

Legislative Council

13th February 2008

PUBLIC TRUSTEE

The Hon. A. BRESSINGTON (17:15): I seek leave to move the motion standing in my name in an amended form.

Leave granted.

The Hon. A. BRESSINGTON: I move:

That the Statutory Authorities Review Committee inquire into and report upon the Office of the Public Trustee and, in particular:

1. The management systems, processes, procedures and protocols in place to deal with allegations of misappropriation of funds and any other improper conduct at the Office of the Public Trustee (but excluding any matter which may be currently sub judice).

2. The management of client files and their funds, including the management systems, processes, procedures and protocols in place to ensure that the clients' files and funds are effectively and efficiently managed.

3. The management systems, processes, procedures and protocols in place to deal with allegations of inefficient or incompetent handling of client files.

4. Allegations of workplace bullying and harassment in the Public Trustee's office and the management systems, processes, procedures and protocols in place to deal effectively and efficiently with such allegations.

5. Whether clients and/or potential clients of the Public Trustee are appropriately advised as to likely consequences and costs of engaging the services of the Public Trustee, particularly in relation to the drawing of wills and the management of estates.

6. Any other matters relevant to the operation of the Office of the Public Trustee or the legislation under which it operates.

I have been approached by a considerable number of constituents with complaints about the Public Trustee whose issues are yet to be resolved. These complaints range from the annoying inconveniences and disruption to people's life in relation to poor administration of people's finances to the much more serious allegation of mismanagement and possible abuse of public office and authority.

I realise that the Public Trustee, Mr Mark Bodycoat, has raised his concerns about the adverse publicity his office has received in the media of late. However, it is too important to ignore the voice of people who have been adversely affected by what they claim to be wrongful, if not questionable, decisions and decision-making processes. For this reason and the need for probity and transparency, it is important to investigate these allegations and to find solutions, if need be.

To highlight some of the problems, I will provide members with a summary of a few of the cases of constituents who have contacted my office. However, I will, of course, leave out names because of confidentiality issues.

In 1994, Mrs L suffered an aneurism that left her with brain injuries and on a disability pension. After many years of improvement, she was then involved in a serious car accident, which left her with head injuries, which resulted in her being unable to read, as well as a massive health setback. In November 2006, this same person was awarded half a million dollars in compensation, but a court order was in place. Her husband complains that the Public Trustee will not allow her to access her money when she needs it. For example, she needed \$650 for car repairs and \$1,000 for the Christmas period for food and gifts, etc. for the family get together. The Public Trustee refused her the money for the car repairs and gave her \$500 over Christmas. This would not be so awful if it were not for the fact that the Public Trustee took out \$11,000 in fees for itself. Meanwhile, this person was granted permission to purchase a \$2,000 horse but not the equipment, food and other items needed for its upkeep.

Another such case is that of Mr J who, on 13 June 2007, was placed under the Public Trustee via a judge at the Guardianship Board after it was falsely stated by this person's step-daughter that she did not know a person whom the family wanted to act as executor of this person's estate, as well as the financial management (this person had had experience in these matters over a period of years). The daughter had known this person for 20 years and had been in his company only four days prior to the court hearing. The person was admonished by the judge when he queried the statement that his daughter did not know the person.

At the time, Mr J's house in Highbury was valued at \$500,000. His wife had passed away two months earlier. Mr J was a keen gardener and kept his property immaculate. Prior to the family knowing about any earlier valuations, this person's former stepdaughter had a valuation of \$480,000 on his house. Since then, another valuation has valued the property at \$415,000. This person received a letter in early January of this year indicating that the Public Trustee would be selling the property for \$350,000. When this person queried this valuation via a telephone call on 30 January 2008 (only two weeks ago), he received a letter advising that the property was now being sold for \$365,000.

Meanwhile, this person had discovered that the garden had not been looked after and that perhaps there could be a small devaluation on the value of the property, but nowhere near the amount the Public Trustee claims is the top dollar he could get for it.

This person's home was cleaned out by the Public Trustee without any notification being given to his liaison person. Not even a toilet roll was left. Even beautiful timber features on the walls for displaying ornate items were removed and taken to an auction house on Torrens Road. This person is a keen golfer, but even his golf clubs were taken for auctioning. After much persistence by his brother, the golf clubs were finally returned, but a \$500 golf club is still missing.

I am advised by this person that his daughter and her mother had coerced this person to alter his will to his stepchildren's favour and leaving his only daughter \$20,000 out of an estate worth considerably more than \$500,000. This person was also pressured to mortgage his house so that his daughter could purchase a house mortgage free. Prior to this, the daughter was bankrupted in New South Wales. However, when she arrived to live in Adelaide she was able to afford for her child to attend a private college, which was paid for by her father.

It seems that these cases are only the tip of the iceberg. My office has been contacted by a redeployee from the Office of the Public Trustee, and they have provided my office with at least 120 cases requiring further scrutiny. Many of these would raise alarm bells.

Some examples (and just a few) given by this person include a woman denied \$5,300 for home repairs but whose purchase of a \$7,000 car was later approved. The designated driver of the car was the woman's aunt who lived in Salisbury, while the woman needing the transport for medical appointments and shopping actually lived in Whyalla. When the woman subsequently received a statement showing the asset of a car, she claimed to not know anything about the vehicle and has

sought to get her money back, which has been a battle. She did not actually put in any request for the purchase of that car to the Public Trustee.

Another client with two cars had two insurance policies approved, both on one vehicle. Parents of a client, who were also the client's carers, had a holiday approved at her expense while the client stayed at home. They received air fares, car hire, accommodation and \$150 a day spending money. They retrospectively claimed reimbursement for their holiday. No-one appeared to question why a person who required two carers had been on a trip with only one carer or whether she had even been on the trip at all. Receipts were not even provided for some claims made by these parent carers.

A \$294,000 estate was projected, at the then rate of expenditure, to be wiped out within eight years with nothing but a 14 year old car to show for it. This redeployee explained that the Office of the Public Trustee would have a hard time explaining such an outcome to a court but was told by one of his supervisors to 'stop questioning other people's decision-making.'

This redeployee has tried to raise his public-interest disclosures on many occasions and has endeavoured to seek the protections of the Whistleblowers Protection Act through the Commissioner for Equal Opportunity and various other authorities but to no avail. He was advised that the Commissioner for Equal Opportunity did not consider his disclosures to be in the public interest at all. Perhaps we should ask the clients who are at the receiving end of some of the Office of the Public Trustee's poor and questionable decisions.

The deeply distressing aspect of the redeployee's story has been his appalling treatment by the Public Service bureaucracy which, when presented with his disclosures, fobbed him off, marginalised him and, ultimately, took him out of the work which he was employed to do and which evidence will show that he did with a great deal of passion and conscientiousness, with his clients in mind, as a true public servant. I am now advised that this person is on a medical certificate validating his work-related stress and using up his own superannuation income (not the taxpayers' workers compensation system), and being hampered in his own efforts to return to work.

In fact, this person's solid work ethic as an ASO4, when he entered the department some 9½ years ago, resulted in a colleague advising him to slow down because 'You're making everyone else look bad.' Five months later this person was promoted to team leader (ASO5). This person describes his job as both challenging and rewarding from the point of view of servicing his clients' needs; however, this was also hampered when dealing with his own department. This person describes the morale in the department as one that 'dumbed down' officers to a lower standard rather than one which would raise the level of professionalism within the department.

As team leader, this person reported in a memo to the Deputy Public Trustee at the time that a subordinate officer was not competent in his duties. This person was ordered to destroy the memo and warned never to make such a claim again. Significantly, this person was told by the subordinate officer, during an annual review of his work performance, that 'someone from your socioeconomic background should not be criticising someone from my socioeconomic background.' To add insult to injury, when this person reported to the then Deputy Public Trustee that his authority was being ignored by the officer, this person was told, 'What you are actually telling me is that you can't do your job.'

This person has vigorously pursued these and other disclosures by taking them to the government investigation office within the Attorney-General's Department, which referred the matters to the Crown Solicitor, who recommended an independent audit. However, this audit examined only the cases this person had highlighted or brought to the attention of the authorities. Those cases were resolved or dealt with, but no further attempts were made to detect other instances within over 3,000 files under the control of the Public Trustee's Personal Estates Branch. This person believes his sample group was merely a snapshot of bungled or poor decision-making.

Amongst his many allegations he claims that it was common practice for team leaders and branch managers to falsify audit compliance reports. If true, this allegation must surely be investigated further through a proper inquiry. In fact, instead of leaving this person to thoroughly identify and rectify the systemic problems he was uncovering and seeking his support, the then General Manager of Client Services had this person seconded to the position of senior project officer working directly under his day-to-day direction.

Mr President, as you will no doubt be aware, the Hon. Nick Xenophon indicated on 26 May 2007 that he would be moving a motion for an inquiry into the Public Trustee, and my motion today seeks to take this very important matter further towards bringing closure for so many people whose quality of life has been diminished or put on hold and, hopefully, to prevent these situations from occurring.

Debate adjourned on motion of Hon. I.K. Hunter.