

SUMMARY REPORT – SPECIAL REVIEW OF THE OFFICE OF THE PUBLIC TRUSTEE

January 2018

We undertook a special review of the Office of the Public Trustee in response to issues raised by the Committee for Economic Development (CfED) and the Policy & Resources Committee. We commenced our work on 14th November and issued a draft report on 1st December 2017 as agreed. We were subsequently instructed to undertake a diligent factual accuracy process.

Our review addressed a number of key questions surrounding the powers of the Public Trustee, requirements of the relevant legislation, the processes regarding escalating costs to public finances, whether these were in line with existing ways of working, whether the former President of the CfED managed conflicts of interest at all times, the circumstances surrounding the appointment of Ferbrache & Farrell and any potential breach by the former CfED President of the Code of Conduct.

We found that:

- The function and powers of the Public Trustee are governed by legislation and that the Public Trustee acted within her powers to accept the case.
- Despite an initial approach by the Public Trustee to the CfED and P&R in July/August 2016 regarding proposed funding, at no point has the former Public Trustee sought a grant or loan from the Committee. This would have enabled the Committee to follow the process set out in the Law. While the Law does not explicitly indicate that this is the only way to obtain funding, we believe it would have been good practice for the Public Trustee to seek a grant or loan from the Committee. The Public Trustee believed that she had duly consulted with CfED in respect of the public finances through regular contact with the finance/accounting team.
- The Public Trustee followed existing custom and practice throughout, as the finance/accounting team provided the administrative support to process financial transactions on her behalf. There was no formal, documented process in place to identify and report escalating costs beyond the monthly CfED management accounts.
- The Law Officers' Officers Civil Litigation Team provided initial legal support to the Public Trustee. We believe that the Public Trustee discussed the potential appointment of Ferbrache & Farrell in a conversation with the former President on 3rd April 2017. However, from our review of the documentation and interviews with civil servants, the Public Trustee, former President and Vice-President of the CfED we found no evidence of an actual conflict of interest.
- The appointment of Ferbrache & Farrell was solely a matter for the Public Trustee under the Law.
- We found no evidence of a breach by the former President of the CfED of the Code of Conduct for Members of the States of Deliberation.

We have provided some initial feedback to CfED on their proposed procedures to ensure compliance with the relevant legislation and safeguards for the appropriate use of public finances in future. We are happy to assist further as the proposed procedures are developed.

However we have also recommended that the current law and governance relating to the Office of the Public Trustee be formally reviewed to assess whether they are fit for purpose.

Zain Chesshire
States Head of Assurance