing commitments like that without any substantial requirements to back them up. This amendment would

ensure attention remains beyond the current news cycle and takes these recommendations through to completion. Given the gravity of the Public Trustee's role and the seriousness of the recent wrongdoings by the Public Trustee, Queenslanders deserve greater transparency around the implementation of these recommendations.

I will use the few moments left to give voice to some of the views of submitters about the government's proposed oversight board. Although government amendments mean that an additional board member with lived experience can be appointed, submitters raised concerns that the board may not be strong enough, independent enough or perhaps not enough overall. The office of the Public Advocate noted that other statutory boards have stronger governance functions. The Queensland Law Society called for the establishment of a stronger oversight mechanism, notably a governance board. I note that the Attorney-General has addressed this. We accept that that would be a substantially greater reform, but these are the kinds of reforms that need to be continuously considered by the government for such an important body.

Even in light of the government amendment to include a board member with lived experience living with impaired capacity, the board has some key players missing. There are no statutory requirements to include members with knowledge in relation to human rights or mental health. Although the board's composition, as it stands, is okay, we must remember that the Public Trustee should put clients first, and to do so requires a board that can truly understand its clients. We will be supporting the bill. I would hope to get support for the amendment, but we will support the bill in any case.

*(Time expired)*