

MEDIA RELEASE**29 June 2023****Financial management services for protected persons**

A report from the ACT Auditor-General, Mr Michael Harris, was tabled in the ACT Legislative Assembly today in relation to the Public Trustee and Guardian's **Financial management services for protected persons**.

The Public Trustee and Guardian (PTG) supports some of the most vulnerable members of the ACT community who require assistance in managing their lives. The PTG:

- acts as financial manager of last resort under appointment by ACAT; and
- undertakes an annual examination of the accounts maintained by private managers on behalf of people with impaired decision-making ability.

The audit considered the PTG's delivery of financial management services to protected persons, as well as its role in examining financial accounts submitted by private managers.

The audit found that the processes used by the PTG to deliver financial management services to protected persons and examine accounts submitted by private managers have been poor. Mr Harris says 'shortcomings have been identified across a range of governance, administrative and service delivery arrangements'.

For the PTG to deliver its supported decision-making approach, it is critical that protected persons, or their support persons, are consulted to understand their financial position, as well as their wishes. The audit found this consultation is not routinely undertaken, undermining the efforts of the PTG to provide supported decision-making.

The PTG has not specifically articulated the purpose or objective of the 'light touch' approach to the examination of accounts it adopted in 2020-21. In practice, the purpose of the review is to identify whether the financial position of a protected person, namely their assets or liabilities, has changed by a predetermined level of materiality. Mr Harris says 'such an approach provides limited assurance with respect to the appropriateness or otherwise of a protected person's expenditure'.

The report makes 17 recommendations for improvement, relating to a range of governance, administrative and service delivery arrangements.

The summary of the **Financial management services for protected persons** audit, with audit conclusions, key findings and recommendations is attached to this media release.

Financial management services for protected persons is available to download from the ACT Audit Office's website www.audit.act.gov.au. If you need assistance accessing the report please phone 6207 0833.

SUMMARY

The Public Trustee and Guardian (PTG) is a territory authority established under the *Public Trustee and Guardian Act 1985* (PTG Act). The PTG supports some of the most vulnerable members of the Canberra community who require assistance in managing their lives.

If a person is unable to manage their affairs due to accident, illness, age or disability and has not prepared an enduring power of attorney, the ACT Civil and Administrative Tribunal (ACAT) may appoint a manager to manage all or part of that person's finances on their behalf. A person for whom a financial manager is appointed is referred to as a *protected person*.

The role of a financial manager is specified in the *Guardianship and Management of Property Act 1991* (GMP Act). The powers that may be given to a protected person's financial manager are the powers that the person would have if they were legally competent to exercise powers in relation to their own property.

The PTG or another person (a private manager) may be appointed as a protected person's financial manager. The PTG is responsible for the examination of financial accounts submitted by private managers and reporting the outcomes of these examinations to ACAT.

The audit considered the PTG's delivery of financial management services to protected persons as well as its role in examining financial accounts submitted by private managers.

Overall conclusion

The processes used by the Public Trustee and Guardian (PTG) to deliver financial management services to protected persons and examine accounts submitted by private managers have been poor. Shortcomings have been identified across a range of governance, administrative and service delivery arrangements. Ongoing and sustained effort is required to make sure that the PTG is best-placed to meet its responsibilities to protected persons.

Conclusions

GOVERNANCE AND ADMINISTRATIVE ARRANGEMENTS

The Public Trustee and Guardian (PTG) has developed a range of governance arrangements for the delivery of financial management services for protected persons. The governance arrangements require considerable effort and attention to make them more robust and effective.

A key issue for consideration is the management information systems in place to support the delivery of services. The key system for the delivery of financial management services, TACT, is very dated and represents a significant business continuity risk to the PTG. The deployment of Microsoft

Dynamics to support some of its functions, which has been variously described as a Customer Relationship Management system, has been underway since 2017, but its development has since been ceased, pending a review of the project. The PTG needs to develop a strategy for the management of its information systems as a priority.

The PTG's fraud control and fraud risk management arrangements are poor. The PTG's *Fraud, Corruption and Risk Mitigation Strategy* is ineffective in providing a framework for the management of fraud risks in the organisation. The Strategy contains old and incorrect references and does not represent contemporary ACT Public Sector practices. The PTG's risk register, which identifies 11 fraud-related risks, is similarly ineffective in providing a framework for the management of fraud risks.

There is also an opportunity to improve the PTG's program of case file reviews. Case file reviews seek to provide assurance with respect to the management of protected persons' finances. The case file review process should be managed to ensure that clients assessed as having high complexity (who inherently carry a higher risk) are selected for review more regularly.

DELIVERY OF FINANCIAL MANAGEMENT SERVICES

The PTG has adopted a supported decision-making approach. To do this effectively, it is critical that protected persons, or their support persons, are consulted to understand their financial position, as well as their wishes. This consultation is not routinely undertaken, undermining the efforts of the PTG to provide supported decision-making.

The PTG has effective processes for the identification of a protected person's income, expenses, assets and liabilities as well as any ongoing management issues, when it is first appointed as a financial manager. However, in a number of instances in the case files reviewed there was no evidence of the protected person being consulted during this process. Similarly, in a number of instances in the case files reviewed, there was no evidence of a protected person being consulted in the development of an annual budget.

A key mechanism that provides assurance with respect to the PTG's management of a protected person's finances is the provision of an annual itemised statement to a protected person or their guardian at the end of each financial year. This is required by virtue of subsection 27AA(2) of the GMP Act. The statements provide an opportunity for the protected person or their guardian to identify and question any potential irregular transactions associated with their account. In a number of instances in the case files reviewed no statement was provided. For some of these cases the reasons as to why a statement was not provided was not documented.

CLIENT COMPLAINTS AND FEEDBACK

The complaints and feedback processes of the Public Trustee and Guardian (PTG) are not effective. While the PTG collects information from complaints, it does not do so in a manner that enables an analysis of systemic service delivery issues. The PTG does not record complaints in a single register

that records the nature of the complaint, the service to which it relates and the outcome of the complaint.

The PTG does not seek or meaningful client feedback on its financial management services. While collecting this information presents challenges, there is a need for PTG to obtain improved client feedback on the effectiveness of its role as a financial manager for protected persons.

EXAMINATION OF PRIVATE MANAGER ACCOUNTS

The Public Trustee and Guardian (PTG) is ineffective in its examination of private managers' accounts.

The number of protected persons with private managers has steadily increased, while the number of accounts submitted by private managers for review by the PTG has decreased. The data suggests that there is an increasing lack of compliance by private managers with their reporting obligations.

In three of the five years to 2021-22, the PTG has not met expectations (set out in its annual Accountability Indicators) for the number of examinations of accounts to be conducted. In the years that it has not met expectations for the number of examinations undertaken it has fallen short by a significant amount of between 17 percent (2018-19) to 40 percent (2021-22).

In 2020-21 the PTG adopted a 'light touch' approach to the examination of accounts of privately managed protected persons. The PTG has not specifically articulated the purpose or objective of the 'light touch' review. In practice, the purpose of the review is to identify whether the financial position of a protected person, namely their assets or liabilities, has changed by a predetermined level of materiality. Such an approach provides limited assurance with respect to the appropriateness or otherwise of a protected person's expenditure.

Key findings

GOVERNANCE AND ADMINISTRATIVE ARRANGEMENTS

Paragraph

Systems and processes for the delivery of financial management services

A guide to practice for the FMSU of the Public Trustee and Guardian (the FMSU Manual) guides the activities of FMSU staff providing financial management services to protected persons. The Manual is comprehensive, at over 200 pages long, and usefully outlines legislative requirements and processes to be followed in the delivery of financial management services. It includes a mixture of policy and procedural guidance. A review of the FMSU Manual for the purpose of the audit identified several outdated references to legislation and strategies. The version of the FMSU Manual reviewed was Version 3.1, which was last reviewed and updated in October 2021. In May 2023, the PTG advised that the FMSU Manual was again updated in March 2023.

2.9

The PTG has several ICT systems that support the delivery of financial management services to protected persons. The primary system is the PTG's trust accounting system: TACT. TACT is a specialist industry trustee system that allows for the recording of data about protected persons including their income, expenses, assets and liabilities. TACT is a very dated system. It has become expensive to maintain and support and is a significant business continuity risk for the PTG. 2.26

Since 2017, the PTG has been in the process of implementing various workflow improvement modules through the Microsoft Dynamics platform. The work has been described in a series of documents as a Customer Relationship Management (CRM) system. In the first phase of the project, the PTG developed a *will drafting* application and *enduring power of attorney* module followed by a *guardianship* module at a cost of \$935,479. The PTG subsequently decided to develop additional modules through alternative project management arrangements. A business case was developed for Stage 2 of the project, which identified the development of a *private manager* module, *financial management* module and an *estates/trusts* module, at a cost of \$157,440 (GST inc). As at March 2023 the private manager module of Stage 2 has been implemented (as well as the unplanned implementation of an *unclaimed monies* module) at a cost of \$207,360 (GST inc). The *financial management* module (and *estates/trusts* module) have not been delivered. Further work on the modules has ceased, pending a review of the project. 2.27

The PTG has not determined what the relationship will be between the CRM modules and TACT (the PTG's trust accounting system). The PTG advised that the integration of the CRM modules with TACT was not part of the current project, but that 'this was the intention in the longer term and would be considered and decided upon in due course'. The PTG will need to decide as a matter of priority the relationship between the CRM modules and TACT and how data in the modules and TACT will be integrated. 2.28

Staff training and support

The FMSU Manual outlines a four-day program for the induction of new staff members on financial management services policies and procedures. This is essentially a checklist of matters on which the new staff member will receive training. This specific FMSU training for new starters was developed in-house and is tailored to the work in FMSU. Three new staff members were inducted during the 12-month period preceding the audit and they were provided with the relevant training. PTG staff are also encouraged to complete a variety of Justice and Community Services Directorate (JACS) online training modules. 2.41

Fraud prevention and control

The PTG has a *Fraud, Corruption and Risk Mitigation Strategy*. The most recent strategy is for 2022-23. It was signed and endorsed by the Public Trustee and Guardian on 1 July 2022. The Strategy identifies an Executive within the Justice and Community Safety Directorate SERBIR as having responsibility for the PTG. A review of the PTG's strategies for the past three years (2020-21 to 2022-23) shows very little 2.53

difference; in practice it is apparent that the PTG has taken and re-dated the previous year's document. This means that the document contains old and incorrect references and does not represent contemporary ACT Public Sector practices.

The PTG maintains a risk register, which identifies eleven fraud risks. After the application of controls there are three High risks, seven Medium risks and one Low risk. For two risks with an inherent risk rating of High, the risk register notes there is 'room for improvement' in the effectiveness of the controls but 'further mitigation strategies are not identified'. The risk register is silent on what additional monitoring or assurance strategies are intended to be applied to these risks. The register is stated to be updated annually. However, the date identified in the risk register is 30 October 2019, which is the same date identified in an earlier version of the risk register obtained for the purpose of the audit. There was no difference in the fraud risks, their rating controls and responsibilities, across the two risk registers. This suggests that the register is rolled over on an annual basis and is not routinely reviewed. 2.61

The PTG has a *Conflict of Interests* policy. The policy was developed in July 2017 and was due for review in July 2020. The policy was not reviewed as planned and has otherwise not been updated since 2017. The policy requires the PTG to establish a Register of Conflicts of Interest. The PTG has developed and implemented a register, which records information around the person disclosing the conflict, nature of the conflict and action taken to address the conflict. A review of the register shows that there are declarations dating back to 2017. The register is not updated on an annual basis and the dates of declarations of possible conflicts have not been shown for recent declarations. 2.70

In late October 2021 the Public Trustee and Guardian became aware of potential misconduct on the part of a PTG Financial Manager. For the purpose of considering options for the handling of the potential misconduct, the PTG sought advice and assistance from the JACS Strategic HR unit. A Preliminary Assessment was conducted in relation to the alleged misconduct, in accordance with the *ACT Public Sector Administrative and Related Classification Enterprise Agreement 2018-21*. The Preliminary Assessment took approximately two and a half months to complete. The report (dated 18 January 2022, but signed on 25 January 2022) identified 'systemic failures' on the part of a number of participants in the process, including the PTG Financial Manager. The report recommended that a formal misconduct investigation be undertaken. On 2 February 2022 the PTG Financial Manager resigned (with a notified last day of 15 February 2022). 2.100

Because of the PTG's failure to commence a misconduct investigation in a timely manner the PTG Financial Manager was able to resign and effectively prevent any further investigation from occurring. As a result, the PTG has not fully ascertained the facts and circumstances of the alleged misconduct or the sale of the property, including: 2.101

- the motivations of the different participants in the sale of the property; and
- any potential corruption or criminal activity on the part of participants in the process.

The Preliminary Assessment took too long to complete and was conducted with a view to trying to establish the facts and circumstances of the matter. This is not the purpose of a Preliminary Assessment, which is intended to be a short and focused assessment as a means by which to determine an appropriate course of action, including whether a misconduct investigation is required.

2.102

Quality assurance

Guidance on the assessment of client risk and complexity, and the allocation of client case files, is embodied in the FMSU Manual and two annexures supporting the Manual: *Annexure D – Client File Ratings*; and *Annexure E – Client Complexity Matrix*. The guidance was overly complex and, in parts, contradictory: both of the annexures required assessments to be made of a client and their circumstances, with a view to identifying the relative risk and complexity of the client. The annexures require an assessment of similar considerations. Guidance for the allocation of case files to staff, as per the FMSU Manual and *Annexure D – Client File Ratings* was misaligned, particularly with respect to the responsibilities of ASO 5 and ASO 6 staff.

2.119

A review of the allocation of staffing for 34 protected persons for whom the PTG was providing financial management services, against the requirements of the FMSU Manual, showed the level of the officer that was allocated was appropriate in 26 cases. In six cases the level of the officer was not appropriate; in three cases the case could have been allocated to a more junior officer and in three cases the case could have been allocated to a more senior officer. In two cases there was insufficient information on the file to ascertain the risk and complexity of the client's case file was not documented. In May 2023 the PTG advised that the annexures to the FMSU Manual had been reviewed and revised to ensure consistency. The PTG also provided evidence that the revised *Client Complexity Matrix* had been applied to all clients and that the clients had subsequently been allocated to appropriately classified staff.

2.120

The PTG has identified TACTICS as a key fraud detection mechanism. The TACTICS software analytical tool allows programs, such as Microsoft Word and Excel, to connect directly to the underlying tables of the TACT database and interrogate the data. The use of TACTICS in 2014 identified irregular transactions which subsequently identified a fraud. The PTG runs a suite of TACTICS reports that provide PTG staff with an opportunity to identify irregular transactions.

2.125

The PTG has developed a program of case file reviews through which it seeks to undertake reviews: approximately two to three months after the PTG has been appointed as a financial manager; in the month prior to an ACAT review hearing; and on an ad hoc basis. In 2021-22, 36 initial case file reviews were conducted, 87 were conducted for the purpose of an ACAT review hearing and 25 were conducted on an ad hoc basis. The FMSU Manual does not specify criteria by which the files should be selected on an ad hoc basis and the planning and conduct of case file reviews is not undertaken through a risk-based approach. There is an opportunity to manage the case file review process to ensure that clients assessed as having high complexity (who inherently carry a higher risk) are selected for review more regularly.

2.143

A review of 14 case file reviews conducted by the PTG in 2021-22 shows that five files were reported as being in good order, or not requiring updates, amendments or follow-up. However, it is apparent that the case file reviews did, in fact, identify matters for follow-up. Reporting the case files as being in good order, but otherwise identifying follow-up action that is required, misrepresents the outcomes of the case file review. 2.144

DELIVERY OF FINANCIAL MANAGEMENT SERVICES

Paragraph

Decision-making principles

The FMSU Manual outlines a *Structured Decision-Making Framework Workflow* that provides guidance for staff when making decisions for financially managed persons under the GMP Act. The *Structured Decision-Making Framework Workflow* aids in determining whether a protected person's views, wishes and preferences can be ascertained. In the 34 case files reviewed by the Audit Office, there was no evidence of the PTG's consideration of the Workflow. By not documenting the recognition and application of the *Structured Decision-Making Framework Workflow* the PTG cannot demonstrate that it is actively promoting and pursuing the ideal of supported decision-making for protected persons. 3.20

Financial management services

When the PTG is first appointed as financial manager for a protected person, the Transition Team is responsible for identifying the protected person's income, expenses, assets and liabilities as well as any ongoing management issues. To assist with this process, the PTG has developed and included as annexures to the FMSU Manual: *Guidelines – Client Intake Process*; and *New Client Information Checklist*. A review of 12 case files where the PTG was newly appointed as a financial manager in 2021–22 found: 3.39

- for all 12 cases a *New Client Information Checklist* was completed; and
- for three cases there was no record on file of initial meetings with the protected person and/or a support person initial meeting, nor was there a record of why a meeting was not held. For one of these cases there was, however, correspondence with a support organisation about the person's finances.

The FMSU Manual requires financial managers to develop either a simple or complex budget depending on a protected person's circumstances. In the 34 case files reviewed by the Audit Office a budget had been prepared for each of the protected persons. The budget was located on the protected person's file. Of the 34 case files selected for review, it was apparent that nine required complex budgets; these were supported by a financial plan for the protected person's investments. Simple budgets were prepared for the remaining 25 case files, which were basic in format but otherwise reflected the relatively fixed income and expenses of the protected persons. There was limited evidence that the PTG regularly consulted protected persons or their guardians around their financial needs prior to the preparation of their annual budget. For 22 of the 34 case files reviewed (64 percent) there was no 3.52

evidence that the protected person and/or their support was consulted in the preparation of the budget.

Subsection 27AA(2) of the GMP Act requires the PTG to provide an annual itemised statement to a protected person or their guardian at the end of each financial year. The statements provide an opportunity for the protected person or their guardian to identify and question any potential irregular transactions associated with their account. In the 24 case files reviewed by the Audit Office (where an annual statement should have been provided) it was apparent for 11 cases that no statement was provided and for four of these cases the reasons as to why a statement was not provided was not documented. 3.61

Fees for financial management services

The *Public Trustee and Guardian Act 1985* allows for the PTG to charge fees for its services. *Public Trustee and Guardian (Fees) Determination 2022 (No 2)* (Disallowable instrument DI2022-199) was made on 29 August 2022; it sets out the basis on which the PTG charges fees for its services. A business case developed by the PTG in 2020 noted that ‘the nature of its funding arrangements pre-supposes that PTG must cross-subsidise its services to ensure accessibility by the community, particularly those experiencing hardship’ and that ‘subsidisation is vital to PTG’s service model in that, if cross-subsidies were removed, it is likely that some people in the community would have a lower expectation of services, or that Government would be required to fund the provision of such services directly’. It is not clear whether the PTG’s fees cover the actual cost of delivering financial management services because the PTG has not undertaken work to establish the cost of delivering its services. 3.72

CLIENT COMPLAINTS AND FEEDBACK

Paragraph

Client complaints

The PTG has a *Complaints Policy*, which is published as a fact sheet on its website. The *Complaints Policy* refers to the role of a Complaints Co-ordinator in managing, and responding to, complaints. Such a role does not exist within the PTG; in practice the Public Trustee and Guardian has personally coordinated and responded to complaints that have not been resolved immediately. A 2021 Justice and Community Safety Directorate review into the rights protection services provided through the PTG highlighted the risks of such an approach. Appropriately designating a Complaints Co-ordinator would provide the PTG with a stronger and more effective basis managing complaints and feedback. 4.9

Complaints that the PTG receives direct, and which require a formal response, are recorded in a spreadsheet; the ‘complaints register’. Complaints that are received through third parties, e.g. a Minister or a Member of the Legislative Assembly, a Legislative Assembly committee, or a body such as the ACT Ombudsman or the ACT Human Rights Commission, are recorded in the bespoke systems for managing correspondence from those sources. Maintaining information on complaints across 4.12

multiple systems increases risks associated with data accuracy and impairs the ability of the PTG to analyse, review and report on its complaints management processes.

The complaints register contains information on: the date of the complaint; from whom it was received; a brief description of the complaint; and when it was resolved. The complaints register does not record the outcome of a complaint or categorise the nature of the complaint. Not including this information impairs the ability of the PTG to analyse, review and report on its complaints management processes. 4.17

With the exception of complaints received from the ACT Ombudsman, the PTG does not report complaints information in its annual report. Including information on the number of complaints it receives, the timeliness of resolution and the broad actions taken to resolve the complaints would provide greater transparency and accountability to the ACT Legislative Assembly and broader community on the activities of the PTG. 4.24

Client feedback

The PTG does not undertake client satisfaction surveys, but does make client feedback forms available. In 2021–22, 23 clients submitted client feedback forms, compared to 27 in 2020–21. The overall satisfaction ratings from the client feedback forms are published as ‘client survey’ results in the PTG’s annual reports. It is misrepresentative of the PTG to report the results of client feedback forms as ‘client survey’ results because they do not represent a thorough, targeted and systematic collection of information on client satisfaction. 4.30

The PTG should seek better, more-informed feedback from protected persons on its financial management services. This could be received through a properly conducted survey of protected persons or through the invitation of targeted feedback from protected persons or their representatives. Such an approach would accord with the February 2021 *Protection of Rights Services Review* report, which identified a need for the PTG to develop a strategic approach to evaluating the quality of its service delivery, practice, and governance, particularly for protected persons. 4.39

EXAMINATION OF PRIVATE MANAGER ACCOUNTS

Paragraph

Examination of private manager accounts

Private managers are required to lodge annual accounts with the PTG 28 days after the annual anniversary of their appointment. In practice a private manager is requested to provide: a *Statement of Property – Statutory Declaration* (with information relation to income, assets and liabilities); and a range of supporting documentation and schedules. The *Statement of Property – Statutory Declaration* directs the financial manager to provide further information in support of the declaration. It consistently asks for further detailed information to be provided as an attached schedule, but only in relation to income, assets and liabilities. Information with respect to a protected person’s expenditure is not specifically required. A measure of control is provided by the PTG’s requirement that a private manager provide copies of ‘bank statements for all bank accounts held in the protected 5.24

person's name covering the 12-month examination period (including liabilities)'. To the extent that this includes credit card accounts and otherwise shows outgoings from a protected person's bank account, there is a level of visibility for the PTG over a protected person's expenditure. However, there is a lack of clarity and specificity with respect to information to be provided in relation to a protected person's expenditure.

The number of protected persons with private managers has steadily increased, from 448 as at 30 June 2018 to 713 as at 30 June 2022, while the number of accounts submitted by private managers has decreased, from 696 in 2017-18 to 471 in 2021-22. While the timing of the submission of accounts may account for some differences, the data suggests that there is an increasing lack of compliance by private managers with their reporting obligations. 5.30

A review of the PTG's examination of private manager accounts, as reported as an Accountability Indicator in its annual Statement of Performance shows: in three out of the five years to 2021-22, the PTG has not met expectations for the number of examinations to be conducted; and in the years that it has not met expectations for the number of reviews undertaken it has fallen short by a significant amount of between 17 percent (2018-19) to 40 percent (2021-22). 5.40

In 2020-21 the PTG significantly exceeded expectations for the number of examinations undertaken, undertaking 688 examinations against a target of 570. This was due to a change in process for conducting the examination, whereby a 'light touch' review was now being performed, meaning the PTG had more capacity to undertake reviews. Notwithstanding the change in process, in 2021-22 the PTG reported that it had undertaken 362 examinations against a target of 600. This followed a change of practice, which was agreed to by the PTG and ACAT in April 2021, by which the PTG was to take over responsibility for sending letters to private managers to remind them to lodge their accounts. 5.41

The PTG has developed an *External Accounts Submission – Task Guide* to assist PTG officers in their examination of the financial accounts of privately managed protected persons. The Task Guide provides detailed procedural guidance to PTG officers on administrative processes for the examination of external accounts. Neither the *External Accounts Submission – Task Guide* or any other documentation specifically articulates the purpose or objective of the review. In practice, the purpose of the review is to identify whether the financial position of a protected person, namely their assets or liabilities, has changed by a predetermined level of materiality. The PTG described this as a 'light touch' examination of accounts. Such an approach provides limited assurance with respect to the appropriateness or otherwise of a protected person's expenditure. 5.57

Reporting of private managers to ACAT

Few issues are identified by the PTG through its examination of private manager accounts. In 2020-21 and 2021-22, since the commencement of its 'light touch' approach to the examination of financial accounts, the PTG has identified and reported two matters to ACAT. In 2019-20 17 matters were reported to ACAT, the 5.64

majority of which related to the non-lodgement of accounts. Two matters were reported as misuse of the protected person's finances.

Where concerns are identified with respect to a private manager's actions, there is a difference in expectation between the PTG and ACAT as to their respective roles. The difference in expectation relates to whether there should be a recommendation or advice from the PTG with respect to the potential course of action to be undertaken by ACAT. The PTG does not provide advice to ACAT on the action that it could take with respect to any shortcomings it has identified in a private manager's activities. The PTG sees this as the responsibility of ACAT. ACAT advised that it sees value in the PTG advising ACAT of the action it believes should be taken, should an irregularity be identified in the financial statements submitted by the private managers. The difference in expectation may be a moot point, however, because the PTG has only referred two matters to ACAT in the two years to July 2022.

5.73

Recommendations

RECOMMENDATION 1 FMSU MANUAL REVIEW

The Public Trustee and Guardian should review and update the FMSU Manual on, at least, an annual basis.

RECOMMENDATION 2 ICT SYSTEMS TO SUPPORT FINANCIAL MANAGEMENT

The Public Trustee and Guardian should undertake a strategic review of its information management system needs. As part of this review the PTG should consider:

- a) the need for, and future uses of, the CRM modules and TACT; and
- b) the extent to which they need to be integrated.

RECOMMENDATION 3 RISK REGISTER

The Public Trustee and Guardian should:

- a) actively review and update its risk registers on a regular basis; and
- b) for those risks identified as High risks for which existing controls are inadequate, identify what additional monitoring or assurance strategies are intended to be applied to these risks.

RECOMMENDATION 4 CONFLICT OF INTEREST REGISTER

The Public Trustee and Guardian should:

- a) review its *Conflict of Interests* policy and update it as necessary; and
- b) in doing so, determine a practice for the management and updating of the Register of Conflicts of Interest.

RECOMMENDATION 5 MANAGEMENT OF POTENTIAL MISCONDUCT ALLEGATIONS

The Public Trustee and Guardian should ensure that Preliminary Assessments are conducted in accordance with the relevant *ACT Public Sector Administrative and Related Classification Enterprise Agreement* and the ACT Public Sector Standards Commissioner's *Guidelines to the Misconduct Process*, particularly in relation to timeliness.

RECOMMENDATION 6 CASE FILE REVIEWS

The Public Trustee and Guardian should review its processes for the conduct of case files reviews and in doing so establish and document processes for:

- a) regular review of case files identified as being high risk and complex; and
- b) random, unscheduled reviews of cases distributed across all Financial Managers.

RECOMMENDATION 7 ASSESSMENT OF DECISION-MAKING CAPABILITY

The Public Trustee and Guardian should assess, and document, whether a protected person's views, wishes and preferences can be ascertained.

RECOMMENDATION 8 CONSULTATION DURING THE PREPARATION OF BUDGETS

The Public Trustee and Guardian should update the FMSU Manual to specifically require documentation of consultation (or the reasons why consultation did not take place) with a protected person and/or their support persons during the development of their annual budget.

RECOMMENDATION 9 ANNUAL STATEMENTS

The Public Trustee and Guardian should provide an annual statement to a protected person or their guardian, unless there is a justified reason not to do so, which is documented on the protected person's client file.

RECOMMENDATION 10 COST REVIEW

The Public Trustee and Guardian should undertake an assessment of the costs associated with providing financial management services to protected persons. The cost review could then be used as a basis for determining its funding base and fees for services.

RECOMMENDATION 11 ESTABLISHMENT OF A COMPLAINTS CO-ORDINATOR

The Public Trustee and Guardian should designate a Complaints Co-ordinator to manage, and respond to, complaints in accordance with its *Complaints Policy*.

RECOMMENDATION 12 RECORDING COMPLAINTS

The Public Trustee and Guardian should record in its complaints register information on the category and nature of a complaint, the outcome of the complaint, the name of the client (as well as the complainant) and whether the client is a protected person.

RECOMMENDATION 13 REPORTING COMPLAINTS

The Public Trustee and Guardian should include in its annual report information on all complaints it receives, including information on the timeliness of complaints resolution and the broad actions taken to resolve the complaints.

RECOMMENDATION 14 EVALUATING THE QUALITY OF SERVICE DELIVERY

The Public Trustee and Guardian should develop and implement a strategic approach to evaluating the quality of its financial management services for protected persons. This could be received through a properly conducted survey of protected persons or through the invitation of targeted feedback from protected persons or their representatives.

RECOMMENDATION 15 REQUIREMENT FOR INFORMATION ON EXPENDITURE

The Public Trustee and Guardian should seek an addition to section 6 of the *Guardianship and Management of Property Regulation 1991* to explicitly require a private manager to lodge information with respect to a protected person's expenditure.

RECOMMENDATION 16 REVIEW OF FINANCIAL STATEMENTS

The Public Trustee and Guardian should review its processes for the examination of accounts submitted by private managers. This could involve:

- a) establishing an annual process that allows for the random selection of a predetermined number of accounts to examine in detail; or
- b) undertaking a risk assessment to identify high risk accounts that should undergo additional scrutiny.

RECOMMENDATION 17 CLARIFICATION OF ROLES

The Public Trustee and Guardian should, with the assistance of the Justice and Community Safety Directorate and in consultation with ACAT, decide whether the PTG have a role in recommending potential courses of action to be undertaken by ACAT in the event of non-compliance by a private manager.

Entities' responses

In accordance with subsection 18(2) of the *Auditor-General Act 1996*, the Public Trustee and Guardian was provided with the draft proposed report for comment. All comments were considered and required changes were reflected in the final proposed report.

In accordance with subsection 18(2) of the *Auditor-General Act 1996*, the Public Trustee and Guardian was provided with the final proposed report for comment. All comments were considered and required changes were reflected in the final report.

In accordance with subsection 18(3) of the *Auditor-General Act 1996*, other entities considered to have a direct interest in the report were also provided with extracts of the draft proposed and final proposed reports for comment. All comments were considered and required changes made.