

Wednesday 2 December 2009 - Legislative Council - Government Businesses Scrutiny Committee - The Public Trustee

LEGISLATIVE COUNCIL

GOVERNMENT BUSINESSES SCRUTINY COMMITTEE B

Wednesday 2 December 2009

MEMBERS

Mr Dean
Mr Finch
Mr Gaffney
Dr Goodwin
Mrs Rattray-Wagner (Chair)
Mr Wing

IN ATTENDANCE

Hon. Lara Giddings, Deputy Premier, Attorney-General

The Public Trust Office

Mr Duncan Hall, General Manager, Corporate Services
Ms Ann Cunningham, Chairperson, Board of the Public Trustee
Mr Peter Maloney, CEO, Public Trustee
Ms Gaylene Cunningham, Manager, Client Services

The committee met at 9.02 a.m.

CHAIR (Mrs Rattray-Wagner) - Welcome, Minister, to this Legislative Council scrutiny committee. It is your first time as minister and mine as chair and I am sure our working relationship will go well. Minister, we invite you to give a brief overview.

Ms GIDDINGS - I have some opening comments but will begin with a discussion around this document which has been circulated to members. It was distributed by mistake, which is not a problem in one sense - we are very happy to be open and transparent. Most of the briefs in here are not a problem. There are, however, some elements to this report which are commercial in

confidence, particularly the budget elements for the Public Trustee, as well as information on their marketing campaigns and the like, and knowing that GBEs are in the public arena and competing with other corporate entities, there are elements of this information which are highly confidential. We are happy to be open to scrutiny on the numbers and so on, and we would be telling you about them anyway, but we did not expect members to have the full amount. The preference of the Public Trustee is that these documents are returned to us because of it, but it is up to members whether or not they want to return that information. With the vast majority of it there is not a problem and we are very happy for you to have that information.

CHAIR - Minister, some members are already choosing to return the document.

Ms GIDDINGS - I thank you very much for your cooperation around that; it is much appreciated.

Thank you for having us before your committee this year. The Public Trustee has been in existence for in excess of 150 years and is currently in its fourteenth year of operation as a government business enterprise. The main undertakings of the Public Trustee are to offer deceased estate; and trust administration to the Tasmanian community, in particular the preparation of wills and enduring powers of attorney; acting as an executor or administrator of deceased estates; acting as an attorney for people requiring assistance to manage their financial affairs; acting as trustee for various types of trusts including accident and compensation awards; assisting people to manage their financial affairs when the Public Trustee is appointed as the financial administrator by the Guardianship and Administration Board. In addition the Public Trustee acts as a fund manager for the funds under its control in order to provide a commercial rate of return to contributors.

The Public Trustee operates from three main offices, namely Hobart, Launceston and Burnie. In addition, an office is maintained in Devonport, which is staffed on a part-time basis by staff in the Burnie office. There are approximately 52 FTEs in the organisation. The Public Trustee operates in a competitive environment and is required to operate along commercial lines. A significant proportion of the matters under administration by the Public Trustee are regarded as non-commercial - that is, the revenue from that source does not provide a commercial return in the provision of those services. These services have been traditionally provided by the Public Trustee in view of the fact that there is no other organisation providing those services. Approximately 51 per cent of the matters under administration by the Public Trustee are non-commercial matters. These are referred to as community service obligations.

As a result of the Public Trustee providing these CSOs the Government provides funding to the Public Trustee to meet the cost of providing them. Apart from the CSO funding, the Public Trustee meets all other costs from the revenue it generates from the provision of its services. In the financial year 2008-09 it achieved a net operating profit after tax of some \$690 284 and we expect less this year as a result of the global financial crisis.

As part of its commitment to the community, the Public Trustee has an extensive community education program, whereby it provides seminars right around the State to provide information to the community about the need for proper estate planning. The Public Trustee is overseen by a board comprising six directors including the CEO. The Chairperson of the board is Ms Ann Cunningham and the CEO is Mr Peter Maloney. The directors are selected for their complementary skills and their ability to add value to the board, and the board meets monthly.

It is supported by an audit committee, investment committee and a marketing committee. The Audit Committee meets every two months and its responsibilities are to oversee the internal and external audit functions of the organisation. In particular, it is responsible for monitoring corporate risk assessment processes and controls and monitoring the establishment of and ongoing compliance with an appropriate internal control framework over key business and financial reporting processes. The Investment Committee meets monthly and is responsible for the oversight of the Public Trustee's investment review processes to ensure that appropriate investment decisions are made for its clients and that the Public Trustee complies with its legislative obligations under the Trustee Act. The Marketing Committee meets once a month and is responsible for providing advice and recommendations to the board on marketing strategies and promotional activities - and I must say they have just put a huge effort in this year and we are happy to talk about what has happened as a result of that.

All directors have completed the Australian Institute of Company Directors Course. In order to enhance corporate governance, this year the board has developed a code of conduct for directors and governance chart for the board. The community can be assured that the Public Trustee has the appropriate governance structures in place to ensure that it remains commercially successful while continuing to meet its community service obligations.

CHAIR - Thank you, Minister. I note in the annual report that the Auditor-General provided for us that the Audit Committee completes - and you talked about their meetings - on the matters of concern an update of the strategic risk register and business continuity plan. Would somebody like to share with the committee what the strategic risk involves?

Ms CUNNINGHAM - Yes, we did respond to that because we thought there probably was not a full understanding of our program in that regard. Essentially, we have an ongoing program of risk management, particularly through our Audit Committee. We have outsourced our internal audit to KPMG who report to the Audit Committee, but we prepared a comprehensive risk management plan which is due for review and is currently under review, and that was approximately three years ago. Our program was to review that in a comprehensive way every three years, and that is currently part of our program in any event. But we do have ongoing risk management and review of our risk strategies. I don't know whether Peter wants to elaborate on that.

Mr MALONEY - Yes, this was discussed with the board and in their final audit report the board wanted to write to Mike Blake, which we did, outlining everything that we had done. But first of all I should say he said that was a minor finding. He was talking about the business continuity plan. So there are two aspects to what we do. One is the strategic risk review, where we have a look at all our risks. We completed that over two years ago and we decided, as a board, that we would review that every two years and we are just going through that review at the moment. The other part is our business continuity plan, which he noted had not been updated in terms of the people who work in the organisation and some of the contractors, and those sorts of things.

What we had already started on that was to engage an external consultant to help us with a review of our risks and to rate them in terms of if, say, our computer system goes down, what is the minimum time we can get away with? So then we would list all the risks - it might be 20 - we list them in order, and if something happens to the building then we go to that and we have a look at it and say, 'Okay, we have to do that first', and most of it is around clients.

We then have to put that into our BCP and then get some external company to do a scenario for us about how we operate under that BCP. So they are the two things that they were talking about there and we are addressing those. But there are a whole lot of other things that we do as well, such as compliance for our internal audit. Mike wrote a letter in reply saying, 'Thank you very much, I accept that. I know that is what you are doing and in future audit reports I'll make sure that I take account of that'. He wrote that last week in response.

CHAIR - I also note that in your future your growth is in core commercial business and that is a focus or a priority of the board. Can you share with the committee how you are going to achieve that?

[9.15 a.m.]

Mr MALONEY - That is what the marketing plan is all about. The core business for us is commercial, deceased estates - that is where we derive most of our income, there is no doubt about that. Essentially, that is the big bulk of where it comes from. So we have to maintain and increase market share in the deceased estate administration business. Our vision in the corporate plan is to be Tasmania's first-choice provider of trustee services in the State. In order to do that we have to be front of mind, because people do not suddenly wake up, 'Hmm, I'm going to have a will', it is kind of 'front of mind' and that is what this advertising has been in the last year. We have decided to give it a real crack - we have put some staff on, you have probably seen the ads, they have been in the press and on television for about six months of last year, earlier this year and there were some new ads this year - Friday night. That is very much around branding and awareness so that when people suddenly think, 'I need a will', they will think, 'Oh, Public Trustee does wills', or if someone dies without a will and they are intestate, 'What do I do? Public Trustee do that, I'll get them to do it'. Or if I want to renounce if I am an executor, 'The Public Trustee does that; I'll go and see them and get them to do it'. That is what that is about; that is just advertising.

On top of that we are trying to get out in the community and do a lot of seminars, and we are trying to build a lot of relationships with community groups and organisations. We think that is a good way of getting the message out there, so we do a lot of seminars for a variety of organisations. We have seminars with our will clients, because retention of our will clients is a high priority. We do not want to lose them so you have to keep them for a long time. We would much rather have someone come to us when they are 88 years old and on their deathbed because we will keep them, but the reality is that they make their wills anywhere between the ages of 20 and 80 and if they come in, you have to keep them, so we have strategies around that too. So essentially it is the branding, community engagement and keeping our current clients; that is what our strategies are around.

Mr DEAN - You mentioned the economic downturn in the profits this year and it was about the \$300 000 mark compared with 2007-08. Is that the only reason for it - the global meltdown? Are there any other reasons for it? I notice that salary increases and lots of other things are involved there.

Mr MALONEY - Yes, there were salary increases and obviously increased costs, there is no doubt about that. With the State Service wages agreement everyone's salary has gone up and will go up again this year, except for Duncan and me, and the directors. So yes, that is built into it. We did a big review at the end of last year in terms of resources. We are a service industry, so you have to have people to do the job. You will see that there has been a huge increase in represented person business and that is just going to keep growing. That causes real stress and

strain on an organisation that is a service industry. So we looked at it and decided we needed to put on some extra staff in Hobart, so that is included in there. But in terms of revenue, the only downturn in revenue is simply from those areas which are outlined in the brief.

Mr DEAN - So how did the global meltdown impact on you? Do you have a number of investments or something?

Mr MALONEY - Two ways. We have money invested. We have our own funds in the common fund, so instead of getting 5 per cent we are getting 2 per cent or 3 per cent. So our own investment income drops. The income from our clients - we have \$50 million of our clients' money in that, so instead of getting 5 per cent they are getting 2 per cent, and we take income commission off that, so that means less income coming in; the income commission is less. As to our group investment funds and share portfolios, markets have dropped significantly so the amount in those group funds has dropped which means that our investment management fee drops, the returns on that for the clients drops and our income commission is down. That is essentially those non-activity type of things. It does not result from less business or less activity; it is simply that where we derive that income from is affected by what is happening in the market.

Mr DEAN - My next question is about the government dividend. How is that worked out? What is the percentage that is required to be returned to the Government each year? How is that done; what is the calculation for it?

Mr MALONEY - It is 50 per cent of after-tax profit. It was a minimum of 50 per cent.

Mr DEAN - Of your profits?

Mr MALONEY - Of after-tax profits. I think the Government can take up to 75 per cent but they have agreed on 50 per cent.

Ms CUNNINGHAM - We have paid 50 per cent for some years now and that is paid out of the following year's income.

Mr MALONEY - So the profit for last year - the dividend for that year will be paid this year.

Mr DEAN - So it's a year behind.

Ms CUNNINGHAM - Yes, and that could also be a reason for reduction in our profit; because we had a better year than the previous year we are paying your dividend out of the following year's profits.

Mr DEAN - I was trying to work out from your annual report how you calculated it, so I was a year out, okay. The money that you retain within your profits - and I think out of that year it would have been \$235 000-odd or thereabouts - where does that go? What are you required to do that is not supported and provided for by the Government? Where does that money go?

Mr MALONEY - It goes into our reserves. Perhaps Duncan knows a bit more about this than I do.

Mr HALL - Yes, that is in our equity for retained earnings. It has been around \$7 million for the last couple of years.

Mr DEAN - That is what is in that fund now?

Mr HALL - That is currently the retained earnings. The liability for that is our liability for the RBF superannuation. We have that 100 per cent covered by those funds.

Mr DEAN - Right.

Mr HALL - So that is what it is held against.

Mr MALONEY - Our retained earnings - our corporate reserves are about \$10 million, but the reality is that we do not have \$10 million we can spend because most of that is held as provisions against our defined benefit scheme liabilities.

Ms GIDDINGS - There are also some costs that you have to cover, aren't there, that you would have to have?

Mr MALONEY - Yes.

Ms GIDDINGS - The CSO obligations, for instance. The Government now basically gives full cost recovery on the CSOs but, as I understand it, there are other additional costs around the represented persons particularly, where there are some costs of up to about \$60 000 that the Public Trustee is having to cover. So that profit would be used to supplement other areas where there are costs that we do not cover through the CSO.

Mr DEAN - That is an area that has been often raised, Minister, with the CSOs and so on, and particularly where assets are being handled by the Public Trustee that are very low - \$15 000 or \$10 000 less - that there is still a charge against that person for that funding. It has often been said that there ought not be any cover or charge for that at all. Is that being considered at all?

Ms GIDDINGS - I think what you are really talking about is in relation to minors, particularly where there might be small amounts of money. The Public Trustee has been doing a fair bit of work around this area as well and I am certainly happy to ask Peter to go into more detail for you.

Mr MALONEY - It is an interesting one. We have just changed those fees as of 1 November. We started looking at it earlier this year because of the drop in interest rates and we suddenly realised, 'Gee, there are going to be a lot more people affected by our fees than was previously the case', so we decided to change it and have reduced those particular fees by up to 50 per cent. That has just started.

Minor trust is an interesting area and something that I have a particular interest in. I will give you an example of how things work. If these are common law damages claims, it does not matter whether it is \$1 000, \$1 million, \$10 million or \$20 million, all our professional fees are recoverable from the defendant. That is the law. For big amounts of money, \$1 million or \$2 million, the lawyers will write to us and say, 'What are your fees?' and we will give them a quote. It is not just our trustee fees, it is also our common fund management fees. So they will get that information. For small amounts of money, we never hear from them. We suddenly get the \$3 000 or \$4 000 and suddenly the person comes in and we start talking about fees and they say, 'But we weren't told about your fees' and we have to tell them that they are recoverable from

the defendant. Unfortunately, for whatever reason, it just does not click with lawyers to seek, as part of the award, to have our fees met by the defendant which, if it is a motor vehicle accident, is MAIB.

I will give you an example. If it is a \$5 000 statutory MAIB entitlement - not common law damages, statutory entitlements - they are paid by the MAIB. So if there is 10 years to go, they will work out with us what our fees are going to be over the next 10 years and they will make that payment to us and there are no fees payable by that client. If it is a \$5 000 common law damages claim, the fees are not recoverable because they are not sought by the lawyer, and I just do not understand why. We are going to try to do a bit of education around this because they do not even consider it, and it is very easy to do. We already do it for the statutory ones. It is very simple to do for the MAIB ones like this because they are getting away with it!

Mr DEAN - So I now understand you. That is going to be marketed and solicitors will be advised of that.

Mr MALONEY - We will try to work out a process to get them to start thinking about it. Some of them do. I have said to some lawyers who have come in for \$2 000 that we will get the fees and they did. So some people are aware of it but a lot of them just do not worry about it, and that is unfortunate.

Ms CUNNINGHAM - I think a lot of these settlements are made on the basis of, say, \$3 000 all in, which would include a cost component perhaps for ongoing costs but it is not even separated out. That can often happen with these, so that the whole amount is invested and it probably does include a cost component as well.

Mr MALONEY - It is unfortunate and we are going to try to do something about it.

Mr DEAN - Thank you.

Ms CUNNINGHAM - It is education really; the lawyers are trying to get that clarified.

Mr WING - How many staff do you have currently and how does the number compare with, say, four or five years ago?

Mr MALONEY - We have 50 FTEs. It has been stable at about 49 for many, many years. Certainly since the time I have been there it has been hovering around 48 and 49. This year it has gone up by three and that was as a result of a review that we did last year of what was happening, especially the Hobart office, in terms of the massive increase in represented persons who are very, very resource intensive. It was impacting on our staff, our service delivery, so we did a review to the board and we agreed to put on an extra three staff and to restructure the Hobart office a bit to put some more resources and more specialists in the represented person area. Over the six years I have been there it has gone from about 260 to 520, a 100 per cent increase and that will continue to grow. The growth will not stop; people in the community are younger, they will live longer so it will continue to grow, and we are seeing that everywhere in Australia. All the PTs are finding exactly the same. It is a huge issue for resources and so yes, we have put on three extra staff to do all that.

Mr WING - Over what period did you put the three extra on?

Mr MALONEY - We did it at the end of last financial year so they came in about June. We have only just put them on, they have only been there the last three or four months.

Mr WING - That was following the global economic downturn and would run counter to the government policy of not increasing staff?

Mr MALONEY - That is an interesting one. We are aware of that and we looked at that with the PSMO. Bearing in mind that we fund our own services apart from the Government providing us with a certain amount of money for the CSO obligations, we took the view that it is a front-line service to the clients and in order for us to provide a service to those clients we needed to put on some extra staff to be able to continue to do it. This was not providing services to the Government, it was front-line service delivery.

Mr WING - The extra cost would affect your profitability and the ultimate dividend payable to the Government?

Mr MALONEY - Yes, it does, but we felt that on balance we needed to do it because at the end of the day we have to provide a service and you cannot tell these people that they are just going to have to wait because that is our business. We are a business, we are a GBE, we operate commercially and we felt that was something we had to do.

Mr WING - Did those increased staff numbers have government approval or was it sought as it was running counter to general government policy?

Mr MALONEY - When I looked at the statement I did discuss it with the PSMO. If you look at that whole-of-government thing, it was about recurrent expenditure for government. There is something in there around front-line service delivery has to be protected, and that is what we were doing, and the board felt we had to do it. There were a lot of staffing issues, stress on the staff and all that sort of stuff. It was a complicated issue and the board felt that because of its duty to the clients and to its staff it had to make some decisions to put some extra staff on.

A front-line service industry is not something you can deliver by computer. These people need someone at the end of the phone. They need to speak to people; you cannot avoid that and that was the decision the board took.

Mr WING - Is your organisation self-funding?

[9.30 a.m.]

Mr MALONEY - It is self-funding apart from CSO funding. For example, last year the Government gave us \$1.170 million, and they probably got - what was the dividend for the previous year, and the tax?

Mr HALL - \$700 000.

Mr MALONEY - So they gave us \$1.170 million and they got \$700 000 back by way of dividends and tax, so the amount they actually paid us was about \$400 000 for this -

Mr WING - Last year they got \$700 000 back. I thought it was closer to \$455 000.

Mr MALONEY - And tax. We paid tax as well.

Mr WING - Oh, I see. So the dividends were about \$455 000.

Mr MALONEY - Yes. You add them both up. We paid tax on our profit and after paying the tax we paid the dividends, which I am trying to find out for you.

Ms GIDDINGS - While you find that, Mr Wing, I was just clarifying our government policy in relation to the staff freezes. The GBEs were exempt from any staff freezes. So it was totally correct of the Public Trustee to increase the staffing if they felt that was appropriate. The decision was not one that was going against any government policy.

Mr MALONEY - The amount we paid to the Government last financial year was \$694 000, so of the \$1.170 million they gave us they got about \$700 000 back. They were actually paying us \$470 000 last year which, providing all that service delivery because there is no-one else out there to do it, is probably a pretty good deal for taxpayers.

Mr WING - How many staff are there in the Hobart office?

Mr MALONEY - FTEs, we have more than 52 staff because we have nine people on part-time. In Launceston, I will have to -

Mr WING - In the Hobart office.

Mr MALONEY - Yes. About 40 FTEs, would it be? Around about 40.

Mr WING - Do you have much staff turnover in the Hobart office?

Mr MALONEY - We haven't had recently, but there were -

Mr WING - Since when?

Mr MALONEY - There haven't been a lot this year. There is a recent one, in that our corporate solicitor has just gone, and our HR manager went last year. There have been about four or five, most of those in the Hobart office.

Mr WING - In the last year?

Mr MALONEY - In the last year and a half.

Mr WING - How many staff are in the Launceston office?

Mr MALONEY - There are seven there, not FTEs but seven people.

Mr WING - There seems to have been quite a bit of turnover of Launceston managers, if that is the description. How many in the last 10 years?

Mr MALONEY - Since I have been in there, there have been -

Mr WING - How long is that?

Mr MALONEY - Seven years.

Mr WING - In that period.

Mr MALONEY - This is our fourth.

Mr WING - To what do you attribute the inability to keep managers?

Mr MALONEY - Some of it is probably confidential, but the first one just wanted to do other things, she did not want to work anymore so she left. She was replaced by a very good manager who was offered a much better-paying job in Queensland, so she left. The other one I would rather not say anything about, who just left, and we have had a very good Greg Maloney - a wonderful Launceston name, as you know, and we recently discovered we were related.

Laughter.

Mr MALONEY - We just had a Maloney reunion and discovered that we shared the same great-grandfather, so that was interesting. Greg started over a year ago. It has been difficult, there is no doubt about that. You do not like to see your managers leaving like that, except the last one who left just because he just wanted to leave, so that was his choice.

I have to say it has always been difficult getting managers at that level in the Launceston office, and it is not just us, you will find that in most organisations at that level. For some reason it is difficult to get them.

Mr WING - And to keep them.

Mr MALONEY - And to keep them. It is just one of those things. We would not be the only organisation to have that.

Mr WING - In the briefing document towards the end on the third-last page in relation to wills on hand, it says 2 159 are unknown. I am not sure how they could be on hand and not known.

Mr MALONEY - They would be very old ones and there would be data issues. Having gone through and done some marketing, sometimes you see a name but there won't be an address - that is a data entry issue and it is a major issue. They would be the ones they have gone through and we have no idea if they are north, north-east - we do not know.

Mr WING - So you do not know the location of the testator or testatrix?

Mr MALONEY - We do not know the location, we would not know which office they are in.

Mr WING - So the emphasis is on which area. In the preceding page of the briefing document, 'Annual Comparisons and Key Performance Indicators', there has been a steady decline each year since 2006-07 and the total payments to the Consolidated Fund are now less than half what they were four years ago. All those indicators in those four columns indicate consistent declines - would you like to comment on that?

Ms GIDDINGS - That is basically the information we have provided to Mr Dean, as to the reasons. If you are looking at your briefing note on pages 35 and 36 -

Mr MALONEY - A lot of that is revaluation. If you have a look at page 36 you can see the effect of that. That explains the ups and downs. It is the revaluations of our property, which comes in at -

Mr WING - I am personally not clear on how revaluations get to a situation where the actual profit from investments decreases from \$480 000 in 2006-07 to zero -

Mr MALONEY - We have sold them, that is the reason, and the effect of the sale has affected that.

Mr HALL - With our retained earnings of \$10 million to \$12 million, \$5 million was in one building, which is Murray Street, and the other \$7 million was in cash. As an investment portfolio of our retained earnings, having so much money in one building in one location is not particularly diversified. It was also seen by the effect on profit by the revaluations. The revaluation is a non-cash revaluation but it then meant that our dividend was increased, which is a cash outflow straight from the business. In the year 2006-07 we revalued the building by \$480 000 and we paid \$240 000 cash straight to the Government which we had not earned; it was just a paper revaluation. That is one of the reasons in going forward the investment of our corporate funds has been looked at by the board and the sale of the building is part of freeing up the cash and adding it to our other cash. We have gone through an investment policy review and that is going before the board shortly. Those funds now of \$10 million to \$12 million will be invested for the long term so that we get less volatile and also cash back into the business, as opposed to just having a building that is sitting there and may or may not be increasing in value. The \$135 000 in 2008-09 reflects that the valuation of the building has come down and in the budget of zero it reflects that we do not assume any revaluation or devaluation of the building in any budget, even though it may occur. What has now happened is that on 30 September the building was sold and that money will be invested and we should see it coming through as dividends.

Mr WING - I have one more matter and that is the question of the office's policy on insurance of estate properties. I refer to a situation that existed in the Launceston office about three or four years ago where a husband died and left interest in half the property to his widow and the Launceston office cancelled the existing insurance policies totally without any consultation with the widow and had the property covered by some common insurance -

Mr MALONEY - That is the bulk insurance policy, yes.

Mr WING - which was considerably more expensive for this widow. It was a small estate, she had very limited means and it was a big factor that the insurance policy increased substantially. I took the matter up with the Launceston office and it was satisfactorily resolved because they reinstated the original policy which gave adequate coverage at much less cost. But it just seemed to me to be totally inappropriate and unfair that the decision was made without consultation and without adequate inquiry which would have shown that the existing policy gave full coverage and that was ultimately the case. What is the current policy and what comment can you make on that?

Mr MALONEY - We have a bulk insurance policy. As you can imagine, we have many properties coming in and out and sometimes we do not even know whether we have properties, but as soon as an order is made or someone dies or whatever it might be and they have property we are liable, so we have a bulk insurance policy and we are using CGU and this gives us protection for those properties. Even though we have not notified them what the property is or what its value is, we are protected and so is the client. There is no question about the thing being properly insured.

The other issue is we need to make sure that it is insured for the right value. Some of these houses are not insured, they might be undervalued or they might be overvalued, but we need to make sure that they are insured at the right value. This policy is designed in the first instance to make sure that we manage that risk, and that is a huge risk to us as you could imagine, and that is why we have introduced it because there have been occasions in the past where - and I can remember eight or nine years ago before I was CEO - a property burned down and we did not know anything about it. It was vacant and it cost us money because it was not insured and that is why we need a policy that picks up those because we did not know. We had no way of knowing - it was on Kangaroo Island, of all places. That is why it was introduced.

But having said that, we do exercise discretion in cases like that one - and I do not know the full details of it but there is discretion - and we do have some people, especially where they are tenants in common and those sorts of cases where we can do that but it is not something we trumpet. For us it is most important that we manage our risk because we are the executor or the financial administrator and it is not the trustee so much, it is the other ones. We do not know what has happened to them and there have been cases in the past and in more recent times where houses have burnt down and we did not know about them, but they are covered, thank heavens, which is good for us and good for the client. That is the reason we do it - but there is discretion.

Mr WING - I can understand the responsibility and the policy but it took some time to correct this, whereas some prompt action, once it was drawn to the attention of the Launceston office, could have rectified it within a week; it took considerable time. Do you have any policy of checking these matters out quickly?

Mr MALONEY - If someone complains to them, we expect it to be dealt with quickly. We do not sit on these things. Unfortunately, I do not know the details of it but it should have been dealt with far quicker than that and it is disappointing that it was not.

Dr GOODWIN - Minister, I want to ask a question - because we were talking about staffing issues a minute ago - about attracting and retaining legal officers in the Public Trustee and whether that is difficult. I believe that the Public Trustee recently advertised a new position and I am wondering whether the retention of legal officers is an issue.

Mr MALONEY - How do I answer that one?

Ms CUNNINGHAM - I was going to say our corporate solicitor had been with us for 11 years, so I think that is pretty good testament to the working environment.

Mr MALONEY - We have just lost Brendan and we have lost someone who had been there a long time -

CHAIR - I was going to say, they have just moved on or somebody has retired?

Ms CUNNINGHAM - Somebody retired and has come back working part-time very happily.

[9.45 a.m.]

Mr MALONEY - There are plenty of lawyers out there; the university churns them out and a lot of them go interstate. We know that on the north-west coast getting lawyers to Launceston is another problem. These people are getting older and it is difficult to get people to go to these areas. There are plenty of them out there but whether they are quality, experienced lawyers that can come in and do a job is another issue. We have someone who is pretty experienced and started about two months ago, he is very good and we are very pleased to get him.

We will see what is out there, what is the market. I guess we will find out as we have pitched it at a certain level. I know that most of the guys in the Crown are probably earning more than that but this sort of work is not what you traditionally get from someone in the Crown because they are doing more government work and litigation and prosecutions - criminal stuff. This is more private-enterprise-type lawyers. They are more likely to come from the private sector than the government sector.

Ms CUNNINGHAM - Because they would have had experience in the State management. This recent appointment came from the private sector. I think that government work for a lawyer is quite attractive now. It is a very hard life out there in private practice and I should not imagine that we will have a lot of difficulty.

CHAIR - What about a policy of putting some young, inexperienced lawyers into your team and then building their skills up?

Mr MALONEY - We have one of those. We have three positions in the legal team and one of those is exactly that. We took her on about three years ago when she was straight out of university, so we have actually done that. But you do not want to have too many of those. It is all right to have one when you have only three altogether. You need two experienced people, one in the corporate area and the next level below. The guy that we have just taken on, thank heavens, is excellent because he has taken up these complex cases. You would not be able to get someone straight out of university for that, which is what this person was. But you are right, that is the way to do them. You need to get them in and grow them and mentor them and coach them and bring them forward.

CHAIR - Build some loyalty. Apologies, Dr Goodwin.

Dr GOODWIN - Minister, I want to ask you about investment. You have a number of investment funds and I want to get a feel for how clients' funds are managed in the different funds and why one fund is used over another. It is very well outlined in this brief, so thank you for that.

CHAIR - You will find that area highlighted in pink when you get yours back.

Dr GOODWIN - It's just for the record and for the benefit of members who have not had a chance to read the briefing paper. Could you talk about your recovery strategy for the GFC because obviously investment funds would have been affected?

Mr MALONEY - We have four funds. We have a common fund that is purely a cash-at-call fund. It is all set out there, it is a totally cash fund so it pays competitive cash rates which are much lower than you get on term deposits but ours is at call. We then have a No. 1, No. 2 and No. 3 fund. The No. 3 fund is closed to new investors; it was for some high-value clients that we had when we set it up. There are about 14 in there. We then have the No. 1 and No. 2 funds.

The No. 1 fund is 70 per cent defensive and 30 per cent growth and the No. 2 fund is 60:40 the other way. We look at their time horizon, essentially. For example, for two to five years it goes into the No. 1 fund and if it is less than two years, cash. If it is two to five years it is No. 1 fund and anything greater than five years will go in the No. 2 fund. It is an indexed fund and it has been in operation for five years. They are not actively managed so the fees are much cheaper, in the order of 0.5 per cent, at least half a per cent cheaper. We have an indexed fund because we are not big enough to have multiple managers. We only have two.

We have just done a review of this and we are having a meeting tomorrow. We have engaged PwC to review our investment objectives for our clients, our strategies and whether we should use index, use active and all those things. We have just received a draft report and we are speaking to PwC tomorrow to clarify -

CHAIR - PWC? We know it is not the Public Works Committee.

Mr MALONEY - PricewaterhouseCoopers. They are one of those big ones.

Ms CUNNINGHAM - We receive proposals from three different bodies.

Mr MALONEY - We decided to use them; they are good. They have done this for other public trustees so they know our business.

CHAIR - We know our Public Works Committee could be referred to as one of the big four. We know that.

Laughter.

Mr MALONEY - We are in the process of looking at the whole thing about how we invest our clients' money, whether it should be a higher growth or whether it should be left as it is. When we did this five years ago it was done through Mercer and we arrived at the current structure. Obviously things have changed in the meantime, so is it still appropriate? It is a whole different world out there from five or six years ago so we are waiting on that and then that will go to the board.

Ms CUNNINGHAM - We receive regular reports about how the funds are going against benchmark and we monitor that at our committee meetings and on the board.

Mr MALONEY - You can see from the returns with all the information there that it has certainly been a difficult year that has impacted on our clients. But the point is, obviously it has picked up. Most of our clients do not know what is going on; that is the reality.

Ms CUNNINGHAM - We send the statements but they are not competent to understand.

Mr MALONEY - These are people who do not have the capacity, that is why we manage their money. They do not ring up and ask about their returns, they do not see any. That is our responsibility and it puts even more responsibility on us to make sure we are doing the right thing by them because we do not have people like you and me on the other end badgering, saying, 'Change this, do that'.

Dr GOODWIN - Some of them would have parents or guardians presumably, who would be taking an interest.

Mr MALONEY - Yes, the parents of minors take an interest, and we have had some people this year. Parents get very nervous and they said, this is when the things dropped, pull it out, have to put it back into cash. I said, 'If we do that, I can guarantee you, things will rebound and you will miss the rebound.' So we stuck to our horses and, of course, it has. They would have locked in all their losses and, as you can see, the funds have gone up amazingly in the last six months.

Dr GOODWIN - I want to ask a quick question about partial intestacy matters and just by reference to a particular case, without going into the details. This concerns a small estate of about \$16 000 where the beneficiaries are four siblings and one of the siblings has predeceased the parents and, as I understand it, the Public Trustee is currently searching for that person's heirs and that has obviously prevented the distribution of this estate to the other three surviving children, at least, so far. Can you comment on how you go about resolving this issue as a matter of practice?

Mr MALONEY - There were four siblings, were there?

Dr GOODWIN - Yes, and one sibling predeceased.

Mr MALONEY - Was there a will?

Dr GOODWIN - Yes, a small estate, around \$16 000.

Mr MALONEY - They left it all equally to those - I am not an expert on this.

Ms CUNNINGHAM - But it would have been left to the surviving children of that person who predeceased. That would be the usual provision in a will. So you are saying they are trying to -

Dr GOODWIN - Track down the siblings.

Ms CUNNINGHAM - We have a process for doing for doing that.

Mr MALONEY - I thought the heirs in that case would have been the siblings.

CHAIR - We probably will not be able to hear the comments from the back, unfortunately. We need to share them with the people at the table.

Mr MALONEY - Gaylene, come forward and take a seat. Gaylene Cunningham, Manager, Client Services.

Ms G CUNNINGHAM - It is a little bit difficult to answer the question without knowing the full circumstances. However, just in a general sense, we have a genealogy researcher who does

our next-of-kin work for us, so depending upon where these people are would depend on what our internal process would be. Obviously the family is the key to giving us a bit of a head start in relation to where these people may be and then depending upon where they are, we choose a path in relation to what we need to find.

Dr GOODWIN - But you cannot distribute the other siblings' shares until you have resolved that?

Ms G CUNNINGHAM - That is correct.

Dr GOODWIN - Even if it is clearly specified in the will, you have to wait?

Ms G CUNNINGHAM - It may be that we find those children are deceased, so in fact rather than the estate being shared four ways it would only go to three, because that predeceased child may not in fact have live children.

CHAIR - Thank you, Gaylene; it might be a matter that Dr Goodwin could take up directly with the PT.

Mr GAFFNEY - I have two major questions, and I was pleased that you mentioned both marketing and community interaction beforehand. Have the television and other media campaigns you have pursued over the last 18 months or so been successful, and how has that been evaluated?

Mr MALONEY - Because they are a branding exercise we do brand research, and I do not want to talk much more about it that because it is commercial in confidence, but that is the way we do it. When we started the campaign we did some unprompted brand research - for example, if you said 'wills' to someone, how many people think of the Public Trustee? So you get your base data, and we are going to do that every year. It is very simple to do; it is done over the phone and we ring up 1 000 people and we use an external person to do that. So that is called unprompted branding and that is how we measure it. But that will take time. Brand awareness campaigns take a long time. You have to continue to do them and they can be expensive, so we do not want to spend all our money in that area. That is why we are looking at other areas like getting out there amongst the community and talking with them at seminars, talking to them in little groups, talking to organisations, nursing homes, carer support groups, all those sorts of things so people get the message that, 'The Public Trustee is good at that; I remember that because I was at that meeting when they came and provided us with that information'. So that is how we do it.

Eventually, we want to ensure that we increase our business, and the way we increase our deceased estate administration business - we do not have to worry about represented persons; we have that to ourselves - is to write more wills. There has been some increase there, and we monitor our clients. If you come in to do a will with us we will ask you why you came in, how did you find us? The responses will be, 'Oh, I saw it on TV' or 'I saw it in the press'. The other issue is the loyalty programs that we have put in place for retaining our current will clients, and we monitor that in terms of what we call 'later will statistics' on a monthly basis to see how all that is going. These are long-term strategies.

Ms CUNNINGHAM - And the board receives a report as to growth areas and measurements against targets, so we are constantly reviewing the effectiveness of our marketing program.

Mr GAFFNEY - So where you say you have community liaison interaction you would have an idea of which communities you have gone into and had that one-to-one or that small group work?

Ms CUNNINGHAM - There is a program for doing that around the State.

Mr MALONEY - We have regional marketing plans where they have to identify which organisations they are going to go and see each month and we have done a package for them. Then they report back as to what they have done and then follow that up six months later and go back and see them again. It could be seminars, it could be just seeing the staff, providing information, or it could be a hotline - 'I've got a problem with a client in the home, what do I do?' - that sort of thing.

Ms CUNNINGHAM - We also submit client survey reports, so we get that information back from our clients.

Mr GAFFNEY - We appreciate that community perception is really important with the Public Trustee's recognition and brand, but just very quickly, there have been two instances in the last couple of weeks where there has been poor media. I am not fussed so much about the actual incidents but I am worried about how the board is going to look at managing this for next year and the year after. One of them was on a story in the *Advocate* of 14 November by Sean Ford about Kayden Price and for those who are not familiar with the story, 15 years ago a kid was injured, awarded \$3 000; mum and dad put it aside until he was 18, expecting that there would be a lump sum and did not want to touch that because that was Kayden's money; and comes out with \$3 500, at a growth of - I am wondering when the parents are told, 'Look, there's \$3 519 after 15 years', do you then put in the fees that are being taken out or is it just a lump sum?

Ms GIDDINGS - Mike, that relates to that very first issue we were talking about with the fees on minors and the changes and the issue that Peter talked about around common law damages and, in that instance, it was a common law damages provision that was provided and the fees were not part of that damages settlement. So that is where we are trying to increase the understanding amongst lawyers that they do need to seek fees as part of their damages claim, but also they are looking at what you can do in terms of fees on those smaller accounts.

Ms CUNNINGHAM - We already have, as from 1 November.

Ms GIDDINGS - You have changed it, that is right.

Ms CUNNINGHAM - Yes.

Ms G CUNNINGHAM - In relation to all minor trusts that we have, we regularly account to the parents, so we send annual statements which detail what our fees have been for that period.

Mr GAFFNEY - I suppose I am speaking on behalf of the community, people who may not understand lawyer-speak and the information that comes to them. They just see, 'Here's the money that's been entrusted for 15 years to this group'. My point is not that case, but yesterday in the *Advocate* there was another letter to the editor: 'I refer to ...' -

Mr MALONEY - I know that - don't go there.

Mr GAFFNEY - 'commend him on his report of the plight ... Unfortunately, he can be reassured that it is not an isolated case.' So it is not at issue; it is about how the Public Trustee now gets back out to the media and says, 'Look, these are isolated cases, and this is what we are going to do to try to manage this situation', because once it starts getting a run on -

CHAIR - As brief as possible, thank you, Peter.

Mr MALONEY - Sure; we are mindful of that. We took some advice from a well-known communications consultant as to what we should do about that and we decided to write a letter which was basically along the lines of the briefing in here. We thought that was too difficult and they were not going to understand it.

Mr GAFFNEY - No.

Mr MALONEY - So we decided to forget about it but then as soon as we made the change - because we were going to fix this up anyway - to then issue a press release to say we had fixed it. We did that yesterday and whether it got a run in the *Advocate*, I do not know.

Mr GAFFNEY - Okay.

Mr MALONEY - But we do look at those things and we had already identified this is an issue about six months at the board level. It is too late for him. So there are two things - yes, we are addressing it and we look at that sort of thing, and in relation to the other one, I cannot deal with that, that is just unfortunate; he is not a client of ours.

Mr GAFFNEY - No, I was just saying this is the perception through the community.

Ms CUNNINGHAM - Those issues are addressed to the board too through the CEO's report, so we are aware of the substantial -

Mr MALONEY - We look at it and make a decision - 'How do we respond to that?' - and we get a bit of advice about that. What we did was forget the letter, it was too complex. I spoke to Sean Ford before he wrote that article - he didn't quite get me right, he missed a few things there - but it is very difficult to explain this issue about our cost recovery. It is very difficult to get that out; they just do not understand it, and that is pretty critical.

Mr FINCH - I want to explore a little bit the status of the building in Wellington Street where the PT has moved from Wellington Street into the MAIB. Has that building in Wellington Street been sold?

Mr MALONEY - Yes, we sold that four or five years ago.

Mr FINCH - How recently did you move to the MAIB building?

Mr MALONEY - In January this year, so we leased the building back.

Mr FINCH - So with MAIB, do people know where you are now?

Mr MALONEY - Well, I hope so! I think so.

Mr FINCH - Have you been advertising that?

Mr MALONEY - We have our signs. We do not get a lot of people walking past and suddenly saying, 'Oh, I'd better go in'; they know where we are. All our represented persons know where we are. People who need to come in and see us make appointments, so they know where we are. We get very few people walking in off the street suddenly saying, 'Oh, I'd better make a will'. It doesn't operate like that. We have seen no problem with it. It is a much better building than where we were, as you know. Wellington Street was not a good place to have an office, especially when it was an old house.

Ms G CUNNINGHAM - It is also notified on our web site and we do actually get a lot of hits. We monitor the web site quite regularly. There is a lot of information on there.

Mr MALONEY - They have signage up there. As you come down the street, you can see the signage.

Mr FINCH - Talking about staffing numbers, what has happened with the move to MAIB? Has there been an increase in the seven?

Mr MALONEY - No, it has been exactly the same. That has been stable for more than four years now.

Mr FINCH - Who is the most senior officer in Launceston?

Mr MALONEY - We have a man up there who has been there 41 years.

Ms CUNNINGHAM - He got an award from the Premier on Thursday of last week.

Mr FINCH - As to staff superannuation, we have talked about the defined benefits scheme and that some of the staff are on it and some are not. Has the proportion changed in the last few years?

Mr HALL - Obviously, with the RBF scheme closing in 1999 the numbers in the RBF contributor scheme are reduced each year. I think it is down to about 40 per cent of the people now, or even high 30s, whereas two or three years ago it was 50:50 and obviously, going back 10 years ago it would have been 100 per cent in the contributory scheme. It is just because of people retiring who were in the contributory scheme. The numbers are decreasing because that contributory scheme was closed 10 years ago.

Mr FINCH - On staff costs, we have previously looked at a high proportion of revenue - 69 per cent - relating to employee costs. Has that figure been reduced?

Mr MALONEY - It is about the same; that has been static. As long as I have been there it has been roughly around that 69-70 per cent, even with the salary increases arising out of the State Service wages agreement. Our revenue is going up but the proportion seems to be the same. In the last few years it has been 70, 69, 70, 70, 68 - that was last year - so it has hovered around the 68 to 70 per cent range for the last five years.

Mr HALL - We have talked previously about information technology so far as PT is concerned, can you inform the committee how we are going with that? Are we up to speed? Have we embraced that moving ahead?

Mr MALONEY - Service industry is interesting because you cannot get away from the fact that it is a personal service. It is not something you can computerise by getting rid of all contact; you cannot do that. Having said that, do we have the schmicko, the greatest computer system of all? No, we have not. Can we afford anything different? No, we cannot because we are talking about lots and lots of money, which we do not have.

Mr HALL - The major system we have is from Ultradata and it is called TACT - a trust accounting system. I think most of the small trust accounting or trust firms in Australia use the same system. The ACT, the Northern Territory and the smaller States are all on the same sort of IT framework. The larger organisations in Victoria, Queensland and Western Australia have invested in their own trust systems. They have in-house teams, they have spent the money, they are on different structures. We are in the same situation as most small trust firms with that trust accounting system.

Mr MALONEY - We have established an operational improvements committee, which has some consultants on it, and we meet once a month. With the processing we do we are always looking at opportunities of how we can automate it to reduce the time taken to do things. TACT makes it a bit difficult because you have to add things to it - it is not the greatest system in the world but it is what it is. We have a new will-writing system that we have just put in - Chameleon - which is very interesting. We are also looking at what we call a 'client-related management system' to get more information about our clients. So we are looking at areas like that, but the actual, fundamental system is what it is.

Ms CUNNINGHAM - It is regularly audited by KPMG.

Mr FINCH - I want to ask about training programs to familiarise staff, particularly with the amendments to the law and entitlements brought about by the amended Wills Act. Were they held? What was the level of staff who were required to attend those programs?

Mr MALONEY - For will writing?

Mr FINCH - Just to the amendments, to the law and entitlements. Did you run staff training programs for that?

Mr MALONEY - For will writing, all the people who take will instructions - that is in the north, the south and in Burnie - had training in relation to that, and would have been told. We always have - it is up to the Corporate Solicitor to inform his staff and those who take will instructions what all the changes are, so yes, we did that.

CHAIR - Mr Finch, unfortunately we are not going to be able to proceed but, Minister, before we finish quickly - and I am happy to take this question on notice - the Tasmanian Government is the only government, I believe, that does not have a policy position on protecting elder abuse, which obviously financial abuse would come under. When are you likely to have that?

Ms GIDDINGS - We are developing policy around elder abuse, and in fact the Department of Health and Human Services is now doing that. There was preliminary work done by the Department of Premier and Cabinet, and that framework work they have done has now been passed over to the Department of Health and Human Services.

CHAIR - And PT would be involved in that?

Mr MALONEY - Can I just quickly say this: you have hit upon an area of concern for me and the organisation, we see the effects of it. I am always out there beating the drum -

CHAIR - You would be at the end of it.

Mr MALONEY - I am at the end of it, so we are always beating the drum. Whenever I get the opportunity I talk about that issue and get information out there to people around what they can do about it. A lot of this community stuff that we do is designed around telling people, 'If you see these things, you start asking some questions'. A bit of the red flags.

CHAIR - Minister, and the Public Trustee and all the people who have joined us today, thank you so much. We certainly appreciate your time; we wish we had longer and it is something we will take up with the Government.

The committee suspended at 10.13 a.m.