

Outstanding Recommendations

Assessment of Implementation Report

Alberta Justice and Solicitor General

Control Systems at the Office of the Public Guardian and Trustee

(February 2013)

Summary of Recommendations

In November 2021, we completed our assessment of implementation from our February 2013 audit of Alberta Justice and Solicitor General's *Control Systems at the Office of the Public Guardian and Trustee*. We found that four of our five recommendations have been implemented:

IMPLEMENTED Recommendation:
Improve supervisory review of client files

IMPLEMENTED Recommendation:
Strengthen the role of internal audit (now Divisional Assurance)

IMPLEMENTED Recommendation:
Strengthen approval and payment processes for payments from client trust accounts

IMPLEMENTED Recommendation:
Improve processes to ensure client files are appropriately documented

REPEATED Recommendation:
Improve and follow policies and procedures

Introduction

The Office of the Public Guardian and Trustee (the Office) holds trusts and manages property and money for Albertans who cannot act for themselves, including represented adults, minors and the deceased. As of March 31, 2021, the Office was responsible for over 13,000 trusts, totaling \$566 million.²⁷

In 2013 we audited the controls supporting the Office's management of client trust accounts and found many deficiencies. We concluded that vulnerable Albertans who relied on the Public Trustee to manage their money and assets were at risk of their trusts being mismanaged.

Since then, many changes have taken place and the controls have improved considerably. However, errors are still occurring in important areas. This poses a risk that some may not be detected and corrected and is inefficient as it creates additional work for staff to find and correct errors.

The Office is examining the root causes for the errors to assist in addressing them. They also plan to move from a paper-based work environment to a more automated system in the near future to reduce the likelihood of errors occurring in the first place.

Background

In 2013, we made five recommendations to the Office:²⁸

- improve file management processes to ensure all client files are subject to adequate supervisory review
- strengthen the role of internal audit (now Divisional Assurance), ensuring it has adequate authority and independence to effectively perform its function
- strengthen processes for approval and payment of client expenses and disbursements
- improve processes to ensure client files are appropriately documented²⁹
- review and assess whether policies are appropriate, and procedures are adequate to mitigate the risk that client assets could be misappropriated or otherwise mismanaged, and improve processes for ensuring compliance with policies and procedures

In 2017, we assessed progress as management had not been able to implement our five recommendations. At that time, we found that progress had been made on some important steps; however, deficiencies remained in some aspects of the management of clients' trust funds.³⁰

During our progress review, a government reorganization resulted in the Office being moved from the former Department of Human Services to the Department of Justice and Solicitor General. With this move the Office received resources and additional support to make needed systemic changes. The management team was expanded, and it began a process of designing a risk-based and client-centered approach to its business processes and internal control framework.

The Office implemented a series of changes and new processes over the past five years, and we assessed these as part of our recent work. In November 2021, we completed our assessment of implementation of the recommendations. We have concluded that the Office has implemented four of our five recommendations; we are repeating the fifth.

²⁷ 2020–21 Annual Report, Office of the Public Guardian and Trustee, page 40.

²⁸ *Report of the Auditor General of Alberta—February 2013*, pages 33–50.

²⁹ The original recommendation was: 'We recommend that the OPGT improve its processes for ensuring client files are appropriately documented, **including adequate documentation of supervisory review and internal audit.**' We excluded the section in bold, as it overlaps with other recommendations.

³⁰ *Report of the Auditor General of Alberta—May 2017*, page 95.

Recommendation: **Improve supervisory review of client files**

IMPLEMENTED

Context

In 2013, we found that the Office's processes to provide oversight of its trust administration activities needed to be improved. At the time, we found widespread instances of non-compliance with policies. For example, staff made payments from clients' trust accounts without proper approval or without sufficient support to confirm the funds were used for the intended purposes and were in the best interests of the clients. We also found files that were dormant for extended periods of time with no evidence of activity or review, and that minors' trust files were not subject to the same level of scrutiny as other files. There was no regular and robust supervisory review process for active files.

In our progress review in 2017, we observed that the Office had tried several iterations of a supervisory review process, and we noted concerns with that process.

Our current findings

The Office has implemented our recommendation to improve its file management processes to ensure client files are subject to supervisory review.³¹

Since 2017, the Office has improved its operational oversight by implementing:

- a risk-based file review process that occurs as files move through various stages – from when the client is first referred to the Office, to when the court application is made, to ongoing annual support. Results of these reviews are reported regularly to staff and management and quarterly to the office's Governance, Risk and Compliance Committee and to the Assistant Deputy Minister's office.
- monitoring processes for specific high-risk areas, such as clients with companionship expenditures or clients who hold bank accounts in the community.
- targeted reviews on areas identified by management. Results are aggregated and presented quarterly to the business area, the Governance, Risk and Compliance Committee and to the Assistant Deputy Minister's office.

Previously, without these supervisory review processes, errors were not being detected. The current supervisory review process is detecting and correcting errors.

³¹ *Report of the Auditor General of Alberta—February 2013*, pp. 47–48.

Recommendation: **Strengthen the role of internal audit (now Divisional Assurance)**

IMPLEMENTED

Context

In 2013, we found that the Office's internal audit function had a limited role and was not sufficiently independent. It primarily reviewed files prior to final distribution of funds, which is an operational process rather than an audit function. Also, the group reported directly to the Public Trustee, rather than to the department.

In 2017, we found that efforts had been made to improve the independence and rigour of the internal audit function; however, competing priorities for the internal audit staff led to the Office effectively having no internal audit function.

Our current findings

The Office has implemented our recommendation to strengthen the role of its internal audit (now called Divisional Assurance) by ensuring it has adequate authority and independence to effectively perform its function.

In 2018, the Department of Justice and Solicitor General established a divisional assurance group to provide independent, objective financial assurance and consulting services to the Office and other programs within the department.

We found that the Divisional Assurance group:

- has a reporting structure independent of Office management, by reporting to the Assistant Deputy Minister of the Financial Services Division
 - performed monthly testing of a sample of Office disbursements, provided findings to the Office and implemented a process for management to report back on its follow-up actions to correct all identified errors
 - completed additional examinations in specific areas of risk identified in its annual work plan. Assurance reports with recommendations were provided to the Office to identify areas for improvement
 - provided periodic reporting of its key findings and analysis of identified trends
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Recommendation:
Strengthen approval and payment processes for payments from client trust accounts

IMPLEMENTED

Context

In 2013, we found the Office's processes for approving and paying expenses and other disbursements from client trust accounts needed to be improved. For example, we found trust administration staff sometimes approved payments without providing sufficient documentation, and finance staff would often process the payment anyway, even though they should have requested documentation. We also found instances where approvals were missing or did not have the proper level of authorization.

In 2017, we noted that good progress had been made and new controls had been designed and implemented to support better review and approval of client trust disbursements.

Our current findings

The Office has implemented our recommendation to strengthen its processes to approve and make payments for expenses and other disbursements from client trust accounts. We test these processes as part of our annual financial statement audit and have confirmed the Office has improved the financial controls.

We found that the Office:

- implemented a semi-annual review process for recurring payments
 - reviewed transactions for appropriate authorization prior to payment
 - performed regular bank account reconciliations and validated payments prior to their release
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Recommendation: **Improve processes to ensure client files are appropriately documented**

IMPLEMENTED

Context

In 2013, we found that files were not well organized and contained numerous duplicate documents. For clients whose files spanned many years or decades, the impact of the disarray we found was significant. We found the state of the files at the time was a barrier to both efficient and effective delivery of services to clients and oversight of trust administration practices.

In 2017, we noted progress had been made in redesigning the structure of client files and developing templates and other tools to assist in providing clarity and ease of use of paper files. The Office maintains both a paper file and an electronic folder for each client and needed to provide clear guidance on when and how staff should use the electronic folders.

Our current findings

The Office has implemented our recommendation to improve its processes to ensure client files are appropriately documented.

We found that the overall efficiency of file administration continues to be limited by the reliance on paper-based file documentation processes. Despite this, the Office has made improvements to the structure and organization of client files.

We found that the Office:

- introduced and implemented new file structure standards which improved organization and consistency, and reduced unnecessary duplication
- implemented the use of checklists and decision memos to improve the clarity of file documentation

The Office has deferred its plans to move to an electronic data storage option to coordinate with its overall information system upgrade. In the interim, management clarified its guidance on the use of electronic folders.

We have assessed the implementation of this recommendation based on the overall structure and organization of the paper-based files. Where files may be missing supporting documentation, we have addressed these deficiencies in the repeated recommendation that follows.

Recommendation: **Improve and follow policies and procedures**

REPEATED

We recommend that the Office of the Public Guardian and Trustee:

- review and assess whether its policies are appropriate, and procedures are adequate to mitigate the risk that client assets could be mismanaged
- improve its processes for ensuring compliance with policies and procedures

Context

We have repeated this recommendation because although the Office improved its internal control systems as described above for the implemented recommendations, there continue to be errors with day-to-day trust administration activities and transactions.

The Office's processes have improved such that the organization's supervisory review and Divisional Assurance processes now consistently identify errors and areas of concern in trust administration processes.

The Office has established processes to identify the root causes in areas where error rates remain high. The remaining step is to assess the root causes and take action to create sustainable improvements. Over the longer term, this will result in a better balance of preventative controls to ensure errors do not occur in the first place and less reliance on detective controls performed afterward by supervisors and Divisional Assurance.

Our current findings

The Office has developed policies and procedures; however, not all are being followed consistently. While we observed improvements in the Office's processes, we note there continue to be errors regarding the recording of client assets, ensuring clients receive all benefits they are entitled to and using client budgets for overall financial planning.

We found that the Office:

- has a rotational process to review its policies and procedures every three years
- improved its oversight processes to help identify errors
- continues to have high error rates in some areas
- has identified root causes for the errors but not addressed them

Three-year rotational review of policies and procedures

The Office has implemented a three-year rotational review process for its policies and procedures. Management completed the first regular rotation in December 2020. Updates on the status of these reviews are reported quarterly to the Governance, Risk and Compliance Committee. In addition, the Policy Review Committee performed additional policy reviews in response to suggestions from trust administration or the Governance, Risk and Compliance Committee based on findings from the oversight processes or other identified risks.

Improved oversight processes to identify errors

The Office improved its processes by increasing its oversight, including supervisory file reviews and Divisional Assurance. These changes have been effective in identifying errors.

High error rates in some areas

Specifically, the supervisory file reviews have identified high error rates in the following areas. The Office corrects exceptions and errors identified during these reviews and if an error results in a financial impact for a client, it is corrected and the client is compensated.

- one third of the 180 new client files reviewed³² did not confirm and document all personal property assets the client owns that the Office needs to help manage. These assets include items such as medical devices, furniture or electronics.
- one quarter of the 330 files reviewed for established clients lacked documentation evidencing that additional medical and dental benefits from applicable federal and provincial programs had been pursued on behalf of the clients. Clients' circumstances can change over time and impact their eligibility for some programs, so it is important for the Office to reassess clients' status periodically.
- one third of the 180 new client files and one quarter of the 330 files reviewed for established clients did not have a required client budget on file. Establishing a budget confirms the client's financial circumstance and provides the information necessary for overall financial planning and for approving larger expenditures from the trust account.

In addition, Divisional Assurance tests a sample of payments from trust accounts on a monthly basis. They regularly accumulate and report on the results. For the two years up to January 2020, they reported that they tested 508 payments and found 138 errors. These included:

- instances where policies and procedures were not followed. Two policies caused the majority of errors due to their complexity and the high-risk nature of the expenses: companionship services and travel expenses. The deficiencies were often non-financial and involved important travel or other required documentation.
- not adding or removing client assets from the records within the established timeframe when larger items were purchased or disposed of. This includes personal items such as furniture or medical equipment, or real property such as buildings or land.
- missing client file documentation, such as payments made without proper support or without assessing whether the client's budget can accommodate the expenditure.

³² This included new files reviewed in 2020 and the first quarter of 2021.

Root causes for errors not addressed

The Office has been able to quantify and analyze error trends for areas of most concern; however, processes to address root causes have not been formalized. Therefore, the Office continues to spend significant resources correcting errors. Improvements made to date have required an investment of significant time and resources; however, the benefits will not be fully realized until the Office addresses the root causes of the errors it detects.

The Office has developed a framework to categorize errors as relating to policies and procedures, quality assurance, performance management or training needs. What remains to be done is for management to formalize its processes to make the targeted and sustainable changes needed to address those root causes.

Consequences of not taking action

The Office is entrusted with managing property and money for Albertans who are unable to act for themselves. This means the Office manages the financial interests for some of the most vulnerable people in Alberta. The duties and responsibilities are significant, as the trustee must act with care, with integrity, and in the best interest of the person whose trust they hold. Internal controls must be established and working well to prevent or detect and correct errors in a timely manner.

In instances where day-to-day trust administration activities and transactions do not comply with the Office's procedures and policies, there are two important consequences. The first is that the risk that client trust funds will not be administered properly is increased. Although the dollar amount of individual errors may not be significant, many of the Office's clients have limited income, so errors of any amount may impact them. If procedures are not followed, there is a risk that:

- financial and valuable personal property assets held in trust will not be accurately documented so they can be safeguarded
- eligibility for benefit programs will not be reassessed periodically and pursued on behalf of the client
- client trust-account budgets will not be maintained to ensure spending guidelines for vulnerable clients are followed

The second is that it is much less efficient across the organization if work is not done correctly or completely the first time. Continually correcting errors after they have occurred instead of ensuring policies and processes are complied with in the first place puts undue stress on the organization's systems of internal control and the staff administering them.