

# Annual Report

2022-23



## Acknowledgement of Country

We acknowledge the Traditional Custodians of the lands throughout New South Wales and recognise their ongoing connections to land, sea, culture, and community. We pay our respects to Elders past, present and emerging.



**Billy Reynolds,**  
My Identity, acrylic on  
canvas, 2018

# Contents

Overview	7
Strategy	16
Operations and performance	21
Management and accountability	56
Sustainability	64
Financial performance	68
Appendices	128



NSW Trustee  
& Guardian

The Hon. Michael Daley MP  
Attorney General  
Parliament House  
SYDNEY NSW 2000

Dear Attorney General

I am pleased to submit NSW Trustee and Guardian's 2022-23 Annual Report including the audited financial statements for presentation to the NSW Parliament. The Annual Report summarises the performance and activities of NSW Trustee and Guardian in carrying out the functions of the NSW Trustee, Public Guardian and the Commissioner of Dormant Funds.

The Annual Report has been prepared in accordance with the *Government Sector Finance Act 2018* and the *NSW Trustee and Guardian Act 2009*.

The Annual Report has been provided to the Attorney General after the deadline of 31 October 2023. This is a result of the appointment of an Acting Chief Executive Officer on 26 September 2023.

An application for an extension of time to submit the Annual Report to the Attorney General was not lodged with the Secretary of the NSW Treasury as the appointment of the Acting Chief Executive Officer occurred at the same time as the three-month limit for those applications expired.

After the report is presented to Parliament, it will be available for public access on NSW Trustee and Guardian's website.

Yours sincerely,

*Brian Woods*

Brian Woods  
**Acting Chief Executive Officer**  
NSW Trustee and Guardian

**Parramatta Branch**  
▪ DX 1335 Sydney

▪ Justice Precinct Office, Ground Floor, 160 Marsden St Parramatta 2150 ▪ Locked Bag 5115 Parramatta NSW 2124  
▪ Ph 02 8688 2600 ▪ Fx 02 8688 9785

ABN 63 764 821 435

▪ Please quote our reference in your reply ▪

[www.tag.nsw.gov.au](http://www.tag.nsw.gov.au)



# About our Annual Report



The NSW Trustee and Guardian Annual Report for 2022-23 outlines our activities and performance in carrying out the functions of the NSW Trustee, the Public Guardian and the Commissioner of Dormant Funds during the year.

It also contains our financial statements for 2022-23. The financial statements have been audited by the Audit Office of New South Wales.

The Annual Report also includes case studies that illustrate our work. Names and locations have been changed to maintain customer confidentiality.

Our Annual Reports are published on our [website](#).

A hardcopy can be provided on request by calling 1300 109 290 and speaking to our Customer Resolutions Coordinator or by emailing them at [tagmail@tag.nsw.gov.au](mailto:tagmail@tag.nsw.gov.au).

There were no external costs incurred in producing the annual report.

# From our Chief Executive Officer



I am pleased to present NSW Trustee and Guardian's 2022-23 Annual Report setting out the breadth and depth of our work and the results we have achieved.

As in previous years, we have continued to see the impact of changes in our customer base and what they need and expect from us as well as changes in our operating environment. This includes on-going growth in demand for our services and the complexity involved in providing services.

During 2022-23, we implemented new operating models for providing services to financial management and guardianship customers during the year to help make our services more responsive to these changes.

It was very pleasing that the performance audit of our guardianship and financial management services undertaken by the Audit Office of New South Wales found that we are delivering these services in line with our legal authority.

We engaged with the Disability Royal Commission and the NDIS Review whose recommendations may impact our customers and the services we provide to them. We also worked with the Department of Communities and Justice on establishing a government working party to advise the Attorney General on actions arising from the NSW Law Reform Commissions Review of *the Guardianship Act 1987*.

As we head into 2023-24 we will continue our work to put the customer at the centre of everything we do by making improvements that deliver trusted and customer-centred services in a financially sustainable way.

As part of this work, we will seek to have a voice in any discussions regarding potential reforms arising from the work of the Disability Royal Commission, NDIS Review and government working party and to highlight the impact of any changes on our customers and the services we provide to them.

I would like to thank our staff for their ongoing dedication, commitment and hard work. Without them, we would simply not be able to deliver the services we provide to customers.

I am excited by the opportunities we have to improve our services and the outcomes we achieve for customers by protecting, promoting and supporting their rights, dignity, choices and wishes.

*Brian Woods*

**Brian Woods**  
Acting Chief Executive Officer

Caroline Cuddihy is currently on leave. In her absence, Brian Woods was appointed Acting Chief Executive Officer on 26 September 2023.



# Overview



# 1



# About us

## NSW Trustee and Guardian is a government agency within the Stronger Communities Portfolio.

We protect, promote and support the rights, dignity, choices and wishes of our customers by supporting the Chief Executive Officer and the Public Guardian to carry out the statutory functions of the NSW Trustee, the Public Guardian and the Commissioner of Dormant Funds.

## Our services

Our services help support and protect some of the most vulnerable members of the community as well as supporting people at critical moments in their life. We do this by providing independent and impartial financial management, guardianship and trustee services that support customers and help them manage their health, lifestyle and financial affairs and to ensure their legacy is carried out in accordance with their wishes.

As NSW Trustee we may be appointed to act as:

- executor and administrator of deceased estates
- trustee
- financial manager of last resort
- agent or attorney
- collector of estates
- receiver of estates of minors
- receiver of property.



We also provide information, authorisation, direction and support to private financial managers.

In addition, we:

- manage restrained and forfeited assets and pay the proceeds from realisation of those assets to NSW Treasury
- manage victim support payments for people who were either under 18 years of age or not able to manage payments awarded to them
- hold funds on an 'at-call' basis in our common funds as directed by courts
- act as nominal title holder of all assets of the people of New South Wales from the time of their death until grant of probate or administration.



We draft Wills, Powers of Attorney and Enduring Guardianship documents and educate the community about the importance of having these documents in place.

As part of the functions of the Public Guardian we can be appointed as guardian of last resort. As guardian, we make substitute decisions for customers and advocate for the services and supports they need.

The Public Guardian also provides:

- information and referrals to people appointed as private and enduring guardians
- information to the community on guardianship and the alternatives.

As an agency we advocate on behalf of people who have a guardianship or financial management order in relation to individual and systemic issues that impact their legal rights and entitlements. This includes making submissions to government inquiries and reviews and providing advice on relevant government policy and legislation and law reform.

The role of Commissioner of Dormant Funds is to:

- determine whether property held by trustees for charitable purposes or for any purpose of a public character is dormant
- draft proposals for use of that property for approval by the NSW Attorney General.

## Our customers

Our customers are from across New South Wales. For the majority of them, we have been appointed by a court or tribunal as their guardian, financial manager or trustee. This means they have not chosen us to be their service provider. Other customers, such as people who have appointed us as their executor to administer their estate, have chosen us as their service provider.

We promote our customers' wellbeing and help ensure they and their families are free from the risk of harm, abuse, exploitation and neglect.

Our services can help reduce negative outcomes for customers such as entry into the criminal justice system, homelessness or living without appropriate supports.

Avoiding these negative outcomes benefits customers and their families and reduces the flow on effect to other government agencies and organisations such as the health system. It also contributes to better outcomes for the community.

Our work supporting customers participating in the National Disability Insurance Scheme contributes to improving their wellbeing and promotes their social participation.



We provided services to

**49,000+**

customers in 2022-23.

### Our purpose is

To protect, promote and support the rights, dignity, choices and wishes of our customers.

### We do this by

Providing support and making decisions at critical moments in customer's lives.

### Because we are

An independent and impartial executor, attorney, trustee, guardian, manager and advocate.

### Charter and legal framework

Our legal framework enables, supports and governs our role and the services we provide to customers.

We are constituted under the *NSW Trustee and Guardian Act 2009*. The statutory functions of the NSW Trustee and the Commissioner of Dormant Funds are carried out by the Chief Executive Officer.

The statutory functions of the Public Guardian are carried out by the NSW Public Guardian.

These functions and how they are to be carried out are set out in the:

- *NSW Trustee and Guardian Act 2009* and *NSW Trustee and Guardian Regulation 2017*
- *Guardianship Act 1987* and *Guardianship Regulation 2016*
- *Dormant Funds Act 1942* and *Dormant Funds Regulation 2014*.

We have a fiduciary relationship with customers. This means we undertake to act for, on behalf of or in the interests of the customer when making decisions that will affect their legal interests. It also means we have additional duties and responsibilities that are greater and go beyond those in a typical transaction-based customer relationship.

“We make substitute decisions in accordance with the principles set out in the *NSW Trustee and Guardian Act 2009* and *Guardianship Act 1987*.”

### Our role as a decision maker

Making financial, health and lifestyle decisions for customers at critical moments in their life is one of our main responsibilities.

In our role as financial manager and as guardian, we make substitute decisions for people who do not have the ability to make these decisions on their own. The decisions we make have the same effect as if the person had made that decision themselves.

We make substitute decisions in accordance with the principles set out in the *NSW Trustee and Guardian Act 2009* and *Guardianship Act 1987*.

As executor, administrator or trustee our duty is to carry out the terms of the will, deed or court order and to manage the estate or trust assets for the benefit of the beneficiaries.

When appointed as a customer's attorney we can undertake what the customer can do within the limitations of the terms of our appointment.



## Our staff work together to help protect the interests of our customer

Gabby\* lives in regional NSW with severe disability, behavioural issues and health conditions. She lives in supported accommodation and receives a disability pension and funding from the National Disability Insurance Scheme.

Her mother was heavily involved in her life ensuring Gabby had the supports she needs. Gabby also had three brothers.

As her mother's health declined, she arranged for the NSW Trustee to be appointed as Gabby's financial manager and for the Public Guardian to be appointed as her guardian.

Gabby's mother died during 2022 leaving a significant estate to Gabby's three brothers with no provision in the Will for Gabby.

Once we became aware of the fact there was no provision for Gabby in the Will, her financial manager contacted our legal team who advised that there was merit in challenging the lack of provision for Gabby in her mother's Will.

In consultation with Gabby's guardian and support workers we arranged for an independent assessment to identify Gabby's potential ongoing needs into the future. This assessment was supported by financial and medical evidence.

Our legal team contacted Gabby's brothers who had lost contact with her following their mother's death. The brothers agreed to make a lump sum provision for Gabby from the proceeds of their mother's estate. They also helped the brothers re-establish contact with their sister.















In being able to reach an agreement with Gabby's brothers we avoided potentially expensive and lengthy court proceedings while ensuring Gabby's needs into the future can be met. We also played a role in reconnecting Gabby with her family.

\*Names and identifying details have been changed to protect the privacy of individuals.



# 2022-23 at a glance

The following table provides a snapshot of the scale and complexity of services we provided to customers during 2022-23.

<b>During 2022-23:</b>	we provided services to <b>49,000+</b> customers 	<b>At 30 June 2023 we were managing:</b>
 <b>11,943</b> planning ahead documents executed	<b>302</b> vehicles sold, purchased or transferred 	<b>\$8.1 billion</b> customer assets 
<b>12,849</b> guardianship decisions made	<b>\$25.9 million</b> paid from proceeds of sale of restrained & forfeited property	<b>39,250+</b> customer matters 
<b>3,496</b> medical consents provided 	<b>484</b> properties were sold or purchased 	<b>1,390</b> vehicles 
<b>5,171</b> financial plans/records of advice developed or reviewed 	<b>2,902</b> properties 	<b>2,902</b> properties
<b>75</b> community education events held 	<b>4,738</b> tax returns prepared 	<b>We were also holding:</b> <b>495,000+</b> instruments <b>28,000+</b> documents & personal items
<b>2.4 million</b> transactions 	worth <b>\$3.5 billion</b> processed for customers 	

# Our Executive Leadership Team

The Executive Leadership Team, led by the Chief Executive Officer, provides leadership and sets the direction of the agency. They are responsible for monitoring progress of *Our Strategy 2019-25* and ongoing management of the agency, routinely drawing on the expertise of staff and advisory committees to inform their decisions.

Caroline Cuddihy commenced as Chief Executive Officer on 1 August 2022 following her appointment by the NSW Governor. Megan Osborne had acted in the role until 31 July 2022.

**At 30 June 2023 the Executive Leadership Team were:**



## Chief Executive Officer

Caroline Cuddihy  
BAppSc, MBA, G.A.I.C.D, FGIA



## Director, Financial Performance and Investments

Alex Leong (acting)  
FCPA, B Com Uni. Syd



## Public Guardian

Brian Woods  
BA (HMS), MHLthSc Hons  
(Ex&SpSc), MBA



## Director, Information and Technology

David Watterson



## Director, Estate Management

Deb Simpson  
GCertMgt, DipCommServ



## Director, Legal and Professional Services

Ruth Pollard  
LL.B Uni. Syd



## Director, Estate Planning and Administration

Marie Brownell  
BA. LLB



## Director, Strategy, People and Governance

Michelle Batterham  
BAppSc, PMIIA,  
AdvDipLegalStuds



## Director, People and Culture

Nalini Sharma (acting)  
BBus

# Organisation structure

Our organisation structure and the functions carried out within each division are shown on page 15.

While the Public Guardian reports administratively to the Chief Executive Officer, all decisions relating to people with a guardianship order as part of their statutory functions are made independently of this reporting line.

We have two independent committees that provide advice and assurance to the Chief Executive Officer. Both committees have charters developed in accordance with NSW Treasury guidelines that provide a framework for how they operate.

## Audit and Risk Committee

The Audit and Risk Committee provides independent assurance that we have a sound and efficient system of internal control by monitoring, reviewing and providing advice about our governance processes, risk management and control frameworks and our external accountability obligations.

The committee meets quarterly in March, June, September and December. Additional meetings for specific purposes are held as needed.

The members of the committee at 30 June 2023 were:

- Julie Elliott (Chair) has a diverse commercial background with over 35 years of experience in senior management positions in global corporations. She also has board chair and committee member roles for public and private organisations. Julie is also a member of the Independent Investment Advisory Committee.
- Stephen Horne is a leading figure in internal audit and governance and is currently a member of several public sector audit and risk committees. This is complemented by extensive experience with the Audit Office of NSW and the Institute of Internal Auditors.

- Elizabeth Carr serves as a member and chair on several New South Wales and West Australian public sector audit and risk committees and is a recipient of the Order of Australia for significant service to the community. She holds current board positions in the private, non-profit and education sectors and has held senior executive management positions in technology, finance and government.

## Independent Investment Advisory Committee

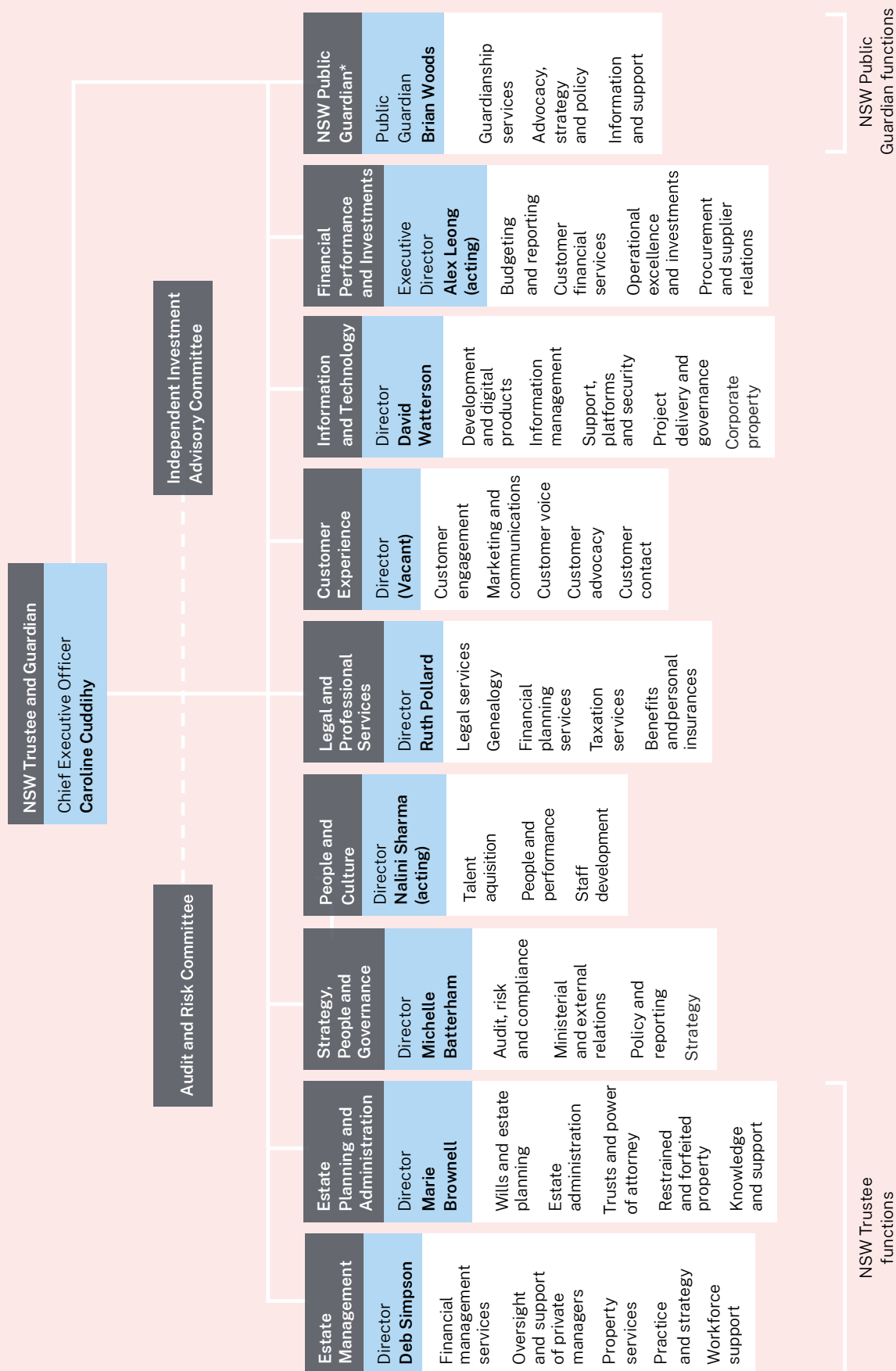
The Independent Investment Advisory Committee monitors, reviews and provides advice on issues relating to customer investments and our corporate investment portfolio. This includes reviewing policies, providing oversight and recommending strategies for the management of investments.

The committee meets quarterly in February, May, August and November. The members of the committee at 30 June 2023 were:

- David Hartley (Chair) has over 40 years investment experience in executive capacities, including 10 years as Chief Investment Officer at Sunsuper until 2015. Sunsuper and QSuper subsequently merged to become Australian Retirement Trust.
- Andrew Buchanan was a prominent broadcaster and programmer and General Manager with the Australian Broadcasting Corporation's 60 local radio stations, including International Affairs. He also has experience working with organisations advocating for people with disability as a former Chair of the Disability Council NSW and as current Chair of Cerebral Palsy Alliance.
- Julie Elliot has a diverse commercial background with over 35 years of experience in senior management positions in global corporations. She also has board chair and committee member roles for public and private organisations. Julie is also chair of the Audit and Risk Committee.
- Jim Kalotheos represents NSW Treasury where he is Director - Assets in the Strategic Balance Sheet Management Division, Financial Management and Services.



## Our organisational structure at 30 June 2023



\*The NSW Public Guardian reports to the Chief Executive Officer but makes decisions relating to their statutory functions under the *Guardianship Act 1987* independently.



# Strategy

# 2



# Our Strategy 2019-25

Our Strategy 2019-25 provides a roadmap to guide us in responding to changes in who our customers are and what they need and expect from us as well as changes in our operating environment. It also helps ensure our services are consistent with NSW Government priorities and policy direction.

Our strategic objective is to make improvements that deliver trusted and customer-centred services in a financially sustainable way. Five goals that relate to key themes focus our work in achieving the objective.

Together, they help ensure the decisions we make about our priorities and the activities we undertake enable us to:

- place customers at the centre of service design and delivery and ensure the longevity and sustainability of the agency
- protect, promote and support the rights, dignity, choices and wishes of our customers.

## Business planning

Our Strategy is part of our strategic framework and informs our annual business and performance planning.

This includes the annual Statement of Business Intent and Business Plans that set out the initiatives we will focus on during the year to help us achieve our purpose.

Progress is monitored by the Executive Leadership Team and adjustments to initiatives under Our Strategy are made accordingly.

## Progress in 2022-23

During 2022-23 we continued to make progress towards our objective and priorities.

These achievements ranged from implementation and embedding of the new operating models for guardianship and financial management services to changes in our IT infrastructure that provide a better foundation for enhancements to our systems which will help improve services for customers.

Figure 1: Our strategic goals



### Create a customer-centred culture

Our services will be designed to maximise the opportunities for our customers, to drive the way we work and to deliver the best possible outcomes.



### Support and develop our people

We will empower and support our people to develop the knowledge, tools and capabilities to excel.



### Drive digital innovation

We will actively adopt technology that drives better outcomes for our customers, staff and business, ensuring we have a modern and flexible workplace with the right tools.



### Build a sustainable, efficient organisation

We will ensure our organisation is efficient, responsive to change and strengthened to exist in perpetuity.



### Strengthen our governance

We will have the capability to manage risk, change, projects and to maximise the benefits of the investments we make in NSW Trustee and Guardian.



## Our 2022-23 achievements

This page sets out a selection of our achievements in 2022-23. In practice, many of these achievements contribute to multiple goals. For example, while implementation of our new operating models is helping to improve services to customers they are also helping to improve sustainability of our services.



### Customer

We implemented new operating models for guardianship and financial management services to deliver a greater focus on customers and to meet increases in demand for services and complexity of customer needs (page 26).

We rewrote a further tranche of customer communication templates to help us produce letters that are simpler, easier for customers to understand and tailored to individual needs.

We worked with the State Insurance Regulatory Authority to implement changes to the *Workers Compensation Act 1987* that help preserve the value of workers compensation trusts established for the dependents of deceased workers (page 60).



### People

Completed recruitment of over 120 additional staff to improve services to customers and to reduce capacity constraints.

Implemented a learning centre that provides structured training plans to upskill Estate Planning and Administration staff and improve services to customers (page 30).

Frontline staff completed training to help them recognise and respond to allegations of violence, abuse, neglect and exploitation of customers (page 30).



### Digital

Modernisation of our IT infrastructure and transition of systems to the cloud has made our systems more secure, scalable and operationally efficient. These changes provide a better platform for future enhancements to our systems.

Completion of the roll out of Microsoft Teams telephony across the agency has provided a common platform making it easier to provide services to customers regardless of the location of staff or the device they are using.

Implemented significant changes to core systems in support of new operating models.



### Sustainability

Development of an enhanced cost to serve model for individual customer services and groups will help inform decision making about services to customers.



### Governance

We supported the Audit Office to undertake a performance audit of our financial management and guardianship services. The recommendations from the report will help improve the effectiveness and efficiency of our services (page 24).

### Future strategic plans

We will continue to monitor changes in our environment and adjust Our Strategy accordingly. This may include changes in what our customers need and expect from us and reforms arising from the outcomes of the Disability Royal Commission and the NDIS Review.

### Measuring our progress

We use outcomes that set out what we will achieve for customers to measure our success in meeting our objective of delivering high-quality, trusted and customer-centred services in a financially sustainable way.

Associated goals and measures show our progress in achieving each outcome.

Table 1 sets out a summary of whether our performance in achieving the targets for each outcome at 30 June 2023 was improving.





Table 1: Measuring our progress

Outcome	Measure of success	Performance at 30 June 2023	
		Stable / improving	Declining
To ensure the best interests and quality services for customers in their life planning, the decisions we make and the services we provide are tailored to support a customer's individual needs and to secure their assets.	Our services are tailored to support individual customer needs.	71%	29%
To enable customers to be well informed and receive timely services, we communicate in a way that the customer prefers, which is clear, timely and personalised.	Our communication with customers is timely, clear and personalised.	40%	60%
To achieve our purpose in alignment with our values; we recruit, respect, upskill, develop, communicate effectively with and retain talented, capable and customer-centric people.	Our staff are supported to deliver high quality customer-centred services.	92%	8%
To continue to sustainably and viably serve the NSW public into the future, we ensure good governance, including effective processes and systems, and financial stewardship in all we do.	We ensure sound governance and financial sustainability.	86%	14%



# Operations and performance



3

# Review of operations

We are a diverse and complex agency. Estate planning and administration, executor, trustee and power of attorney services are operated on a more commercial basis. Other services such as financial management and guardianship services are highly regulated and intended to protect vulnerable members of the community.

During 2022-23 we have continued to see the impact of changes in our customer base and what they need and expect from us as well as changes in our operating environment.

A key focus of our operations in 2022-23 was implementation of the new operating models for our financial management and guardianship services to help make our services more responsive to customer needs. We also supported the Audit Office of New South Wales undertake a performance audit of our guardianship and financial management services. In addition, we engaged with the Disability Royal Commission and other reviews that may impact our customers and the services we provide to them.

## Revenue and funding

We are classified as a government business because we recover a significant proportion of our expenses from the fees, commissions and charges we receive delivering financial management, wills and estate planning, estate and trust administration and powers of attorney services and managing customer assets.

We also receive interest on investments of our agency funds. This revenue is supplemented by community service obligation funding and a grant for services provided by the Public Guardian.

## Fees charged to customers

The fees charged for our services are set out in the NSW Trustee and Guardian Regulation 2017 and published on our website. In most cases the amount charged is set by regulation. For a small number of fees, we set the amount charged to customers.

Fees for civil forfeiture matters are set out in the Confiscation of Proceeds of Crime Regulation 2015 and Criminal Assets Recovery Regulation 2017.

Fees for the services of the Commissioner of Dormant Funds are set out in the Dormant Funds Regulation 2014.

There were no changes to fees charged to customers during 2022-23.

**There are no fees charged for guardianship services. Most of the cost of delivering these services is funded by a grant from the NSW Government.**

## External factors impacting our operations and achievement of our objectives

Growth in demand for our services and the increase in the complexity involved in providing services continued to impact our operations. The increase in complexity can be attributed to the nature of a customer's circumstances, the types of decisions that need to be made on their behalf and the supports they require.

We are appointed by a court or tribunal as guardian and financial manager of last resort and have very limited ability to control the increase in demand for these services. This can impact our ability to plan our response to changes over time. In addition, these matters are often more intensive to manage because of the complexity of the customer's circumstances and/or the level of contention and disagreement among family members and other people in the customer's life.

We are also seeing a growing disparity between our role as set out in legislation and community expectations about the extent of our role and involvement in customer's lives. This can lead to an increase in conflict with customers and families and reduce cooperation and acceptance of our role in their life. In turn, this can make our role as manager or guardian in those matters more complex.

General economic conditions including market volatility and fluctuating interest rates also impacted our operations.

## Customer numbers continue to grow

The number of customers for the five years to 30 June 2023 is shown in table 2<sup>1</sup>. It also shows the number of planning ahead documents executed each year.



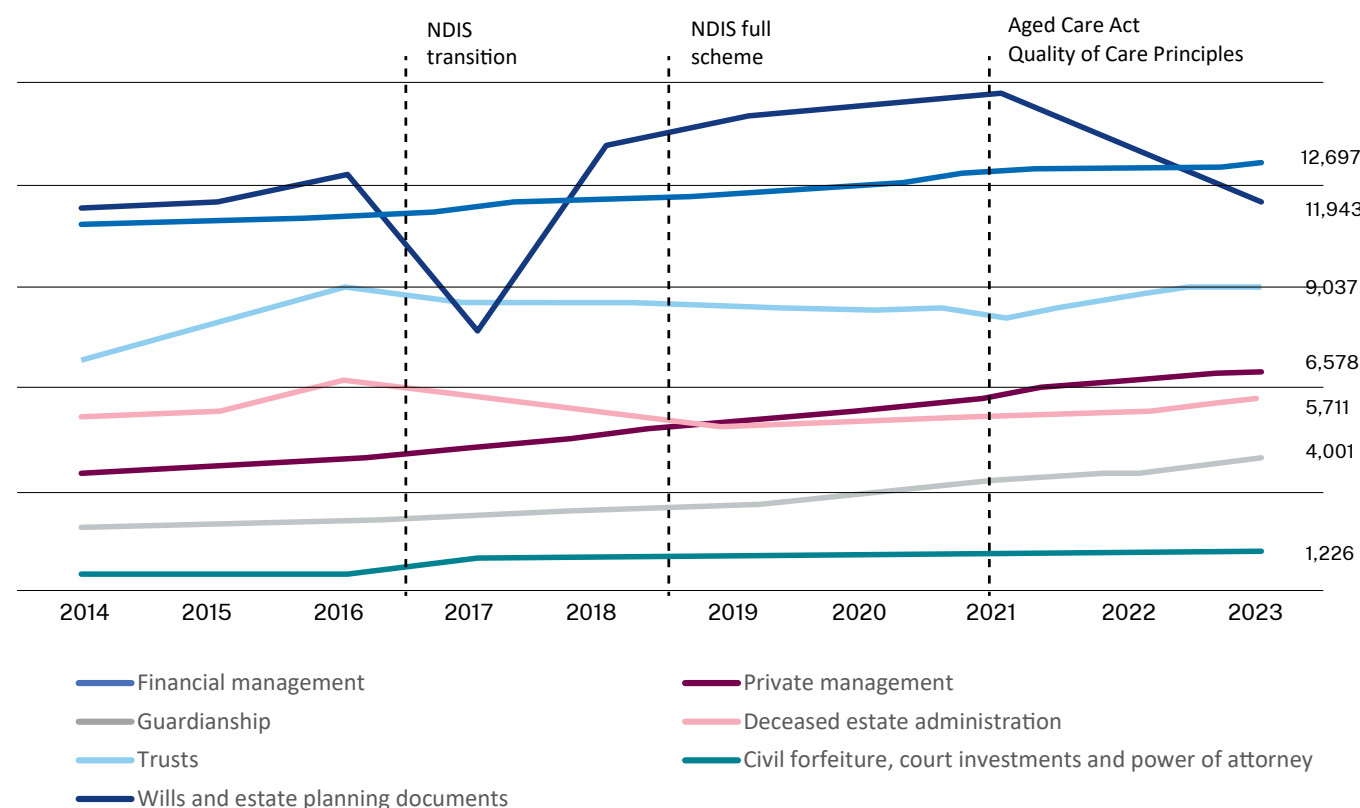
Table 2: Customers at 30 June

	2019	2020	2021	2022	2023
People who have the NSW Trustee as their financial manager	11,880	12,100	12,494	12,556	<b>12,697</b>
People who have private financial managers	4,948	5,388	5,756	6,283	<b>6,578</b>
People who have the Public Guardian as their guardian	2,547	2,923	3,336	3,533	<b>4,001</b>
Deceased estate administration	4,932	5,083	5,253	5,338	<b>5,711</b>
Trusts	8,303	8,442	8,171	8,806	<b>9,037</b>
Civil forfeiture	142	186	221	221	<b>258</b>
Court investments	640	603	677	721	<b>752</b>
Power of Attorney	281	276	249	231	<b>216</b>
<b>Customers at 30 June</b>	<b>33,673</b>	<b>35,001</b>	<b>36,157</b>	<b>37,689</b>	<b>39,250</b>
Planning ahead documents executed in year to 30 June	13,963	14,441	14,829	12,848	<b>11,534</b>

<sup>1</sup>Customers who receive multiple services are counted as part of each service. For example, people who have the NSW Trustee as their financial manager and the Public Guardian appointed as their guardian are counted as a customer of each service.



Figure 2: Growth in customers to 30 June 2023



Demand for our services continues to grow particularly for guardianship and financial management services. Figure 2 shows growth in customers for the 10 years to 30 June 2023.

Demand for our services can be impacted by changes in the broader environment we operate in. For example, demand for guardianship services has been impacted by the start of the rollout of the NDIS across Australia when the NDIS Transition commenced on 1 July 2016 culminating in the roll out of the Full Scheme from 1 July 2018.

Demand for guardianship services has been further impacted by changes arising from the recommendations of the Aged Care Royal Commission. These have included changes to the requirements for the use and authorisation of restrictive practices.

## Performance audit of guardianship and financial management services

During 2022-23, we supported the Auditor-General of NSW to complete a performance audit of our guardianship and financial management services. The objective of the audit was to consider whether we effectively manage the affairs of people under a financial management and/or guardianship order.

The Auditor-General's report was released on 18 May 2023<sup>2</sup>. Our response to the report was published at the same time.

The audit found that we are delivering financial management and guardianship services in line with our legal authority. Other findings related to stakeholder engagement, applying legislative principles, IT systems, accessibility of information, tracking performance of services, implementation of customer service principles and funding issues such as cross-subsidisation.

<sup>2</sup> [Managing the affairs of people under financial management and/or guardianship orders](#)

**The Auditor-General found that we are delivering financial management and guardianship services in line with our legal authority.**

The Auditor-General made six recommendations they consider would enable us to provide financial management and guardianship services more effectively and efficiently. These include:

- enable key stakeholders to provide input to key decisions
- implement mechanisms to seek feedback from customers on the effectiveness and quality of services
- implement a framework to deliver staff competency training and awareness of clients with a disability, dementia, mental illness and cognitive impairments
- implement a risk-based quality framework to assess whether decisions are in line with policy and legislative principles
- establish mechanisms to track and report publicly on services
- implement sufficient data collection processes and/or IT systems to inform actual costs of service delivery and identify and address any cross-subsidisation.

We have accepted the recommendations in principle and have developed an action plan comprising 17 initiatives to respond to them. The initiatives in the action plan will be delivered between May and November 2024.

At 30 June 2023 we had already commenced work to address the recommendations in the report. Work in progress at that time included:

- liaising with key stakeholders with a view to establishing an advisory committee to provide input on key decisions
- undertaking preliminary research on customer feedback platforms
- establishing processes that support service improvement initiatives in response to customer feedback
- identifying potential competency-based training providers

- assessing how current software systems could be used for the risk-based quality framework to assess whether our decisions are in line with policy and legislative principles
- enhancing reporting frameworks to facilitate tracking and reporting publicly on our services
- commissioning an enhanced model to inform calculation of our actual cost of service and to identify and address cross subsidisation.

## Our engagement with the Disability Royal Commission, NDIS Review and other reform initiatives

The outcome of the Disability Royal Commission, the NDIS Review and the establishment of the working party to advise the Attorney General on the review of the *Guardianship Act 1987* are likely to lead to changes in what our customers need and expect and from us as well the services we provide to them.

### Disability Royal Commission

During 2022-23 the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) held several hearings. One of those hearings examined guardianship and financial management laws and policies around Australia. This included the impact of substitute decision-making on the rights of people with disability.

The Chief Executive Officer, Public Guardian and Director, Estate Management provided statements prior to the hearing. The Public Guardian and Director, Estate Management also appeared at the hearing.

The Disability Royal Commission published its [final report](#) on 29 September 2023. One of the



recommendations made by the Royal Commission is that supported decision-making should be embedded in guardianship and financial management law and practice, and other systems over time. This will ensure substitute decision-making only happens as a last resort and in the least restrictive manner.

We will contribute to the NSW ‘whole of government’ response to the recommendations and work across government to implement any changes arising from the work of the Disability Royal Commission.

## NDIS Review

The Australian Government announced a review of the National Disability Insurance Scheme (NDIS Review) in October 2022.

The purpose of the review is to examine design, operations and sustainability of the National Disability Insurance Scheme. It will also examine ways to build a more responsive, supportive and sustainable workforce.

During 2022-23, we contributed to the NSW Government’s submission to the NDIS Review.

The submission set out the experience of NSW Government agencies in working with the National Disability Insurance Scheme. It also made several comments that are relevant to our customers. These included:

- establishing expected content and minimum standards for behaviour support plans
- introducing case management for participants with complex needs to facilitate coordinated supports and better outcomes
- progressing the national action plan for developing the NDIS Specialist Support Market.

The final report from the NDIS Review is due towards the end of 2023. It will include recommendations for reform as well as a plan for implementation of those recommendations.

## Establishing a working party to advise on the review of the *Guardianship Act 1987*

During 2022-23, the NSW Government committed to establish a government working party that includes community representatives to advise the Attorney General regarding action on the NSW Law Reform Commission’s Review of the *Guardianship Act 1987*.



At 30 June 2023 we were working with the Department of Communities and Justice to establish the working party. This included inviting representatives from relevant government agencies, disability advocacy organisations, peak bodies and legal stakeholders to be part of the group.

The first meeting of the working party was held on 5 September 2023. Its members include NSW Health, the Ageing and Disability Commission, Council for Intellectual Disability and the Law Society of NSW.

## Our new ways of working are helping to improve outcomes for customers

During 2022-23 we implemented new operating models for guardianship and financial management services.

The new models provide greater focus on customers and the value we can provide them whilst meeting our statutory and fiduciary obligations. They also seek to address the growth in demand for services and the complexity of customer needs.

Practice and strategy functions implemented as part of the new models provide continuous review and improvement of our practices, policies and procedures.

Our new model for guardianship services went live in July 2022. Financial management customers were transitioned to the new model in October 2022.

Since then, we have continued to refine the models and embed the new ways of working they provide. This work has included designing and implementing process improvements and system enhancements for implementation in 2023-24. This will give us greater visibility of risk and help us manage those risks more efficiently, enabling us to improve services to customers.

## Improvements for guardianship customers

### Understanding a customer's circumstances and what they need from us after we are appointed as their guardian

Our Establishment Team contacts new customers or someone in their life to get an understanding of why we have been appointed as guardian and to identify and address any urgent issues that need to be dealt with immediately.

As part of this process, they flag matters for potential early discharge. They also conduct a preliminary assessment to determine where the matter will be assigned for ongoing management.

Where possible, we allocate matters to staff in the same area as the customer. This enables us to utilise local support networks available to the customer more effectively.

Very complex matters are immediately assigned to a guardian who will address the urgent issues and take responsibility for ongoing management.

This new approach is helping us to identify issues impacting customers sooner than we may have under our previous operating model.

“The new models provide greater focus on customers and the value we can provide them whilst meeting our statutory and fiduciary obligations.”

### **Promoting independence by ensuring the Public Guardian is not appointed as guardian for any longer than necessary**

Our new establishment process for guardianship customers identifies matters where it might be appropriate to seek early discharge of the guardianship order.

A further assessment, once we have received all documentation from the NSW Civil and Administrative Tribunal and have a better understanding of the customer's circumstances, helps us determine whether it is in fact appropriate to seek an early discharge or whether the matter needs to be allocated for ongoing management.

We also review less complex matters on a regular basis to determine if it is appropriate to seek early discharge of the guardianship order.

### **Working more effectively with the NSW Civil and Administrative Tribunal**

Our Liaison Officers at the Guardianship Division of the NSW Civil and Administrative Tribunal provide a central point of contact for tribunal members and can provide information to inform their decision making. They can also help set expectations about the scope of our role and what we can do in specific situations.

During 2022-23 one of our areas of focus was to streamline processes for ensuring our staff are available to assist the tribunal during guardianship hearings and to ensure we receive information about customers' circumstances we need from the tribunal to establish matters and identify issues that need to be addressed.

To 30 June 2023, the guardianship order had been revoked in all but one of the matters where our application seeking early discharge had proceeded to a hearing.

We anticipate that the number of applications seeking an early discharge of guardianship orders will grow as we consolidate our new ways of working.

### **Improvements for financial management customers**

#### **Point of time service improves how we manage customer requests**

As part of our work to make it easier for customers to interact with us, we introduced a new protocol for answering calls from them.

Under this protocol the client service officer answering the call can make decisions for that customer while they are on the phone with them, where they have the delegation and enough information to make that decision.

This new protocol means more customers know the outcome of their request while they are on the phone with us.

#### **Using our data to help tailor services to specific cohorts in our customer base**

One of our priorities during 2022-23 has been analysing customer data to identify specific cohorts among our financial management customer base to help tailor services to their needs.

Among the groups identified as part of this work were young people in residential aged care, homeless people in regional areas and missing persons. Further information about young people in residential aged care is on page 35.

### Promoting customer independence

One of the goals of the new operating model is to promote customer independence. During 2022-23, our new customer independence team reviewed the existing authorisations customers held to manage part of their finances. For example, authorisations to manage wages from employment or pension payments.

As part of this review they made recommendations for consideration by the financial manager in consultation with the customer. These could include recommendations to renew or widen an authorisation or discontinue it in cases where the customer has indicated they are no longer interested in managing part of their finances or they no longer work.

### Providing more personalised service to people appointed as private managers

During 2022-23, we have worked on developing and trialling a caseload management system for providing support to private management customers. The purpose of the new model is to help us provide better outcomes by building a stronger relationship with the private manager and developing a better understanding of the circumstances of the person who has the financial management order.

Under the model each member of the team will be assigned an individual caseload. A triage team will review and assign new matters based on the complexity of the customer's circumstances.

The new model will be rolled out for all people who have a private financial manager appointed during 2023-24.



“One of the goals of the new operating model is to promote customer independence.”





## Building the capability of our people is a key element in achieving our goal of providing trusted and customer-centred services and implementation of our new operating models

During 2022-23, new induction programs have helped new staff feel welcome and to develop a clear understanding of our role and services and the value we can provide to customers.

We have continued rollout of our Disability Awareness Training to support our staff in working more effectively with customers with disability by building on their awareness, skills and empathy. Further information on this training is on page 65. Frontline staff also completed training to help them recognise and respond to allegations of violence, abuse, neglect and exploitation of customers.

Another focus in 2022-23 has been building the technical capability of staff who provide services to customers.

For example, we implemented a learning centre for staff providing estate planning, estate administration, trustee and attorney services. The learning centre provides staff with structured training plans tailored to their role and ensures that precedents, practices and procedures are current and relevant.

Monthly seminars for staff from our Wills and Estate Planning teams covered specific aspects of drafting Wills, Power of Attorney and Enduring Guardian documents and help them keep abreast of legal decisions and other changes that may impact our services. Seminars held for staff providing financial management services include topics such as the legal framework underpinning financial management services.

Our professional development registers for staff providing financial management, estate planning, estate administration, trustee and attorney services provide an opportunity to act in temporary roles that allow them to learn new skills and gain experience in more senior roles.

At 30 June 2023, 75% of staff on the register providing financial management services and 76% of staff providing estate planning, estate administration, trustee and attorney services had been provided an opportunity to gain experience in a temporary role.



## Helping customers who are members of the Stolen Generations

We are working with Aboriginal Affairs to claim and manage payments under the NSW Stolen Generations Reparations Scheme and Funeral Assistance Fund on behalf of our customers who are members of the Stolen Generations.

### Helping financial management customers claim payments under the Scheme

Applications were lodged on behalf customers who may have been entitled to payment under the scheme. This included working with Births, Deaths and Marriages who provided identity documentation such as birth certificates to support their applications at no cost to the customers.

When customers receive a payment under the scheme, we work with them and their family to determine if they would like Aboriginal Affairs to contact them to discuss whether they would like to receive an apology or make an impact statement.

### Ensuring payments under the scheme are made to beneficiaries of members of the Stolen Generations

We also ensure that amounts awarded to members of the Stolen Generations who have died and did not have a Will are paid to their beneficiaries.

For these estates we undertake genealogy research to identify their next of kin and to establish entitlement to a share of the payment. Once entitlement is established, we can pay each beneficiary their share.

# About our services



## Guardianship

A guardian is appointed by a court or tribunal to make substitute health and lifestyle decisions on behalf of a person who lacks the ability to make informed decisions on their own or with support.

We provide guardianship services as part of the functions of the Public Guardian. We also provide information and support about:

- the role of private or enduring guardians and the decisions they can make
- guardianship and when it is and is not needed.

### When the Public Guardian is appointed as guardian

The Public Guardian is the ‘guardian of last resort’ and is only appointed if there is no one available or suitable to perform that role.

As guardian we give paramount consideration to the welfare and interests of customers. This involves talking to the customer and important people in their life to establish:

- what is happening in the customer’s life
- what decisions need to be made
- what the customer’s views are and what is important to them.

We also:

- advocate for the customer’s preferences and needs to be resourced and realised
- identify and facilitate management of risks for them.

This helps promote the customer’s social, health and cultural wellbeing and minimise any impact on their freedom of action and decision-making wherever possible.

We are appointed with authority to make decisions in specific areas of a customer’s life, this can include where they live, what services they receive or who can have access to them.

A large proportion of our guardianship customers are also participants in the National Disability Insurance Scheme. For these customers, we engage with the National Disability Insurance Agency about what are reasonable and necessary supports and seek reviews of their plan when needed. Once plans are in place, we work with the customer’s support coordinators and other key supports to identify potential service providers. From that shortlist we determine who will provide the most appropriate service to the customer.

### Growth in demand and complexity continue to increase the work of the Public Guardian

The key part of the role of the Public Guardian is to make substitute decisions for customers.

**In the five years to 30 June 2023  
the number of major decisions made  
by the Public Guardian increased**

**164%**

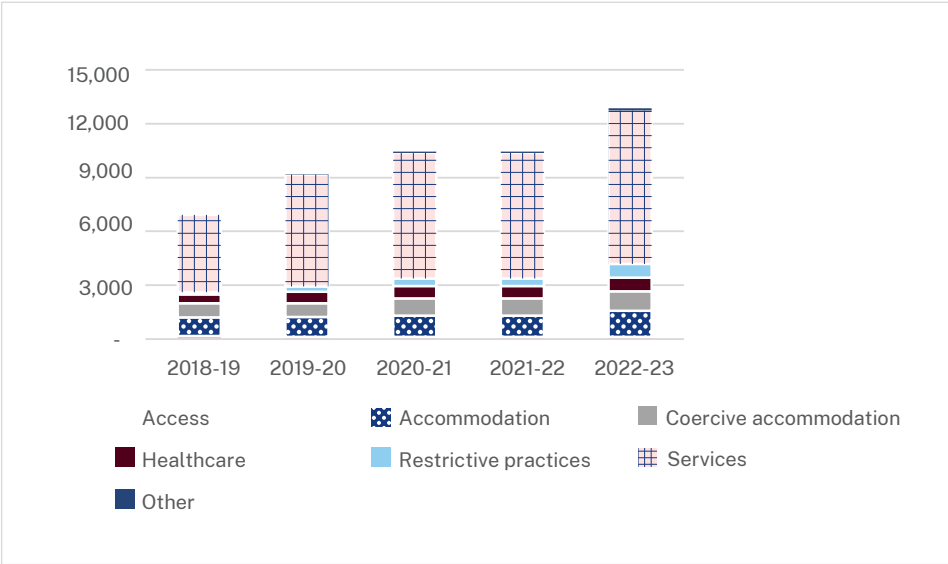
Most of this increase (and the majority of decisions made each year) is related to services provided to customers participating in the National Disability Insurance Scheme (figure 3).

Similarly, the number of medical and dental consents provided for customers has increased by 109% in the five years to 30 June 2023 (figure 4).



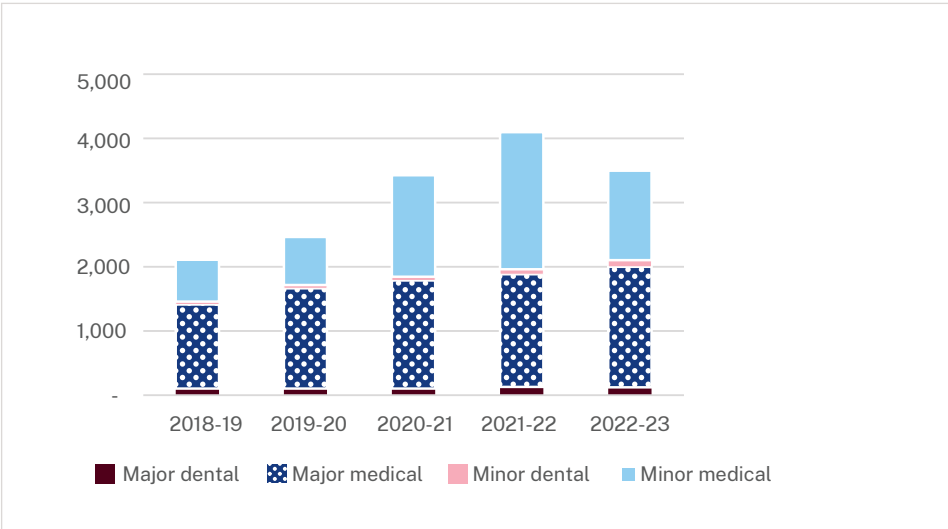


Figure 3: Major decisions to 30 June 2023



“Most of this increase (and the majority of decisions made each year) is related to services provided to customers participating in the National Disability Insurance Scheme.”

Figure 4: Medical consents to 30 June 2023



## Authorising use of restrictive practices is a growing part of the work of the Public Guardian

There has been a continued increase in the need for authorisation of restrictive practices for people who have the Public Guardian appointed as their guardian. It is also one of the main reasons for the Public Guardian being appointed as guardian for people in living in aged care facilities.

This is reflected in the 613% increase in decisions related to restrictive practices made in the five years to 30 June 2023.

A number of changes including publication of the Regulated Restrictive Practices Guide by the National Disability Insurance Scheme Quality and Safeguards Commission is likely to be increasing awareness and understanding of restrictive practices.

In addition, increased awareness and application of the Quality of Care Amendment (Restrictive Practices) Principles 2022 is leading to a significant rise in guardianship orders that include a restrictive practice function for people receiving aged care services.

We have also observed a lack of providers in the market who can:

- support people with complex needs
- increase the capacity of service providers who support people with complex needs.

It has also been impacted by decisions made by the Guardianship Division of the NSW Civil and Administrative Tribunal.

We anticipate this trend will continue in 2023-24, contributing to the increasing number of people who have the Public Guardian appointed as their guardian. It is also likely to contribute to guardianship orders remaining in force for longer because of the ongoing need to authorise use of restrictive practices.

## Information and support

We offer information, support and guidance to private and enduring guardians on their role as a guardian. This includes:

- supporting enduring and private guardians to understand their legal role and responsibilities as guardian and the extent of their decision-making authority
- assisting guardians to navigate systems that support the people they represent such as the National Disability Insurance Scheme, health and aged care services and resolving issues with service providers.

We also provide information to the broader community about the role and function of guardianship and the general principles of the *Guardianship Act 1987*.

During 2022-23, we published three editions of *OnGuard*, our newsletter that provides information to private and enduring guardians about their role and information that will help them make decisions as guardian of the person they are appointed for.

During 2022-23 we responded to

9,568

requests for information. This is an increase of

46%



on the 6,555 requests responded to in 2021-22.



## Financial management services

A financial manager is a person or organisation, appointed by a court or tribunal to manage and make substitute decisions about the property and financial affairs of a person who does not have the ability to make those decisions themselves. A financial manager can also be appointed for missing persons.

We provide financial management services as part of the functions of the NSW Trustee. We are appointed as manager of last resort when there is no one available or suitable to perform that role.

We also provide oversight to members of the community appointed as private financial managers.

### When the NSW Trustee is appointed as financial manager

As financial manager we:

- secure, collect and manage income and entitlements
- pay expenses and debts
- set up regular allowances
- secure and manage assets and investments.

In consultation, we prepare an annual budget based on the customer's circumstances. For customers with simpler affairs, we prepare a budget every two years. When setting a budget we seek input from the customer, their family and other significant people in their life to ensure it reflects their wishes and any specific requests they have.

For customers participating in the National Disability Insurance Scheme, we provide financial information to assist in planning and development of their packages.

During 2022-23 we made

# 2,575

significant decisions for customers. These include decisions related to purchasing and selling real estate and other major expenditure.

### Helping improve outcomes for younger customers who are living in residential aged care

Most people living in residential aged care facilities are older Australians. However, younger people who have complex needs may also live in residential aged care where there is no other suitable accommodation available to them.

One of our areas of focus for this group of customers during 2022-23 was to review their National Disability Insurance Scheme funding. This included looking at their accommodation, transport and mobility allowances.

Working with staff in the National Disability Insurance Agency we obtained the information needed to submit requests for reimbursement of expenses that had not been paid.

At 30 June 2023, we had recovered approximately \$600,000 for customers that can be used to help meet their needs. We have also secured funding under the scheme to meet their ongoing accommodation expenses.





## Private management

We oversee members of the community appointed as private financial managers by providing authorisation, direction, information and support. We also approve significant decisions made by private managers and review the annual accounts they submit.

During 2022-23 we issued 91% of Directions and Authorities setting out the authority of the private manager and their obligations to the person under management within 14 days of the order being made.

We also responded to 2,054 requests from private managers to vary their plan for managing the financial affairs of the person with a financial management order. For example, changing how their assets are managed.

90%



of the accounts we reviewed during 2022-23 were passed on the basis they showed the person's financial affairs were being managed appropriately.

We also undertook an initiative to follow up private managers who had not submitted annual accounts so we can assess whether the person's financial affairs are being managed appropriately. By working cooperatively with private managers, we have been able to significantly reduce the number of outstanding accounts.



## Wills and estate planning

Our wills and estate planning services enable customers to:

- make a Will to set out who they want to receive their assets when they pass away
- appoint an attorney to look after their property and legal affairs on their behalf
- appoint an enduring guardian to make personal decisions such as health, lifestyle and accommodation matters when they are not capable of doing so themselves.

These services are delivered from our offices and at pop up locations across metropolitan and regional areas of New South Wales. Figure 5 shows the documents executed for the five years to 30 June 2023.

One of the options available to customers when planning ahead is to appoint us as their executor or attorney or as their substitute executor and attorney.

We were appointed sole or first substitute executor in 35% of the Wills executed in 2022-23.

During 2022-23:

11,943

documents were executed for

5,626

customers.

Of those documents, 62% were prepared for customers by our regional branches.

During the year we held 281 Plan Ahead Days in over 100 pop-up locations across New South Wales.

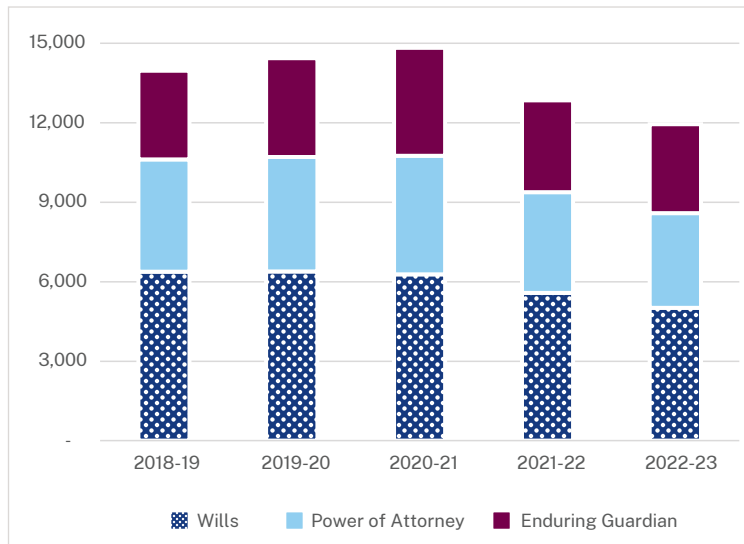


Figure 5: Wills, Power of Attorney and Enduring Guardian documents executed

### Storage of instruments

We provide free storage of Wills, Power of Attorney and Enduring Guardian documents for customers who appoint us as their executor or attorney through our Will Safe service. For everyone else we provide this service for a small fee.

During 2022-23, customers deposited 1,127 documents in our Will Safe.

At 30 June 2023, we held over

# 495,000

planning ahead documents in secure storage.

### Partnering with knowmore to assist survivors of institutional child sexual abuse

We have partnered with knowmore, a legal service provider to prepare Wills, Power of Attorney and Enduring Guardianship documents at no cost to people who have received a payment under the National Redress Scheme.



### Estate administration

We provide estate administration services as executor and administrator.

We obtain a grant of probate or administration to confirm our authority to administer the estate, we identify and secure assets and, where appropriate, pay any debts. We then distribute the proceeds of the estate or transfer the assets to beneficiaries.

We also look after ongoing bequests included in the Will. For example, where money is held in trust for young children or there is a life interest in the estate under the terms of the Will.

During 2022-23:

- we obtained administration of 1,120 estates with an approximate value of \$625 million. Of these, 299 were intestacies where the person did not have a Will
- we finalised 1,225 estates.

At 30 June 2023, we had

5,711



estates on hand with an  
estimated administration value of

\$2.95 billion.

The majority of the estates at 30 June 2023 include:

- estates under active administration to realise assets, identify beneficiaries and distribute the estate
- trusts established to manage rights of residence, life interests, amounts held for minors or other long-term trusts
- estates subject to family provision claims or other litigation
- intestate estates where research is underway to identify and/or locate beneficiaries
- where are waiting on confirmation of the final tax liability.

There are also estates where:

- we have not been able to identify or locate the beneficiaries or have established there is no one entitled to the estate
- there are residual balances, or assets that cannot be realised or other issues to be finalised.



We create and administer trusts established by Wills, deeds and court orders.

This includes a variety of trusts for minor children, adults who are not able to manage their own affairs, family discretionary trusts and charitable trusts.

Trusts created by court orders and victims' support payments are currently the largest source of trusts we administer and are commonly created where the beneficiary is a minor or is not capable of managing their financial affairs. Further information about victims' support payments is shown on page 40.

During 2022-23:

- we received 1,031 new trusts with a value of \$62 million
- 946 (92%) of these trusts were either damages trusts or victims' support payments.

At 30 June 2023,  
we were managing

9,037



trusts worth approximately

\$630 million.

A breakdown of trusts at 30 June 2023 is shown in figure 6. The trusts classified as 'Other' include where:

- we have been appointed trustee by deed. This includes where the original trustee did not wish to continue in their role
- funds are held for the benefit of an organisation or association
- funds are held under legislation where a court has appointed us to hold the assets of a protected person in trust.



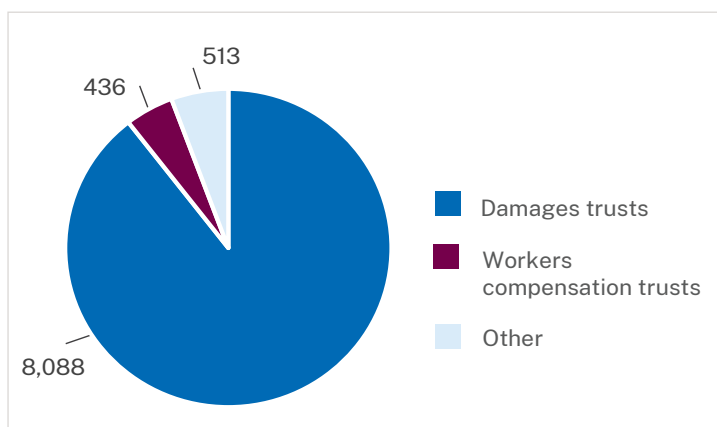


Figure 6: Trusts at 30 June 2023



## Restrained and forfeited property

We manage property that has been restrained under the *Criminal Assets Recovery Act 1990* and *Confiscation of Proceeds of Crime Act 1989*. We also realise any property that is forfeited under these acts.

Proceeds from the sale of forfeited assets are paid to NSW Treasury, net of our fees.

During 2022-23 we:

- received 70 new matters with a value of \$26.8 million
- paid \$25.9 million (net of our fees) to NSW Treasury from the proceeds of the sale of forfeited assets.

At 30 June 2023, we were managing 258 matters worth \$136.9 million.



## Power of attorney

Our power of attorney services enable customers to appoint us as their attorney to look after their property and legal affairs on their behalf.

Customers can choose the level of assistance we provide and whether they appoint us on a short-term or ongoing basis. They can also appoint us as their Enduring Power of Attorney which can be activated if they lose capacity to manage their affairs.

During 2022-23 we received 20 new matters. At 30 June 2023 we were:

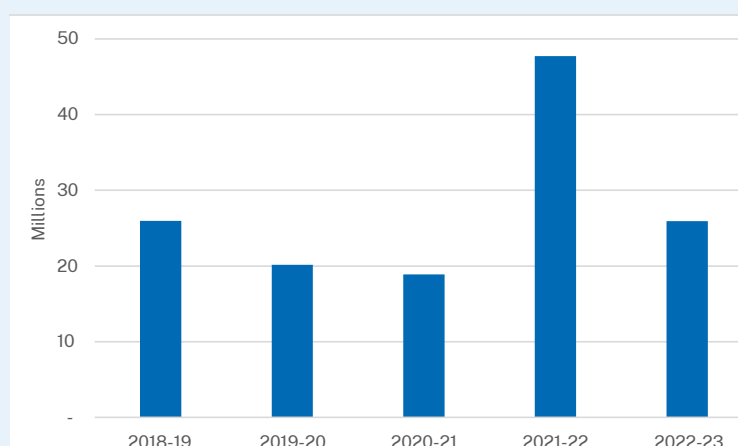
- managing the property and legal affairs of 216 customers
- acting as Enduring Power of Attorney for 199 of these customers.

In the five years to 30 June 2023, we have paid

# \$128 million

to NSW Treasury from the sale of forfeited assets. These payments are shown in figure 7.

Figure 7: Payments to NSW Treasury from the sale of forfeited assets





## Helping victims of crime and modern slavery

**The Victims’ Support Scheme provides counselling, financial assistance and recognition payments to victims of an act of violence or act of modern slavery.**

We administer trusts created for minors awarded payments under the scheme as well as for people who do not have the capacity to manage payments awarded to them.

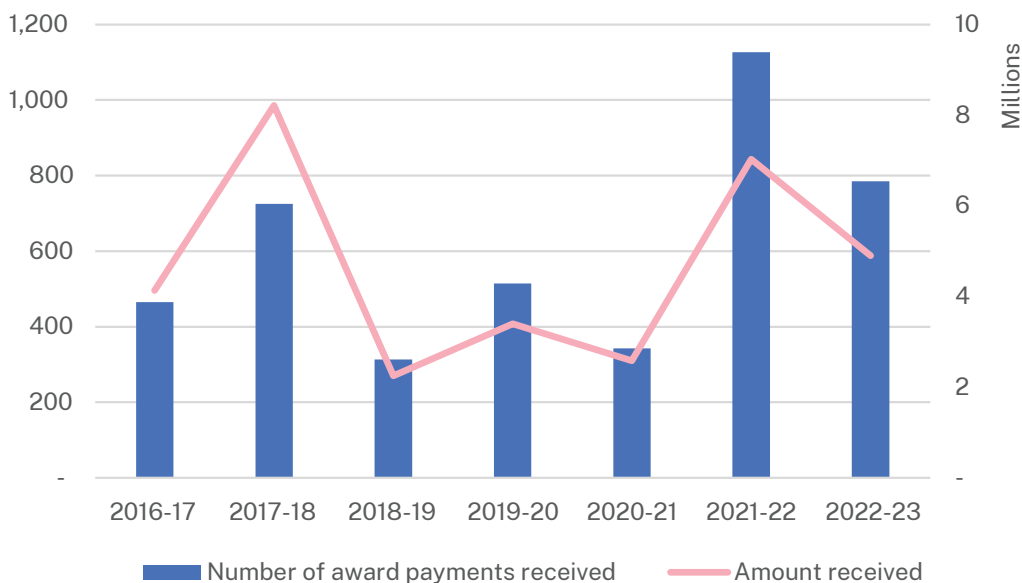
To 30 June 2023, we have received over 4,200 payments under the scheme totalling \$32.5 million. Of those payments, 86% are \$10,000 or under. A summary of the payments received to date is shown in figure 8.

While we are holding the payments in trust, the customer’s parents, guardian or financial manager can request for money to be released from the trust for the benefit of the customer. This could include things such as school fees, medical needs, orthodontic treatment, laptops or clothing.

At the end of the trust, for example where the customer turns 18, any money left in the trust is paid to them.

In some cases, particularly for smaller payments under the scheme, our fees can be more than the interest earned on the money we are holding for the customer. Where this happens, and there have been no requests for payments from the trust, we reduce our fees to ensure the customer receives the amount they were awarded under the scheme.

Figure 8: Victims’ support payments received to 30 June 2023





## Court investments

We invest amounts paid into court under the Uniform Civil Procedure Rules 2005 in our common fund. These amounts are invested 'at-call' and returned to the court as instructed.

During 2022-23 we:

- received 240 matters valued at \$187.4 million
- returned money from 209 matters to the courts.

At 30 June 2023 we were holding

# \$235.9 million

in 752 matters.



## Dormant Funds

Our role is to determine whether funds are dormant and to develop proposals for use of those funds where:

- the funds have not been used for the purpose for which they were donated
- it is not practicable to use the funds for that purpose
- the purpose of the fund cannot be achieved in a reasonable time
- the purpose of the fund is uncertain or cannot be ascertained.



## Financial planning services

Our financial planning services are tailored to the customer's circumstances and intended to provide a better outcome from the income, assets and investments available to them. They comply with Australian Securities and Investments Commission and the Financial Planning Association of Australia's best practice principles.

During 2022-23 our financial planning team:

- developed or reviewed 941 financial plans for financial management customers
- developed or reviewed 3,482 financial plans for customers where a trust, life interest or right of residence has been established as part of a Will, and for trusts and power of attorney customers
- prepared 748 records of advice to inform decision-making about a financial management customer's assets.

They also provided advice to inform decision-making for estate administration, trustee and power of attorney customers.

In the nine months to 30 June 2023:

- **90%+ of the annual reviews and financial plans were completed in 30 days**
- **80% of assessments of significant expenses for financial management customers (excluding decisions related to aged care) were completed in 21 days.**





## Benefits, child support payments, Medicare, insurances

We manage pensions, allowances and other social security payments for over

# 10,000

customers who have the NSW Trustee appointed as their financial manager.

For many of these customers their pension is their main source of income.

In addition, we:

- manage personal insurances including health, income protection, total and permanent disability insurance and funeral bonds
- manage Medicare and private health insurance claims
- manage child support payments.



## Taxation services

We ensure customers comply with their taxation obligations and that their income and assets are managed tax effectively.

Our tax team, which includes licensed taxation agents, has specialist knowledge of issues impacting customers.

One of their key functions is to estimate tax liabilities for deceased estates. These tax clearances enable beneficiaries to receive the proceeds from deceased estates net of the estimated tax liability sooner.

**During 2022-23 our taxation team:**

- prepared 4,738 taxation returns for customers
- provided 3,278 tax clearances for deceased estates.

All tax clearances and requests for advice about a customer's tax affairs were completed within 10 days.



## Working with Services Australia to make help ensure customers receive refunds from Medicare

During 2022-23 we worked with Services Australia to build a new process for claiming refunds from Medicare for our financial management customers.

The new process uses transaction data from our systems as proof of payment. Previously, customers, family members and service providers had to send us receipts as proof of payment in order for claims to be made. In many cases we had to follow up with medical centres to try and obtain copies of receipts. This process was time consuming and unreliable and resulted in many customers missing out on refunds they were entitled to.

The new process means customers receive more of the refunds they are entitled to claim as well as receiving those refunds

sooner. In addition, customers have more opportunity to take advantage of the Medicare Safety Net when they have significant medical expenses.

Customers receiving more of the refunds they are entitled to claim means there is more money available to meet their needs.



## Genealogy services

We undertake next of kin searches to identify and locate people in Australia and around the world who are entitled to a share of the deceased estates we are administering.

Once their entitlement is confirmed we can distribute the money from the estate to them.

We have a team of researchers that specialises in identifying and locating people who live overseas.

During 2022-23 this team:

- commenced international research to identify and locate beneficiaries in 159 matters
- completed international research for 203 matters.

In the nine months to 30 June 2023, all new matters had an initial review completed. This included determining what strategy we will use to research and locate beneficiaries.



## Legal services

Our legal services play an important role in protecting the legal rights and interests of customers.

Legal services are provided by in-house solicitors who have expertise in areas of law relevant to our wills and estate planning, succession, trusts, financial management and guardianship services.

During 2022-23 just over 1,900 matters were referred to our legal team. The most common referrals relate to deceased estates including matters related to family provisions. Other common referrals relate to trusts, personal injury and costs.

At 30 June 2023,

**1,188\***

legal matters were being managed by our legal services team.

### Section 61 Probate and Administration Act 1898

Under the *Probate and Administration Act 1898* the property of people who have died vests in us until probate or administration is granted by the NSW Supreme Court.

We receive and respond to legal notices and court documents served on us as title holder of property during this period. We also appear in Supreme Court proceedings related to these matters when needed.

We do not charge for these services unless the court makes an order in relation to our costs.

During 2022-23 we were served with 188 notices and responded as required.

\*This number excludes property conveyancing tasks.



## Our specialist staff sharing their expertise

During 2022-23 staff presented continuing professional development seminars on drafting and constructing wills to members of the legal profession. They also presented to the Legal Services Commission and Legal Aid.

We also have staff who serve as members of the Elder Law, Capacity and Succession Committee of the Law Society of New South Wales educational committee of The Financial Advisor Standards and Ethics Authority.

### Blue Mountains Law Society Succession Conference

We have sponsored the Blue Mountains Law Society Succession Conference since 2018.

The conference provides an opportunity for our staff to improve their skills and knowledge and to give presentations about the work of our agency.



## Authorised visitors

An authorised visitor provides independent advice to inform planning and decision making for customers that helps ensure we are making decisions that are consistent with their needs.

We have a panel of authorised visitors spread across New South Wales whom we can draw on for advice.



## Customer advocacy

Our Customer Advocacy team supports frontline staff in managing systemic issues that impact customers. They also provide support and guidance to staff when interacting with customers from vulnerable groups.



## Customer assets under management

We secure and manage our customers' assets. These assets include funds invested in our common funds, real estate, vehicles, bank accounts, shares and other investments as well as personal assets owned by customers.

At 30 June 2023 we were managing \$8.1 billion in customer assets. A summary of these assets is shown in table 3.

Table 3: Customer assets under management at 30 June 2023

	\$'000
<b>Common funds</b>	
Financial management	1,966,144
Trustee	1,609,224
<b>Total</b>	<b>3,575,368</b>
Customer assets outside the common fund	4,586,888
<b>Total assets under management</b>	<b>8,162,256</b>
Less estimated trustee customer liabilities (customer payables)	(19,652)
<b>Total</b>	<b>8,142,604</b>





## Customer story

**Supporting the rights, dignity, choices and wishes of our customers means we have an important role to play in protecting our customers from elder abuse.**

Shirley\* is a pensioner living with dementia in an aged care facility on the mid-north coast. Shirley had appointed her son and daughter in law to make legal and financial decisions on her behalf.

Shirley's pension was reduced after Centrelink deemed payments made to her son and daughter in law were a gift. These payments were made without Shirley's knowledge.

The reduction in Shirley's pension meant it no longer covered her accommodation and living expenses.

As time went on, the aged care facility became concerned about Shirley's financial status as significant debt was accruing. They applied to the NSW Civil and Administrative Tribunal for a financial management order. This led to the NSW Trustee being appointed as Shirley's financial manager.

After our Legal Services team found evidence of the misappropriation of Shirley's money by her son and daughter in law, they commenced negotiations with her son and daughter in law to repay the funds as well as Shirley's legal fees.

The money we recovered on Shirley's behalf means her finances are now secure. We were able to repay Shirley's debt and secure her permanent place in the aged care facility. It also means Shirley has money to meet her living and medical expenses as well as for amenities and comforts.

\*Names and identifying details have been changed to protect the privacy of individuals.

Customer assets under management has grown 7.9% on the previous year and 33.8% in the five years to 30 June 2023.

Figure 9 shows growth in customer assets under management in the five years to 30 June 2023.

General economic conditions impact the value of these assets. They can also add complexity to the way individual matters are managed and impact customer wealth.

## Common funds

We operate two common funds for investment of customer funds. They provide a range of investments options that enables us to meet customers investment needs at an acceptable market risk for their circumstances.

We have engaged JANA Investment Advisor as investment consultant, Citigroup as custodian and Blackrock Investment Management Australia (Blackrock) as the investment manager of the common funds.

JANA advises on asset allocation in the common fund according to investment objectives.

Citigroup act as an independent custodian who ensures each customer's money is held correctly and valued accurately. Blackrock's role as an investment manager is to ensure each of the investment options perform in accordance with their objectives.

An Independent Investment Advisory Committee provides specialist investment advice to assist in management and oversight of our common funds. Further information on the Committee is available on page 14.

## Investment returns

Performance of the common funds is measured against financial market benchmarks for the relevant investment option.

We publish a six-monthly investment report for each investment option within the common fund. These reports are available on our [website](#).

**During 2022-23 the Income Fund provided a return of 0.92% whilst the Cash Funds and Growth Funds provided average returns of 2.18% and 13.58% respectively.**

## Common funds at 30 June 2023

Table 4 shows the amount allocated to the individual investment funds. It also shows the returns achieved over the last year and a comparison with the return of the financial market benchmark for each investment option.

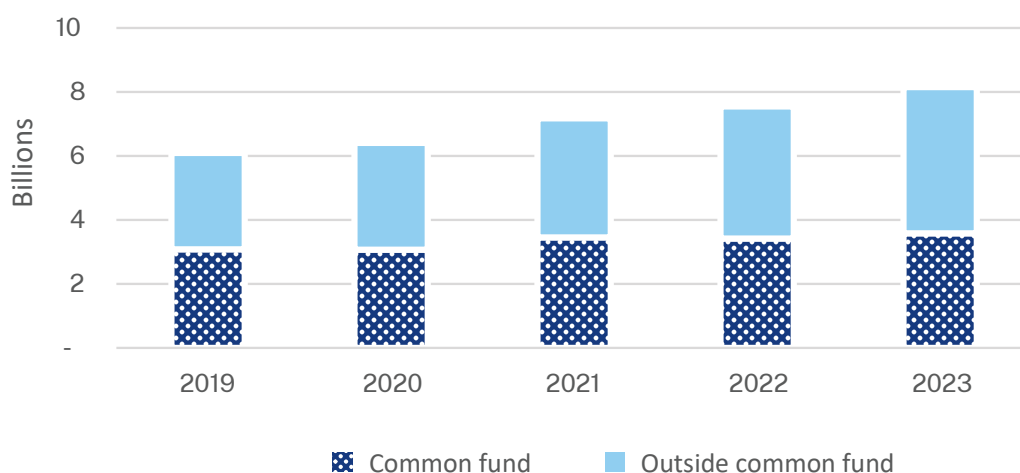


Figure 9: Growth in customer assets to 30 June 2023

Table 4: Amount allocated to individual investment funds 30 June 2023

Investment fund	Fin Mgt \$'000	Private Mgt \$'000	Trustee \$'000	Total \$'000	Customer return	Benchmark return
<b>Financial management common fund</b>						
Access fund	959,177	86,768	-	1,045,945	2.06%	2.74%
Income fund	207,839	3,579	174,265	385,683	0.92%	0.85%
Growth fund	513,563	20,953	-	534,516	13.63%	13.72%
<b>Total</b>	<b>1,680,579</b>	<b>111,300</b>	<b>174,265</b>	<b>1,966,144</b>		
<b>Trustee common fund</b>						
Primary			1,214,826	1,214,826	2.29%	2.72%
Growth			394,398	394,398	13.53%	13.68%
<b>Total</b>	<b>-</b>	<b>-</b>	<b>1,609,224</b>	<b>1,609,224</b>		
<b>Total</b>	<b>1,680,579</b>	<b>111,300</b>	<b>1,783,489</b>	<b>3,575,368</b>		

### Auditing of the common funds

The customer assets held in the common funds are noted separately in our financial statements.

The common funds and financial statements are audited by the Audit Office of New South Wales.

The Audit Office advises our Chief Executive Officer (as Trustee of the common funds), the Attorney General (as responsible Minister) and the Treasurer of the outcome of the audit.

The common funds fall within the definition of excluded information under the *Government Information (Public Access) Act 2009* as they relate to functions exercised in our capacity as executor, trustee or administrator. As a result, the audited financial statements are not tabled in parliament.

### Customer assets outside the common funds

Customer assets outside the common fund include real estate, motor vehicles, boats, caravans and personal property. These also include financial and investment assets such as shares, bank accounts, term deposits, loans, mortgages, superannuation and other investments.

We ensure these assets are secured and cannot be accessed, sold or transferred without our consent. We manage the rollover of term deposits, sale of shares, superannuation contributions and withdrawals and sale of other financial and investment assets.

Table 5 shows a breakdown of the confirmed customer assets at 30 June 2023. A breakdown of customer investment assets is shown in Table 6.

Table 5: Customer assets  
outside the common funds at  
30 June 2023

Asset category	Fin Mgt \$'000	Trustee \$'000	Total \$'000
Real estate	2,530,087	422,422	2,952,509
Investments	945,772	108,395	1,054,167
Mortgages	-	448	448
Other general assets / personal property	514,976	64,788	579,764
<b>Total</b>	<b>3,990,835</b>	<b>596,053</b>	<b>4,586,888</b>





## Managing customer property, vehicles and other personal assets

We manage properties, vehicles and personal effects for customers. This includes:

- sales, purchase and leasing of real estate
- securing and clearing properties
- property inspections and valuations
- construction, renovation, repairs and maintenance and specialist cleaning
- sales, purchase and registration of vehicles
- managing house, contents and vehicle insurance policies, renewals and claims
- collecting personal items, ensuring they are stored securely and, where necessary, sold.

During 2022-23 our property team managed:

- 458 property sales, 23 purchases and three transfers
- 513 construction, repair and safety inspection tasks
- 3,669 property insurance related tasks. These included including obtaining insurance, renewals, alterations, cancelling policies and claims
- the sale or purchase of 302 vehicles
- managed 2,279 vehicle insurance renewals, claims and registrations.

At 30 June 2023 we were managing:

- 2,902 properties
- 1,390 vehicles
- 28,902 personal items.

### Better information helps protect a customer's property

One of the challenges we can face when onboarding new financial management customers is obtaining accurate information about any property they own. This information can, at times, be incomplete which can lead to challenges in ensuring properties were adequately insured.

During 2022-23 we implemented a new process to address this issue. As part of the new process, our property team contacts all new customers who own real estate and ask a series of structured questions about the property. For example, size of the property, materials used in its construction and the general condition. If the customer cannot provide this information, we contact a family member or another person in their life.

We combine the information provided by the customers with a desktop valuation and an insurance calculator to help determine the amount of insurance a customer needs to protect their property.

This new process provides a clearer understanding of the customer's property and helps ensure they have adequate insurance for their property.

Investment	Fin Mgt \$'000	Trustee \$'000	Total \$'000
Debentures	2	101,022	101,024
Deposit account	30,321	56,931	87,252
Life policy	468	-	468
Shares	56,822	121,308	178,130
Superannuation and allocated pension	17,188	586,519	603,707
Unit trusts	3,593	36,091	39,684
Other financial assets	-	43,902	43,902
<b>Total</b>	<b>108,394</b>	<b>945,773</b>	<b>1,054,167</b>

Table 6: Customer investment assets outside the common fund at 30 June 2023



## Financial transactions for customers

In 2022-23, we processed 2.4 million financial transactions for customers totalling \$3.5 billion.

The transactions include:

- payment of invoices and allowances for customers
- receipt of income, pensions and proceeds from realisation of assets
- payments from estates and trusts to beneficiaries
- transfers of amounts between accounts (including deduction of our management fees from customer funds).

During 2022-23:

94%

of the transactions processed were for financial management customers.



The transactions for financial management customers represented 42.2% of the total value of transactions processed. The remaining 6% of the transactions processed were for deceased estate, trust and power of attorney matters and represented 57.8% of the value of transactions processed.

We continue to improve the efficiency of processing transactions for customers with a focus on reducing the time taken to process payments, phasing out cheque payments and fraud prevention measures. During 2022-23 this included implementation of third-party software to verify payee details.



## Working with other agencies to improve outcomes for customers

We work with agencies across the NSW and Commonwealth Governments providing critical services to customers. We also work with them to address systemic issues as well as issues impacting individuals. In doing this, we help protect and promote the interest and wishes of customers and aim to improve outcomes for them.

During 2022-23 we:

- made decisions as part of the Health Guardianship project that enabled guardianship customers to be released from hospital in an average of 9.04 days after their guardianship order was made
- responded to 14 notifications from the Aged Care Quality and Safeguards Commission that an aged facility had been sanctioned for non-compliance issues or was closing
- responded to 69 referrals from the Ageing and Disability Commissioner
- continued working with Service NSW to provide additional access points for our services and promote the discounts available for our wills and estate planning services through Service NSW's Savings Finder program.

### Australian Guardianship and Administration Council

We are a member of the Australian Guardianship and Administration Council which provides a national forum for State and Territory agencies that have a role in protecting adults in Australia who cannot make health, lifestyle or financial decisions on their own or with support. Its members include Public Guardians, Public Trustees, Public Advocates and Guardianship Tribunals.



## Providing information and engaging the community

By 30 June 2023, there had been over

# 450,000

unique visitors to our website since the current site was launched in 2020-21.

During 2022-23 we continued to expand our presence on social media gaining followers on Facebook, LinkedIn and Instagram which helps us increase our engagement with customers and the wider community.

### Community education and promoting the importance of planning ahead

The aim of our community education program is to increase awareness of our role in the community and to inform the community of the importance of planning ahead by preparing a Will and making a Power of Attorney.

We participated in 75 community education events across metropolitan and regional New South Wales during 2022-23. These included presentations to various community groups, retirement villages and aged care providers, hospitals and disability service providers such as Carers NSW, Healthy North Coast and the Central Coast Local Health District.

We also attended the 2023 Royal Easter Show on Seniors Day in partnership the Energy and Water Ombudsman NSW.

Other larger scale events included the NSW Seniors Expo, Sydney Disability Expo, Nepean Disability Expo, Mardi Gras Fair Day, Primex in Casino, Lithgow Show, Royal Bathurst Show

and Multicultural Seniors Fiesta and Expo at Fairy Meadow. We also attended several Dying to Know events across the state.

### Planning ahead for Aboriginal people in New South Wales

We continue to actively promote the importance of planning ahead for Aboriginal people. This is supported by the promotion of the Aboriginal Wills Handbook and Taking Care of Business booklet which were developed as culturally appropriate resources.

We attended the Yabun Festival on 26 January 2023, to provide information on the importance of having a Will as well as having Power of Attorney and Enduring Guardian appointments in place.



We attended both the Sydney Seniors Expo and the Nepean Disability Expo this year.

## Research and development

There were no research and development activities undertaken during 2022-23.

## Land disposal

There was no land disposal in 2022-23.

## Events arising after year end

As we move into 2023-24 and beyond, we will continue to respond to changes in our customer base and what they need and expect from us. We anticipate this will include further growth in the demand for and complexity of providing services to customers.

We will also respond to changes in the broader environment we operate in and other external imperatives.

The government working party advising the Attorney General on actions on the 2018 NSW Law Reform Commission Review of the *Guardianship Act 1987* held its first meeting on 5 September 2023. We are a member of the working party.

The Disability Royal Commission published its final report on 29 September 2023.

The NDIS Review is due to provide its report to the Disability Reform Ministerial Council towards the end of 2023.

We will seek to have a voice in any discussions regarding potential reforms arising from the work of the Disability Royal Commission, NDIS Review and government working party and to highlight the impact of any changes on our customers and the services we provide to them.

Further information on the Disability Royal Commission, NDIS Review and government working party are on page 25.





# Customer feedback

We welcome feedback from customers to help understand how well we are meeting their expectations, delivering services and communicating with them. Feedback also helps us identify gaps and improvements we can make to our services.

## Customer satisfaction

During 2022-23 the NSW Government's Customer Experience survey provided feedback from customers on their experience of the service we provided to them. All responses in the survey are anonymous.

The survey seeks feedback from customers in relation to:

- the ease of interacting with us
- their satisfaction with the service we provided
- their trust that we are working in their best interests.

The results from this feedback are shown in figure 10.

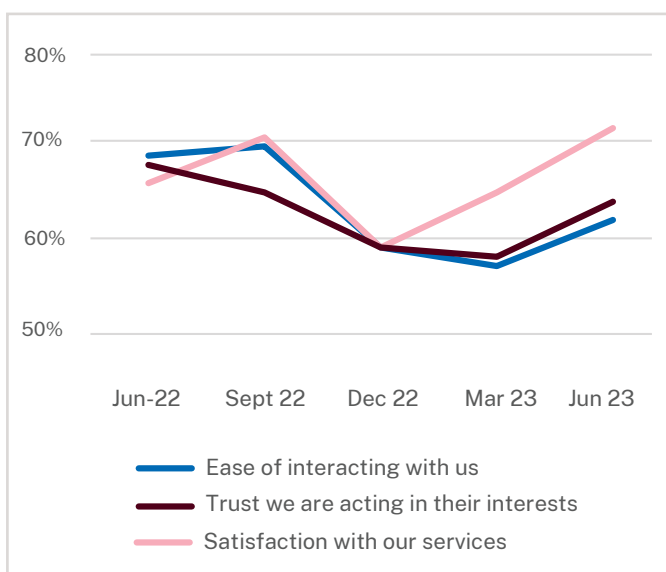


Figure 10: Customer feedback -communication and support of individual needs

The results show that satisfaction with our services had increased slightly in the 12 months to 30 June 2023 while ease of interacting with us and trust had decrease slightly in the same period. All measures increased slightly in the final three months of the year.

We also sought feedback from customers about our communication and whether our services support individual customer needs. These include whether we:

- explained what to expect
- resolved the situation
- acted with empathy
- competency.

The results from this feedback are shown in figure 11.

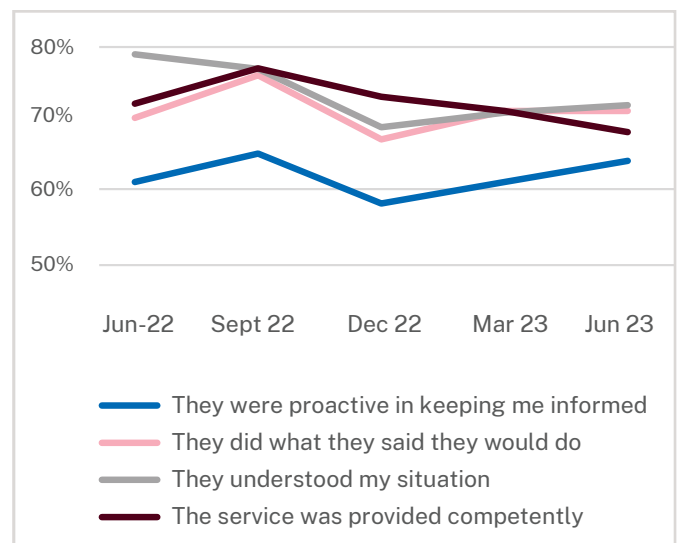


Figure 11: Customer feedback -ease of interacting, trust and satisfaction

This feedback shows a slight decrease in 'they understood my situation' over the course of the year. For the other measure, results at 30 June 2023 were consistent with the end of the previous year. The final six months of the year showed slight increases for three of the measures with a slight decrease in the 'service was provided competently'.

This feedback is reasonably consistent with the surveys conducted in previous years and reflects areas for improvement that we are continuing to address.

## Improving how we obtain feedback from customers

During 2022-23 we commenced a project to develop an improved approach for gathering feedback from customers on the effectiveness and quality of our services. This involves ensuring we have representation of the diversity in our customer base.

This project is part of the work we are undertaking to address the recommendations from the Performance Audit of our guardianship and financial management services (refer page 24).

We will develop feedback management processes in 2023-24 that will enable us to use insights from customer feedback to implement service improvement initiatives in the future.

## Complaints

Complaints are part of the feedback we receive from customers and those involved in their lives. They provide an opportunity for us to:

- explain our role, services and processes to customers and those involved in their lives
- review our practices and identify improvements or changes we can make.

A summary of complaints received for the five years to 30 June 2023 is shown in figure 12.

The increase during 2022-23 predominantly relates to complaints received from financial management customers. There was a small increase in relation to estate administration. Complaints received from guardianship customers and for other services fell slightly.

Just over

60%

of the complaints received during 2022-23 related to communication and timeliness.



The remaining complaints related to our policies, processes, costs and other concerns. A summary breakdown of the complaints received is shown in figure 13.

A breakdown of the outcome of complaints received during 2022-23 is shown in figure 14.

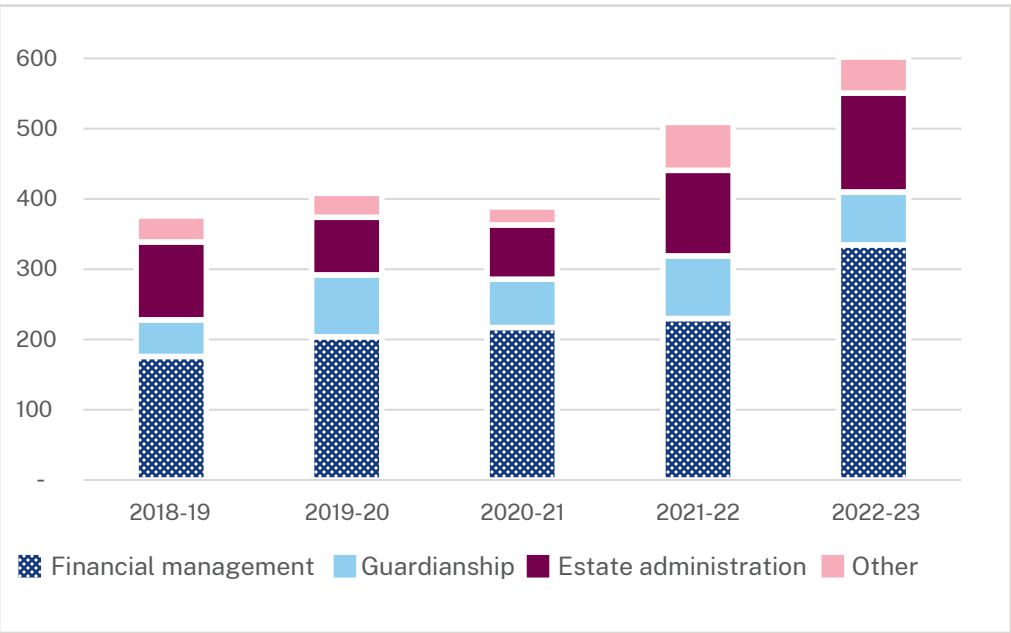
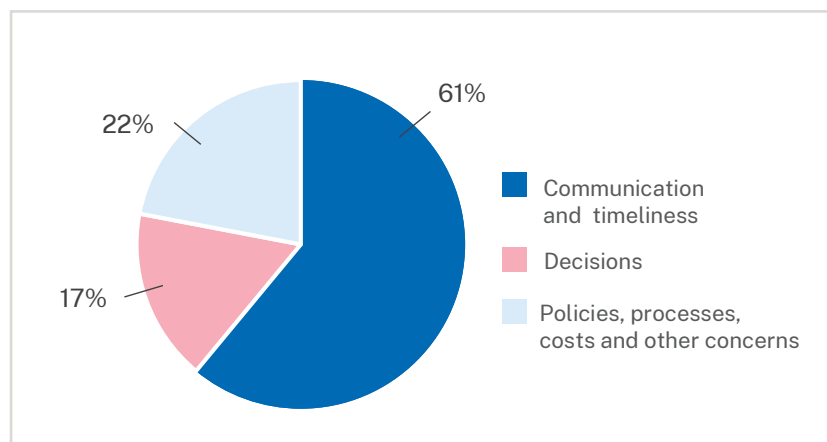


Figure 12: Complaints to 30 June 2023

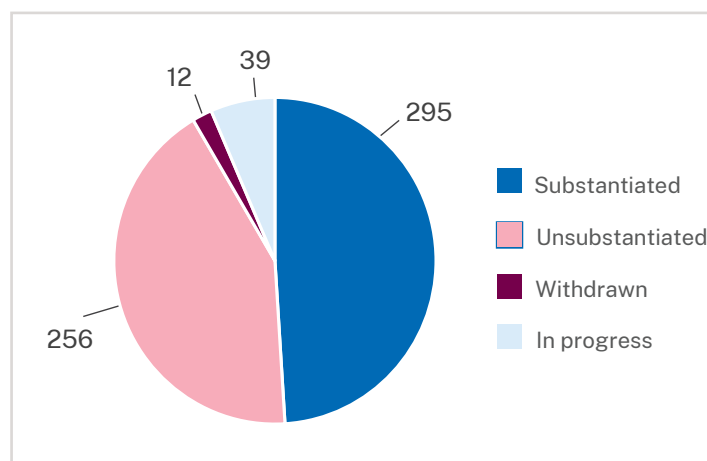
Figure 13: Complaints received 2022-23



“This year we commenced a project to develop an improved approach for gathering feedback from customers on the effectiveness and quality of our services.”

At 30 June 2023, 551 of the complaints received during the year had been finalised. Of these, 54% were substantiated. The remaining complaints were either in progress or withdrawn.

Figure 14: Outcome of complaints



## Reviews of substitute decisions for customers with a financial management or guardianship order

Customers, their family and other important people in their life may not always agree with the decisions we make as their financial manager or guardian. When this happens, there is a statutory review process they can follow<sup>3</sup> that includes both internal and external reviews of those decisions. We inform customers of the review process when we tell them about the decision we have made.

### Internal reviews of decisions

A summary of requests for an internal review of decision received for the four years to 30 June 2023 is shown below in figure 15.

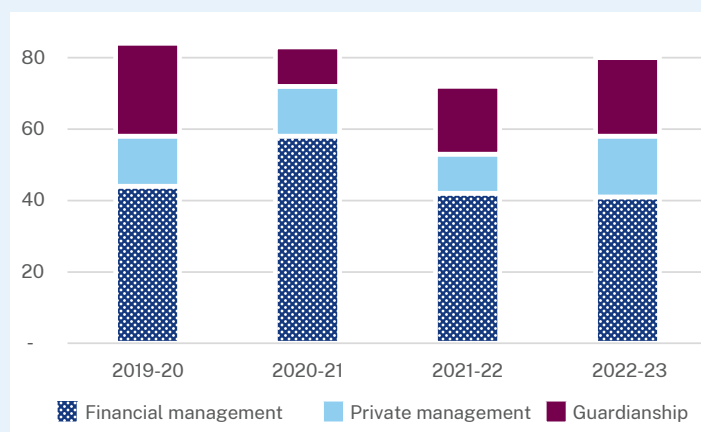


Figure 15: Requests for an internal review of decision

<sup>3</sup>Administrative Decisions Review Act 1997

During 2022-23 we received 81 requests for an internal review of decision. This is consistent with the number received in previous years.

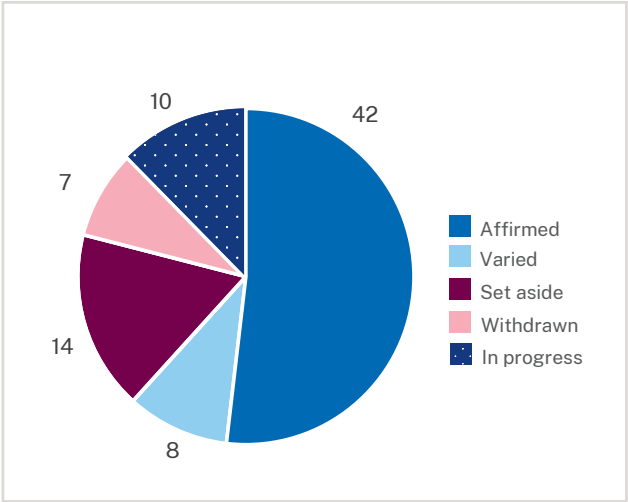


Figure 16: Outcome of requests for an internal review of decision received in 2022-23

At 30 June 2023, 64 of the requests had been finalised, the remainder were either in progress or withdrawn. Our decision was affirmed or varied in 78% (50) of the requests completed. A summary of the outcome of the requests for an internal review of decision received in 2022-23 is shown in figure 16.

External reviews of decisions

During 2022-23 we received notice that there had been 17 applications for the NSW Civil and Administrative Tribunal to review a decision we had made for our financial management and private management customers.

At 30 June 2023, five of those applications had been finalised by the Tribunal. Of those, four of the decisions were affirmed and one application dismissed. A further two applications were withdrawn and 10 in progress.

Follow up of complaints and reviews of decisions

We review complaints to ensure that issues raised in the complaint are addressed. This may include ensuring commitments are met or that changes identified related to policies and procedures are implemented.

Working with the NSW Ombudsman

During 2022-23, we received 10 formal inquiries from the NSW Ombudsman, seven of which were closed with no further action required. This indicates the Ombudsman considered the actions we took to resolve the complaint and the procedures we followed were appropriate.

The remaining inquiries were closed after we had addressed issues raised by the Ombudsman.

“We received 81 requests for an internal review of decision. This is consistent with the number received in previous years.”



# Management and accountability



# Governance and oversight

The Chief Executive Officer is responsible for the management of the affairs of the agency. Our corporate governance framework supports them in discharging those responsibilities and helps provide for the efficient and effective use of the agency's resources.

The Executive Leadership Team supports the Chief Executive Officer in leading the agency. Our independent advisory committees (page 14) also provide high-level advice and assurance.

Additional oversight is provided by agencies such as the Audit Office of New South Wales, the NSW Ombudsman and the Independent Commission Against Corruption.

## Oversight

The Audit Office of New South Wales provides external auditing services for both the agency and our common fund.

The Independent Auditor's Report for 2022-23 is set out on page 75. At time of publication the audit of the common fund is in progress.

The NSW Ombudsman provides oversight to help us improve the delivery of services to customers. Further information on our work with the NSW Ombudsman is set out on page 55.

The Independent Commission Against Corruption provides oversight to guide the conduct of our staff, protect the public interest and prevent breaches of public trust.

**Our internal audit and risk management policy attestation is on page 129.**

## Risk management

Our management of risk complies with NSW Treasury policies<sup>4</sup>. Our risk management framework also meets the requirements of the Risk Management - Principles and Guidelines Australian standard<sup>5</sup>.

Major business processes are protected by:

- a risk management and compliance framework, a fraud control and corruption strategy and prevention framework
- an internal audit program focussed on addressing key risk and advice and assurance from the Audit and Risk Committee
- business continuity and business resilience plans
- our knowledge management framework, which includes monitoring policies and procedures.

During 2022-23 we began strengthening compliance reporting. As part of this work, we are developing corporate policies tailored to the specific needs of the agency to replace policies used by the Department of Communities and Justice. This applies particularly in relation to our fiduciary relationship with customers and makes it easier for staff to understand and comply with their fiduciary obligations.

## Internal audit program

Our strategic internal audit plan is reviewed annually and endorsed by the Audit and Risk Committee. It provides assurance over key risks, strategic priorities and internal controls.

Our main area of focus for internal audit in 2022-23 was general controls for information technology. The audit identified two low-risk findings which were being addressed at 30 June 2023.

<sup>4</sup>Certifying the Effectiveness of Internal Controls Over Financial Information Policy (TPP17-06) and Internal Audit and Risk Management Policy (TPP20-08) <sup>5</sup>AS/NZS ISO 31000

The primary focus of assurance for 2022-23 was the Audit Office of New South Wales performance audit into the effectiveness and efficiency of our financial management and guardianship services. Refer page 24 for further information.

Actions arising from internal audits and the performance audit are tracked as an initiative with the agency's annual business plan.

The Chief Audit Executive oversees the internal audit function on a day-to-day basis. They report functionally to the Audit, Risk and Compliance Committee and have direct access to the Chief Executive Officer to discuss audit and risk issues.

Information on our strategic direction and business planning is set out on page 16.

“Our business continuity management framework and resilience plans are designed to ensure that in the event of a disruptive event...all critical business systems and processes continue to operate.”

## Business continuity

Our business continuity management framework and resilience plans are designed to ensure that in the event of a disruptive event (including an emergency) all critical business systems and processes continue to operate. This means we can be there for customers to provide the services and support they rely on.

During 2022-23 our resilience plans were reviewed and updated to ensure they remain relevant and meet the international standard<sup>6</sup>.

We conducted a business continuity exercise using the business continuity plans, processes and procedures. The purpose of the exercise was to:

- familiarise staff with business continuity procedures and practices
- build awareness of vulnerabilities and critical dependencies to strengthen our response and recovery capabilities
- identify any gaps in the current plan
- meet best practice and management expectations regarding response and recovery objectives.

<sup>6</sup>Security and Resilience – Business Continuity Management Systems – Requirements (ISO 22301:2019)

## Conduct and behaviour and public interest disclosures

Our staff operate under a framework that outlines the values and standards for ethical and professional conduct they are expected to meet. The framework also applies to contractors, consultants, volunteers and employees of other organisations working with us.

A separate Statement of Business Ethics applies to all business partners, suppliers and contractors. It provides a framework of mutual obligations, roles and constraints in business operations in relation to business conducted for us and on behalf of customers.

All staff have a responsibility to report suspected wrongdoing. We have an internal Public Interest Disclosure reporting system which encourages staff to report suspected wrongdoing.

Our induction training for new staff includes governance training. This ensures new staff are aware of their ethical obligations and behaviours in the workplace. We also provide:

- factsheets supported by an online learning module and face to face training on ethical conduct and behaviour
- information to suppliers and service providers about reporting wrongdoing through the Statement of Business Ethics published on our website.

We received four public interest disclosures in 2022-23. A summary of those disclosures is shown in the table on page 135.

## Procurement

We procure goods and services for general operating purposes and on behalf of customers. For all procurement, the overarching requirement is that it delivers value for money. It must also be fair, ethical and transparent.

Our customer and corporate procurement framework provides support for staff procuring goods and services for customers or for general operating purposes.

The steps we took during 2022-23 to ensure goods and services we procured were not the product of modern slavery is on page 66.

### Consultants

Our procurement practices align with NSW Government procurement policies for engaging consultants.

NSW Treasury's Annual Reporting requirements<sup>7</sup> do not require us to provide details related to engagement of consultants during the year.

## Insurance arrangements

Our insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self-insurance for government agencies. The fund is managed by Insurance and Care NSW (icare). The premiums are determined by the Fund Manager based on past claims.

Refer financial statements page 81.

## Cyber security

During 2022-23 we continued delivery of our Cyber Security Uplift program to strengthen our cyber security defences and better protect the health, personal and sensitive information of our customers and the agency.

During the year we focussed on perimeter security of our systems. This was assisted by the completion of the migration of our systems to the cloud.

We also continued our focus on raising staff awareness of cyber security. The ongoing improvement in the results of phishing tests shows staff awareness is increasing.

Our Cyber Security Policy attestation is shown on page 131.

<sup>7</sup>NSW Treasury Policy and Guidelines – Annual Reporting Requirements TPG23-10 3 July 2023



# Legal change and judicial decisions

Our legal framework enables, supports and governs the role and the services we provide to customers. Changes in legislation and judicial decisions can impact those services.

## Legislative change

During 2022-23 the *Workers Compensation Act 1987* was amended to help preserve the value of workers compensation payments awarded to the dependents of deceased workers.

As a result of the change employers are required to pay an amount intended to cover our fees for managing the trusts created to manage the amount awarded. This payment is in addition to the amount awarded to the dependent.

This change to the Act will help preserve the value of the trust for the future needs of the dependent.

An associated change to the Workers Compensation Regulation 2016 sets out the formula used for calculation of the additional amount.

The change applies to workers compensation trusts awarded after 16 December 2022.

## Judicial decisions

Many of the services we provide are impacted by case law. Historically, this has particularly applied to our executor, trustee and attorney services. There is also a growing body of decisions that impact our financial management and guardianship services.

During 2022-23 there were no significant judicial decisions impacting our services.



# Employee matters

Supporting and developing our people is one of the goals of Our Strategy. During 2022-23 we have continued our focus on building both the capacity and capability of our people to enable them to provide an improved service to our customers.

## Employees by category

The number of full-time equivalent employees at 30 June 2023 is shown in table 7. It also includes a comparison with 2022.

	2022	2023
Ongoing (non executive)	566.33	593.38
Temporary employees	29.70	44.21
Managers	7.00	6.10
<b>Total</b>	<b>603.03</b>	<b>643.69</b>

Table 7: Full-time equivalent staff at 30 June

The majority of our employees are located in Parramatta with other staff located in the Sydney CBD as well as regional and remote locations across the state.



## Senior executives

At 30 June 2023, we employed nine Public Sector Senior Executives (senior executives).

A summary breakdown of the senior executives at 30 June 2023 and comparison to 2022 is shown in table 8.

The average total remuneration at 30 June 2023 and comparison to 2022 year is shown in table 9.

In 2022-23, senior executives represented 3.65% of total employee related expenditure. This compares with 3.31% in 2021-22.

Table 8: Number of senior executives

Band	At 30 June 2022			At 30 June 2023		
	Female	Male	Total	Female	Male	Total
Chief Executive Officer (Band 3)	1		1	1		1
Executive Director (Band 2)		1	1		1	1
Director (Band 1)	5	2	7	5	2	7
<b>Total</b>	<b>6</b>	<b>3</b>	<b>9</b>	<b>6</b>	<b>3</b>	<b>9</b>

Table 9: Senior executives – average total remuneration

Band	At 30 June 2022		At 30 June 2023	
	PSSE Band Salary Range	Average Remuneration	PSSE Band Salary Range	Average Remuneration
Chief Executive Officer (Band 3)	345,551 - 487,050	355,657	361,301 - 509,250	402,917
Executive Director (Band 2)	274,701 - 345,550	282,874	287,201 - 361,300	293,787
Director (Band 1)	192,600 - 274,700	233,155	201,350 - 287,200	251,293

## Human resource, payroll and employee records services

Our People and Culture team provides talent acquisition and management, learning and development, work health and safety, employee relations and support for organisational change. Industrial relations advice is sought through external providers.

The Department of Communities and Justice provides payroll and employee records services under a service partnership agreement.

## Overseas travel

There was no overseas travel in 2022-23.

# Access to information and privacy

We hold information that enables us to carry out our statutory functions and provide services to customers. We are committed to protecting this information and the principles of transparency and access to government information.

## Access to information

The aim of the *Government Information (Public Access) Act 2009* (GIPA Act) is to promote and facilitate the sharing of government information with the public.

Our general approach, in accordance with the GIPA Act, is that customers and members of the public can access the information we hold unless there is an overriding public interest consideration against its disclosure or it is excluded information.

Our [Agency Information Guide](#) provides further information about how customers and members of the public can access information we hold.

## Proactive release of government information

During 2022-23 we reviewed the information we held to identify what information could be made publicly available. This includes publishing policies that impact customers on our website. As part of this program we updated one of the policies published on our website.

## Requests for access to government information

We received 20 formal applications to access information under the GIPA Act during 2023. A summary of those applications and subsequent outcomes is shown in the tables on pages 132 to 134.

The Administrative and Equal Opportunity Division of the NSW Civil and Administrative Tribunal reviewed one decision in relation to release of information<sup>8</sup>. This review upheld our original decision to refuse access to a document on the basis the document was the subject of legal professional privilege.

## Privacy

We collect, store and use personal, health and sensitive information to carry out our statutory functions and provide services to customers.

During 2022-23 we reviewed our Privacy Management Plan. This plan sets how we manage information under the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*.

We also published a Managing Privacy Breach Process Guide which sets out our responsibilities and the process we use for managing a potential privacy breach. As part of this process, we use information from our investigation of any breaches to help strengthen protections of customers' information and prevent future breaches.

We have a mandatory eLearning module on privacy awareness for all staff and provide advice and guidance to staff on compliance and best practice to support them in managing privacy obligations.

During 2022-23 the Information and Privacy Commission advised us of one complaint under Part 5 of the *Privacy and Personal Information Protection Act 1998*. We reviewed the complaint and found there was no privacy breach. The Information and Privacy Commission reviewed our decision and did not make any further recommendations.

There were no reviews in relation to disclosure of personal information kept in a public register.

<sup>8</sup>Buttrose v NSW Trustee and Guardian [2023] NSWCATAD 165



# Sustainability





## Disability inclusion

We promote access to services for people with disability through the design and implementation of our services.

All our locations are accessible for people with disability. Other accessibility adjustments include enabling customers to bring a support person, hearing amplification, relocation to a quieter area or provision of documents in large print or electronic formats.

Wherever possible Plan Ahead Days and community education events are held at venues with better access and facilities for people with disability.

Our website meets accessibility guidelines to help make the content accessible to a wider range of people with disability.

Accessible versions of brochures and booklets relating to our services are available on request. Easy Read versions of several key resources for guardianship services are also available.

Interpreting services such as AUSLAN are provided on request to both customers and staff.

Employment of people with disability is an important part of our service delivery strategy, including targeted roles for people with disability.

Our Disability Awareness training helps staff develop a better understanding of customers who have disability, their needs and the challenges they face. The training also looks at attitudes towards disability and how empathy plays a major role in shifting our thinking and in understanding the needs of individual customers.

During 2022-23, approximately

# 240

staff participated in the training.

We celebrated International Day of People with Disability in December 2022 exploring the theme of invisible disabilities.

## Work, health and safety

We are committed to providing a healthy and safe workplace for our staff and complying with the requirements of the *Work Health and Safety Act 2011*.

Our Work Health and Safety Committee provides a forum for all employees to consult about issues affecting workplace safety. The Committee met four times during 2022-23.

## Injuries, incidents and prosecutions

During 2022-23 we reported nine Work Health and Safety related injuries to our workers compensation insurers, up from six in 2021-22. These injuries were not classified as a notifiable incident to Safe Work Australia.

## Disability Inclusion Action Plan

As part of the Stronger Communities Portfolio, we fall within the Department and Communities and Justice's Disability Inclusion Action Plan.

Any actions under that plan are reported as part of the Department of Communities and Justice Annual Report.

At 30 June 2023, there were 32 active workers compensation claims. This includes claims related to former employees who have an ongoing entitlement to workers compensation. Of the claims active at 30 June 2023, 12 relate to physical injuries and 20 to psychological injuries.

There were no prosecutions under the *Work Health and Safety Act 2011*.

### Health and wellbeing

The wellbeing and resilience of our staff is a key priority in supporting and developing our people.

We support staff well-being initiatives, such as **r u ok day?** and a fitness passport program. We provide flu vaccinations to staff free of charge to help reduce the spread of infection.

We also provided a Clinical Supervision Program to support and maintain staff wellbeing in the Customer Specialist Centre.

Our Employee Assistance Program supports the wellbeing of staff and their immediate family members. We provided additional direct support to the program for staff impacted by organisational changes.

During 2022-23 we conducted a trial of Human and Resilient Workshops. These workshops:

- focussed on approaches that can help promote resilience in staff providing services to customers who are suffering stress and trauma
- provided an opportunity for staff to explore:
  - i. issues that can lead to feelings of stress and trauma
  - ii. individual and organisational support and strategies that can promote resilience and well-being.

The trial workshops were well received and will be rolled out more broadly during 2023-24.

## Workforce diversity

We aim to build a diverse workforce that is inclusive and more representative of our customer base.

Tables 10 and 11 set out the representation of diversity groups in our workforce<sup>9</sup>. The data in the tables is based on responses to the Department of Communities and Justice workforce diversity questions.

During 2022-23 we adopted strategies to attract candidates from diverse backgrounds as part of the advertising and recruitment process for new staff.

We will continue to increase diversity within our workforce, through the development of a more comprehensive diversity plan and deliver campaigns to promote the voluntary disclosure of diversity information.

## Modern slavery

All suppliers, including those supplying goods and services to customers are required to comply with our Statement of Business Ethics. This includes a requirement for suppliers to take reasonable steps to avoid complicity in modern slavery or human rights violations.

For major suppliers, we include a link to their Modern Slavery Statement on our contract register. These statements are published on the Australian Government's [Online Register for Modern Slavery Statements](#).

We are incorporating a requirement for suppliers tendering for work with us to confirm that their business operations do not engage in modern slavery or human rights violations and that their operations comply with the *Modern Slavery Act 2018*. These requirements will be incorporated into the contracts signed with successful tenderers.

<sup>9</sup>The distribution is not calculated where there are less than 20 employees in a diversity group or where the number of other employees is less than 20.



Table 10: Representation of diversity groups

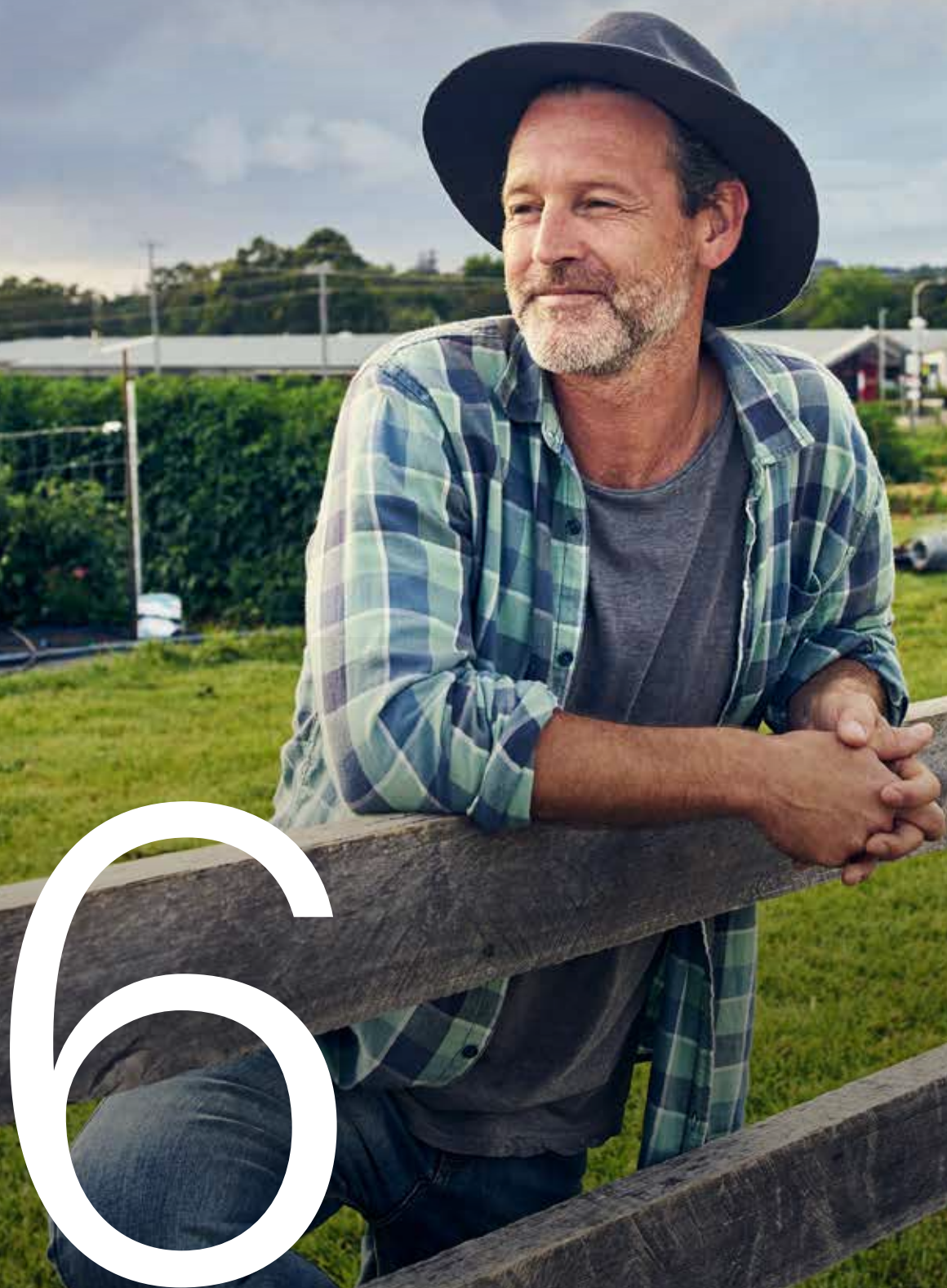
Diversity group	Benchmark	2021	2022	2023
Women	50.0%	66.9%	70.1%	69.5%
Aboriginal and/or Torres Strait Islander People	3.3%	1.3%	1.6%	1.2%
People whose first language spoken as a child was not English	23.2%	38.4%	34.8%	21.8%
People with disability	5.6%	5.8%	6.3%	3.9%
People with disability requiring work-related adjustment	N/A	2.8%	2.8%	1.6%

Table 11: Distribution of diversity groups across salary bands

Diversity group	Benchmark	2021	2022	2023
Women	100	98	98	98
Aboriginal and/or Torres Strait Islander People	100	N/A	N/A	N/A
People whose first language spoken as a child was not English	100	94	96	95
People with disability	100	94	93	93
People with disability requiring work-related adjustment	100	N/A	N/A	N/A



# Financial performance



# Financial performance overview

As a largely self-funded agency, our main source of revenue is the fees, commission and charges received from providing services to customers.

This means our revenue is impacted by the ongoing demand for our services and general economic conditions such as volatility in the financial markets, fluctuating interest rates and property prices. For example, revenue from administration of deceased estates is closely tied to the property market.

We also receive interest from investment of our corporate funds. Volatility in financial markets and fluctuating interest rates impact the amount received and consistency of returns from these investments.

In addition to revenue received from customers and interest on our corporate funds we also receive a grant for guardianship services and funding for services provided as part of our community service obligation.

## Net result

Our net result or operating profit in 2022-23 was surplus of \$7.3m. This compared with a loss of \$6.6m in 2021-22, excluding the gain from sale our building in 19 O'Connell Street Sydney.

This variation in our net result shows the ongoing impact of variations in the returns on our investments with TCorp's IM Fund on our financial performance.

Figure 17 shows a summary of the results for 2022-23 with a comparison to previous years. Please note, the other gains (losses) and net result for 2021-22 were significantly impacted by the sale of our building at 19 O'Connell Street, Sydney.

Figure 17: Summary of results for 2022-23

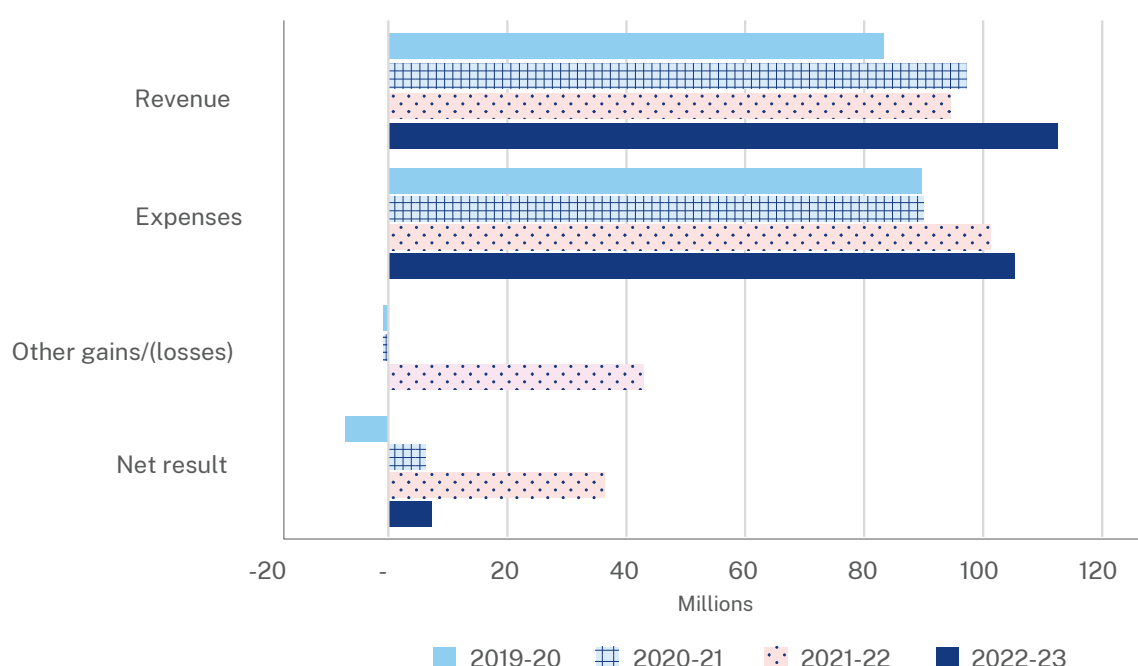
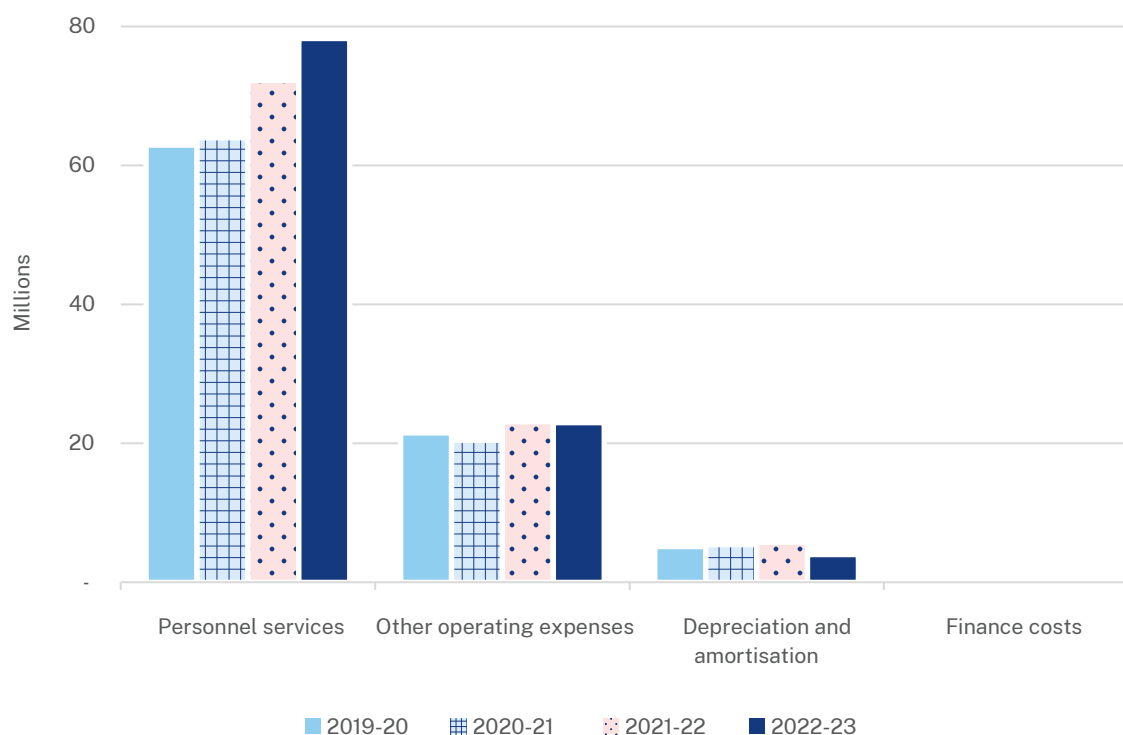


Figure 18: Sources of revenue to 30 June 2023



Figure 19: Expenditure to 30 June 2023



## Financial position

Our financial position at 30 June 2023 shows net assets and total equity of

# \$200 million.

Net assets include cash of \$104m, of which \$82.5m is from the proceeds of sale of our building at 19 O'Connell Street, Sydney. The proceeds from that sale have been set aside for purchasing alternate premises in Sydney.

## Revenue

Total revenue for 2022-23 was \$112.5m which was an increase of 19% on the previous year.

The majority of this increase is a result of the return on our investments with TCorp's IM Fund increasing from a loss of \$6.2m in 2021-22 to a return of \$8.2m in 2022-23. We also received \$3.1m in interest on the proceeds of the sale of our building in the Sydney CBD.

Fees received from customers increased by

# \$3.2 million

\$3.2m (4.4%) in 2022-23.

The sources of revenue for the four years to 30 June 2023 are shown in figure 18.

## Expenditure

Total expenditure for 2022-23 was \$105.2m, an increase of 4.0% on 2021-22. A summary breakdown of expenditure for the four years to 30 June 2023 is shown in figure 19.

The increase in 2022-23 mostly relates to additional personnel services expenses resulting from the new positions created using the additional budget funding for financial management and guardianship services.

## Capital expenditure

Capital expenditure for the four years to 30 June 2023 is shown in figure 20.

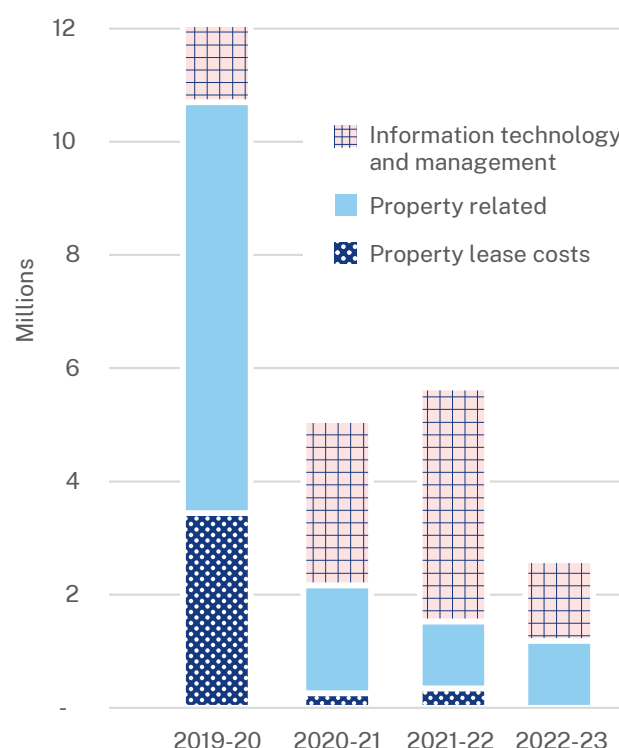
Capital expenditure for 2022-23 was \$2.7m, the majority of which related to information technology and management.

## Corporate investments

Investments of our corporate funds are managed by NSW TCorp Investment Management. These corporate funds are invested to contribute to the financial sustainability of the agency.

Further information about the performance of corporate investments is set out in the financial statements on page 122.

Figure 20: Capital expenditure to 30 June 2023





# Financial statements



# Contents

Statement in Accordance with Division 7.2 of the Government Sector Finance Act 2018.....	74
Independent Auditor's Report.....	75
Statement of Comprehensive Income for the year ended 30 June 2023 .....	77
Statement of Financial Position as at 30 June 2023.....	78
Statement of Changes in Equity for the year ended 30 June 2023.....	79
Statement of Cash Flows for the year ended 30 June 2023.....	80
1. Statement of significant accounting policies .....	81
2. Expenses excluding losses .....	94
3. Revenue.....	95
4. Gain/(loss) on disposal.....	98
5. Other gains/(losses).....	99
6. Current assets – cash and cash equivalents .....	99
7. Current/non-current assets – receivables .....	100
8. Current assets – contract assets.....	100
9. Non-current assets – financial assets at fair value .....	101
10. Non-current assets – property, plant and equipment.....	101
11. Leases as a lessee.....	102
12. Leases as a lessor.....	107
13. Intangible assets.....	108
14. Fair value measurement of non-financial assets.....	109
15. Current liabilities – payables.....	110
16. Current/non-current liabilities – provisions.....	111
17. Commitments.....	113
18. Contingent liabilities and contingent assets.....	113
19. Budget review.....	114
20. Reconciliation of cash flows from operating activities to net result .....	116
21. Common Fund assets.....	116
22. Financial instruments.....	117
23. Related party disclosures.....	126
24. Natural disasters and financial impact.....	127
25. Events after the reporting period.....	127



NSW Trustee  
& Guardian

**STATEMENT IN ACCORDANCE WITH  
DIVISION 7.2 OF THE GOVERNMENT SECTOR FINANCE ACT 2018**

Pursuant to Division 7.2, section 7.6 (4) of the *Government Sector Finance Act 2018*, I declare that in my opinion:

- (a) The accompanying financial statements present fairly the financial position as at 30 June 2023, financial performance and cash flows for the year ended 30 June 2023;
- (b) The financial statements have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the provisions of the *Government Sector Finance Act 2018*, *Government Sector Finance Regulation 2018* and the Financial Reporting Directions mandated by the Treasurer; and
- (c) As at the date of this statement, I am not aware of any circumstances, which would render any particulars included in the financial statements to be misleading or inaccurate.

*Brian Woods*

Brian Woods

**Acting Chief Executive Officer**

5 October 2023



## INDEPENDENT AUDITOR'S REPORT

### NSW Trustee and Guardian

To Members of the New South Wales Parliament

### Opinion

I have audited the accompanying financial statements of NSW Trustee and Guardian, which comprise the Statement by the Acting Chief Executive Officer, the Statement of Comprehensive Income for the year ended 30 June 2023, the Statement of Financial Position as at 30 June 2023, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Statement of Significant Accounting Policies, and other explanatory information.

In my opinion, the financial statements:

- have been prepared in accordance with Australian Accounting Standards and the applicable financial reporting requirements of the *Government Sector Finance Act 2018* (GSF Act), the *Government Sector Finance Regulation 2018* (GSF Regulation) and the Treasurer's Directions
- presents fairly NSW Trustee and Guardian's financial position, financial performance and cash flows.

My opinion should be read in conjunction with the rest of this report.

### Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of NSW Trustee and Guardian in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants (including Independence Standards)' (APES 110).

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I have fulfilled my other ethical responsibilities in accordance with APES 110.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.



## **Acting Chief Executive Officer's Responsibilities for the Financial Statements**

The Acting Chief Executive Officer is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, the GSF Act, GSF Regulation and Treasurer's Directions. The Acting Chief Executive Officer's responsibility also includes such internal control as the Acting Chief Executive Officer determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Acting Chief Executive Officer is responsible for assessing NSW Trustee and Guardian's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting.

## **Auditor's Responsibilities for the Audit of the Financial Statements**

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: [www.auasb.gov.au/auditors\\_responsibilities/ar4.pdf](http://www.auasb.gov.au/auditors_responsibilities/ar4.pdf). The description forms part of my auditor's report.

The scope of my audit does not include, nor provide assurance:

- that NSW Trustee and Guardian carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Susan Prichard  
Director, Financial Audit Services

Delegate of the Auditor-General for New South Wales

5 October 2023  
SYDNEY

# Statement of Comprehensive Income for the year ended 30 June 2023

	Notes	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
<b>Expenses excluding losses</b>				
Personnel services	2(a)	89,861	78,250	72,219
Other operating expenses	2(b)	20,263	22,995	23,124
Depreciation and amortisation	2(c)	4,598	3,992	5,742
Finance costs	2(d)	-	-	132
<b>Total expenses excluding losses</b>		<b>114,722</b>	<b>105,237</b>	<b>101,217</b>
<b>Revenue</b>				
Rendering of services	3(b)	83,010	75,931	72,754
Investment revenue	3(c)	6,161	11,394	(6,169)
Grants and contributions	3(d)	24,023	23,672	26,040
Acceptance by Crown of personnel services liabilities	3(e)	764	590	638
Other revenue	3(f)	310	1,003	1,327
<b>Total revenue</b>		<b>114,268</b>	<b>112,590</b>	<b>94,590</b>
<b>Operating result</b>		<b>(454)</b>	<b>7,353</b>	<b>(6,627)</b>
Gains/(loss) on disposal	4	-	-	41,863
Other gains/(losses)	5	-	(7)	1,149
<b>Net result</b>		<b>(454)</b>	<b>7,346</b>	<b>36,385</b>
<b>Other comprehensive income</b>				
<i>Items that will not be reclassified to net result in subsequent periods</i>				
Net increase in property, plant and equipment revaluation surplus	10	-	101	232
<b>Total other comprehensive income</b>		<b>-</b>	<b>101</b>	<b>232</b>
<b>TOTAL COMPREHENSIVE INCOME</b>		<b>(454)</b>	<b>7,447</b>	<b>36,617</b>

The accompanying notes form part of these financial statements.

# Statement of Financial Position as at 30 June 2023

	Notes	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
<b>ASSETS</b>				
<b>Current assets</b>				
Cash and cash equivalents	6	99,475	104,073	104,833
Receivables	7	29,248	25,437	25,858
Contract assets	8	3,330	4,663	4,341
<b>Total current assets</b>		<b>132,053</b>	<b>134,173</b>	<b>135,032</b>
<b>Non-current assets</b>				
Receivables	7	2,693	366	433
Financial assets at fair value	9	82,211	82,944	74,743
Property, plant and equipment	10			
- Land and buildings		2,603	2,751	2,701
- Plant and equipment		7,645	6,139	5,832
<b>Total property, plant and equipment</b>		<b>10,248</b>	<b>8,890</b>	<b>8,533</b>
Right-of-use assets	11	-	1,653	2,478
Intangible assets	13	11,079	9,913	10,603
<b>Total non-current assets</b>		<b>106,231</b>	<b>103,766</b>	<b>96,790</b>
<b>Total assets</b>		<b>238,284</b>	<b>237,939</b>	<b>231,822</b>
<b>LIABILITIES</b>				
<b>Current liabilities</b>				
Payables	15	5,981	7,619	7,101
Provisions	16	31,132	27,415	29,194
<b>Total current liabilities</b>		<b>37,113</b>	<b>35,034</b>	<b>36,295</b>
<b>Non-current liabilities</b>				
Provisions	16	2,200	2,475	2,544
<b>Total non-current liabilities</b>		<b>2,200</b>	<b>2,475</b>	<b>2,544</b>
<b>Total liabilities</b>		<b>39,313</b>	<b>37,509</b>	<b>38,839</b>
<b>Net assets</b>		<b>198,971</b>	<b>200,430</b>	<b>192,983</b>
<b>EQUITY</b>				
Accumulated funds		197,162	198,524	191,178
Asset revaluation surplus		1,809	1,906	1,805
<b>Total equity</b>		<b>198,971</b>	<b>200,430</b>	<b>192,983</b>

The accompanying notes form part of these financial statements.

# Statement of Changes in Equity for the year ended 30 June 2023

	Notes	Accumulated funds \$'000	Asset revaluation surplus \$'000	Total \$'000
<b>Balance at 1 July 2022</b>		<b>191,178</b>	<b>1,805</b>	<b>192,983</b>
<b>Net result for the year</b>		<b>7,346</b>	<b>-</b>	<b>7,346</b>
<b>Other comprehensive income:</b>				
Net change in revaluation surplus of property, plant and equipment	10	-	101	101
<b>Total other comprehensive income</b>		<b>-</b>	<b>101</b>	<b>101</b>
<b>Total comprehensive income for the year</b>		<b>7,346</b>	<b>101</b>	<b>7,447</b>
<b>Balance at 30 June 2023</b>		<b>198,524</b>	<b>1,906</b>	<b>200,430</b>
<b>Balance at 1 July 2021</b>		<b>129,616</b>	<b>26,750</b>	<b>156,366</b>
<b>Net result for the year</b>		<b>36,385</b>	<b>-</b>	<b>36,385</b>
<b>Other comprehensive income:</b>				
Net change in revaluation surplus of property, plant and equipment	10	-	232	232
Transfer of revaluation reserve for property sold		25,177	(25,177)	-
<b>Total other comprehensive income</b>		<b>25,177</b>	<b>(24,945)</b>	<b>232</b>
<b>Total comprehensive income for the year</b>		<b>61,562</b>	<b>(24,945)</b>	<b>36,617</b>
<b>Balance at 30 June 2022</b>		<b>191,178</b>	<b>1,805</b>	<b>192,983</b>

The accompanying notes form part of these financial statements.



# Statement of Cash Flows for year ended 30 June 2023

	Notes	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
<b>Payments</b>				
Personnel services		(89,861)	(78,727)	(69,474)
Payments to suppliers for goods and services		(23,470)	(29,533)	(38,476)
Finance cost		-	-	(131)
<b>Total payments</b>		<b>(113,331)</b>	<b>(108,260)</b>	<b>(108,081)</b>
<b>Receipts</b>				
Sale of services		83,010	75,969	71,234
Investment revenue received		435	3,193	117
Grants and other contributions		24,787	23,672	26,040
Other		8,564	7,465	16,110
<b>Total receipts</b>		<b>116,796</b>	<b>110,299</b>	<b>113,501</b>
<b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>	<b>20</b>	<b>3,465</b>	<b>2,039</b>	<b>5,420</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
Proceeds from sale of land and buildings		-	-	81,764
Purchase of plant and equipment		(4,521)	(1,631)	(2,845)
Purchase of intangible assets		(2,562)	(1,168)	(2,544)
Purchase of financial assets		(2,813)	-	(2,500)
Proceeds from sale of investments		5,000	-	22,882
<b>NET CASH FLOWS FROM INVESTING ACTIVITIES</b>		<b>(4,896)</b>	<b>(2,799)</b>	<b>96,757</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>				
Payment of principal portion of lease liabilities	-	-	-	(695)
<b>NET CASH FLOWS FROM FINANCING ACTIVITIES</b>		<b>-</b>	<b>-</b>	<b>(695)</b>
<b>NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS</b>		<b>(1,431)</b>	<b>(760)</b>	<b>101,482</b>
Opening cash and cash equivalents		100,906	104,833	3,351
<b>CLOSING CASH AND CASH EQUIVALENTS</b>	<b>6</b>	<b>99,475</b>	<b>104,073</b>	<b>104,833</b>

The accompanying notes form part of these financial statements.

## Notes to the financial statements for the year ended 30 June 2023

# 1. Statement of significant accounting policies

### (a) Reporting entity

NSW Trustee and Guardian is a NSW government entity and is controlled by the State of New South Wales, which is the ultimate parent.

NSW Trustee and Guardian is a not-for-profit entity (as profit is not its principal objective). The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

NSW Trustee and Guardian as a reporting entity, comprises all the operating activities under its control. NSW Trustee and Guardian includes the financial results of the operations of the Public Guardian. The Public Guardian is separate in its functions but reports to the Chief Executive Officer NSW Trustee and Guardian.

These financial statements of NSW Trustee and Guardian for the year ended 30 June 2023 have been authorised for issue by Brian Woods, Acting Chief Executive Officer on 5 October 2023.

### (b) Basis of preparation

NSW Trustee and Guardian's financial statements are general purpose financial statements which have been prepared on an accrual basis and in accordance with:

- applicable Australian Accounting Standards (AAS) (which include Australian Accounting Interpretations)
- the requirements of the *Government Sector Finance Act 2018* (GSF Act) and
- Treasurer's Directions issued under the GSF Act.

Property, plant and equipment, and certain financial assets are measured using the fair value basis. Other financial statement items are prepared in accordance with the historical cost convention except where specified otherwise.

Judgements, key assumptions and estimations management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency, which is NSW Trustee and Guardian's presentation and functional currency.

### (c) Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

### (d) Insurance

NSW Trustee and Guardian's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self-insurance for Government entities. The expense (premium) is determined by the Fund Manager based on past claims experience. The Treasury Managed Fund is managed by Insurance and Care NSW (icare), a controlled entity of the ultimate parent.

## (e) Finance cost

Finance costs consist of interest and other costs incurred in connection with the borrowing of funds. Borrowing costs are recognised as expenses in the period in which they are incurred, in accordance with Treasury's Mandate to not-for-profit NSW General Government Sector entities.

## (f) Accounting for the Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of GST, except that:

- the amount of GST incurred by NSW Trustee and Guardian as a purchaser that is not recoverable from the Australian Taxation Office (ATO) is recognised as part of the asset's cost of acquisition or as part of an item of expense and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the Statement of Cash Flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows.

## (g) Income recognition

### Recognition and measurement

Income is recognised in accordance with the requirements of AASB 15 *Revenue from Contracts with Customers* or AASB 1058 *Income of Not-for-Profit Entities*, dependent on whether there is an 'enforceable' contract with a customer containing 'sufficiently specific' performance obligations, income is recognised when (or as) the performance obligations are satisfied under AASB 15.

### (i) Rendering of services

Revenue from rendering of services is recognised when NSW Trustee and Guardian satisfies the performance obligation by transferring the promised services. NSW Trustee and Guardian charge fees and commission mainly from providing a range of trustee and financial management services. Performance obligation is typically satisfied when service is delivered. No element of financing is deemed present as payments are due when service is provided.

- Commissions and fees for trustee matters are recognised at the time the charges are levied. The rates and timing of charges are governed by the NSW Trustee and Guardian Regulation 2017.
- NSW Trustee and Guardian charges a percentage value of the total value of chargeable assets in a client's estate for the financial management of that estate. Fees include management fees, investment fees, and other fees while retaining NSW Trustee and Guardian's power to recover additional costs incurred, where applicable, from the Common Fund, refer to Note 21.
- Genealogy and legal fees are accrued and recognised as costs incurred.

### (ii) NSW Government contributions and grants

NSW Government contributions include funding for the operations of the Public Guardian and other grants received from the NSW Government for the current year.

Income from grants without sufficiently specific performance obligations is recognised when NSW Trustee and Guardian obtains control over the granted assets (e.g. cash).

Revenue from grants with sufficiently specific performance obligations is recognised when NSW Trustee and Guardian satisfies a performance obligation by transferring the promised goods. Revenue from these grants is recognised based on the grant amount specified in the funding agreement/funding approval, and revenue is only recognised to the extent that it is highly probable that a significant reversal will not occur. No element of financing is deemed present as funding payments are usually received in advance or shortly after the relevant obligation is satisfied.

### **(iii) Common Fund transfers**

Transfers from the Common Fund Reserves are recognised in the period in which they are determined to be receivable by NSW Trustee and Guardian.

### **(iv) Investment revenue**

Interest income is calculated by applying the effective interest rate to the gross carrying amount of a financial asset except for financial assets that subsequently become credit-impaired. For financial assets that become credit impaired, the effective interest rate is applied to the amortised cost of the financial asset (i.e. after deducting the loss allowance for expected credit losses).

Investment revenue earned on TCorpIM Fund investments is recognised as described in Note 1(k).

## **(h) Property, plant and equipment**

### **(i) Acquisitions of property, plant and equipment**

#### **Recognitions and measurement**

Property, plant and equipment are initially measured at cost and subsequently revalued at fair value less accumulated depreciation and impairment. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards and Treasurer's Direction 'Valuation of Physical Non-Current Assets at Fair Value' (TD21-05).

Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent; i.e. deferred payment amount is effectively discounted over the period of credit.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.



**(ii) Capitalisation thresholds**

Property, plant and equipment, and intangible assets costing \$10,000 and above individually (or forming part of a network costing more than \$10,000) are capitalised.

**(iii) Major inspection costs**

When a major inspection is performed, its costs are recognised in the carrying amount of the plant and equipment as a replacement, if the recognition criteria are satisfied.

**(iv) Restoration costs**

The present value of the expected cost for the restoration or cost of dismantling of an asset after its use is included in the cost of the respective asset if the recognition criteria for a provision are met.

**(v) Maintenance**

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement of a part or component of an asset, in which case the costs are capitalised and depreciated.

**(vi) Depreciation of property, plant and equipment**

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to NSW Trustee and Guardian.

All material identifiable components of assets are depreciated separately over their useful lives. Land is not a depreciable asset.

The estimated useful lives of the major classes of assets of NSW Trustee and Guardian are as follows:

	Years
Building	20-39
Computer equipment	3-5
Leasehold improvements and office refurbishments	2-10
Plant and equipment	4-20

Leasehold improvements are amortised over the unexpired period of the lease or the estimated useful life of the asset, whichever is shorter.

**(vii) Revaluation of property, plant and equipment**

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP 21-09). This policy adopts fair value in accordance with AASB 13 *Fair Value Measurement* and AASB 116 *Property, Plant and Equipment*.

Property, plant and equipment is measured at the highest and best use by market participants that is physically possible, legally permissible and financially feasible. The highest and best use must be available at a period that is not remote and takes into account the characteristics of the asset being measured, including any socio-political restrictions imposed by government. In most cases, after taking into account these considerations, the highest and best use is the existing use. In limited circumstances, the highest and best use may be a feasible alternative use, where there are no restrictions on use or where there is a feasible higher restricted alternative use.

Fair value of property, plant and equipment is based on a market participant's perspective, using valuation techniques (market approach, cost approach, income approach) that maximise relevant observable inputs and minimise unobservable inputs. Also refer to Note 10 and Note 14 for further information regarding fair value.

Revaluations are made with sufficient regularity to ensure the carrying amount of each asset in the class does not differ materially from its fair value at reporting date. NSW Trustee and Guardian conducts a comprehensive revaluation at least every three years for its land and buildings where the market or income approach is the most appropriate valuation technique and at least every five years for other classes of property, plant and equipment. A desktop revaluation of land and buildings was completed on 31 March 2023 and was based on an independent assessment. There is no material change in valuation between 31 March and 30 June 2023 - the reporting date. NSW Trustee and Guardian used external professionally qualified valuers to conduct the desktop revaluation. The next comprehensive revaluation of land and buildings is due on 31 March 2024.

Interim revaluations are conducted between comprehensive revaluations where cumulative changes to indicators suggest fair value may differ materially from carrying amount.

Non-specialised assets with short useful lives are measured at depreciated historical cost as an approximation of fair value of property, plant and equipment. NSW Trustee and Guardian has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

For other assets valued using other valuation techniques, any balances of accumulated depreciation at the revaluation date in respect of those assets are credited to the asset accounts to which they relate. The net asset accounts are then increased or decreased by the revaluation increments or decrements.

Revaluation increments are recognised in other comprehensive income and credited directly to revaluation surplus, except that, to the extent that an increment reverses a revaluation decrement in respect of that class of asset previously recognised as an expense in the net result, the increment is recognised immediately as a gain in the net result.

Revaluation decrements are recognised immediately as a loss in the net result, except that, to the extent that a credit balance exists in the revaluation surplus in respect of the same class of assets, they are debited directly to the revaluation surplus.

As a not-for-profit entity, revaluation increments and decrements are offset against one another within a class of non-current assets, but not otherwise.

When revaluing non-current assets using the cost approach, the gross amount and the related accumulated depreciation are separately restated.

Where an asset that has previously been revalued is disposed of, any balance remaining in the revaluation surplus in respect of that asset is transferred to accumulated funds.

The residual values, useful lives and methods of depreciation of property, plant and equipment are reviewed at each financial year end.

### **Right of use asset acquired by lessees**

From 1 July 2019, AASB 16 *Leases* (AASB 16) requires a lessee to recognise a right-of-use asset for most leases. NSW Trustee and Guardian has elected to present right-of-use assets separately in the Statement of Financial Position. Refer to Note 11.

### **(viii) Impairment of property, plant and equipment**

As a not-for-profit entity with no cash generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. As property, plant and equipment is carried at fair value, impairment can only arise in the rare circumstances such as where the costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities given that AASB 136 modifies the recoverable amount test for non-cash generating assets of not-for-profit entities to the higher of fair value less costs of disposal and depreciated replacement cost, where depreciated replacement cost is also fair value.

NSW Trustee and Guardian assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, NSW Trustee and Guardian estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount.

As a not-for-profit entity, an impairment loss is recognised in the net result to the extent the impairment loss exceeds the amount in the revaluation surplus for the class of asset.

After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in net result and is treated as a revaluation increase. However, to the extent that an impairment loss on the same class of asset was previously recognised in net result, a reversal of that impairment loss is also recognised in net result.

## **(i) Leases**

NSW Trustee and Guardian adopted AASB 16 from 1 July 2019, all leases are accounted for under a single on-balance sheet model similar to the accounting for finance leases under AASB 117. All corresponding right of use assets and lease liabilities with Property NSW were derecognised on 30 June 2022. Refer to Note 11.

## (j) Intangible assets

### Recognition and measurement

NSW Trustee and Guardian recognises intangible assets only if it is probable that future economic benefits will flow to NSW Trustee and Guardian and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition. Following initial recognition, intangible assets are subsequently measured at fair value only if there is an active market. If there is no active market for NSW Trustee and Guardian's intangible assets, the assets are carried at cost less any accumulated amortisation and impairment losses.

All research costs are expensed. Development costs are only capitalised when certain criteria are met. The useful lives of intangible assets are assessed to be finite.

NSW Trustee and Guardian's intangible assets are amortised using the straight-line method over 3-10 years.

The amortisation period and the amortisation method for an intangible asset with a finite useful life are reviewed at least at the end of each reporting period.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount, the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

## (k) Financial assets at fair value

### Recognition and measurement

NSW Trustee and Guardian recognises a financial asset or a financial liability when, and only when, it becomes a party to the contractual provisions of the instrument. To determine when the agency becomes a party to the contractual provisions of the instrument, the entity considers:

- whether the entity has a legal right to receive cash (financial asset) or a legal obligation to pay cash (financial liability); or
- whether at least one of the parties has performed under the agreement.

All 'regular way' purchases or sales of financial assets are recognised and derecognised on a trade date basis. Regular way purchases or sales are purchases or sales of financial assets that require delivery of assets within the time frame established by regulation or convention in the marketplace.

### Classification and measurement

NSW Trustee and Guardian's financial assets at fair value are classified, at initial recognition, as fair value through profit or loss.

Transaction costs of financial assets carried at fair value through profit or loss are expensed in net results.



### *Financial assets at fair value through profit or loss*

Financial assets at fair value through profit or loss include financial assets held for trading, financial assets designated upon initial recognition at fair value through profit or loss, or financial assets mandatorily required to be measured at fair value under AASB 9.

Financial assets are held for trading if acquired for the purpose of selling or repurchasing in the near term.

Financial assets with cash flows that are not solely payments of principal and interest are classified and measured at fair value through profit or loss, irrespective of the business model. TCorpIM Funds are managed and their performance is evaluated on a fair value basis and therefore the business model is neither to hold to collect contractual cash flows or sell the financial asset. Hence these investments are mandatorily required to be measured at fair value through profit or loss. A gain or loss on a financial asset that is subsequently measured at fair value through profit or loss is recognised in the net result and presented net within other gains/ (losses), except for TCorpIM Funds that are presented in 'investment revenue' in the period in which it arises.

## **(l) Current/non-current assets – receivables**

### **Recognition and measurement**

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

### **Subsequent measurement**

NSW Trustee and Guardian holds receivables with the objective to collect the contractual cash flows and therefore measures them at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

### **Impairment**

NSW Trustee and Guardian recognises an allowance for expected credit losses (ECLs) for all debt financial assets not held at fair value through profit or loss. ECLs are based on the difference between the contractual cash flows and the cash flows that NSW Trustee and Guardian expects to receive, discounted at the original effective interest rate.

For trade receivables, NSW Trustee and Guardian applies a simplified approach in calculating ECLs. It recognises a loss allowance based on lifetime ECLs at each reporting date. NSW Trustee and Guardian has established a provision matrix based on its historical credit loss experience for trade receivables, adjusted for forward-looking factors specific to the receivable.

## **(m) Current liabilities – payables**

### **Recognition and measurement**

Payables represent liabilities for goods and services provided to NSW Trustee and Guardian and other amounts. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised in the net result when the liabilities are derecognised as well as through the amortisation process.

## (n) Financial instruments

### Derecognition of financial assets and financial liabilities

A financial asset is derecognised when the contractual rights to the cash flows from the financial assets expire or if NSW Trustee and Guardian transfers the financial asset:

- where substantially all the risks and rewards have been transferred or
- where NSW Trustee and Guardian has not transferred substantially all the risks and rewards, but has not retained control.

Where NSW Trustee and Guardian has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of NSW Trustee and Guardian's continuing involvement in the asset. In that case, NSW Trustee and Guardian also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that NSW Trustee and Guardian has retained.

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires.

## (o) Personnel services expenses and provisions

### (i) Personnel services expenses

The Department of Communities and Justice provides employees to NSW Trustee and Guardian to enable it to carry out functions under the *NSW Trustee and Guardian Act 2009*.

The expense and liabilities due to the Department of Communities and Justice are classified as "Personnel services expenses" in the Statement of Comprehensive Income and "Provisions" in the Statement of Financial Position (specified in NSWTC 15/07).

Personnel services expenses include salaries and wages and other costs for these services. Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

Personnel Services expenses exclude cost of agency contractors which is classified as other operating expenses in note 2(b).

### (ii) Personnel services provisions

Personnel services provisions comprise NSW Trustee and Guardian's liability to the Department of Communities and Justice for annual leave, long service leave and

superannuation arising from personnel services rendered by the Department of Communities and Justice to balance date. All annual leave is classified as a current liability even where NSW Trustee and Guardian does not expect to settle the liability within 12 months as NSW Trustee and Guardian does not have an unconditional right to defer settlement.

Annual leave is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 *Employee Benefits*. Actuarial advice obtained by NSW Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 8.4% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The NSW Trustee and Guardian has assessed the actuarial advice based on the NSW Trustee and Guardian's circumstances and has determined that the effect of discounting is immaterial to annual leave.

NSW Trustee and Guardian is a member of the Agency Funded Crown Long Service Leave Pool (the pool). The Department of Communities and Justice contributes to the pool on behalf of NSW Trustee and Guardian. The amount expected to be reimbursed by the Crown in right of the State of New South Wales (Crown) is recognised as a personnel services receivable (refer Note 7).

Long service leave is measured at the present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using Commonwealth government bond rate at the reporting date.

NSW Trustee and Guardian's defined benefit superannuation liability is assumed by the Crown. NSW Trustee and Guardian accounts for the liability as having been extinguished and recognises a non-monetary revenue item described as 'Acceptance by the Crown of personnel services provisions'. The superannuation expense for the period is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

### (iii) Consequential on-costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax.

## (p) Current/non-current liabilities – provisions

Provisions are recognised when: NSW Trustee and Guardian has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

Any provisions for restructuring are recognised only when NSW Trustee and Guardian has a detailed formal plan and has raised a valid expectation in those affected by the restructuring that will carry out the restructuring by starting to implement the plan or announcing its main features to those affected.

## (q) Equity and reserves

### (i) Revaluation surplus

The revaluation surplus is used to record increments and decrements on the revaluation of non-current assets. This accords with NSW Trustee and Guardian's policy on the revaluation of property, plant and equipment as discussed in Note 1(h)(vii).

### (ii) Accumulated Funds

The category 'Accumulated Funds' includes all current and prior period retained funds.

## (r) Trust Fund

The NSW Trustee and Guardian receives monies in a trustee capacity for various trusts as set out in Note 21. As NSW Trustee and Guardian performs only a custodial role in respect of these monies, and because the monies cannot be used for the achievement of NSW Trustee and Guardian's own objectives, these funds are not recognised in the financial statements.

## (s) Fair value measurement and hierarchy

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principal market, in the most advantageous market for the asset or liability.

A number of NSW Trustee and Guardian's accounting policies and disclosures require the measurement of fair values, for both financial and non-financial assets and liabilities. When measuring fair value, the valuation technique used maximises the use of relevant observable inputs and minimises the use of unobservable inputs. Under AASB 13 *Fair Value Measurement*, the NSW Trustee and Guardian categories, for disclosure purpose, the valuation techniques based on the inputs used in the valuation techniques as follows:

- Level 1 – quoted prices in active markets for identical assets/liabilities that the NSW Trustee and Guardian can access at the measurement date.
- Level 2 – inputs other than quoted prices included within Level 1 that are observable, either directly or indirectly.
- Level 3 – inputs that are not based on observable market data (unobservable inputs).

The NSW Trustee and Guardian recognises transfers between levels of the fair value hierarchy at the end of reporting period during which the change has occurred. Refer Note 14 and Note 22 for further disclosures regarding fair value measurements of non-financial and financial assets.

## (t) Budgeted amounts

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Any subsequent amendments to the original budget are not reflected in the budgeted amounts.



Major variances between the original budgeted amounts and the actual amounts disclosed in the primary financial statements are explained in Note 19.

### **(u) Comparative information**

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

### **(v) Reclassification of financial information**

When the presentation or classification of items in the financial statements is amended, comparative amounts should be reclassified unless immaterial or impracticable, and the nature and amount of and reason for the reclassification must be disclosed.

### **(w) State outcome group statement**

NSW Trustee and Guardian has only one State outcome group that supports the delivery of the State outcome, being efficient and effective legal system. Hence no State outcome group statement is prepared.

The State outcome focuses on the resolution of matters through provision of legal services, the administration of courts and tribunals and client-facing justice services to victims and vulnerable people. NSW Trustee and Guardian contributes to this State outcome by providing services to vulnerable people. Our performance is measured by indicators for effectiveness, efficiency, equity and output.

### **(x) Superannuation on annual leave loading**

NSW Trustee and Guardian has determined that it is not probable a liability arises to pay superannuation on annual leave loading. This position has been formed based on current inquiries, other information currently available to management, and after considering the facts from a decision in the Federal Court of Australia: *Finance Sector Union of Australia v Commonwealth Bank of Australia [2022] FedCFamC2G 409*. That decision confirmed that, in relation to the industrial agreement considered in that case, annual leave loading did not form part of ordinary time earnings and therefore, did not require superannuation contributions to be made under superannuation guarantee legislation because the obligation to pay annual leave loading was not referable to ordinary hours of work or to ordinary rates of pay. Rather, it was paid by reference to the period of annual leave, and for the purpose of compensating employees for their loss of opportunity to work additional hours at higher rates during this period.

This position will be re-assessed in future reporting periods as new information comes to light on this matter.

## (y) Changes in accounting policy, including new or revised Australian Accounting Standards

### (i) Effective for the first time in 2022-23

- AASB 2020-3 Amendments to Australian Accounting Standards – Annual Improvements 2018–2020 and Other Amendments
- AASB 2020-6 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current – Deferral of Effective Date
- AASB 2021-7a Amendments to Australian Accounting Standards – Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections [general editorials]
- AASB 2022-3 Amendments to Australian Accounting Standards – Illustrative Examples for Not-for-Profit Entities accompanying AASB 15

NSW Trustee and Guardian has assessed the impact of these new standards and consider the impact to be immaterial.

### (ii) Issued but not yet effective

NSW public sector entities do not early adopt new Australian Accounting Standards, unless NSW Treasury determines otherwise.

The following new Australian Accounting standards have not been applied and are not yet effective:

- AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current
- AASB 2021-2 Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates
- AASB 2021-6 Amendments to Australian Accounting Standards – Disclosure of Accounting Policies: Tier 2 and Other Australian Accounting Standards
- AASB 2022-5 Amendments to Australian Accounting Standards – Lease Liability in a Sale and Leaseback
- AASB 2022-6 Amendments to Australian Accounting Standards – Non-current Liabilities with Covenants
- AASB 2022-7 Editorial Corrections to Australian Accounting Standards and Repeal of Superseded and Redundant Standards
- AASB 2022-10 Amendments to Australian Accounting Standards – Fair Value Measurement of Non-Financial Assets of Not-for-Profit Public Sector Entities

NSW Trustee and Guardian has assessed the impact of these new standards and consider the impact to be immaterial.

## 2. Expenses excluding losses

### (a) Personnel services

	2023 \$'000	2022 \$'000
Salaries and wages (including annual leave)	64,209	60,757
Superannuation - defined benefits costs assumed by Crown <sup>1</sup>	590	638
Superannuation - defined contribution plans	6,297	5,271
Long service leave	1,757	1,601
Worker's compensation insurance	1,437	888
Payroll tax and fringe benefits tax	3,960	3,064
<b>Total personnel services</b>	<b>78,250</b>	<b>72,219</b>

The above table relates to expenses for personnel services provided by the Department of Communities and Justice.

<sup>1</sup>Notional defined benefit super expense assumed by Crown.

### (b) Other operating expenses

	2023 \$'000	2022 \$'000
Auditor's remuneration - audit of financial statements	245	238
Motor vehicle expenses	56	56
Occupancy expense <sup>2</sup>	4,702	3,608
Maintenance	2,571	2,137
Insurance	743	554
Advertising	552	1,179
Internal audit fees	29	125
Contractor expenses	5,796	6,211
Fees for services rendered	5,360	5,687
Gas and electricity	283	266
Office supplies	343	255
Postal and telephone	1,403	1,774
Travel expenses	368	147
Training and development	273	304
Other	271	583
<b>Total other operating expenses</b>	<b>22,995</b>	<b>23,124</b>

<sup>2</sup>Occupancy expenses in last financial year were rental payments made to the Department of Communities and Justice. All other lease payments to Property NSW (where a lease agreement existed between Property NSW and NSW Trustee and Guardian) were recognised as part of lease liability which was derecognised as at 30 June 2022. From 1 July 2022 following the derecognition, the accommodation charges by Property NSW were also recognised as occupancy expenses when incurred over the agreement duration. Refer to Note 11.

**(c) Depreciation and amortisation expense**

	2023 \$'000	2022 \$'000
<b>Depreciation</b>		
Buildings	51	712
Plant and equipment	1,258	1,865
Right-of-use assets	825	909
<b>Total depreciation</b>	<b>2,134</b>	<b>3,486</b>
<b>Amortisation</b>		
Intangible assets	1,858	2,256
<b>Total amortisation</b>	<b>1,858</b>	<b>2,256</b>
<b>Total depreciation and amortisation</b>	<b>3,992</b>	<b>5,742</b>

**(d) Finance costs**

	2023 \$'000	2022 \$'000
Interest expense from lease liabilities	-	132
<b>Total finance costs</b>	<b>-</b>	<b>132</b>

## 3. Revenue

**(a) Appropriations and transfers to the crown**

The *Appropriation Act 2022* (Appropriations Act) and the subsequent variations appropriates the sum of \$19,699.7 million to the Attorney-General, and Minister for Prevention of Domestic and Sexual Violence out of the Consolidated Fund for the services of Department of Communities and Justice for the year 2022–23. The spending authority of the Attorney-General and Minister for Prevention of Domestic and Sexual Violence from the Appropriations Act has been delegated or subdelegated to officers of Department of Communities and Justice and entities that it is administratively responsible for, including the NSW Trustee and Guardian.

The *Treasury and Energy Legislation Amendment Act 2022* made some amendments to sections 4.7 and 4.9 of the *Government Sector Finance Act 2018* (the GSF Act). These amendments commenced on 14 November 2022 and are applied retrospectively. As a result, the lead Ministers for NSW Trustee and Guardian, being the Attorney-General and Minister for Prevention of Domestic and Sexual Violence, are taken to have been given an appropriation out of the Consolidated Fund under the authority section



4.7 of the GSF Act, at the time NSW Trustee and Guardian receives or recovers any deemed appropriation money, for an amount equivalent to the money that is received or recovered by NSW Trustee and Guardian. These deemed appropriations are taken to have been given for the services of Department of Communities and Justice.

In addition, government money that NSW Trustee and Guardian receives or recovers, from another GSF agency, of a kind prescribed by the GSF regulations that forms part of the Consolidated Fund, is now capable of giving rise to deemed appropriations where the receiving agency has different lead Ministers to the agency making the payment, or one of both of the agencies is a special office (as defined in section 4.7(8)).

On 16 June 2023, the GSF Amendment (Deemed Appropriations) Regulation 2023 was approved to bring the GSF regulations in line with the above deemed appropriation amendments to the GSF Act.

A summary of compliance is disclosed in the financial statements of the Annual Report of Department of Communities and Justice. It has been prepared on the basis of aggregating the spending authorities of the Attorney-General and Minister for Prevention of Domestic and Sexual Violence for the services of Department of Communities and Justice. It reflects the status at the point in time this disclosure statement is being made. NSW Trustee and Guardian's spending authority and expenditure is included in the summary of compliance.

The delegation/sub-delegations authorising officers of the NSW Trustee and Guardian to spend Consolidated Fund money impose an overall spending limit of \$217.1m (2022: \$228.2m). Total expenditure incurred is \$111.1m (2022: \$116.0m). The variance of \$106.0m is mainly due to proceeds retained from sale of 19 O'Connell Street office and redemption of TCorp short term investment during 2022.

The State Budget and related Appropriation Bill for year commencing 1 July 2023 was delayed and was tabled in September 2023. Pursuant to section 4.10 of the GSF Act, the Treasurer has authorised the payment of specified sums out of the Consolidated Fund to meet the requirements of this period. The authorisation is current from 1 July 2023 until the earlier of 30 September 2023 or enactment of the 2023-24 annual Appropriation Act.

## (b) Rendering of services

	2023 \$'000	2022 \$'000
<b>Rendering of services</b>		
Commissions and fees	33,238	32,505
Trustee fees	9,936	9,869
Private management supervision fees	1,005	1,232
Common Fund management fees	31,752	29,148
<b>Total rendering of services</b>	<b>75,931</b>	<b>72,754</b>

**(c) Investment revenue**

	2023 \$'000	2022 \$'000
Interest revenue from financial assets at amortised cost	3,193	117
Net gain/(loss) from TCorpIM Funds Investment measured at fair value through profit or loss <sup>1</sup>	8,201	(6,286)
<b>Total investment revenue</b>	<b>11,394</b>	<b>(6,169)</b>

<sup>1</sup>This includes unrealised gain of \$6.46 million (loss of \$8.3 million in 2022).

**(d) Grants and contributions**

	2023 \$'000	2022 \$'000
<b>Grants without sufficiently specific performance obligations</b>		
Funding for the operations of the Public Guardian	16,017	12,749
Community service obligation	6,027	10,319
Contribution from NSW Government	1,076	2,436
Guardianship hospital project funding	552	536
<b>Total grants and contributions</b>	<b>23,672</b>	<b>26,040</b>

**(e) Acceptance by Crown of personnel services liabilities**

	2023 \$'000	2022 \$'000
Superannuation – defined benefit	559	608
Payroll tax on defined benefit superannuation	31	30
<b>Total personnel services liabilities assumed by Crown</b>	<b>590</b>	<b>638</b>

From 1 January 2017, the Crown assumed defined benefit super liabilities of NSW Trustee and Guardian. As a result a notional amount equivalent to defined benefit super expense NSW Trustee and Guardian would have otherwise incurred is recognised as expense and revenue. Refer to Note 2(a).

**(f) Other revenue**

	2023 \$'000	2022 \$'000
Refund of working expenses from clients - NSW Trustee and Guardian Regulation 26	199	206
Workers Compensation Recoveries	789	1,056
Other	15	65
<b>Total other revenue</b>	<b>1,003</b>	<b>1,327</b>

**4. Gain/(loss) on disposal**

	Land and buildings \$'000	Property, plant and equipment \$'000	Intangible assets \$'000	Intangible assets-WIP \$'000	Total \$'000
<b>At 30 June 2023</b>					
Proceeds from disposal	-	-	-	-	-
Written down value of assets disposed	-	-	-	-	-
<b>Net gain/(loss) on disposal</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>At 30 June 2022</b>					
Proceeds from disposal	84,931	-	-	-	84,931
Written down value of assets disposed	(35,016)	(7,485)	(227)	(340)	(43,068)
<b>Net gain/(loss) on disposal</b>	<b>49,915</b>	<b>(7,485)</b>	<b>(227)</b>	<b>(340)</b>	<b>41,863</b>

The gain of \$41.9 million from financial year 2022 was mainly from the sale of 19 O'Connell Street Office in April 2022.

## 5. Other gains/(losses)

	2023 \$'000	2022 \$'000
Impairment losses on receivables <sup>1</sup>	(7)	(5)
Net gain/(loss) from derecognition of right-of-use assets and lease liabilities with Property NSW	-	1,154
<b>Total other gains/(losses)</b>	<b>(7)</b>	<b>1,149</b>

<sup>1</sup>Impairment losses may arise on non-financial assets held by the NSW Trustee and Guardian from time to time.

Accounting for impairment losses is dependent upon the individual asset (or group of assets) subject to impairment. Accounting Policies and events giving rise to impairment losses are disclosed in the following notes:

- Property, plant and equipment – Note 10
- Leases – Note 11; Intangible assets – Note 13
- Receivables – Note 7

## 6. Current assets – cash and cash equivalents

	2023 \$'000	2022 \$'000
Cash at bank and on hand	104,073	104,833
<b>Total cash and cash equivalents</b>	<b>104,073</b>	<b>104,833</b>

For the purposes of the Statement of Cash Flows, cash and cash equivalents include cash at bank, cash on hand and short-term deposit with original maturities of three months or less and subject to an insignificant risk of changes in value. Cash and cash equivalents in the Statement of Financial Position is the same as cash and cash equivalents in the Statement of Cash Flows.

Refer to Note 22 for details regarding credit risk and market risk arising from financial instruments.



## 7. Current/non-current assets – receivables

	2023 \$'000	2022 \$'000
<b>Current Receivables</b>		
Trade receivables from rendering of services	3,485	3,942
- Allowance for expected credit loss	(10)	(9)
Accrued income	2,780	2,681
Personnel services	17,569	17,877
Prepayments	1,485	1,290
Current finance lease receivable	67	67
Other debtors	61	10
<b>Total current receivables</b>	<b>25,437</b>	<b>25,858</b>

Details regarding credit risk and market risk, including financial assets that are neither past due or impaired, are disclosed in Note 22.

	2023 \$'000	2022 \$'000
<b>(a) Movement in the allowance for expected credit loss</b>		
Balance at 1 July	(9)	(12)
(Increase)/decrease in allowance recognised in profit or loss	(1)	3
Balance at 30 June	(10)	(9)

<b>Non-current receivables</b>		
Non-current finance lease receivables	66	133
Relocation expense reimbursement receivable	300	300
<b>Total non-current receivables</b>	<b>366</b>	<b>433</b>

## 8. Current assets – contract assets

	2023 \$'000	2022 \$'000
Contract assets	4,663	4,341
<b>Total contract assets</b>	<b>4,663</b>	<b>4,341</b>

Contract assets relate to NSW Trustee and Guardian's right to consideration in exchange for legal and genealogy work performed but not billed at the reporting date. NSW Trustee and Guardian recognises contract assets when it has fulfilled legal and genealogy service obligations but must perform further obligations before being entitled to payment.

## 9. Non-current assets – financial assets at fair value

	2023 \$'000	2022 \$'000
<b>Non-current financial assets at fair value</b>		
TCorpIM Long Term Growth Fund Investment	82,944	74,743
<b>Total non-current financial assets at fair value</b>	<b>82,944</b>	<b>74,743</b>

Refer to Note 22 for further information regarding fair value measurement, credit risk and market risk arising from financial instruments.

## 10. Non-current assets – property, plant and equipment

	Land and buildings \$'000	Plant and equipment \$'000	Plant and equipment - WIP \$'000	TOTAL \$'000
<b>At 1 July 2021 - fair value</b>				
Gross carrying amounts	38,430	26,316	1,748	66,494
Accumulated depreciation and impairment	(233)	(15,650)	-	(15,883)
<b>Net carrying amount</b>	<b>38,197</b>	<b>10,666</b>	<b>1,748</b>	<b>50,611</b>
<b>Year ended 30 June 2022</b>				
Net carrying amount at start of year	38,197	10,666	1,748	50,611
Purchase of assets	-	-	2,769	2,769
Transfer from work in progress	-	2,584	(2,584)	-
Net revaluation increment less revaluation decrements	232	-	-	232
Disposals (including write off)	(35,016)	(7,486)	-	(42,502)
Depreciation expense	(712)	(1,865)	-	(2,577)
<b>Net carrying amount at end of year</b>	<b>2,701</b>	<b>3,899</b>	<b>1,933</b>	<b>8,533</b>

	Land and buildings	Plant and equipment	Plant and equipment - WIP	TOTAL
	\$'000	\$'000	\$'000	\$'000
<b>At 1 July 2022 - fair value</b>				
Gross carrying amounts	2,765	13,940	1,933	18,638
Accumulated depreciation and impairment	(64)	(10,041)	-	(10,105)
<b>Net carrying amount</b>	<b>2,701</b>	<b>3,899</b>	<b>1,933</b>	<b>8,533</b>
<b>Year ended 30 June 2023</b>				
Net carrying amount at start of year	2,701	3,899	1,933	8,533
Purchase of assets	-	-	1,565	1,565
Transfer from work in progress	-	3,229	(3,229)	-
Net revaluation increment less revaluation decrements	101	-	-	101
Disposals (including write off)	-	-	-	-
Depreciation expense	(51)	(1,258)	-	(1,309)
<b>Net carrying amount at end of year</b>	<b>2,751</b>	<b>5,870</b>	<b>269</b>	<b>8,890</b>
<b>At 30 June 2023 - fair value</b>				
Gross carrying amounts	2,865	16,091	269	19,225
Accumulated depreciation and impairment	(114)	(10,221)	-	(10,335)
<b>Net carrying amount</b>	<b>2,751</b>	<b>5,870</b>	<b>269</b>	<b>8,890</b>

## 11. Leases as a lessee

NSW Trustee and Guardian leases various properties from Property NSW. Lease contracts are typically made for fixed periods of three to five years but may have extension options. Lease terms are negotiated on an individual basis and contain a wide range of different terms and conditions. The lease agreements do not impose any covenants, but leased assets may not be used as security for borrowing purposes. NSW Trustee and Guardian does not provide residual value guarantees in relation to leases.

Extension and termination options are included in a number of property leases. These terms are used to maximise operational flexibility in terms of managing contracts. The majority of extension

and termination options held are exercisable only by NSW Trustee and Guardian and not by Property NSW. In determining the lease term, management considers all facts and circumstances that create an economic incentive to exercise an extension option, or not exercise a termination option.

Extension options (or periods after termination options) are only included in the lease term if the lease is reasonably certain to be extended (or not terminated). Potential future cash outflows have been included in the lease liability because it is reasonably certain that the leases will be extended. The assessment is reviewed if a significant event or a significant change in circumstances occurs which affects this assessment and that is within the control of NSW Trustee and Guardian. During the current financial year, there has been no revision of lease terms to reflect the effect of exercising extension and termination options.

NSW Trustee and Guardian does not have any short-term leases and low value leases. Short-term leases are leases with a lease term of 12 months or less. Low value assets are assets with a fair value of \$10,000 or less when new.

AASB 16 *Leases* (AASB 16) requires a lessee to recognise a right-of-use asset and a corresponding lease liability for most leases.

During financial year ended 30 June 2022, the NSW Trustee and Guardian accepted changes in the office accommodation arrangements with Property NSW (PNSW). The main change was the introduction of the “substitution right” clause for PNSW to relocate NSW Trustee and Guardian during the term of the agreement. The clause provides PNSW with a substantive substitution right. Therefore, these agreements were no longer accounted for as a lease within the scope of AASB 16. The corresponding right of use assets and lease liabilities were derecognised on 30 June 2022, the effective date of the new clause. The net impact of the derecognition was recognised in “Other Gains/(Losses)” (refer to Note 5). From 1 July 2022, the accommodation charges are recognised as occupancy expenses when incurred over the agreement duration.

NSW Trustee and Guardian continues to carry the responsibility to make good, and to control the fit-out during the remaining occupancy period as NSW Trustee and Guardian receives the economic benefits via using the fit-out or expected compensation from PNSW upon relocation. Any incentives received prior to the 30 June 2022 apply to the remaining occupancy period. Therefore, the NSW Trustee and Guardian accounting treatment for make-good provision and fit-out costs in relation to the relevant accommodation remains unchanged. Any liability in relation to an amortised balance of incentives received was recognised as a liability as at 30 June 2022 and amortised during the remaining occupancy period.

In April 2022, a sale contract with Lendlease Group (‘Lendlease’) was executed to sell 19 O’Connell Street, Sydney for a cash consideration of \$82.5 million. A lease contract was also executed between NSW Trustee and Guardian (Lessee) and Lendlease (Lessor) for leasing 19 O’Connell Street until 30 Jun 2025 (with no extension options) for an annual rent of \$1. The lease commencement date is the same date as the sale completion date (14 April 2022). The transaction has been accounted as a sale and leaseback transaction in accordance with guidance contained within AASB 16 *Leases*. The fair value of sale proceeds were adjusted and a right-of-use asset of \$2.65 million been recognised to the extent the right to use is retained by NSW Trustee and Guardian until the end of the lease term on 30 Jun 2025. The right-of-use asset is being amortised using the straight-line method over the remaining of the lease term. There are no further cash outflow attached to the right-of-use asset and therefore a lease liability will not be recognised until the end of the lease term.



### (a) Right-of-use assets under leases

The following table presents right-of-use assets that do not meet the definition of investment property.

	2023 \$'000	2022 \$'000
<b>Balance at 1 July</b>	<b>2,478</b>	<b>5,145</b>
Additions	-	2,654
Remeasurement	-	346
Depreciation expense	(825)	(909)
Derecognition of right-of-use assets	-	(4,758)
<b>Balance at 30 June</b>	<b>1,653</b>	<b>2,478</b>

### (b) Lease liabilities

The following table presents liabilities under leases.

	2023 \$'000	2022 \$'000
<b>Balance at 1 July</b>	<b>-</b>	<b>6,261</b>
Remeasurement	-	346
Interest expenses	-	132
Payments	-	(827)
Derecognition of lease liabilities	-	(5,912)
<b>Balance at 30 June</b>	<b>-</b>	<b>-</b>

### (c) Right-of-use expenses under leases

The following amounts were recognised in the statement of comprehensive income for the year ended 30 June 2023:

	2023 \$'000	2022 \$'000
Depreciation expense of right-of-use assets	(825)	(909)
Interest expense on lease liabilities	-	(132)
Gains /(losses) arising from derecognising the right-of-use assets and lease liabilities with Property NSW	-	1,154
<b>Total amount recognised in the statement of comprehensive income</b>	<b>(825)</b>	<b>113</b>

### Recognition and measurement

NSW Trustee and Guardian assesses at contract inception whether a contract is, or contains, a lease. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration. NSW Trustee and Guardian recognises lease liabilities to make lease payments and right-of-use assets representing the right to use the underlying assets, except for short-term leases and leases of low-value assets.

#### (i) Right-of-use assets

NSW Trustee and Guardian recognises right-of-use assets at the commencement date of the lease (i.e. the date the underlying asset is available for use). Right-of-use assets are initially measured at the amount of initial measurement of the lease liability (refer (ii) below), adjusted by any lease payments made at or before the commencement date and lease incentives, any initial direct costs incurred, and estimated costs of dismantling and removing the asset or restoring the site.

The right-of-use assets are subsequently measured at cost. They are depreciated on a straight-line basis over the shorter of the lease term and the estimated useful lives of the assets, as follows:

- buildings 2-15 years

If ownership of the leased asset transfers to NSW Trustee and Guardian at the end of the lease term or the cost reflects the exercise of a purchase option, depreciation is calculated using the estimated useful life of the asset.

The right-of-use assets are also subject to impairment. The NSW Trustee and Guardian assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, NSW Trustee and Guardian estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is

written down to its recoverable amount. After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in the net result. Refer to accounting policies in Property, Plant and Equipment note 1(h).

## (ii) Lease liabilities

At the commencement date of the lease, NSW Trustee and Guardian recognises lease liabilities measured at the present value of lease payments to be made over the lease term. Lease payments include:

- fixed payments (including in substance fixed payments) less any lease incentives receivable
- variable lease payments that depend on an index or a rate
- amounts expected to be paid under residual value guarantees
- exercise price of a purchase options reasonably certain to be exercised by NSW Trustee and Guardian
- payments of penalties for terminating the lease, if the lease term reflects NSW Trustee and Guardian exercising the option to terminate.

Variable lease payments that do not depend on an index or a rate are recognised as expenses (unless they are incurred to produce inventories) in the period in which the event or condition that triggers the payment occurs.

The lease payments shall be discounted using the interest rate implicit in the lease. If that rate cannot be readily determined, the lessee's incremental borrowing rate is used, being the rate that NSW Trustee and Guardian would have to pay to borrow the funds necessary to obtain an asset of similar value to the right-of-use asset in a similar economic environment with similar terms, security and conditions. NSW Trustee and Guardian does not borrow funds in the market therefore it uses TCorp rates as its incremental borrowing rates.

After the commencement date, the amount of lease liabilities is increased to reflect the accretion of interest and reduced for the lease payments made. In addition, the carrying amount of lease liabilities is remeasured if there is a modification, a change in the lease term, a change in the lease payments (e.g., changes to future payments resulting from a change in an index or rate used to determine such lease payments) or a change in the assessment of an option to purchase the underlying asset.

## 12. Leases as a lessor

### Lessor for finance leases

Included in the sale and leaseback of 19 O'Connell Street building is an occupancy agreement between NSW Trustee and Guardian and the Legal Services Council (LSC) for the area on level 3 currently occupied by LSC. The occupancy agreement between NSW Trustee and Guardian and LSC is a sublease arrangement whereby LSC continue to occupy the area on level 3 19 O'Connell Street building for an annual rent of \$0.07 million payable to NSW Trustee and guardian until 30 Jun 2025 with no extension option. There is no CPI increase and no other variable lease payment that depends on an index or rate.

Lessor minimum rentals receivable (undiscounted) under non-cancellable finance leases as at 30 June are, as follows:

	2023 \$'000	2022 \$'000
Within one year	73	73
One to two years	73	73
Two to three years	-	73
<b>Total (exclusive GST)</b>	<b>146</b>	<b>219</b>

### Reconciliation of net investment in leases

	2023 \$'000	2022 \$'000
Future undiscounted rentals receivable	146	219
Unguaranteed residual amounts - undiscounted	-	-
Less: unearned finance income	(13)	(19)
<b>Net investment in finance leases</b>	<b>133</b>	<b>200</b>

Leases that the entity transfers substantially all the risks and rewards incidental to ownership of an asset are classified as finance leases. Subleases are classified by reference to the right-of-use asset arising from the head lease, rather than by reference to the underlying asset.

At the lease commencement date, NSW Trustee and Guardian recognises a receivable for assets held under a finance lease in its statement of financial position at an amount equal to the net investment in the lease. The net investment in leases is classified as financial assets at amortised cost and equals the lease payments receivable by a lessor and the unguaranteed residual value, plus initial direct costs, discounted using the interest rate implicit in the lease.

Finance income arising from finance leases is recognised over the lease term, based on a pattern reflecting a constant periodic rate of return on the lessor's net investment in the lease.

## 13. Intangible assets

	Computer software	Computer software - WIP	TOTAL
	\$'000	\$'000	\$'000
<b>At 1 July 2021</b>			
Cost (gross carrying amount)	16,337	2,235	18,572
Accumulated amortisation and impairment	(7,690)	-	(7,690)
<b>Net carrying amount</b>	<b>8,647</b>	<b>2,235</b>	<b>10,882</b>

<b>Year ended 30 June 2022</b>			
Net carrying amount at beginning of year	8,647	2,235	10,882
Additions			
Software development	-	2,544	2,544
Transfer from work in progress	1,021	(1,021)	-
Disposals (including write off)	(227)	(340)	(567)
Amortisation (recognised in "depreciation and amortisation")	(2,256)	-	(2,256)
<b>Net carrying amount at end of year</b>	<b>7,185</b>	<b>3,418</b>	<b>10,603</b>

<b>At 1 July 2022</b>			
Cost (gross carrying amount)	12,590	3,418	16,008
Accumulated amortisation and impairment	(5,405)	-	(5,405)
<b>Net carrying amount</b>	<b>7,185</b>	<b>3,418</b>	<b>10,603</b>

<b>Year ended 30 June 2023</b>			
Net carrying amount at beginning of year	7,185	3,418	10,603
Additions			
Software development	-	1,168	1,168
Transfer from work in progress	4,532	(4,532)	-



Disposals (including write off)	-	-	-
Amortisation (recognised in "depreciation and amortisation")	(1,858)	-	(1,858)
<b>Net carrying amount at end of year</b>	<b>9,859</b>	<b>54</b>	<b>9,913</b>

<b>At 30 June 2023</b>			
Cost (gross carrying amount)	16,589	54	16,643
Accumulated amortisation and impairment	(6,730)	-	(6,730)
<b>Net carrying amount</b>	<b>9,859</b>	<b>54</b>	<b>9,913</b>

## 14. Fair value measurement of non-financial assets

### (a) Fair value hierarchy

	Level 1	Level 2	Level 3	Total Fair Value
	\$'000	\$'000	\$'000	\$'000
<b>2023</b>				
<b>Property, plant and equipment (Note 10)</b>				
Land and buildings	-	2,751	-	2,751
	-	<b>2,751</b>	-	<b>2,751</b>
<b>2022</b>				
<b>Property, plant and equipment (Note 10)</b>				
Land and buildings	-	2,701	-	2,701
	-	<b>2,701</b>	-	<b>2,701</b>

There were no transfers between Level 1, 2 and 3 during the year ended 30 June 2023.

## (b) Valuation techniques, inputs and processes

### Property, plant and equipment

NSW Trustee and Guardian's land assets are valued using market evidence. They are usually measured using the market approach with adjustment for condition, location, comparability, etc. and therefore are categorised as Level 2. The market approach will usually be available even when the land has no feasible use.

NSW Trustee and Guardian's building assets are valued using market evidence and are categorised as Level 2. The valuer considers the market as observable inputs and has tried to maximise the use of observable inputs in accordance with AASB 13.

### Right-of-use assets

The right-of-use assets of NSW Trustee and Guardian are subsequently measured at cost after initial recognition. With the Coronavirus disease (COVID-19) pandemic continuing to impact all aspects of individuals and businesses, NSW Trustee and Guardian assessed, at reporting date, for indications of asset impairment to determine whether the carrying amount exceeded their recoverable amount. Impacted right-of-use assets were written down to their recoverable amounts by reference to the right-of-use asset's fair value less costs of disposal and an impairment loss is recognised.

## 15. Current liabilities – payables

Payables are accrued cost of goods and services provided to NSW Trustee and Guardian.

	2023 \$'000	2022 \$'000
Personnel services payable	1,730	1,317
Creditors	5,529	5,476
Capital expenditure payables	-	66
GST payable	360	242
	<b>7,619</b>	<b>7,101</b>

Details regarding credit risk and market risk including a maturity analysis of the above payables, are disclosed in Note 22.

## 16. Current/non-current liabilities – provisions

These relate to annual leave and long service leave for personnel services provided by the NSW Department of Communities and Justice and other specific provisions.

### (a) Current provisions

	2023 \$'000	2022 \$'000
<b>Personnel services</b>		
Annual leave	8,454	8,607
Long service leave	18,671	18,999
Redundancy provision	105	1,445
<b>Other provisions</b>		
Provision for cost of office relocation <sup>1</sup>	185	143
<b>Total current provisions</b>	<b>27,415</b>	<b>29,194</b>

<sup>1</sup>Provision is recognised for future cost of office relocation as a result of sale of 19 O'Connell Street.

	2023 \$'000	2022 \$'000
<b>Expected to be settled before 12 months</b>		
Personnel services	10,465	10,438
<b>Expected to be settled after 12 months</b>		
Annual leave	1,050	1,996
Long service leave	15,715	16,616
<b>Total current provisions</b>	<b>27,230</b>	<b>29,050</b>

**(b) Non-current provisions**

	2023 \$'000	2022 \$'000
<b>Personnel services</b>		
Long service leave	1,846	1,879
<b>Other provisions</b>		
Restoration costs <sup>2</sup>	436	329
Provision for cost of office relocation <sup>3</sup>	193	336
<b>Total non-current provisions</b>	<b>2,475</b>	<b>2,544</b>

<sup>2</sup>Provision is recognised for lease contracts with material make good provision or where the impact of the provision is considered to be material.

<sup>3</sup>Provision is recognised for future cost of office relocation, as a result of sale of 19 O'Connell Street.

	2023 \$'000	2022 \$'000
<b>Aggregate employee benefits and related on-costs</b>		
Personnel services - current	27,230	29,050
Personnel services - non-current	1,846	1,879
Accrued salaries, wages and on-costs	1,730	1,317
<b>Total employee benefits and related on-costs</b>	<b>30,806</b>	<b>32,246</b>

**Movement in provisions (other than employee related provisions), are set out below:**

	2023 \$'000	2022 \$'000
<b>Provision for rectification costs</b>		
Carrying amount at beginning of the year	-	208
Additional provisions recognised	-	-
Amounts used	-	(208)
Carrying amount at end of the year	-	-
<b>Provision for restoration costs</b>		
Carrying amount at beginning of the year	329	240
Additional provisions recognised	136	48
Amounts used	-	-
Unwinding/change in discount rate	(29)	41
Carrying amount at end of the year	<b>436</b>	<b>329</b>

<b>Provision for office relocation</b>	<b>2023</b>	<b>2022</b>
Carrying amount at beginning of the year	479	-
Additional provisions recognised	-	479
Amounts used	(101)	-
Carrying amount at end of the year	<b>378</b>	<b>479</b>

## 17. Commitments

### Capital commitments

Aggregate capital expenditure contracted for the acquisition of non-current assets at balance date but not provided for:

	<b>2023</b>	<b>2022</b>
	<b>\$'000</b>	<b>\$'000</b>
Within one year	1,443	833
Later than 1 year but not later than 5 years	-	-
Later than 5 years	-	-
<b>Total (including GST)</b>	<b>1,443</b>	<b>833</b>

## 18. Contingent liabilities and contingent assets

### Legal matters

NSW Trustee and Guardian may bear a cost risk of some proceedings brought on behalf of clients due to adverse verdicts or other court orders. The total estimated cost is approximately \$0.70 million (\$0.72 million in 2022) of which \$0.40 million (\$0.69 million in 2022) is expected to be recovered from the Treasury Managed Fund.

There were no contingent assets during the year.



## 19. Budget review

### Net result

The overall actual net result is a surplus of \$7.35 million which is \$7.80 million favourable to the budget.

This result includes an unrealised gain of \$6.46 million from the TCorpIM Long Term Growth Fund Investments.

Total expenses are lower than budget by \$9.48 million due to:

- Personnel services expense is lower than budget by \$11.61 million. This is mainly due to permanent positions temporarily filled by agency contractors being \$5.80 million (which are classified as other operating expenses) and delays in recruiting to vacant positions which reflects the current difficult recruitment market.
- Other operating expenses are higher than budget by \$2.73 million. Temporary agency contractor charges of \$5.80 million are not budgeted in other operating expenses (as noted above). There was additional spend in fees for service, office supplies, travel, office relocation costs, and maintenance totalling \$0.87 million and underspend in advertising, internal audit, electricity, leasing costs communication costs and other items totalling of \$3.93 million.
- Depreciation and amortisation expenses are lower than budget by \$0.61 million as result of delays in the current year's capital expenditure program and assets disposed as part of the sale of 19 O'Connell Street office building in April 2022.

Revenue is lower than budget by \$1.68 million principally due to:

- Revenue from the rendering of services was below budget by \$7.08 million due to lower than budgeted revenue from drafting planning ahead documents and the delayed implementation of proposed changes to the regulated fees.
- Investment revenue being higher by \$5.23 million which is a combination of an unrealised gains of \$6.46 million (on TCorp) against a budgeted gain of \$2.91 million, a decrease in the TCorp distribution of \$1.07 million and increased bank interest of \$2.75 million. While there were financial market concerns with central banks raising interest rates to higher levels than expected and weakening global economic activity, this financial year saw developed markets rebounding. Australia's S&P/ASX 200 Index rose by 10.1%. In March, the collapse of Silicon Valley Bank in the United States and subsequent banking sector developments globally added to the volatility. However, the concerns diminished following regulatory intervention. The TCorp Long Term Growth Fund returned 11.01% over the financial year, benefiting from the markets that rebounded strongly. This translated into the net unrealised TCorp gains recognised in the financial statements.
- Grants and contributions received were less than budget by \$0.35 million due to the yearly indexation of grants and contributions being lower than originally budgeted.

## Assets and liabilities

Total assets are less than budget by \$0.35 million.

- Total current assets are higher than budget by \$2.12 million, represented by higher than budgeted cash and cash equivalents of \$4.60 million, higher than budgeted contract assets of \$1.33 million and lower than budgeted receivables of \$3.81 million.
- Total non-current assets are lower than budget by \$2.47 million. This is represented by higher than budgeted fair value of financial assets of \$0.73 million (TCorp related, refer comments in the investment revenue paragraph above), lower receivables of \$2.33 million, lower than budgeted land and buildings as well as plant and equipment and intangible assets of \$2.52 million (due to delayed capital expenditure compared to budgeted timing) and unbudgeted right of use assets of \$1.65 million which recognises the lease back arrangement of 19 O'Connell Street building, following its sale, until the end of the lease term on 30 June 2025.

Total liabilities are lower than budget by \$1.80 million.

- Total current liabilities are lower than budget by \$2.08 million. This is represented by the net of higher than budgeted payables of \$1.64 million (mainly due to the settling of trade and intercompany payables) and lower than budgeted personnel service provisions of \$3.71 million mainly due to the redundancy payments not originally budgeted and lower leave provisions.
- Total non-current liabilities are \$0.27 million higher than budget mainly reflecting the net of a higher lease make good provision and reduced provision for office relocation.

## Cash flows

Net cash flow from operating activities is lower than budget by \$1.43 million due to the net of lower operating payments of \$5.07 million and lower receipts of \$6.50 million.

The higher operating payments compared to budget is the net result of lower personnel services of \$11.13 million and higher payments to suppliers of \$6.06 million. These variances are mainly due to vacant permanent positions being temporarily filled by agency contractors which are subsequently classified as other operating expenses in the financial statements—as noted above.

Lower receipts compared to budget is mainly due to the net of lower than budgeted revenue from sale of services, grants and contributions off-set partially by investment revenue earned.

The net cash flows from investing activities is lower than budget by \$2.1 million. This is due to the net of \$4.28 million lower than budgeted capital expenditure, not redeeming investments of \$5.0 million or the purchase of \$2.81 million of financial assets.

## 20. Reconciliation of cash flows from operating activities to net result

	2023 \$'000	2022 \$'000
<b>Net cash receipt /(used) on operating activities</b>	<b>2,039</b>	<b>5,420</b>
Depreciation and amortisation expense	(3,992)	(5,742)
Revaluation on TCorpIM Funds	8,201	(6,286)
(Increase)/Decrease in provisions	1,848	(465)
Increase/(Decrease) in prepayments and other assets	(488)	(804)
Increase/(Decrease) in contract assets	322	908
(Increase)/Decrease in payables	(584)	337
Gain from derecognition/(loss) on impairment of right of use assets	-	1,154
Gain/(loss) on disposal of assets	-	41,863
<b>Net result</b>	<b>7,346</b>	<b>36,385</b>

## 21. Common Fund assets

NSW Trustee and Guardian manages the assets of clients under the *NSW Trustee and Guardian Act 2009*. These assets are not included in the financial statements as NSW Trustee and Guardian cannot use them for the achievement of its objectives. These are separately reported in the financial statements of NSW Trustee and Guardian – Common Funds.

Under Section 104 (5) of the *NSW Trustee and Guardian Act 2009*, amounts credited to a common fund are held on trust by the NSW Trustee and Guardian. Details are summarised below:

	2023 \$'000	2022 \$'000
<b>Common Fund - Trustee</b>		
Balance at beginning of the financial year	1,515,795	1,520,339
Receipts	964,540	1,095,032
Payments	(943,633)	(1,073,292)
Distribution to trust accounts	28,240	5,888
Distribution to unit holders	10,505	39,702
Unrealised gain/(loss) in investments	33,777	(71,874)
Balance at end of the financial year	<b>1,609,224</b>	<b>1,515,795</b>

Common Fund - Financial Management		
Balance at beginning of the financial year	1,905,027	1,934,921
Receipts	678,871	754,390
Payments	(708,958)	(705,241)
Distribution to trust accounts	21,657	4,638
Reinvestment of distributions	25,403	81,641
Unrealised gain/(loss) in investments	44,144	(165,322)
Balance at end of the financial year	<b>1,966,144</b>	<b>1,905,027</b>
<b>Total Common Fund assets</b>	<b>3,575,368</b>	<b>3,420,822</b>

Note: as at the date of signing these financial statements the Common Fund 2023 results have not been audited.

## 22. Financial instruments

NSW Trustee and Guardian's principal financial instruments are outlined below. These financial instruments arise directly from NSW Trustee and Guardian's operations or are required to finance NSW Trustee and Guardian's operations. NSW Trustee and Guardian does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

NSW Trustee and Guardian's main risks arising from financial instruments are outlined below, together with NSW Trustee and Guardian's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout these financial statements.

The Chief Executive Officer has overall responsibility for the establishment and oversight of risk management, reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by NSW Trustee and Guardian, to set risks limits and controls and to monitor risks. Compliance with policies is reviewed by NSW Trustee and Guardian's Audit and Risk Committee, Independent Investment Advisory Committee and Internal Auditors on a regular basis.

**(a) Financial instrument categories****(i) As at 30 June 2023**

Financial assets	Notes	Category	Carrying amount
Class			2023 \$'000
Cash and cash equivalents	6	Amortised cost	104,073
Receivables <sup>1</sup>	7	Amortised cost	6,759
Contract assets <sup>2</sup>	8	Amortised cost	4,663
Financial assets at fair value	9	Fair value through profit and loss – designated as such upon initial recognition	82,944

Financial liabilities	Notes	Category	Carrying amount
Class			2023 \$'000
Payables <sup>3</sup>	15	Financial liabilities measured at amortised cost	7,259

<sup>1</sup> Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

<sup>2</sup> While contract assets are also not financial assets, they are explicitly included in the scope of AASB 7 for the purpose of credit risk disclosures.

<sup>3</sup> Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

**(ii) As at 30 June 2022**

Financial assets	Notes	Category	Carrying amount
Class			2022 \$'000
Cash and cash equivalents	6	Amortised cost	104,833
Receivables <sup>1</sup>	7	Amortised cost	7,133
Contract assets <sup>2</sup>	8	Amortised cost	4,341
Financial assets at fair value	9	Fair value through profit and loss – designated as such upon initial recognition	74,743



Financial liabilities	Notes	Category	Carrying amount
Class			2022 \$'000
Payables <sup>3</sup>	15	Financial liabilities measured at amortised cost	6,793

<sup>1</sup> Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

<sup>2</sup> While contract assets are also not financial assets, they are explicitly included in the scope of AASB 7 for the purpose of credit risk disclosures.

<sup>3</sup> Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

NSW Trustee and Guardian determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

## (b) Financial risks

### (i) Credit risk

Credit risk arises when there is the possibility that NSW Trustee and Guardian's debtors will default on their contractual obligations, resulting in a financial loss to NSW Trustee and Guardian. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for expected credit losses).

Credit risk arises from the financial assets of NSW Trustee and Guardian including cash, receivables and authority deposits. No collateral is held by NSW Trustee and Guardian.

NSW Trustee and Guardian has not granted any financial guarantees.

Credit risk associated with NSW Trustee and Guardian's financial assets, other than receivables, is managed through the selection of counterparties and establishment of minimum credit rating standards. Authority deposits held with NSW Treasury Corporation (TCorp) are guaranteed by the State.

NSW Trustee and Guardian considers a financial asset in default when contractual payments are 90 days past due. However, in certain cases, NSW Trustee and Guardian may also consider a financial asset to be in default when internal or external information indicates that NSW Trustee and Guardian is unlikely to receive the outstanding contractual amounts in full before taking into account any credit enhancements held by NSW Trustee and Guardian.

NSW Trustee and Guardian operates common funds for its clients through two main banking institutions, Westpac Bank for all transactional services and Citi Australia for all investment transactions. The common funds only trade with recognised and creditworthy third parties. Credit risks associated with the common fund's financial assets, other than receivables, are managed through the selection of counterparties and establishment of credit rating standards, approved by the Chief Executive Officer and reviewed by the Independent Investment Advisory Committee on a quarterly basis. Westpac Bank was retained as NSW Trustee and Guardian's bank for corporate and common funds through

the NSW Government banking tender in 2019. Westpac Banking Corporation is currently rated AA-by Standard & Poor, and NSW Trustee and Guardian regards credit risks with Westpac Bank as low.

### Cash and cash equivalents

Cash comprises cash on hand and bank balances within the Treasury Banking System (TBS). Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation 11am unofficial cash rate, adjusted for a management fee to NSW Treasury.

### Receivables – trade debtors

All trade debtors are recognised as amounts receivable at balance date. Receivables include trade debtors and other receivables, comprising:

- Commissions and fees
- Sundry debtors.

Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand.

NSW Trustee and Guardian applies the AASB 9 simplified approach to measuring expected credit losses which uses a lifetime expected loss allowance for all trade debtors.

To measure the expected credit losses, trade receivables have been grouped based on shared credit risk characteristics and the days past due.

The expected loss rates are based on historical observed loss rates. The historical loss rates are reviewed to reflect current and forward-looking information on macroeconomic and personal factors affecting the ability of the customers to settle the receivables and accordingly adjusts the historical loss rates based on expected changes in these factors.

Trade debtors are written off when there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery include, amongst others a failure to make contractual payments for a period of greater than 180 days past due.

The loss allowance for trade debtors as at 30 June 2023 and 30 June 2022 was determined as follows:

	30 June 2023 \$'000				Total
	Current	<90 days	90-180 days	>180 days	
Expected credit loss rate	0%	0%	0%	8%	
Estimated total gross carrying amount at default	40	35	27	122	224
Expected credit loss		-	-	10	10

	30 June 2022 \$'000				Total
	Current	<90 days	90-180 days	>180 days	
Expected credit loss rate	0%	0%	0%	10%	
Estimated total gross carrying amount at default	20	29	14	93	156
Expected credit loss	-	-	-	9	9

Each column in the above table reports “gross receivables”.

The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7 and excludes receivables that are past due and not impaired. Therefore the “total” will not reconcile to the receivables total recognised in the Statement of Financial Position.

## (ii) Liquidity risk

Liquidity risk is the risk that NSW Trustee and Guardian will be unable to meet its payment obligations when they fall due. NSW Trustee and Guardian continuously manages risk through monitoring future cash flows and maturities planning to ensure adequate holding of high quality liquid assets. The objective is to maintain a balance between continuity of funding and flexibility through effective management of cash and investments. NSW Trustee and Guardian does not have any loans.

No assets have been pledged as collateral. NSW Trustee and Guardian’s exposure to liquidity risk is deemed insignificant based on current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSWTC 11/12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, NSW Trustee and Guardian may automatically pay the supplier simple interest. The rate of interest applied for the year was 11.46% (2022 8.07%).

The liquidity risk is managed by the preparation of cash flow projections on a regular basis for current liabilities. The table below summarises the maturity profile of NSW Trustee and Guardian’s financial liabilities on contractual undiscounted payments, together with the interest rate exposure.

	Interest rate exposure				Maturity dates		
	Weighted average effective interest rate	Nominal amount	Fixed interest rate	Non-interest bearing	< 1 year	1-5 years	> 5 year
	%	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>2023 Payables</b>							
Personnel services payable	N/A	1,730	-	1,730	1,730	-	-
Creditors	N/A	5,529	-	5,529	5,529	-	-
Capital expenditure	N/A	-	-	-	-	-	-
<b>Total</b>		<b>7,259</b>	<b>-</b>	<b>7,259</b>	<b>7,259</b>	<b>-</b>	<b>-</b>
<b>2022 Payables</b>							
Personnel services payable	N/A	1,317	-	1,317	1,317	-	-
Creditors	N/A	5,476	-	5,476	5,476	-	-
Capital expenditure	N/A	66	-	66	66	-	-
<b>Total</b>		<b>6,859</b>	<b>-</b>	<b>6,859</b>	<b>6,859</b>	<b>-</b>	<b>-</b>

**(iii) Market risk**

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. NSW Trustee and Guardian's exposure to market risk is primarily through other price risks associated with the movement in the unit price of the TCorpIM Long Term Growth Fund Investments. NSW Trustee and Guardian has no exposure to foreign currency risk and does not enter into commodity contracts.

The effect on profit and equity due to a reasonably possible change in risk variable is outlined in the information below, for interest rate risk and other price risk. A reasonably possible change in risk variable has been determined after taking into account the economic environment in which NSW Trustee and Guardian operates and the time frame for the assessment which is until the end of the next annual reporting period. The sensitivity analysis is based on risk exposures in existence at the Statement of Financial Position date. The analysis is performed on the same basis as 2022. The analysis assumes that all other variables remain constant.

### Interest rates risk

NSW Trustee and Guardian does not have interest bearing liabilities.

Exposure to interest rates risk arises primarily through NSW Trustee and Guardian's deposits with financial institutions. However, the risks are minimised as the deposits are either at call or short term (one month). A reasonable possible change of interest of +/-1% is used, consistent with current trends in interest rates. The basis will be reviewed annually and amended where there is a structural change in the level of interest volatility.

NSW Trustee and Guardian's exposure to interest rate risk is set out below:

	Carrying amount \$'000	-1% Profit \$'000	Equity \$'000	+1% Profit \$'000	Equity \$'000
<b>2023 Financial assets</b>					
Cash and cash equivalents	104,073	(1,041)	(1,041)	1,041	1,041
<b>2022 Financial assets</b>					
Cash and cash equivalents	104,833	(1,048)	(1,048)	1,048	1,048

### Other price risk – TCorpIM Funds

Exposure to 'other price risk' primarily arises through the investment in the TCorpIM Long Term Growth Fund, which are held for strategic rather than trading purposes. NSW Trustee and Guardian has no direct equity investments. NSW Trustee and Guardian holds units in:

Fund	Investments	Investment horizon	2023 \$'000	2022 \$'000
TCorpIM long Term Growth Fund	Cash (Domestic and International), Bank Loans, High Yield, Australian Bond, Emerging Market Debt, Australian Share, Emerging Market Shares, Core Alternatives, Developed Markets Equities	7 Years and over	82,944	74,743

The unit price of each facility is equal to the total fair value of net assets held by the facility divided by the total number of units on issue for that fund. Unit prices are calculated and published daily.

NSW TCorp as trustee for each of the funds is required to act in the best interest of the unit holders and to administer the funds in accordance with the trust deeds. As trustee,



TCorp has appointed external managers to manage the performance and risks of each fund in accordance with a mandate agreed by the parties. TCorp has also leveraged internal expertise to manage certain fixed income assets for the TCorpIM Investments. A significant portion of the administration of the funds is outsourced to an external custodian.

Investment in the TCorpIM Funds limit NSW Trustee and Guardian's exposure to risk, as it allows diversification across a pool of funds, with different investment horizons and a mix of investments.

TCorp provides sensitivity analysis information for each of the Investment facilities, which is used to demonstrate the impact on the funds' net assets as a result of a change in the unit price. This impact is based on a sensitivity rate of 10%, multiplied by the redemption value as at 30 June each year for each facility (balance from TCorpIM Funds statement). Actual movements in the price risk variables may differ to the sensitivity rate used due to a number of factors. The TCorpIM Funds are measured at fair value through profit or loss and therefore any change in unit price impacts directly on net results.

Facility	Changes in unit price		Impact on profit/loss	
	2023	2022	2023	2022
	%	%	\$'000	\$'000
TCorpIM Long Term Growth Fund	+10%	+10%	8,294	7,474
TCorpIM Long Term Growth Fund	-10%	-10%	(8,294)	(7,474)

#### (iv) Fair value measurement

##### Fair value compared to carrying amount

TCorpIM Long Term Growth Fund and TCorpIM Short Term Income Fund investments are measured at fair value. Management assessed that the carrying amount of all other financial instruments approximate their fair value.

##### Fair value recognised in the statement of financial position

	Level 2 \$'000	2023 Total \$'000	2022 Total \$'000
<b>Financial assets at fair value</b>			
TCorpIM Long Term Growth Fund	82,944	82,944	74,743
	<b>82,944</b>	<b>82,944</b>	<b>74,743</b>

There were no transfers between level 1, 2 and 3 during the year ended 30 June 2023. There were no level 1 and 3 investments, hence not disclosed.

The value of investment in TCorpIM Funds are based on NSW Trustee and Guardian's share of the value of the underlying assets of the fund, based on the market value. TCorpIM Funds are valued using 'redemption' pricing.

#### (v) Committees

The Chief Executive Officer has ultimate responsibility for risk management and governance, including ensuring that an appropriate risk framework is in place and is operating effectively. There are however other committees and individuals within NSW Trustee and Guardian that manage and monitor financial risks.

The Audit and Risk Committee assists NSW Trustee and Guardian to achieve its corporate and fiduciary objectives by providing independent assistance to the NSW Trustee and Guardian's Chief Executive Officer by monitoring, reviewing and providing advice about the NSW Trustee and Guardian's governance processes, risk management and control frameworks, and NSW Trustee and Guardian's external accountability obligations.

The responsibilities of the Committee encompass the review and oversight of the following areas:

- risk management
- control framework
- external accountability
- compliance with applicable laws and regulations
- internal audit
- external audit.

The Independent Investment Advisory Committee has the following responsibilities:

- understand the fiduciary duty owed by NSW Trustee and Guardian to its clients and provide recommendations and advice to the Chief Executive Officer to ensure these obligations are met
- review and provide advice on the actions of management in relation to the design and application of policies procedures and frameworks governing clients' investable assets
- recommend the investment objectives and asset allocations for the Common Funds and NSW Trustee and Guardian Financial Assets
- review and provide advice on the actions of management in relation to the Common Funds and NSW Trustee and Guardian financial assets, other than for financial accounting and reporting (which is the responsibility of the Audit and Risk Committee)
- review and provide advice on management's supervision (including competitive tendering) of the Common Fund's external investment advisors and manager(s) as appointed from time to time
- review and provide advice on investment compliance, performance monitoring, benchmarking and competitiveness of returns of the Common Funds and NSW Trustee and Guardian financial assets from time to time
- review the operation of the Financial Planning Unit's policies and make recommendations or endorse changes or amendments as proposed by management

- consider and recommend to the Chief Executive Officer, on at least an annual basis, the suitability of the appointed external service provider(s) to continue to provide Custodian and Investment Administration Services for the Common Funds and NSW Trustee and Guardian financial assets including providing oversight for competitive tendering activities
- to assist the Chief Executive Officer in assessing ongoing suitability of existing and new investment products for the investment of client monies and NSW Trustee and Guardian financial assets
- when requested review and recommend structural changes to products consistent with the objectives of the funds and determine appropriate performance benchmarks
- undertake any other activities that the Chief Executive Officer considers appropriate and requests of the Committee
- ensure that all events listed on the Calendar of Events are undertaken.

## 23. Related party disclosures

NSW Trustee and Guardian's key management personnel and their compensation disclosures are limited to the key decision maker, the Chief Executive Officer. There is no management board for NSW Trustee and Guardian.

NSW Trustee and Guardian's key management personnel compensation are as follows:

	2023 \$'000	2022 \$'000
Short-term employee benefits:		
Gross wages, salaries and related payments	400	333
<b>Total remuneration</b>	<b>400</b>	<b>333</b>

During the year, NSW Trustee and Guardian did not enter into any transactions on arm's length terms and conditions with key management personnel, their close family members or jointly controlled entities thereof.

During the year, NSW Trustee and Guardian entered into transactions with other entities that are controlled/jointly controlled/significantly influenced by the NSW Government. These transactions in aggregate are a significant portion of the NSW Trustee and Guardian's rendering of services and receiving of services, however none of the above-mentioned transactions are individually significant.

These transactions include:

- Defined Benefit Superannuation assumed by the Crown
- Community Service Obligation and other grants received from Treasury via Department of Communities and Justice

- employer contributions paid to Defined Benefit Superannuation funds
- payments into and reimbursements from the Treasury Managed Fund for workers' compensation insurance and other insurances
- lease rental payments made to Property NSW
- payments made to the Department of Communities and Justice for Service Level Agreement fees, rent, personnel services and other procurement charges.

## 24. Natural disasters and financial impact

In the financial year 2022-23, COVID-19 continued to impact on individuals, businesses and the whole government sector.

There have not been material financial impacts of COVID-19 on performance of NSW Trustee and Guardian in the current financial year.

A further assessment on the fair value of the following accounts, taking into account relevant assumptions and estimates, has been performed resulting in either no impact or material impact being identified:

- Receivables – Note 7
- Property, plant and equipment – Note 10
- Leases – Note 11
- Intangibles – Note 13
- Financial instruments – Note 22.

There is no uncertainty about NSW Trustee and Guardian's ability to continue as going concern at 30 June 2023 as liquidity and credit risk are not significant areas of risk for NSW Trustee and Guardian. There has been no impact on NSW Trustee and Guardian's liquidity or credit risk profiles as a result of COVID-19.

## 25. Events after the reporting period

No events have occurred since the end of the financial year which significantly affect or may significantly affect the operations and results of operations of NSW Trustee and Guardian.

### End of Audited Financial Statements



# Appendices





# Appendix 1: Internal Audit and Risk Management Attestation Statement

## Internal Audit and Risk Management Attestation for the 2022-2023 Financial Year for NSW Trustee and Guardian

I, the Chief Executive Officer am of the opinion that the NSW Trustee and Guardian has internal audit and risk management processes in operation that are, excluding the exemptions or transitional arrangements described below, compliant with the seven (7) Core Requirements set out in the Internal Audit and Risk Management Policy for the General Government Sector, specifically:

Core Requirements	Compliant, non-compliant or in transition
<b>Risk Management Framework</b>	
1.1 The Accountable Authority shall accept ultimate responsibility and accountability for risk management in the agency.	Compliant
1.2 The Accountable Authority shall establish and maintain a risk management framework that is appropriate for the agency. The Accountable Authority shall ensure the framework is consistent with AS ISO 31000:2018.	Compliant
<b>Internal Audit Function</b>	
2.1 The Accountable Authority shall establish and maintain an internal audit function that is appropriate for the agency and fit for purpose.	Compliant
2.2 The Accountable Authority shall ensure the internal audit function operates consistent with the International Standards for Professional Practice for Internal Auditing.	Compliant
2.3 The Accountable Authority shall ensure the agency has an Internal Audit Charter that is consistent with the content of the 'model charter'.	Compliant
<b>Audit and Risk Committee</b>	
3.1 The Accountable Authority shall establish and maintain efficient and effective arrangements for independent Audit and Risk Committee oversight to provide advice and guidance to the Accountable Authority on the agency's governance processes, risk management and control frameworks, and its external accountability obligations.	Compliant



Attestation Statement

3.2

The Accountable Authority shall ensure the agency has an Internal Audit Charter that is consistent with the content of the 'model charter'.

Compliant

Membership

- The independent chair and Members of the Audit & Risk Committee are:
- Independent Chair, Julie Elliott, 6 March 2019 to 5 March 2024
  - Independent Member, Stephen Horne, 7 March 2022 to 5 March 2026
  - Independent Member, Elizabeth Carr, 7 March 2023 to 6 March 2025

These processes, including the practicable alternative measures being implemented, demonstrate that the NSW Trustee and Guardian has established and maintained frameworks, including systems, processes and procedures for appropriately managing audit and risk within the NSW Trustee and Guardian.

*C. Cuddihy*

Caroline Cuddihy  
Chief Executive Officer

Date: 12 September 2023

Agency Contact Officer:  
Louise Bochniak  
Chief Audit Executive

## Appendix 2: Cyber Security Annual Attestation Statement

### Cyber Security Annual Attestation Statement for the 2022-2023 financial year for NSW Trustee and Guardian

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I, Caroline Cuddihy am of the opinion that:

NSW Trustee and Guardian has managed cyber security risks in a manner consistent with the Mandatory Requirements set out in the NSW Government

Cyber Security Policy.

- Governance is in place to manage the cyber security maturity and initiatives of NSW Trustee and Guardian.
- Risks to the information and systems of NSW Trustee and Guardian have been assessed and are managed.
- There exists a current cyber incident response plan for NSW Trustee and Guardian and has been tested during the reporting period.
- NSW Trustee and Guardian works collaboratively with the Department of Communities and Justice to maintain an Information Security Management System (ISMS).
- NSW Trustee and Guardian is doing the following to continuously improve the management of cyber security governance and resilience:
  - Mandating regular all staff cyber security awareness training
  - Maintaining a close cyber security relationship with the Department of Communities and Justice and Cyber NSW
  - Regularly sharing and reporting incidents to the Department of Communities and Justice and Cyber NSW
  - Continuing to improve the maturity scores against the ACSC Essential Eight and the NSW Cyber Security Policy Requirements
- This attestation covers NSW Trustee and Guardian.

*C. Cuddihy*

Caroline Cuddihy  
Chief Executive Officer  
30 September 2023

Page 1 of 1



NSW Trustee  
& Guardian

# Appendix 3: Access to government information

## Applications received

### By type of applicant and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn	Total
Media	-	-	-	-	-	-	-	-	-
Members of Parliament	-	-	-	-	-	-	-	-	-
Private sector business	-	-	-	-	-	-	-	-	-
Not for profit organisations or community groups	-	-	-	-	-	-	-	-	-
Members of the public (application by legal representative)	-	1	1	-	-	-	-	6	8
Members of the public	-	1	4	1	-	3	-	3	12
<b>Total</b>	-	2	5	1	-	3	-	9	20

### By type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny information is held	Application withdrawn	Total
Personal information applications	-	2	5	1	-	3	-	9	20
Access applications (other than personal information applications)	-	-	-	-	-	-	-	-	-
Access applications that are partly personal information applications and partly other	-	-	-	-	-	-	-	-	-
<b>Total</b>	-	2	5	1	-	3	-	9	20

## Invalid applications received

Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of the Act)	-
Application is for excluded information of the agency (section 43 of the Act)	4
Application contravenes restraint order (section 110 of the Act)	-
Total number of invalid applications received	-
Invalid applications that subsequently became valid applications	-
<b>Total</b>	<b>4</b>

## Other public interest considerations against disclosure (matters listed in table to section 14 of the GIPA Act)

	Number of times consideration used
Responsible and effective government	-
Law enforcement and security	-
Individual rights, judicial processes and natural justice	2
Business interests of agencies and other persons	-
Environment, culture, economy and general matters	-
Secrecy provisions	-
Exempt documents under interstate Freedom of Information legislation	-
<b>Total</b>	<b>2</b>

## Applications for review under Part 5 of the GIPA Act

### By type of applicant

	Number of applications for review
Applications by access applicants	2
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	-
<b>Total</b>	<b>2</b>

(No data this year for transfers or PIDS)

### By type of review and outcome

	Decision varied	Decision upheld	Total
Internal review	-	-	-
Review by Information Commissioner*	-	1	1
Internal review following recommendation under section 93 of Act	-	-	-
Review by NSW Civil and Administrative Tribunal	-	1	1
<b>Total</b>	<b>-</b>	<b>2</b>	<b>2</b>

\*The Information Commissioner does not have the authority to vary decisions, but can make recommendation to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made.



## Timeliness of decisions

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	20
Decided after 35 days (by agreement with applicant)	-
Not decided within time (deemed refusal)	-
<b>Total</b>	<b>20</b>

## Conclusive presumption of overriding public interest against disclosure (matters listed in Schedule 1 of the GIPA Act)

	Number of times consideration used
Overriding secrecy laws	-
Cabinet information	-
Executive Council information	-
Contempt	-
Legal professional privilege	1
Excluded information	-
Documents affecting law enforcement and public safety	-
Transport safety	-
Adoption	-
Care and protection of children	-
Ministerial code of conduct	-
Aboriginal and environmental heritage	-
<b>Total</b>	<b>1</b>

## Applications transferred to other agencies under Division 2 of Part 4 of the GIPA Act (by type of transfer)

We did not transfer any applications to other agencies during 2022-23

## Appendix 4: Public interest disclosures

	Made by public officials in performing their day- to-day functions	Made under a statutory or legal obligation	All other
Public officials who made a public interest disclosure to NSW Trustee and Guardian	4	-	-
Public interest disclosures received by NSW Trustee and Guardian	4	-	-
Of the public interest disclosures received, how many were primarily about:	-	-	-
· Corrupt conduct	4	-	-
· Maladministration	-	-	-
· Serious and substantial waste	-	-	-
· Government information contravention	-	-	-
· Local government pecuniary contravention	-	-	-
<b>Total</b>	<b>4</b>	<b>-</b>	<b>-</b>
Number of public interest disclosures (received on or after 1 January 2012) that were finalised in this reporting period	-	-	-

# Index

Access to Government Information .....	63, 132	Genealogy services .....	43	Review of operations (our services) .....	32
Advisory committees .....	14	Governance.....	57	Reviews of decisions.....	54
Appendices .....	128	Guardianship .....	32	Risk management .....	57
Budget .....	114	Independent Auditor's Report .....	75	Senior executives.....	61
Charter .....	10	Insurance.....	59	Statement in Accordance with Division 7.2 of the Government Sector Finance Act (2018).....	74
Civil forfeiture .....	39	Internal Audit and Risk Management Attestation Statement .....	129	Statement of comprehensive income for the year ended 30 June 2023 .....	77
Common funds .....	46, 116	Investment performance (common funds) .....	46	Statement of financial position as at 30 June 2023 .....	78
Community education .....	50	Judicial decisions impacting services.....	60	Statement of changes in equity for the year ended 30 June 2023 .....	79
Complaints.....	53	Land disposal .....	51	Statement of cash flows for the year ended 30 June 2023.....	80
Consultants.....	59	Legal services for customers.....	43	Strategy .....	16
Court investments .....	41	Legislative framework.....	10	Sustainability.....	64
Customer advocacy .....	44	Legal change .....	60	Taxation services.....	42
Customer assets.....	47	Letter of submission.....	4	Trusts .....	38
Customer feedback .....	52	Management and accountability..	56	Wills and estate planning .....	36
Customers .....	23	Modern slavery .....	66	Workforce diversity.....	66
Cyber Security Annual Attestation Statement.....	131	Notes to the financial statements for the year ended 30 June 2023.....	81	Work, health and safety.....	65
Disability Inclusion Action Plan....	65	Operations and performance .....	21		
Disability inclusion.....	65	Organisation structure .....	15		
Dormant funds .....	41	Overseas travel.....	62		
Employees .....	61	Overview.....	7		
Estate administration .....	37	Powers of attorney .....	39		
Events arising after year end .....	51	Privacy .....	63		
Executive Leadership Team .....	13	Procurement .....	59		
External cost of Annual Report production .....	5	Public interest disclosures....	59, 135		
Financial management services....	35				
Financial statements .....	72				

# Access and contact

## Head office

Level 7  
Justice Precinct Offices  
160 Marsden Street, Parramatta NSW  
Locked Bag 5115, Parramatta NSW 2124

Phone: **1300 109 290**

Email: [tagmail@tag.nsw.gov.au](mailto:tagmail@tag.nsw.gov.au)

Web: [tag.nsw.gov.au](http://tag.nsw.gov.au)

## Business hours

9am to 5pm Monday to Friday  
(excluding public holidays).

An out of hours emergency service is provided for urgent medical decisions for people under a guardianship order.

## Contact assistance

### Hearing and speech loss:

Contact us through the National Relay Service and give them the number you want to call.

### Translating and Interpreting Service:

Call the Translating and Interpreting Service on **131 450**. Tell them what language you speak and they will connect you to an interpreter. The interpreter will be on the phone when you are put through to us.

## Information and resources

Our resources are available in multiple languages. These can be downloaded from our [website](#) or by contacting us for a copy to be sent to you.

## Our locations

We have locations across metropolitan and regional areas of New South Wales. These locations are in figure 21.

**Figure 21:** Our locations

