Corporate Governance Statement

Funds in Court

February 2014 | Prepared by Tim Coulston, FIC Corporate Governance Manager

Funds in Court
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Introduction

Funds in Court (FIC) is one of the five primary Support Delivery areas of the Supreme Court of Victoria. FIC is responsible for administering the funds of people who are under a legal disability [beneficiaries]. The Associate Judge who is the Senior Master is responsible for the administration of FIC and the performance of its functions.

The Senior Master is a judicial member of the Supreme Court of Victoria. The judiciary is an independent arm of government. As such, it is not subject to the control of the administrative arm of government.

The primary role of all FIC Officers is to put into effect the decisions of the Senior Master and Judicial Registrar (FIC). As FIC employees, Officers should always be cognisant that their first duty is to the Court. Their decisions and behaviours should conform to the law generally and to the *Supreme Court Act* and the Rules of the Supreme Court in particular.

Moreover, in their dealings with all FIC stakeholders, Officers must never forget that they are acting on behalf of the Senior Master and Judicial Registrar (FIC) and, consequently, the Court, and act in a manner that brings neither into disrepute.

Subject to their primary duty to the Court, Officers have a duty to act in the best interests of the beneficiaries. When dealing with beneficiaries or their funds, Officers should act fairly and impartially.

The Senior Master is committed to achieving and demonstrating the highest standards of corporate governance. The FIC governance structure is driven by the need for FIC to be fully and properly accountable to the Court and beneficiaries. Therefore it is considered important that the governance of FIC is controlled and directed to ensure that:

1. The interests of beneficiaries are protected.
2. Financial and other risks to the funds administered by FIC are minimised.
3. The Senior Master, together with FIC management and staff assisting the Senior Master, are accountable to the Court and to the beneficiaries, as well as providing transparency in respect of FIC policies and procedures to key interested parties.[1] for the proper administration of FIC.

The Chartered Secretaries Australia *"Good Governance Guide: Governance in organisations without boards"* [the Guide], endorsed by the State Services Authority (Victoria), is considered as offering the most appropriate template to guide the development of the FIC Corporate Governance Statement.

The Guide states that:

> *"Some public sector organisations do not have an elected board in the commercial sense of the term. They are not exempt from the need for a governance framework. Such organisations include government departments and some commissions… "*
>
> *and*
>
> *"It is good governance for such organisations to articulate how the responsibilities for accountability, transparency and stewardship will be implemented in order to achieve a governance framework."*

The Senior Master has based the FIC Corporate Governance Statement on the Guide as an example of best practice in administrative entities, even though FIC is not a public sector organisation but an office of the Court.

[1] Key interested parties include the legal profession and organisations such as: Transport Accident Commission; WorkSafe Victoria; Victims of Crime Assistance Tribunal; Office of the Public Advocate; Centrelink; and, Department of Justice

FIC Corporate Governance

While the Guide identifies that the primary accountability of an organisation rests with the head of the organisation, **good governance** practice requires an organisation to establish a governance structure that includes the relevant structures, policies, standards and delegations which together ensure the organisation is operationally effective and is fully accountable to its stakeholders. Furthermore, processes need to be in place to enable the head of the organisation to manage, monitor and report on compliance with legal, regulatory and internal procedural requirements. Key elements of the FIC Corporate Governance framework, based on the Guide, are:

1. EXECUTIVE TEAM AND ADVISORY COMMITTEES

An executive team or internal board of management to advise the head of an organisation, to ensure that the head can make informed decisions, and in order to provide accountability by exercising powers responsibly across the organisation

The Senior Master is able to carry out his or her significant responsibilities only through the collective effort and expertise of the staff of FIC as well as relying on the advice of specialist advisory committees.

1.1 Executive Team

The Judicial Registrar, the General Manager, the Solicitor to the Senior Master and the Director – Strategy, Government & Community Relations each report directly to the Senior Master.

In addition, Executive Managers, who are in charge of each FIC functional area, report to the General Manager and this group is known as the Executive Team. The Executive Team meets formally each month with the Senior Master.

See Appendix 1 for Executive Team Charter

1.2 Committees

The Senior Master has established a number of specialist advisory committees which are an integral component of FIC's Corporate Governance Structure:

Audit Committee

The Audit Committee meets at least quarterly. Its role includes making recommendations to the Senior Master regarding:

- Financial reporting
- Internal controls
- Internal and External Audit activities
- Policies and procedures
- Ethical issues
- Financial Management Compliance Framework.
- Risk Management.

The functions and responsibilities of the Audit Committee are set out below.[2]

[2] Section 9

See Appendix 2 for the Audit Committee Terms of Reference

Investment Compliance Committee [ICC]

FIC compliance with the Senior Master's investment mandate is overseen separately by the Investment Compliance Committee. The ICC was established in December 2010 to monitor the compliance and governance aspects of the Senior Master's Asset Management Policy [AMP]. The two industry experts on the ICC have extensive funds management and compliance experience. They provide their services voluntarily.

See Appendix 3 for Asset Management Policy Summary

See Appendix 4 for the ICC Terms of Reference

Investment Review Panel [IRP]

The Senior Master's sources of investment advice include an Investment Review Panel that provides advice and oversight of appropriate investment strategies.

The IRP consists of:

- The Senior Master
- General Manager
- Investment Manager
- Investment Analyst
- Investment Officer
- Director, Strategy, Government & Community Relations
- Two representatives from JANA Investment Advisers
- Three independent, highly respected experts on fixed interest and equity investments - each having over 20 years' experience in the funds management industry - each of whom provides his or her time and advice without charge.

See Appendix 5 for the IRP Operating Rules

IT Steering Committee [ITSC]

The functions and responsibilities of the ITSC are set out below in *"IT Governance"*[3]

See Appendix 6 for the ITSC Charter

Executive Remuneration Committee [ERC]

The Senior Master approved the creation of the Executive Remuneration Committee(ERC) in February 2013. It met for the first time in March 2013.

The Committee consists of two independent members, one of who is the Chair, and the General Manager.

See Appendix 7 for the Executive Remuneration Committee's Charter

[3] Section 13

2. EXECUTIVE TEAM CHARTER

Appropriate terms of reference or charter for the executive team or internal board of management, which is subject to at least an annual review consistent with period assessment of the group's performance

The following is a summary of the FIC Executive Team's Charter:

Role

The Executive Team operates in an advisory capacity to the Senior Master. The Senior Master refers most critical matters to the Executive Team before making a final decision. In recognition of the responsible positions occupied by the members of the Executive Team, the Senior Master seeks their individual views so that the Senior Master can make balanced and informed decisions.

Membership

Consists of the eight Executive Managers:

- General Manager
- Beneficiary Services Manager
- Business Operations Manager
- Chief Financial Officer
- Corporate Governance Manager
- Investment Manager
- IT Services Manager
- Manager, Legal Services

The Executive Managers reflect the complex nature of FIC, and are necessarily responsible for, and knowledgeable about, the day-to-day running of their areas.

The FIC Policies and Procedures Manual [the Manual] sets out the specific duties and responsibilities of the Executive Managers so as to eliminate possible conflicts, overlapping, and confusion, while at the same time communicating to all officers the appropriate areas of work assignments. The Organisational Chart (below) contains summaries of each functional area's duties.

Meetings

The Executive Team meets with, or without, the Senior Master as follows:

- Monthly Executive Team meeting (to which the Judicial Registrar (FIC), Director Strategy, Government & Community Relations and Solicitor to the Senior Master have a standing invitation)
- Annual Budget meeting
- Annual Risk Management meeting
- Annual Interest Rate Declaration meeting
- Special or Extraordinary meetings to deal with important issues that may have arisen

All meetings are chaired by the Senior Master, or in his or her absence, the General Manager, and all matters discussed are minuted.

Communication

Prior to the monthly Executive Team meetings, Executive Managers are required to provide the Senior Master with a written report on issues that arise either within their functional area or are of general interest or concern to FIC. The reports, meeting agenda and minutes of the previous meeting are circulated at least five working days prior to the meeting.

The decisions of the Executive Team are communicated by the Executive Managers to their staff to ensure all FIC staff are made aware of decisions that affect them.

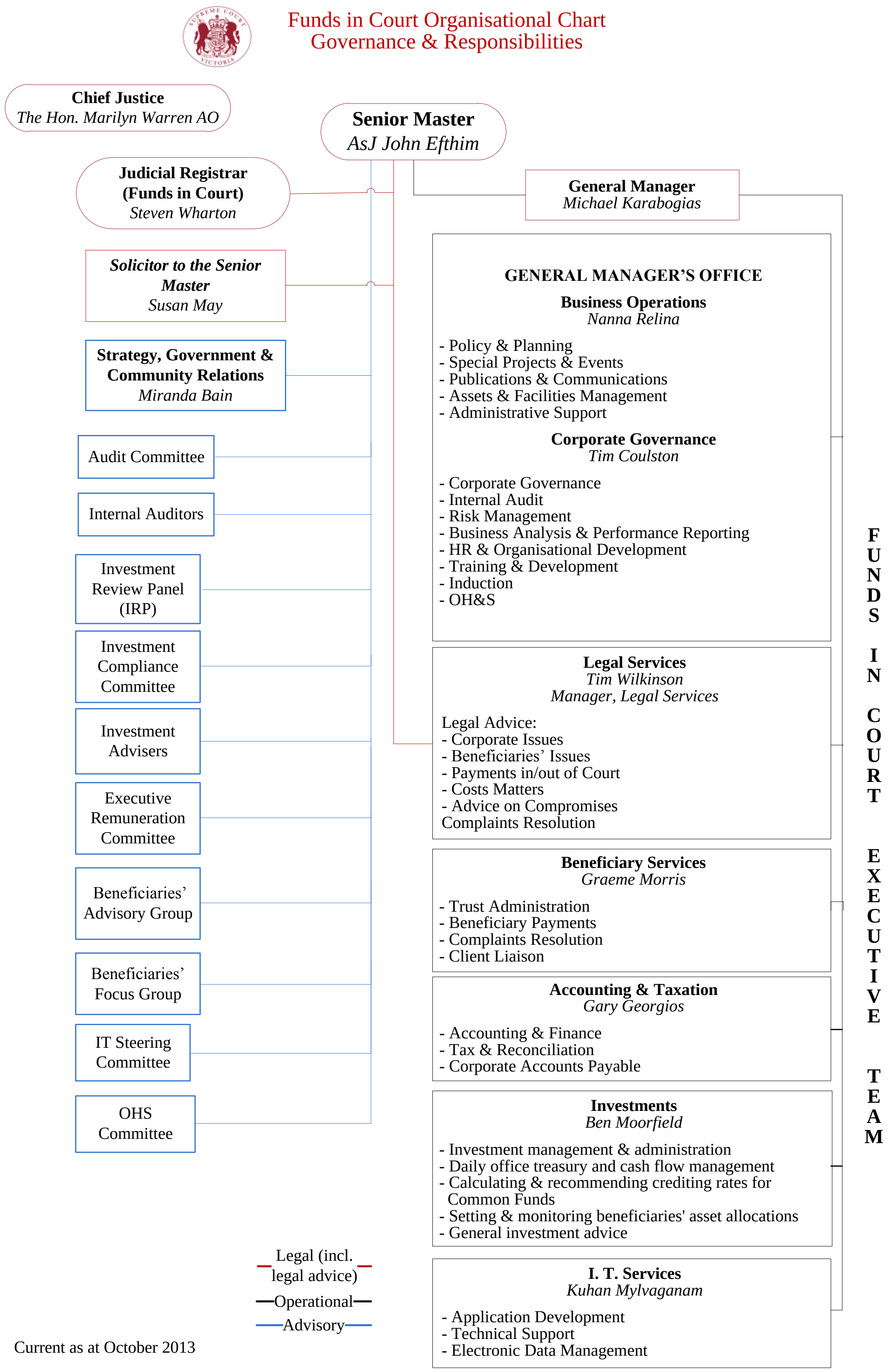
Performance Assessment

The Executive Team will report annually to the Senior Master on its operation, performance and activities during the year.

See Appendix 1 for the FIC Executive Team Charter

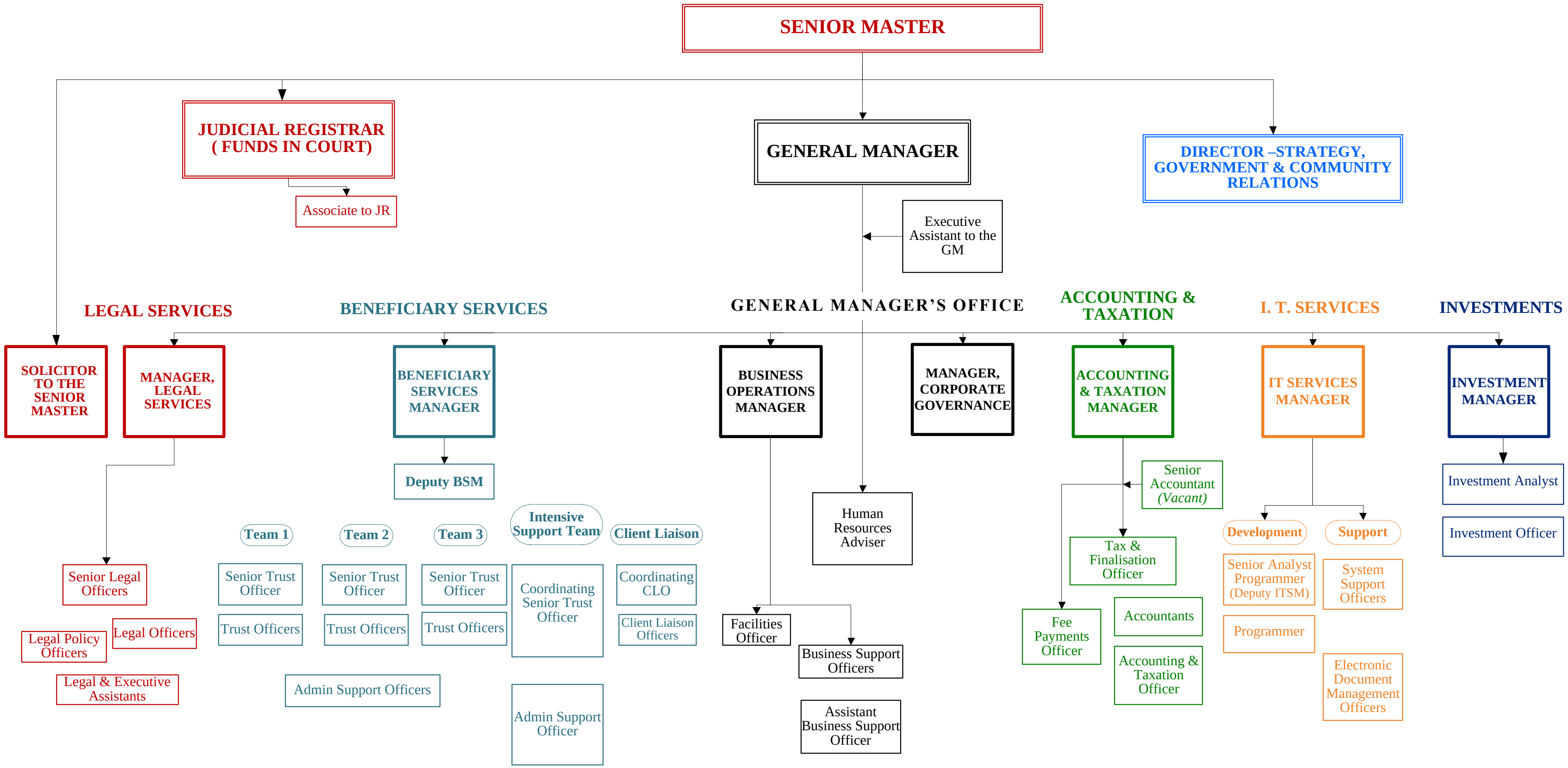
3. ORGANISATIONAL & CORPORATE GOVERNANCE STRUCTURE

A sound and clearly defined organisation structure to effectively deliver the organisation's mandate and articulate roles and accountability processes



Current as at October 2013

Funds in Court Organisational Chart



Current as at: October 2013

4. POLICIES

Effective communication mechanism for policies, standards and delegations and a framework to ensure their currency

The Senior Master approves the Manual which contains all relevant policies and procedures relating to the operations of FIC. The Manual is available to all FIC staff.

The Manual incorporates both "risk management" and "operational" policies and procedures.

The “risk management” policies and procedures consist of:

- Office Ethos
- Organisational Structure
- Complaints Procedure
- Grievance Resolution
- Code of Conduct
- Financial Code of Conduct
- Fraud and Corruption Control Plan
- Standards of Behaviour
- Occupational Health & Safety
- Security Issues
- Business Continuity Plan
- Key Performance Indicators

The “operational” policies and procedures consist of:

- The Senior Master and FIC
- Inquiries
- Visitors
- Work hours and Attendance
- Recruitment
- External Consultants
- Training and Education
- Motor Vehicle Use
- Legal Area
- Beneficiary Services Area
- Accounting, Taxation and Finance
- Business Operations
- Corporate Governance
- Human Resources
- Information Technology
- Investments

The Business Operations Manager is responsible for coordinating all updates and additions to the Manual and communicating those changes to FIC staff. Communication to staff is made by internal email initially and then followed up at staff meetings and training is provided where required.

A policy is FIC’s position on a particular issue and is directed to all relevant staff. Most policies are supported with procedures. All policies are mandatory and enforceable.

A procedure is a set of rules and controls required to implement a policy and carry out a particular task. FIC develops policies and procedures in response to a particular problem, issue or opportunity:

- to improve internal processes;
- to streamline procedures; or
- when there is a change to a particular task.

It is the responsibility of each Executive Manager to:

- Develop new policies and procedures.
- Amend existing policies and procedures relating to their area.
- Review policies and procedures relating to their area on an annual basis.

The Business Operations Manager is responsible for:

- Development and amendment of Office-wide policies and procedures.
- Coordination of annual reviews of policies and procedures.
- Assisting Executive Managers in developing area-specific policies and procedures.

The due process to develop or amend a policy is as follows:

1. Policy formulation - in response to a particular problem, issue, or opportunity.
2. Assessment of impact on other functional areas - if the new policy has an effect on other functional areas, the Executive Manager is required to obtain agreement from the Executive Managers affected by the new policy before the policy is forwarded to the Business Operations Manager.
3. Policy adaptation – the Executive Manager is required to forward the new policy to the Business Operations Manager for review.
4. Policy approval - The Business Operations Manager is required to forward the policy to the Senior Master or the General Manager for consideration.
5. Policy amendment - The Senior Master or the General Manager is required to return the policy to the Business Operations Manager for finalisation.
6. Policy implementation - The Business Operations Manager is required to incorporate the new policy in the Manual and advise relevant staff that a new policy has been implemented.
7. Executive Managers also are to ensure that their staff affected by new policies and procedures are informed about them and provided with adequate training to perform the new procedures properly.

5. LEGISLATIVE REQUIREMENTS

A clear articulation of legislative requirement affecting the organisation and promotion of understanding of that legislation across the organisation

FIC, as part of the Court, has a more complex set of accountabilities when compared to public sector entities. Therefore FIC needs to comply with the requirements of legislation that applies either directly or indirectly to the:

- Court
- Senior Master
- Employees of FIC in the performance of their duties

The powers of the Senior Master arise, mainly, from the *Supreme Court Act* 1986 (Vic) [the Act] and the *Supreme Court (General Civil Procedure) Rules* 2005 [the Rules]. In particular, the Senior Master's authority to administer the funds in Court is drawn, mainly, from sections 113, 113A and 113B of the Act and Orders 15, 77 and 79 of the Rules.

The legislative framework within which FIC operates is set out in Appendix 10. The Appendix contains a list of legislation that is relevant to FIC.

6. BUSINESS PLANNING

Establishment of corporate and operational plans to deliver the department's objectives

6.1 International Framework for Court Excellence [IFCE]

With the view to continuously improving the public value it delivers, the Supreme Court of Victoria applies the International Framework for Court Excellence [IFCE] as its foundation management model.

The IFCE guides the Court towards achievement of its goals by offering management styles and standards that are fundamental to the delivery of a court of excellence and the creation of important public value[4].

FIC, as one of the five functional divisions of the Court's support delivery, ensures that its business plan is integrated with the Court's strategic business plan, and helps to support the strategic initiatives allocated to FIC.

6.2 FIC Business Planning Process

FIC's Business Planning is, like its Risk Management Plan, an iterative process.

The FIC Business Plan is developed by the Executive Managers and approved by the Senior Master. The process can be summarised as follows:

1. Gathering Information by:

a. Consulting with external stakeholders (via surveys and committees)
b. Consulting with internal stakeholders:

[4] See further at *www.supremecourt.vic.gov.au*

i. Executive Team planning meetings
ii. Internal audit reviews
iii. Recommendations of the FIC Audit Committee
iv. Staff meetings
v. Statistical reports produced by FIC

2. Evaluating values and vision

FIC's vision is simple: to ensure that FIC provides its beneficiaries with the best service possible, whilst ensuring safe and prudent investment of funds, and doing so for the lowest cost possible.

All activities of FIC draw their purpose from the commitment of management and staff to looking after the funds of persons under disability who do not have the capacity to administer their own financial affairs.

FIC beneficiaries are some of the most vulnerable people in society; as such it is important that FIC values of:

- Responsiveness
- Integrity
- Impartiality
- Accountability
- Respect
- Human Rights

reflect this and guide all business planning within the Office. The effectiveness of this is "tested" by our internal and external stakeholder advisory bodies, all of which contribute, not only to the creation of our strategic plan, but to its ongoing monitoring.

3. Creating the Plan

Prior to the end of the financial year, each member of the FIC Executive Team meets with the General Manager to consider all information collected and discuss proposals for his or her functional area for the forthcoming financial year.

Once all members of the Executive Team have met, a draft Business Plan is prepared by the General Manager with the assistance of the Corporate Governance Manager and Chief Financial Officer. The draft plan is circulated to all members of the Executive Team for comment.

Once the plan is settled and approved, including agreed to timelines for implementation of the individual parts of the plan, the final plan is circulated to all members of the Executive Team. Each Executive Manager is to present the final plan to all of his or her staff and establish what is required of each staff member in regards to it.

4. Monitoring

The business plan is monitored on a quarterly basis by the Executive Team.

7. RISK MANAGEMENT FRAMEWORK

An enterprise risk management framework to integrate strategic and operational risk

The Corporate Governance Manager is responsible for implementing and maintaining an enterprise risk management model which identifies, assesses, mitigates, and monitors risks across the organisation. The FIC risk management model consists of:

- Risk Management Plan.
- Key Performance Indicators.
- Financial Code of Conduct.
- Fraud and Corruption Control Plan.
- Monthly Risk Management Report to the Executive Team and quarterly to the Audit Committee.

Each component of the business plan is risk rated on the basis of the implications of not implementing that component within an agreed timeline.

8. COMPLIANCE

An internal audit/compliance/assurance function

Internal audit is an effective tool to strengthen the control environment in any organisation. Chartered accounting firm, RSM Bird Cameron, Melbourne is FIC's internal auditor. The internal auditor reports, in the first instance, to the Corporate Governance Manager.

The internal auditor is mandated to understand and document business processes, identify risks and controls, and validate that the controls are effective in mitigating risk.

Annually the internal auditor submits a Strategic Internal Audit Plan to the Audit Committee for consideration and subsequent recommendation for adoption by the Senior Master. The annual Strategic Internal Audit Plan includes both systematic and random audits to test the level of compliance and the effectiveness of internal controls that apply in respect of fraud and corruption risks. The findings of these audits are tabled at the Audit Committee meetings for review and recommendation for adoption by the Senior Master.

The Audit Committee monitors compliance by FIC of recommendations arising from individual internal audit projects.

See Appendix 8 for the Internal Audit Charter

9. AUDIT COMMITTEE

An audit or audit and risk management committee with appropriate members including external members and a terms of reference or charter which is subject to at least annual review in line with period assessment of the committee's performance

The Audit Committee consists of:

- An independent Chair
- Two independent Members
- FIC General Manager

Other attendees include:

- A representative of the Victorian Auditor-General
- The internal auditor
- A representative of the Victorian Department of Treasury and Finance has been invited to attend
- FIC Judicial Registrar
- Corporate Governance Manager
- Chief Financial Officer
- Director – Strategy, Government & Community Relations

The Audit Committee meets at least quarterly. Its role includes making recommendations to the Senior Master regarding:

- Financial reporting
- Internal controls
- Internal and External Audit activities
- Policies and procedures
- Ethical issues
- Financial Management Compliance Framework.
- Risk Management.

The Audit Committee's terms of reference, that are reviewed at least annually, include the following key responsibilities of an Ethics Committee:

- Oversee FIC's compliance with the Code of Conduct.
- Provide strategic oversight of FIC's ethics audits and ethics training program.
- Review any ethical complaints referred to the Audit Committee by the Senior Master, as well as FIC's responses to such complaints, and advise the Senior Master with respect to the responses where appropriate.

The Audit Committee is responsible for reviewing and recommending the strategic internal audit plan to the Senior Master for adoption each year.

At each August Audit Committee meeting an annual self-assessment is prepared for consideration by the Senior Master.

See Appendix 2 for the Audit Committee Terms of Reference

10. PERFORMANCE MEASURES

Performance measures linked to government priorities

The responsible Government model in Victoria places the Court as the third arm of government beside the Legislature and the Executive. The Senior Master is a judicial officer and, he or she, along with the Judges and Associate Judges, constitute the Supreme Court of Victoria. So while there are no specific performance measures linked to Government priorities, the Court accepts that the performance of FIC should not be immune from any form of measurement.

To this end, the Senior Master has approved a set of FIC Key Performance Indicators which are focused on providing the highest quality service to beneficiaries, within the context of achieving the Court's strategic goals. The Senior Master receives a quarterly report of FICs performance against the KPIs and seeks further advice when variation is detected.

11. REPORTING

A sound reporting regime (internal and external reporting)

11.1 Internal and External Reporting

Timely financial and operational reporting ensures that the Senior Master is able to assess FIC's performance and to assist in decision making.

Formal financial and operational reporting is effected through the monthly reports provided to Executive Team meetings.

Additionally, FIC's powerful, customised office management system - called the *Trust Management System* [TMS] - provides:

- Historical financial reports.
- Instant financial reporting in respect of all aspects of the administration of beneficiaries' funds.
- Powerful forecasting models in respect of:
  - the future performance of individual Common Funds;
  - budgeted income and expenditure; and
  - estimation of possible interest declaration.

Australian Accounting Standards and the Supreme Court Act guide FIC financial reporting.

Paramount to all financial activities is the security of the funds under management. Full financial statements are published on the FIC website along with detailed performance commentary. The Supreme Court's Annual Report includes a dedicated section about FIC's operations and FIC beneficiaries receive detailed financial statements each six months along with newsletters reporting current activities.

11.2 External audit

Pursuant to section 127 of the Act, the accounts of the Senior Master relating to the collection of public money (i.e. Non-Award payments into Court) must be audited by the Victorian Auditor-General. The Senior Master, however, has a longstanding arrangement that all moneys held by him or her, including beneficiaries' funds, are audited by the Auditor-General.

The Victorian Auditor-General's Office undertakes an annual external financial audit of the funds in Court, the cost of which is paid by the Senior Master.

12. EXTERNAL ADVISORY GROUPS & STAKEHOLDER ENGAGEMENT

Consideration could also be given to establishing an external advisory group with defined terms of reference as a primary means of engaging the views of the stakeholders. Consideration could also be given to engaging stakeholders by means of surveys.

The Senior Master is committed to consulting with key stakeholders to ensure that they understand FIC's objectives and strategies and to assist them to work with the Senior Master and FIC staff in achieving those objectives.

12.1 Beneficiaries' Advisory Group [BAG]

The BAG meets on a quarterly basis. BAG meetings are intended to facilitate the flow of information and ideas from FIC to key stakeholders and for the latter to present their views and suggestions to the Senior Master.

An agenda is prepared and circulated before each meeting. Minutes are taken and distributed to all attendees. The Senior Master determines the composition of the Group.

The BAG currently consists of:

- The Senior Master
- Selected senior FIC staff
- Representatives of:
  - Beneficiaries
  - Law Institute of Victoria
  - The Victorian legal profession
  - Office of the Public Advocate
  - Victims Support Agency

12.2 Beneficiaries' Focus Group [BFG]

The BFG is a group of beneficiaries who get together to assist FIC with feedback about the way FIC is working, and to contribute their ideas. The one day meetings are held every twelve months.

The Human Resources Advisor facilitates the meetings that are attended by interested beneficiaries and FIC Client Liaison Officers. FIC Managers are invited to attend during the lunch break and meet the beneficiaries.

Minutes from the meetings are provided to the Client Liaison Officers who update the Senior Master of potential action items.

12.3 External Stakeholders

FIC regularly liaises with many of its key stakeholders, including:

- The legal profession.
- Transport Accident Commission.
- WorkSafe Victoria.
- Victims of Crime Assistance Tribunal.
- Office of the Public Advocate.
- Centrelink
- Department of Justice.

The Senior Master, Judicial Registrar (Funds in Court), General Manager and senior staff regularly present information sessions with key stakeholders to explain FIC's services and functions.

Such interactions are important for stakeholders and FIC to better understand each other's needs.

Formal management level meetings, either regular or on an *ad hoc* basis, are held between FIC management and key corporate stakeholders.

Outcomes from all meetings with key stakeholders are reported and minuted at Executive Team Meetings.

12.4 Client Satisfaction Surveys

A client satisfaction survey is undertaken, every 3 years.

The surveys have been carried out by Ernst & Young and are managed completely independently of FIC.

The surveys are a valuable tool for FIC. They help it to understand how the work it does is rated by the people who have the most important stake in that work: the beneficiaries.

The advantage of a client survey is that it goes to a broad group of the beneficiaries and their carers, is anonymous, and allows these key stakeholders to have an input into FIC's planning process by providing their views on the services we provide.

The nature of the survey also allows FIC to view trends and identify areas where improvement of services or the creation of new services may be required.

The benefits of a client survey are:

- Fosters goodwill with beneficiaries.
- Uncovers problems or beneficiaries' concerns.
- Offers a means by which new service opportunities can be discovered.
- Provides date by which beneficiary knowledge or perceptions of FIC, its visibility or image can be assessed.
- Indicates the areas on which FIC should focus its future efforts.

13. RESPONSIBILITIES OF THE EXECUTIVE TEAM

Examples of the areas for which an executive team or internal management board could be responsible include:

- *risk management*
- *compliance*
- *insurance*
- *IT Governance*
- *workplace management and capability*
- *finance*
- *performance management and reporting*
- *project management*

13.1 Risk management

The Corporate Governance Manager performs the role of risk management coordinator and develops and maintains Risk Profiles and Management Plan (the "Plan") that is prepared in accordance with AS/NZS ISO 31000:2009 Standard.

The Executive Team is involved in the annual, iterative risk identification process taking into account the findings of the internal auditors, the external auditors and the Audit Committee during the preceding period.

The Senior Master considers the draft Plan before it is referred to the Audit Committee for consideration and recommendation of its adoption. The annual Plan, once approved by the Senior Master, is circulated to the Executive Team and the members of the Audit Committee.

Updated Plans are made available to all staff annually. All staff are advised of the Senior Master's requirement that they keep themselves informed of relevant FIC matters.

In March 2013, all staff were provided with the 2013 FIC Risk Profile and Management Plan. They were advised that the Plan contained eight significant risks each of which requires regular management and that five of the eight relate to Occupational Health and Safety.

Annual staff fraud awareness training includes reference to the FIC Risk Profiles and Management Plan and the linkage of the FIC Fraud Control Plan and the FIC Financial Code of Conduct.

The Corporate Governance Manager provides each Executive Team meeting and each Audit Committee meeting with progress regarding each risk treatment that requires either on-going monitoring or active management.

A specific responsibility of the Audit Committee is to review the risk profiles of FIC and the related risk treatments in order to recommend adoption of the annual, iterative FIC Risk Management Plan by the Senior Master.

13.2 Compliance

In order to ensure that the administration of the funds in Court complies with the high standards of corporate governance, the Senior Master has engaged chartered accountants RSM Bird Cameron as FIC's internal auditor. The Corporate Governance Manager works closely with the internal auditor to deliver the annual strategic internal audit plan.

This plan is developed through consultation with the Executive Team, the internal auditors and the Audit Committee. At the end of the development process the Audit Committee recommends adoption of the plan by the Senior Master. The plan is then monitored by the Executive Team and the Audit Committee to ensure timely completion of each component of the plan and to review internal audit recommendations where changes are recommended.

13.3 Insurance

The Senior Master of the Supreme Court Financial Report for the year ended 30 June 2013 states that:

"Section 113(23) of the Supreme Court Act gives rise to a contingent asset as it details that if at any time a Common Fund (except Common Fund No. 3) is insufficient to meet a proper claim on it, the amount of that claim, as far as it cannot be met from the Common Fund, must be paid out of the Consolidated Fund of the State of Victoria. However, the investments undertaken by the Senior Master are made with such prudential reserve that it is improbable that recourse to this contingent asset would eventuate."

FIC is insured for losses and damages of its assets and equipment.

Beneficiaries' properties and motor vehicles are monitored each month by Administration Support Officers to ensure that adequate insurance is held for those assets.

FIC office insurance renewals are reviewed by the Business Operations Manager and the IT Manager as appropriate prior to payment approval by the General Manager,

13.4 IT governance

The Senior Master approved the creation of the IT Steering Committee in September 2012. It met for the first time in November 2012.

The Committee comprises the:

- General Manager (Chair)
- Independent Member
- IT Services Manager (Chief Information Officer)
- Director – Strategy, Government & Community Relations
- Chief Financial Officer
- Business Operations Manager

See Appendix 5 for the IT Steering Committee's Charter

13.5 Workforce management and capability

The Human Resources Advisor administers the performance management, staff records, staffing issues and training and development functions in consultation with the Executive Team.

13.6 Finance

The Chief Financial Officer administers the financial function in accordance with FIC policies and procedures. The Chief Financial Officer provides his or her report to each Audit Committee meeting and liaises with the Victorian Auditor-General's Office on financial reporting matters. All matters considered by the Committee are referred to the Executive Team.

13.7 Performance management and reporting

The Corporate Governance Manager prepares the quarterly Key Performance Indicator [KPI] reports. The KPIs are developed and reviewed by the Executive Team in conjunction with the Audit Committee. As necessary, changes to the KPIs and benchmarks are recommended for adoption by the Senior Master.

The KPIs focus on the three key FIC objectives that form the basis of the annual Risk Management process:

- beneficiary services
- asset management and control
- an efficient and healthy workplace

13.8 Project management

The FIC business plan contains a list of projects for implementation each year. Other projects will also be identified for implementation during the normal course of business.

Each project is monitored by the Executive Team at their regular meetings.

14. OTHER AREAS CONSIDERED IMPORTANT FOR FIC GOVERNANCE

and others deemed relevant by the organisation.

14.1 Service Delivery

FIC is a "client focused" organisation. All FIC employees are conscious that their primary consideration is providing high level service delivery to the beneficiaries.

14.2 Social Responsibility

The FIC Mission Statement reflects the Senior Master's **social responsibility** to all beneficiaries:

> *"To administer prudently and efficiently for and on behalf of clients of the Office the funds in Court and assets purchased from them in a manner, consistent with the law, that is in their best interests."*

FIC is not subject to any significant environmental regulations; however, FIC is committed to achieving environmental best practice through specific initiatives. These include:

- using movement detection to minimise office lighting usage throughout the office
- using low energy/high output lighting
- saving water utilising waterless urinals and dual flush cisterns
- maintaining a paper recycling program as well as separating recyclable materials and compostable materials from rubbish
- using combined photocopiers/printers with energy saving capabilities that are also password protected to minimise unnecessary printing
- undertaking a cartridge recycling program for all photocopiers/printers

14.3 Competitive Neutrality

FIC is self-funding and does not impose direct fees for the administration of the funds in Court. However, FIC does recover its operating expenses. The operating expenses of FIC are paid through the Common Funds Guarantee and Reserve Account. Contributions have been made from Common Funds No. 1 & No. 2 to maintain the Guarantee and Reserve Account.

The nature of FIC is such that is constrained by the Act and the Rules of the Supreme Court. FIC cannot actively "tout for business" but is dependent upon judges making orders to pay funds into Court.

All moneys paid into the Supreme Court of Victoria under an order of the Court, or any Act or Rules, are held by the Senior Master of the Court.

14.4 Communication

The Court

The Senior Master reports to the Chief Justice and the Council of Judges by:

- Contributing to the Supreme Court's Annual Report
- Making the Senior Master's Annual Financial Statements and the external auditor's report available
- Preparing reports requested by the Chief Justice

Communication with beneficiaries and others

FIC is committed to improving the lives of beneficiaries by being innovative, proactive and forward thinking in the way beneficiaries are supported. A key element of this commitment is to ensure that beneficiaries, their families and carers, and all other interested parties are provided with as much information as possible about the services provided by FIC, as well as being able to communicate with FIC.

As part of this commitment, FIC has the following communication initiatives:

- Booklets and pamphlets for beneficiaries and their families
- FIC Information Folders for new starters and Supreme Court staff
- Beneficiaries Focus Group
- Beneficiaries' Advisory Group
- FIC Newsletter
- FIC information DVD
- FIC Website
- Events organised specifically for beneficiaries

Communication within FIC

The Senior Master endeavours to foster open and honest communication throughout FIC so as to set and reinforce clear guidelines on correct ethical and professional behaviour.

The key features of FIC's internal communication are:

- Monthly meetings of the Executive Team.
- Monthly meetings of individual functional areas.
- Regular electronic reminders regarding procedures and expected behaviour.
- Staff encouraged to provide feedback regarding policies and procedures.
- Senior Master has direct contact with staff personally and through electronic mail.

14.5 Conflict Of Interest

Officers must disclose immediately to their supervisor, or to the Senior Master in the case of Executive Managers, any matter that could directly or indirectly compromise the performance of their duties, or conflict with FIC's interests.

14.6 Integrity

Code of Conduct

The FIC Code of Conduct [the Code] is informed by FIC's *Office Ethos*. The ethos of FIC is to provide the best possible outcome for all beneficiaries by adhering to the highest professional and ethical standards.

The Code implements and manages an effective ethical culture. The Code incorporates the codes of conduct of the Department of Justice and the Victorian Public Sector Code

The Code applies to all officers, whether employed by a Victorian Public Sector Agency or on a contract basis, and whether they are full-time, part-time or casual employees (including work-experience students). Others associated with FIC in a consulting, or similar, capacity are also expected to behave in a manner consistent with the principles set out in the Code.

Officers are required to attend regular information sessions on the key aspects of the Code. Further, regular reminders are provided through FIC's electronic mail system. The Executive Managers are responsible for implementing, managing and monitoring adherence to the Code.

Regular staff training is provided regarding the Code, particularly in the areas of anti-bullying and harassment.

Staff are regularly reminded by email of the obligations regarding other aspects of the Code including

- Importance of beneficiaries privacy – TMS restrictions on access
- Strict protocols re visiting beneficiaries
- Gift register
- Clear desk and screen policy

Financial Code of Conduct

Officers are expected to act in the best interests of FIC at all times and conduct all dealings with integrity and fairness.

The FIC Financial Code of Conduct sets the standards of conduct expected from all officers.

FIC procedures are consistent with the requirements of the *Protected Disclosure Act* 2012 (Vic).

The Senior Master acknowledges accountability for the administration of funds held on behalf of beneficiaries. The Senior Master emphasises to beneficiaries, stakeholders and FIC officers the importance placed upon propriety, financial control and honest administration. FIC arrangements for the prevention and detection of fraud and corruption are kept under constant review, and suspected irregularities are investigated.

Fraud and Corruption Control Plan

Fraud and corruption prevention is an integral component of effective corporate governance, building upon the requirement for transparent and accountable processes, consistent with sound business practices and organisational standards of compliance. Embedding these requirements into the operations of FIC commensurately reduces the likelihood of suffering financial loss or damage to its reputation as a result of misconduct by officers and others.

FIC is committed to the highest standards of legal, ethical and moral behaviour and to maintain an organisational culture that will ensure effective fraud and corruption prevention is a vital element in all core responsibilities. All officers are expected to share this commitment that will aid in the detection and prevention of fraud and related issues. Officers are also required to report any conduct which they suspect may be corrupt or fraudulent.

In line with the above obligations, and the Australian Standard of Fraud and Corruption Control AS 8001 – 2003, the objectives of the FIC's *Fraud and Corruption Policy* are to:

- Ensure Executive Managers are committed to identifying risk exposures to fraudulent and corrupt activities and establishing controls and procedures for prevention and detection of such activities.
- Reinforce the requirement for all officers to refrain from fraudulent activities, corrupt conduct, and maladministration and to encourage the reporting of any incident of fraud, corrupt conduct or maladministration.
- Ensure that all officers are aware of their responsibilities in relation to their own ethical conduct and, where relevant, that of officers who report to them.
- Ensure regular assessment of the risks of fraud and corruption are undertaken, and all suspected fraudulent and corrupt activity is investigated and dealt with appropriately.

The Executive Team is responsible for the implementation of this policy through an appropriate fraud and corruption control plan and an effective internal control structure.

Compulsory Staff Fraud Awareness Training

Compulsory staff fraud awareness training took place in 2011. The Senior Master's internal auditors have recommended that training be conducted annually. Training has been scheduled for the first half of 2013 and will include reference to the FIC Risk Management Plan and the linkages between the FIC Fraud Control Plan and the FIC Financial Code of Conduct including the *Protected Disclosure Act* 2012.

Protected Disclosure

The Senior Master is committed to the aims and objectives of the *Protected Disclosure Act* 2012. Reference is made to it during annual staff fraud awareness training.

14.7 Investment of Funds

Asset Management Policy

The Senior Master's Funds in Court Asset Management Policy [AMP] has been in place for over 20 years. The AMP is reviewed regularly by the FIC Investment Review Panel and changes to the AMP, when considered necessary, are recommended to the Senior Master for approval.

To enable the Senior Master effectively to discharge his or her duties relating to the financial interests of beneficiaries with an interest in the "Funds in Court", the following objective has been adopted as per Section 113 of *Supreme Court Act* 1986:

> *"To prudently manage the assets within the framework of the Supreme Court Act so as to maximise the long-term return to beneficiaries without exposing them to undue risk"*

A summary of the AMP is found at Appendix 3. It includes a background to the various funds and the various investment strategies.

14.8 Business Continuity Plan

The FIC Business Continuity Plan [BCP] was implemented in 2007. The BCP is an integral element in the risk management processes. The BCP must be tested off site at least twice a year.

The Senior Master, General Manager and the IT Manager each have the right to declare a local disaster.

The primary focus of the BCP is to provide a plan to respond to a disaster that destroys, damages, or prevents access to and use of the FIC Office at level 5, 469 La Trobe Street and/or its critical computer systems. The intent is to restore operations as quickly as possible with the latest and most up-to-date data available.

In addition, the BCP incorporates the following information:

- Resources (staff, skills, supporting infrastructure etc);
- Information management system;
- The possibility of having to operate in non-routine modes;
- Essential and critical FIC functions; and
- Business impact analysis.

All staff are expected to:

- Be familiar with the provisions of the BCP
- Recognise the importance of business continuity.
- Support the processes that will appropriately manage a serious disruption to FIC's operations.

Staff received compulsory BCP training in January 2012. Staff are rotated to enable them to attend the six monthly offsite BCP testing periodically.

The BCP ensures the continued delivery of a minimum acceptable level of performance. Business continuity management is a risk mitigation strategy adopted by FIC as part of its risk management approach.

14.9 Complaints

FIC considers seriously any complaints. A complaint form may be obtained by either contacting FIC or online at the FIC website: *www.fundsincourt.vic.gov.au*

Further details regarding making a complaint are found in the FIC *Making a Complaint & Providing Feedback* information pamphlet, which is available on the FIC website.

The FIC complaints procedures have been created to conform, as far as practicable, with Australian Standards. With due consideration of the fact that the Senior Master is a judicial officer of the Supreme Court FIC adheres to the following guiding principles, as set out in ISO 10002:2004.

A Complaints Register is kept of all complaints and forms the basis of a specific Key Performance Indicator to measure that all complaints are dealt with within a reasonable time.

The Senior Master expects Officers to consider seriously any complaints. He expects best endeavours to:

- Deal with complaints in a transparent, timely and appropriate manner.
- Attempt to resolve all complaints fairly and quickly.
- Use the lessons learned from complaints to improve services.

APPENDIX 1 – FIC Executive Team Charter

1. Purpose of this Charter

This Charter sets out the authority, role, membership and operation of the Executive Team of Funds in Court (FIC).

2. Objectives

The primary objective of the Executive Team is to act in an advisory capacity to the Senior Master.

The Executive Team's objectives, in its advisory capacity, are to ensure that:

2.1 The interests of the beneficiaries are protected.

2.2 Financial and other risks to the funds administered by FIC are minimized.

2.3 The Senior Master, together with FIC management and staff assisting the Senior Master, are accountable not only to the beneficiaries but to other key stakeholders, for the proper administration of FIC

3. Authority

The Executive Team operates in an advisory capacity to the Senior Master. The Senior Master refers nearly all critical matters to the Executive Team before making a final decision. In recognition of the responsible positions occupied by the members of the Executive Team, the Senior Master seeks their differing views so that he can make a balanced and informed decision.

In carrying out its responsibilities, the Executive Team is authorised by the Senior Master to:

3.1 seek, through the Senior Master, any information it requires from any staff member, volunteer or external party;

3.2 seek any information it requires from other FIC Committees;

3.3 have unrestricted access to the FIC internal and external auditors;

3.4 obtain external legal, financial or other professional advice it considers appropriate or necessary in order for it to properly carry out its functions subject to obtaining the prior approval of the Senior Master;

4. Membership

The Executive Team shall consist of the eight Executive Managers.

The Executive Managers reflect the complex nature of the FIC, and are necessarily responsible for, and knowledgeable about, the day-to-day running of their areas.

The Executive Team comprise the:

- General Manager
- Beneficiary Services Manager
- Business Operations Manager
- Chief Financial Officer
- Corporate Governance Manager
- Investment Manager
- IT Manager
- Manager, Legal Services

5. Meetings

The Executive Team will meet as frequently as considered necessary by the Senior Master for FIC to discharge its role effectively.

The Executive Team meets with, or without, the Senior Master as follows:

- Monthly Executive Team meeting
- Annual Budget meeting
- Annual Risk Management meeting
- Annual Interest Rate Declaration meeting
- Special or Extraordinary meetings to deal with important issues that may have arisen

All meetings are chaired by the Senior Master, or in his absence, the General Manager, and all matters discussed are minuted.

The Chair will decide on the timing and format of the meetings which may be held by means of electronic communication at the discretion of the Committee Chair.

The General Manager must convene a meeting if requested to do so by the Senior Master.

A quorum shall consist of a minimum of six Executive Team members for each meeting.

If the Senior Master is not in attendance, the General Manager will advise the Senior Master of all decisions of the Executive Team including any dissent to any decision.

The Executive Team may invite any person they consider may assist it to attend its meetings.

6. Organisation

The Chair shall appoint a suitable person to keep minutes of each meeting of the Executive Team. Once the minutes of each meeting have been adopted and signed by the Chair, they shall be routinely submitted to the Senior Master for notation.

The General Manager's Executive Assistant will be responsible for the coordination of:

6.1 The agenda for each meeting with the Chairperson of the Committee.

6.2 Preparation and distribution of all papers required for each meeting.

6.3 Notification to all staff, auditors and other external parties who are required to attend any meeting for specific agenda items.

7. Duties and Responsibilities

In meeting its obligations the Executive Team will:

7.1 Be involved in the annual, iterative risk identification process taking into account the findings of the internal auditors, the external auditors and the Audit Committee during the preceding period.

7.2 Engage an internal auditor who will prepare an annual strategic internal audit plan in consultation with the Executive Team and the Audit Committee. The plan is monitored by the Senior Master, the Executive Team and the Audit Committee to ensure compliance and to review internal audit report recommendations where changes are recommended.

7.3 Confirm each month that beneficiaries' properties and motor vehicles are adequately insured. The Executive Team will also ensure that FIC assets and equipment are adequately insured.

7.4 Monitor outcomes and recommendations of the IT Steering Committee.

7.5 Consider performance management, staff records, staffing issues and training and development functions.

7.6 Monitor the administration of the financial functions in accordance with FIC policies and procedures. All matters considered by the Committees are referred to the Executive Team.

7.7 Develop and review quarterly Key Performance Indicators in conjunction with the Audit Committee that focus on the three key FIC objectives that form the basis of the annual Risk Management process:

- beneficiary services
- asset management and control
- an efficient and healthy workplace

7.8 Develop and review the FIC Strategic Business Plan that contains a medium to long term plan for the continuing improvement of the service provided by FIC as well as a list of projects for implementation each year. Other projects will also be identified for implementation.

8. Reporting

The Executive Team will annually report to the Senior Master on its operation, performance and activities, including:

8.1 A summary of the work the Executive Team performed fully to discharge its responsibilities during the preceding year.

8.2 Details of meetings, including the number of meetings held during the relevant period, and the number of meetings each member attended.

8.3 A self-assessment of the performance of the Executive Team. Without limiting the extent of information to be provided to the Senior Master in the Executive Team's annual self-assessment report, a guide to the format of the report is annexed as Schedule 1.

9. Administrative Arrangements

9.1 Conflicts of interest

Members agree to comply with the established FIC 'conflict of interest' requirements that:

- members fully disclose interests at meetings of the Executive Team;
- the Executive Team determines whether there is a conflict of interest and requires the absence of that member from the meeting while the matter is being considered and prohibit the member from taking part in a decision of the Executive Team; and
- the Executive Team notifies the Senior Master of any breach of these processes.

9.2 Induction

New members of the Executive Team will, upon appointment, be given all relevant information concerning the Team's responsibilities, the operations of FIC and background information to enable them to understand their duties and responsibilities.

9.3 Review of Charter

The Executive Team Charter may be reviewed regularly for relevance and consistency with the needs of the Senior Master. Any substantive changes to this Charter will be recommended by the Executive Team and formally approved by the Senior Master.

SCHEDULE 1

EXECUTIVE TEAM - ANNUAL SELF ASSESSMENT

1. Introduction

- Membership
- Attendance at meetings
- Management attendance at meetings
- External attendance

2. Charter

- Confirm annual review
- Summarise proposed changes or changes in operation

3. Executive Team Annual Work Plan

- Confirm in place
- Comment on achievement of planned tasks

4. Activity Summary

- Confirm that all Executive Team minutes have been submitted to the Senior Master
- Highlight key issues that have been dealt with
- Advise key issues which require ongoing attention

5. Effectiveness of Executive Team

- Confirm that self assessment process has been undertaken
- Summarise results of self assessment (effectiveness)
- Summarise action taken

6. Recommendation for alteration or improvement

- Detail any recommendations for changes which will improve Executive Team or Executive Team process, performance or effectiveness

7. Conclusion

- Formally thank those who have contributed to or assisted the Executive Team
- Add any important Executive Team specific areas of action

APPENDIX 2 – Audit Committee terms of reference

The Senior Master of the Supreme Court hereby constitutes and establishes an Audit Committee with authority, responsibility, and specific duties as described below.

Membership

The Audit Committee shall be appointed by the Senior Master of the Supreme Court of Victoria and comprise a minimum of four members, three of whom will be independent. A quorum shall be three members. The members shall rotate so that the Audit Committee regularly includes new members. The Audit Committee Chair and members shall be appointed by the Senior Master.

Membership should be reviewed on a periodic basis, and at least once each 3 years. .

Authority

The Audit Committee is granted the authority to investigate any activity within its terms of reference and all employees are directed to cooperate as requested by members of the Audit Committee. The Audit Committee is authorised by the Senior Master to obtain independent professional advice as necessary to assist the Audit Committee. The Audit Committee shall report to the Senior Master any suspected frauds or irregularities, failures of internal control or suspected infringements of laws, rules and regulations which come to its attention.

Responsibility

The Audit Committee is to serve as a focal point for communication between the external auditors, the internal auditors and management as their duties relate to financial and other reporting, internal controls, and the external and internal audits (include other matters the Senior Master deems necessary). The Audit Committee is to assist the Senior Master in fulfilling his responsibilities

By providing an independent review of financial reporting,

By satisfying themselves as to the effectiveness of the office's internal controls and

sufficiency of the external and internal audits.

Meetings

The Audit Committee should meet at least 4 times per year. Additional meetings should be held as the work of the Audit Committee demands.

Attendance

As necessary, or desirable, the Chair may request that members of management, the internal auditors and representatives of the external auditors be present at meetings of the Audit Committee. At least once a year the Audit Committee shall meet with the external auditors without management present.

Minutes

Minutes of each Audit Committee meeting are to be prepared and sent to the Audit Committee members.

Specific duties

The Audit Committee is to:

1. Consider the performance of the external auditors including any issues raised.

2. Review with the office's management, external auditors and internal auditors, the adequacy of the office's policies and procedures regarding internal controls and make recommendations as appropriate.
3. Have familiarity, through the individual efforts of its members, with the financial reporting principles and practices applied by the office in preparing its financial statements.
4. Prior to its commencement, review the scope of the external audit, including the engagement letter and provide comments as appropriate. The Audit Committee's review should include an understanding from the external auditors of the factors considered by them in determining their audit scope.
5. Review the annual financial report and recommend adoption and approval by the Senior Master.
6. Review the draft representation letter and recommend approval by the Senior Master.
7. Evaluate the cooperation received by the external auditors, including their access to all requested records, data and information. Also, obtain the comments of management regarding the responsiveness of the external auditors to the office's needs. Inquire of the external auditors as to whether there have been any disagreements with management which if not satisfactorily resolved would result in the issue of a qualified report on the Senior Master's financial statements. Report the outcome of these inquiries to the Senior Master.
8. Discuss with the external auditors any relevant recommendations arising from the audit. Review the draft management letter including management's responses to the points raised and make recommendations as considered appropriate.
9. Review the scope and results of internal audit procedures and discuss with management the scope and quality of systems of internal control and make recommendations to the Senior Master for adoption of the Strategic Internal Audit Plan and Internal Audit reports.
10. Appraise the Senior Master of significant developments in the course of performing the above duties.
11. Recommend to the Senior Master any appropriate extensions or changes in the duties of the Audit Committee.
12. Review the Risk Profile of the office and related treatment plans and recommend approval by the Senior Master. Obtain a regular status report to ensure effective monitoring of existing treatment plans as well as revision of plans for additional risks.
13. Review the findings of internal investigations into any suspected frauds or irregularities or failures of internal controls or infringements of laws, rules and regulations and make recommendations to the Senior Master.
14. Review the office's compliance with the Department of Treasury and Finance's Financial Management Compliance Framework and Taxation Framework, albeit that compliance by the Senior Master is voluntary, and make recommendations as considered appropriate.
15. Perform the key responsibilities of an 'ethics committee' that include:
    - overseeing the office's compliance with the office Code of Conduct;
    - providing strategic oversight of ethics audits and ethics training program;
    - reviewing any ethical complaints referred to the Audit Committee; and
    - make recommendations as considered appropriate to the Senior Master.

16. The ‘ethics committee’ will be the arbiter on issues of apparent misconduct and ethical dilemmas that cannot be otherwise resolved at line-management level and are referred by the Senior Master for recommendation
17. Undertake self assessment of performance on an annual basis.
18. The Audit Committee should report to the Senior Master on a regular basis. At least annually, the Audit Committee should present a report to the Senior Master which addresses the work and findings of the Audit Committee during the year.

Version Date: 24 August 2012

APPENDIX 3 - FIC Asset Management Policy Summary

The Senior Master's *Funds in Court Asset Management Policy* [AMP] has been in place for over 20 years. The AMP is reviewed regularly by the FIC Investment Review Panel and changes to the AMP, when considered necessary, are recommended to the Senior Master for approval.

To enable the Senior Master effectively to discharge his duties relating to the financial interests of beneficiaries with an interest in the "Funds in Court", the following objective has been adopted as per Section 113 of *Supreme Court Act* 1986:

> *"To prudently manage the assets within the framework of the Supreme Court Act so as to maximise the long-term return to beneficiaries without exposing them to undue risk"*

Background

Initially assets are pooled in common funds and no assets are attachable to any one beneficiary.

- Funds invested in Common Fund No.1 [CF 1] and Common Fund No.2 [CF 2] are Government guaranteed.
- As per Section 113(13), all interest received from CF 1 and CF 2 is recorded in the respective "interest suspense account".
- As per Section 113 (17), all capital gains in CF 1 and CF 2 are transferred to the "Guarantee and Reserve Account" [G&R]; capital losses from CF 1 and CF 2 may be met from the G&R account.
- Interest credited to beneficiaries is taxable in the hands of those beneficiaries.
- Security of assets is paramount.
- Most beneficiaries have some ongoing cash requirements.
- Many beneficiaries will need access to their assets from time to time for capital requirements, e.g., housing, motor vehicles.
- The long time frame attached to the management of assets relating to many beneficiaries means capital growth is desirable, consistent with the security requirements.

Investment Strategy

To achieve the Funds in Court objective, the Senior Master has adopted the following strategies:

- An Investment Review Panel.
- An Investment Compliance Committee.
- Day to day management of assets is undertaken by personnel from the FIC subject to the authority delegated to them by the Senior Master.
- The Senior Master has appointed an external fixed interest adviser to advise on investment in Common Fund No.2 and the Guarantee and Reserve Account.
- Assets invested outside the Common Funds are invested in accordance with the requirements of the *Supreme Court Act*.
- The crediting rate will be based on the actual returns generated on the Common Funds investments in the preceding 12 months but other factors will be considered by the Senior Master such as running costs of the FIC, reserves, the outlook for

investments markets and the impact of the difference in book and market value of the portfolios.

- The Guarantee & Reserve Account may be used to smooth short term volatility of the Common Funds' investment returns so that beneficiaries are credited with the Fund's average earning rate over the long term without incurring large fluctuations in volatility from year to year in annual earning rates.
- Diversification of investments including: asset class, security, issuer, maturity and the timing of investment is a key factor in managing FIC investment risk.

Introducing other investments (award funds)

It is appropriate for a proportion of the assets of some beneficiaries to be invested in assets outside Common Fund No.2, depending on individual circumstances. These assets may include Indexed Securities, a Property for their use, and units in Common Fund No. 3 (i.e. Australian Equities).

Policies for managing the funds in court

Common Fund No. 1

Common Fund No. 1 consists of:

(a) Money held in dispute matters, i.e. funds ordered to be paid into Court pending determination as to legal entitlement.

(b) Money held as Security for Costs, i.e. funds ordered to be paid into Court as a bond/advance to cover potential legal costs.

(c) Payments into Court pursuant to the provisions of the Supreme Court and other Acts - these moneys are generally paid into Court on the strength of affidavit material.

Resolution of matters is often made in the short term - on average 3-6 months but can also range from days to years to when payment out is sought.

Generally, funds held in individual cases are not large but in some circumstances can exceed $500,000.

The prime objective for Common Fund No. 1 investments is to provide a secure return on liquid investments.

Investments must be made within the provisions of the *Supreme Court Act* 1986 and the *Trustee Act* 1958.

Common Fund No. 2

The funds currently forming Common Fund No. 2 primarily represent damages awarded by the Court since 1 January 1977 to:

Persons deemed incapable of managing their own affairs due to disability - these funds are held by the Court until medical evidence is supplied as to the ability of the beneficiary to manage the funds personally.

Dependant minors (following death of one or both parents) - these funds are held by the Court until the beneficiary attains the age of majority.

Minors having sustained personal injury with entitlement to payment out at age 18.

Minors having received compensation from the Victims of Crimes Assistance Tribunal with entitlement to payment out at age 18.

Particularly in the case of (a), the funds paid into Court may represent the only income/asset available to the beneficiary to provide for their lifetime needs.

The awards have historically been paid into Court regularly and there has been a regular cash flow into the Fund. This situation is expected to continue.

The prime objective of investment made from Common Fund No. 2 is to provide the maximum yield achievable consistent with investment in approved securities.

Investment strategy should be of medium-long term nature with emphasis on maximum return.

Investments must be made within the provisions of the *Supreme Court Act* and the *Trustee Act* 1958.

Guarantee & Reserve Account (G & R)

The purpose of G & R is to provide funds for:

(a) "Statutory reserve" of 1% of the value of the Common Funds pursuant to the provisions of the Supreme Court Act 1986.

(b) Payment of the administration and related expenses of the FIC.

(c) Smoothing of the annual crediting rate of interest paid to beneficiaries of the Common Funds (when considered appropriate by the Senior Master).

(d) Payment of such other costs, expenses and charges incurred in respect of a Common Fund or investments made from a Common Fund, in addition to the other payments provided for by sections 113 (18)(ba), (18)(bb) and (18)(c) of the Act, which, in the opinion of the Senior Master, are properly chargeable against the Guarantee & Reserve Account.

In addition, the Act provides that any capital loss incurred on investments made from a Common Fund may be payable from the Guarantee and Reserve account to the relevant Common Fund.

The prime objective of the Guarantee & Reserve account portfolio is to maximise total return within the constraints of maintaining high asset quality and minimal risk within guidelines.

Investment strategy should be of medium term nature with emphasis on maximum return.

Investments must be made within the provisions of the Supreme Court Act and the Trustee Act 1958.

Common Fund no. 3 - Australian Equities

CF 3 portfolio guidelines:

The Fund is a unitised trust meaning that assets are pooled and registered in the name of "*The Senior Master of the Supreme Court of Victoria* rather then being held directly in the name of each individual beneficiary. The Fund is valued daily via the calculation of a "unit" price.

The Fund typically invests in a portfolio of approximately 20 – 25 large cap Australian shares from within the S&P/ ASX 50 Leaders Accumulation Index.

The Fund aims to provide beneficiaries with capital growth and dividend income over an investment timeframe of a minimum of 6 years. The Fund also aims to provide a hedge against inflation for those beneficiaries with a long term investment time horizon.

The Fund is actively managed relative to the benchmark but with low portfolio turnover in order to minimise transaction costs and deliver favourable 'after tax' outcomes to beneficiaries.

A 'model' share portfolio and weightings are determined by the IRP and used to guide the stock selection and portfolio weightings of the Fund. The Fund's actual stock weightings however may deviate from the 'model' due to movements in the individual stock prices and/ or at the discretion of the IRP. The 'model' portfolio and actual stock weightings of the Fund are formally reviewed on a quarterly basis by the IRP.

The Fund is to be diversified in holdings and by industry sector. Whilst the Fund aims to be broadly representative of the benchmark, its composition is not intended to replicate the benchmark as would be the case for an index or passively managed fund. The S&P/ ASX 50 Leaders Accumulation Index is used as a reference benchmark for performance measurement purposes only.

The composition of the 'model' portfolio and Fund must be in line with the authorised investments permitted by s. 113A(5) of the Act:

> *Money held in Common Fund No.3 may only be invested in securities listed on a prescribed financial market or in cash securities, deposits or discount bills of exchange or in another type of security determined by the Senior Master.*

Derivatives are **NOT** authorised investments.

Risk Management:

The following portfolio construction guidelines are to apply:

a. No company should represent more than 15% of the Fund at time of purchase or 20% by market valuation.
b. Discretion is to be used to allow time for the rebalancing of the portfolio where model limits are exceeded because of increases in the market value of a particular security.
c. It is not intended that securities of companies which are removed from the 50 Leaders Index subsequent to their purchase should be sold immediately. In such an event, the circumstances are to be discussed at the next meeting of the IRP and the future of such holdings in the portfolio considered on their investment merits at that time.

Approach to corporate actions and governance:

The IRP equity specialists are to advise the Senior Master on corporate actions and governance matters including voting instructions as required.

Index Linked Securities

The principles of security, liquidity and diversification by time, issuer and maturity are to apply to investing in inflation indexed securities.

Reserving Policy

The Act requires that a Guarantee & Reserve Account be maintained to protect the entitlements of beneficiaries. Realised capital gains in the Common Funds are transferred to G & R. The balance in G&R can be drawn on to enable an appropriate crediting rate to be set for each Common Fund. Pursuant to section 113(20) of the Act, a minimum amount equal to 1% of the value of Common Funds 1 & 2 (the Statutory Reserve) must be maintained in G & R.

G & R meets the costs associated with operating the Common Funds in a manner that protects beneficiaries' interests.

APPENDIX 4 – Investment Compliance Committee Terms of Reference

1. Introduction

The Investment Compliance Committee (the Committee) has been established by the Senior Master to monitor the compliance aspects of the Funds managed by the Senior Master.
The Purpose of these Terms of Reference is to set out the duties and functions of the Committee, including membership, terms of office and meeting requirements.

The Committee shall assist the Senior Master to discharge his or her responsibilities with respect to:

a) Current and prospective regulatory and statutory obligations in relation to investment of the Funds.
b) Overseeing and appraising the quality and adequacy of the Funds' investment compliance management.
c) Promoting ongoing awareness and commitment to investment compliance within the Senior Master's (Funds in Court) Office (the Office).

2. Functions of the Committee

The Committee's functions are:

a) To monitor to what extent the Office complies with the Funds in Court 'Asset Management Policy'.
b) To report to the Senior Master:
c) Any breach of compliance.
d) Any breach of the Senior Master's duties under the Supreme Court Act 1986 (the Act) and the Trustee Act 1958 of which the Committee becomes aware or that it suspects.
e) To report to the Senior Master if the Committee is of the view that the Office has not taken, or does not propose to take, appropriate action to deal with a matter reported under paragraph (b).
f) To assess at regular intervals whether the Office's compliance processes are adequate, to report to the Senior Master on the assessment and to make recommendations about any changes that it considers should be made to the Office's investment compliance process.

In addition the Committee shall:

a) Monitor and review any significant recommendations relating to changes in legislative requirements which may impact on the Senior Master's investment compliance responsibilities.
b) Receive and review reports from the Office regarding the operation and adequacy of the Office's investment compliance systems. The form of reports shall be agreed by the Committee and the Senior Master.

3. Selection and Appointment of Members

In selecting and appointing members of the Committee, the Senior Master shall consider skills, experience, qualifications, good fame and character and such other determinants as the Senior Master considers necessary.

3.1 Membership

The Committee must comprise at least two external members. Any member appointed as an external member shall:

a) Confirm to the Senior Master in writing that he or she qualifies as an external member.
b) Advise the Senior Master immediately if he or she becomes aware he or she no longer qualifies as an external member.

Each member shall be appointed for a maximum two (2) year term or such shorter or longer time as agreed with the Senior Master. Members are eligible for re-appointment.

The Senior Master shall select and appoint the Committee members and select the Chairman of the Committee.

3.2 Duties of Members

All members of the Committee must perform their duties in accordance with the following principles:

a) Acting honestly.
b) Exercising the degree of care and diligence that a prudent person would exercise.
c) Not making use of information acquired through being a member of the Committee in order to:
    - Gain an improper advantage for a beneficiary or another person.
    - Cause detriment to the beneficiaries of the Funds.
d) Not making improper use of their membership of the Committee to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to the beneficiaries of the Funds.
e) Disclosing to the Committee any direct or indirect pecuniary interest that they have in a matter being considered, or about to be considered by the Committee, if their interest could conflict with the proper performance of their duties in relation to the consideration of the matter.
f) Keeping confidential any confidential information concerning the Funds which is disclosed to them.

3.3 Retirement of Members

A Committee member may retire by giving written notice to the Senior Master.

3.4 Removal of Members

The Senior Master may remove a Committee member by giving notice to him or her in writing.

4. Committee Meetings

The Committee shall meet at least two times in each financial year. Extraordinary meetings may take place at the request of any Committee member. The auditors of the Funds' financial statements may attend meetings at the invitation of the Committee.

Two members shall constitute a quorum for meetings.

Generally, and to assist the Committee in the proper performance of its duties, staff and management of the Office may be represented at the meetings of the Committee.

Except as specified in these Terms of Reference, the Committee shall determine its own procedures but shall generally operate informally.

5. Reports to the Committee

Reports to the Committee shall be prepared by the Office. The reports shall be provided to all members within a reasonable period before the meeting, being at least one week prior to a meeting, or such other time as the Committee members determine.

The Office may from time to time provide additional reports to the Committee. The Committee may request written reports from the Office on matters relevant to the Committee's functions and which shall assist it in the proper performance of the Committee's duties.

Committee members are entitled to access all accounts and records of the Office reasonably required for the purposes of performing their role as Committee members.

The Senior Master shall be kept informed of the Committee's activities by the tabling of the minutes of the Committee (including recommendations to the Office contained in those minutes) together with an annual report of activities by the Committee to the Senior Master.

6. Review of the Term of Reference

The Terms of Reference shall be reviewed by the Committee every two years and following such review, recommended amendments shall be put to the Senior Master for adoption.

Effective: October 2013

APPENDIX 5 – Investment Review Panel Operating Rules

OPERATING RULES OF THE FIC INVESTMENT REVIEW PANEL

Charter

The Investment Review Panel (the Panel) is to act in an advisory capacity on investment, and investment related issues, for the Senior Master of the Supreme Court of Victoria who has statutory duties and responsibilities to invest moneys on behalf of individuals.

Members of the Panel may bring proposals to the Table for discussion. However, the Senior Master has the sole right and responsibility to make decisions on investments matters for the beneficiaries.

The Panel confines its discussion to policy and investment issues relating to the Funds in Court investments as a whole, rather than the details relating to particular beneficiaries.

Day to day management of individual benefits and the application of such investment policy as the Senior Master adopts will be undertaken by the Investment Manager.

Membership

The Panel is to be comprised of a minimum of three experienced investment experts. Subject to discussions between the Senior Master and individual Panel Members, Members may nominate an alternate for themselves in the event they are unable to attend a meeting.

At least one Member is to have equity investment expertise, and at least one fixed interest investment expertise.

Initial and ongoing participation of Panel Members (and any Alternates) is solely a matter between the Senior Master and each individual.

Frequency of Meetings

Meetings will normally be held on a quarterly basis.

Attendees

(a) Senior Master
(b) Members of Panel
(c) The Senior Master's staff members
(d) Senior Master's Asset Consultants.
(e) Note Secretary – nominated by Senior Master.

Length of Meetings

A meeting will not exceed one hour.

Notes/Action Items

To facilitate the efficient operation of the Panel, “Notes/Action Items” will be prepared for and distributed to Panel members before meetings.

Agenda/Circulation of Papers

The Investment Manager is to be responsible for preparing the meeting Agenda with the Senior Master and circulation of papers.

Papers to be circulated approximately one week before meetings.

APPENDIX 6 – IT Steering Committee Charter

Role and Responsibilities

The role of the FIC IT Steering Committee (FIC ITSC) is to assist and advise the Senior Master to fulfil his corporate governance responsibilities on matters relating to the FIC's IT system. The ITSC is not a policy making body but assists the Senior Master by commenting on and implementing FIC policy.

The ITSC may:

- Provide strategic leadership
- Review business cases and project proposals
- Prioritise IT projects
- Assist in the evaluation of project risks
- Keep the project scope under control
- Determine whether the Office has sufficient internal resources to implement a project or whether there is a need to engage an external consultant/specialist
- Provide guidance to the project team
- Ensure that strategies to address potential threats to the project's success have been identified, estimated and approved
- Ensure that business objectives have been addressed
- Set up deadlines
- Formalise acceptance of project deliverables
- Establish procedures for communicating IT procedures and policies

The objectives of the ITSC include:

- The primary objective is to provide IT direction.
- At the decision-making level, the IT steering committee is responsible for the following:
    - Review of the IT strategic plan
    - Review and consider all proposals for information systems package implementation or application development that cost more than a specified amount.
    - Set priorities for the development of the business information systems, allocate the necessary resources, and monitor the progress of each project against objectives, time lines, and budgets.
    - Provide guidance and approval for capital expenditure
    - Resolve issues impeding high-priority projects.
    - Approve use of all outside technology service providers.

- Provide ongoing oversight of key projects.
- Discuss any major business initiatives that may impact systems.
- Conduct post-implementation system reviews.

Authority

In carrying out its responsibilities, the ITSC is authorised by the Senior Master to:

- seek, through the General Manager, any information it requires from any staff member or external party
- seek any information it requires from other FIC Committees
- obtain external legal, financial or other professional advice it considers appropriate or necessary in order to properly carry out its functions subject to obtaining the prior approval of the Senior Master

The ITSC is the key governance body for the FIC's IT services and network; however, decision making authority is the responsibility of Senior Master.
The steering committee makes formal recommendations to Senior Master via the General Manager regarding IT Services' strategic direction.

Composition and term

- The ITSC reports to the Senior Master
- The ITSC will include at least five members, one of whom must be an independent member.
- The Senior Master will appoint committee members.
- The General Manager will chair the Committee.
- Appointment to the committee will be for two years or as determined by the Senior Master upon the recommendation of the General Manager.

Meetings

- The ITSC will hold meetings monthly for the first year of its operation and additionally as it considers necessary. The regularity of meetings will be reviewed after the first year of the ITSC's operation.
- A quorum will be at least four members.
- Meetings may be held face-to-face or through any technological means by which members can participate in a discussion.
- The notice and agenda of meetings will include relevant supporting papers, as appropriate.
- The committee may invite any other persons to attend as it sees fit, and consult with other persons or seek any information it considers necessary, to fulfil its responsibilities.

Secretariat duties

- The chair or delegate of the chair, or a delegated committee member, will minute recommendations and the matters arising for all meetings. The minutes will be ratified by the members in attendance/discussion and signed by the ITSC chair.
- The chair will ensure that the outcomes of deliberations be provided in writing to the Senior Master as soon as practicable.

Voting

Any matters requiring a decision will be decided by a majority of votes of members present. Any dissention by a member will be brought to the attention of the Senior Master as part of the deliberations provided.

Alternative:

Recommendations will be made by a consensus vote. Consensus is defined as an approach that the majority supports and the others can live with. Decisions will be based on evidence, likelihood of success and resource issues.

Review of charter

The ITSC should review its charter annually to provide assurance that it remains consistent with FIC objectives and responsibilities.

The Senior Master is to approve or further review the charter.

Conflicts of interest

Members of the ITSC to agree at Committee meetings to comply with the FIC ‘conflict of interest’ requirements.

Induction

New members of the ITSC will, upon appointment, be given all relevant information concerning the Committee’s responsibilities, the operations of FIC and background information to enable them to understand their duties and responsibilities.

APPENDIX 7 – Executive Remuneration Committee Charter

Purpose of this Charter

This Charter sets out the authority, role, membership and operation of the FIC Executive Remuneration Committee [ERC].

Objectives

The primary objective of the ERC is to act in an advisory capacity to the Senior Master to fulfil the Senior Master's corporate governance responsibilities on matters relating to the remuneration of executive staff. The ERC is not a policy making body but assists the Senior Master by implementing FIC policy..

The ERC's objectives, in its advisory capacity, are to:

- Review and recommend remuneration levels for executive staff, within the terms of the employment contracts, annually to the Senior Master.
- Ensure executive staff remuneration is aligned with market trends.
- Review and recommend any performance payments scheme.
- Review any executive staff grievance or complaint about remuneration.
- Ensure that FIC remuneration aligns to FIC vision, values and overall business objectives and are appropriately designed to:
    - motivate executive staff to pursue the long term growth and success of FIC for the benefit of the beneficiaries, and
    - demonstrate a clear relationship between achievement of FIC objectives and executive staff performance and remuneration.
- In discharging their responsibilities, the committee members have a duty to act in the best interests of FIC as a whole, irrespective of personal, professional, commercial or other interests, loyalties or affiliations.

Authority

In carrying out its responsibilities, the ERC is authorised by the Senior Master to:

- seek, through the General Manager, any information it requires from any staff member or external party
- seek any information it requires from other FIC Committees
- have unrestricted access to FIC internal and external auditors
- obtain external legal, financial or other professional advice it considers appropriate or necessary in order to properly carry out its functions subject to obtaining the prior approval of the Senior Master

Composition and term

- The ERC reports to the Senior Master.
- The ERC will include at least four members, one of whom must be an independent member.
- The Senior Master will appoint committee members.
- The Senior Master will appoint the chair.

- Appointment to the committee will be for two years or as determined by the Senior Master.

Meetings

- The ERC will hold meetings at least once a year and additionally as it considers necessary.
- A quorum will be at least three members.
- Meetings may be held face-to-face or through any technological means by which members can participate in a discussion.
- The notice and agenda of meetings will include relevant supporting papers, as appropriate.
- The committee may invite any other persons to attend as it sees fit, and consult with other persons or seek any information it considers necessary, to fulfil its responsibilities.

Secretariat duties

- The chair or a delegated committee member will minute recommendations and the matters arising for all meetings. The minutes will be ratified by the members in attendance/discussion and signed by the ERC chair.
- The chair will ensure that the outcomes of deliberations be provided in writing to the Senior Master as soon as practicable.

Voting

Any matters requiring a decision will be decided by a majority of votes of members present. Any dissention by a member will be brought to attention of the Senior Master as part of the deliberations provided.

Review of charter

The ERC should review its charter annually to provide assurance that it remains consistent with FIC objectives and responsibilities.

The Senior Master is to approve any further review of the charter.

Administrative arrangements

Conflicts of interest

Members of the ERC agree at Committee meetings to comply with the FIC ‘conflict of interest’ requirements. The existing Conflict of Interest Policy that is appropriate, not only for staff, but for advisory bodies to the Senior Master is:

> *“A conflict occurs when there is a convergence between a person’s private, personal relationships or interests and his or her professional obligations to the Senior Master such that an independent observer might reasonably question whether that person’s professional actions or decisions are determined by considerations of personal benefit, gain or advantage.*
>
> *A conflict of interest, or the appearance of it, depends on the situation, and not necessarily on the character or actions of a person. The **appearance** of a conflict of interest can be as damaging or detrimental as an **actual** conflict.”*

The procedures, in part, are:

> *“Officers shall disclose immediately to their supervisor, or to the Senior Master in the case of Executive Managers, any matter that could directly or indirectly compromise the performance of their duties, or conflict with FIC interests.”*

Induction

New members of the ERC will, upon appointment, be given all relevant information concerning the Committee’s responsibilities, the operations of FIC and background information to enable them to understand their duties and responsibilities.

APPENDIX 8 – Internal Audit Charter

November 2012

This charter sets out the purpose of the Internal Audit function and the authority and responsibilities conferred by the Senior Master of the Supreme Court of Victoria on RSM Bird Cameron, Chartered Accountants as the Senior Master's Internal Auditor.

Roles and Objectives

Internal Audit is part of the Senior Master's (Funds in Court) Office (FIC) Governance framework to provide an independent appraisal and advisory function for senior management in achieving its mission and objectives. Its functions include examining, evaluating and monitoring the adequacy and effectiveness of internal controls established to regulate the activities and operations of the FIC. The purpose of the Internal Audit function is to assist management at all levels in achieving objectives consistent with the *Supreme Court Act* 1986 and the *Supreme Court (General Civil Procedures) Rules* 2005.

Organisational Scope

The field of activity of Internal Audit shall include all the activities and operations of FIC.

Independence

The Audit Committee is responsible for determining the framework in which the Internal Auditor is to operate whilst the administrative responsibility for ensuring the performance of tasks is exercised by the Corporate Governance Manager. The Internal Auditor has independent status and:

- Shall have access to the Senior Master if required;
- Must meet privately at least twice yearly with the Chairperson of Audit Committee;
- Must have no executive or managerial powers, authorities, functions or duties except those relating to the management of the Internal Auditor role; and
- Shall not be responsible for the detailed development or implementation of new systems and procedures.

Authority and Confidentiality

The Internal Auditor and audit staff:

- Have the right of access to all premises of the FIC and the right to inspect all correspondence, files, records, accounts and all other forms of information held by the FIC as are necessary for the performance of audit duties; and
- Have the right to require all staff of FIC to supply such information and explanations as are necessary for the performance of audit duties.

All records, documentation and information accessed in the course of undertaking internal audit activities are to be used solely for the conduct of these activities. Internal audit staff are responsible and accountable for maintaining the confidentiality of the information they receive during the course of their work.

Responsibilities

Internal Audit must review the financial policies, procedures, records, accounts and plans of the FIC and appraise the effectiveness by which the FIC meets its objectives. This includes:

- reviewing systems and operations and appraising the adequacy of controls;
- recommending improvements to systems and procedures;
- advising on appropriate systems of control and other operational matters;
- appraising the extent of compliance with established policies, procedures and plans;
- assessing the accuracy of management information;
- conduct ad hoc and confidential investigations as directed by the Senior Master and/or the Corporate Governance Manager.

Professional Standards

All internal audit projects must be undertaken with due professional care. In line with standards of professional internal auditing practice Internal Audit shall ensure:

- That skills, competence, experience and qualifications are appropriate for the audits being performed;
- That all internal audit projects are properly supervised and where required, on the job training provided;
- Compliance with all relevant standards and codes of ethics as laid down by the Accounting Professional & Ethical Standards Board and the Institute of Internal Auditors; and
- That all internal audit staff undertake continuing professional activities and maintain membership of pertinent professional bodies.

Audit Planning

In managing the audit function, a rolling three year strategic audit plan is prepared and presented to Audit Committee annually for comment and approval. In formulating the audit plan and annual work program, the Internal Auditor must consult with Audit Committee. The internal audit coverage may extend to all areas of FIC and include financial, accounting, administrative, computing and other operational activities.

Performing Internal Audit Reviews

All internal audit projects undertaken must be in accordance with documented Audit Protocols. These set out the steps which Internal Audit agree to take to ensure that the audit process is mutually beneficial to both Internal Audit and the auditee. These Audit Protocols are amended from time to time in line with internal auditing best practice, changes to auditing standards and customer and Audit Committee requirements. For all audit projects, the manager for the activity under review shall be advised and given the opportunity to discuss findings and recommendations prior to completion of such review.

External Auditor

Where appropriate and within the context of established plans and to the extent that organisational and professional constraints allow, internal audit projects are undertaken with the view of maximising the efficiencies of the internal and external audit processes and minimising audit duplication.

Review of the Charter

This charter will be reviewed at least every two years by the Audit Committee. Any substantive changes will be formally approved by the Senior Master on the recommendation of the Audit Committee.

APPENDIX 9 – Beneficiary Service Standards

BENEFICIARY SERVICE STANDARDS

Service standards

About Funds in Court

Our service standards are about the way we work with you. These standards explain:

- what you can expect from us
- what you can do to help us

We are a division of the Supreme Court of Victoria and we administer funds that are paid into Court under section 113(1) of the *Supreme Court Act* 1986.

The Senior Master, who is an Associate Judge of the Supreme Court, holds the funds in trust for beneficiaries who are under a legal disability.

Our vision is simple:

To enhance beneficiaries' lives with compassion and superior service

How you can help us

You can help us by:

- respecting our staff and treating us with courtesy
- providing us with accurate and complete information

Provision of information

We are committed to improving your life by being innovative and proactive.

A key element of this commitment is to ensure that you and your family and all other interested parties are provided with sufficient information in relation to our services.

We have the following communication initiatives in place:

- booklets and pamphlets for beneficiaries and their families and carers
- booklets specifically developed for people with an acquired brain injury
- newsletters for beneficiaries and their families and carers
- website - **www.fundsincourt.vic.gov.au**
- information DVD
- Beneficiaries' Advisory Group
- events organised specifically for beneficiaries

Services for beneficiaries

Trust Officers

You are assigned a Trust Officer, who becomes your primary contact with us. Trust Officers will assist you to access your funds held in Court.

Client Liaison Officers

Our Client Liaison Officers can visit you and your families.
Your Trust Officer can arrange for a visit to take place to discuss the Funds in Court and other related matters.

In your best interests

When dealing with your funds, we act fairly and impartially. When assessing any requests, we will always consider the following:

- Can your funds afford the expenditure?
- What will be the benefit to you?

Service delivery

To measure the progress towards our goals and objectives, we have a number of policies and performance indicators which include:

- approving and preparing for payment a minimum of 90% of invoices within 5 working days of being received at Funds in Court
- responding to a minimum of 80% of correspondence regarding beneficiaries within 5 working days
- answering 80% of incoming calls within 1 minute

Working together

We are committed to working with key interested parties to ensure that they understand our objectives and strategies.

We have created two advisory bodies:

- Beneficiaries' Advisory Group
- Beneficiaries' Focus Group

An independent service delivery survey is conducted every 3 years to help us evaluate the quality of our services.

Privacy

The protection of your privacy is paramount. We view your affairs as completely confidential.

Feedback and complaints

We listen carefully to your feedback or any complaints you may have about our services.

We will do our best to:

- deal with complaints in a transparent, timely and appropriate manner
- attempt to resolve complaints fairly and quickly

Further details regarding our feedback and complaint processes can be found on our website.

Further information

If you would like to know more, please see our website or contact us.

Contacting us

Appointments can be with your Trust Officer to discuss your funds held in Court.

Located at:

Level 5, 469 La Trobe Street,
Melbourne, Victoria

Postal address:

Funds in Court
Supreme Court of Victoria
210 William Street, Melbourne
Victoria 3000

Phone: 1300 039 390
Fax: 1300 039 388

From overseas:
Phone: 61 3 9032 3777

Fax: 61 3 9032 3700

Email: fic@supremecourt.vic.gov.au

Website: www.fundsincourt.vic.gov.au

APPENDIX 10 – FIC Legislative Framework

Preface[5]

The employees of Funds in Court [FIC] act on behalf of the Senior Master, and consequently, the Supreme Court.

The FIC, as part of the Court, is not a government agency and, therefore, does not administer legislation in the sense that a government agency would. It does, however, comply with the requirements of legislation that applies either directly or indirectly to the:

- Court.
- Senior Master.
- Employees of the FIC in the performance of their duties.

Additionally, as the Senior Master administers funds on behalf of over 5,000 people under a legal disability [the beneficiaries], ANY legislation that may apply to such persons (whether as ordinary citizens or people for whom the Senior Master administers their funds in Court) must, necessarily, have an effect on the work of the FIC. An example of the legislation that may apply to the beneficiaries can be found at: *http://www.justice.vic.gov.au/find/legislation*.[6]

Considered Directly Relevant

As an Associate Judge, the Senior Master is a judicial member of the Supreme Court of Victoria and, pursuant to section 75 of the *Constitution Act* 1975 (Vic), he, along with the Chief Justice, President of the Court of Appeal, Judges and Associate Judges, constitutes the Court.

***Constitution Act* 1975 (Vic)**	
Section 75,	The Court consists of the Judges of the Court, the Associate Judges of the Court and the judicial registrars of the Court.

The powers of the Senior Master arise from the *Supreme Court Act* 1986 (Vic) [the Act] and the *Supreme Court (General Civil Procedure) Rules* 2005 [the Rules]. In particular, the Senior Master's authority to administer the funds in Court is drawn, mainly, from sections 113, 113A and 113B of the Act and Orders 15, 77 and 79 of the Rules.

Supreme Court Act* 1986 *(Vic)	
Section 104	Associate Judges to be appointed and must include the Associate Judge who is the Senior Master. Provision for Acting Senior Master if office becomes vacant.
Section 105A(2)	Determines which Associate Judge exercises the Senior Master's duties & powers in his or her absence.
Section 113	Section 113 of the Act is titled "Common Funds". The effect of the section is to govern how funds paid into Court are to be administered. Section 113, essentially, governs the operations of the Senior Master's (Funds in

5 The *Good Governance Guide2009* prepared by the Chartered Secretaries of Australia Ltd states that it is good governance for public sector agencies without boards to establish "a clear articulation of legislative requirements affecting the agency". Whilst the FIC is not considered a government agency, the principle stated here is adopted by the Senior Master in publication of this document.

6 The full range of current Victorian Legislation and Parliamentary Documents is available via the Victorian Legislation and Parliamentary Documents Home Page.

	Court).
Section 113A	Provides, *inter alia*, for the creation and operation of Common Fund No. 3
Section 113B	Provides that the Senior Master has powers as an Administrator in respect of the funds in Court, where an Administrator has not been appointed, and allows the Senior Master to delegate those powers.
Section 127	The accounts of the Senior Master relating to the collection of public money must be audited by the Victorian Auditor-General. The Senior Master, however, has a long standing invitation to the Auditor-General to audit all accounts of the Senior Master. Section 16G of the *Audit Act* 1994 (Vic) requires the Auditor General to conduct financial audits in the same manner as statutory audits when so invited, but does not extend to reporting matters relating to waste, probity and financial prudence to Parliament under s.3A(2).
Supreme Court (General Civil Procedure) Rules 2005	
Order 15 - Person under Disability	Order 15 deals with litigation in which a party is "a person under disability". It provides *inter alia* that: • a person must be represented by a litigation guardian • a compromise of a person's claim must be approved by the Court • before the Court makes an order to satisfy a judgment, it must take into account the person's best interests. NB: see below regarding how this impacts on orders of other courts.
Rule 15.09	Rule 15.09 applies where a person under disability is required by a judgment to pay money, and that person has funds in Court. Rule 15.09(2) requires that, before the Court makes an order releasing funds to satisfy a judgment, it must take into account the best interests of the person under disability. It should be noted that, for the purposes of rule 15.09, a judgment includes an order. Therefore, for example, if the Family Court were to give a judgment, it may not necessarily result in the release of the funds in Court (where an order of the Court would be required). This is because the Senior Master is first obliged to consider the best interests of the person under disability. The same would apply to a judgment debt in another court.
Order 77 – Authority of Masters	Distributes the business of the Court between the Judges and Associate Judges (AJs) including the Senior Master (who is an AJ). Allows for appeal from an AJ to a Judge.
Rule 77.01(a) "Parens Patriae"	Rule 77.01(a) of the Rules confers upon the Associate Judges the power to "give any judgment or make any order, including any judgment or order in the inherent jurisdiction of the Court". The inherent jurisdiction of the Court includes the exercise of the *parens patriae* power of the Sovereign for the protection of the person and property of mentally infirmed persons. It is this jurisdiction that is exercised by the Senior Master in

	administering the funds in Court for and on behalf of persons under disability.
Order 79 - Funds in Court	The requirements of Order 79 determine many of the FIC's procedures, including: • Payment out of the funds • Provision of a certificate of receipt • Delay in paying in funds • All investments made from moneys forming part of any common fund shall be made in the name "The Senior Master of the Supreme Court of Victoria". • This Rule governs the payment of interest, either to a beneficiary's account, or on the interest earned when money is paid out of Court. • The appointment and jurisdiction of a Judicial Registrar to the Funds in Court.
County Court Act* 1958 *(Vic) ***Magistrates' Court Act* 1989 *(Vic)*** ***Victims of Crime Assistance Act* 1996 *(Vic)***	
Sections 39C, 101B and 71 of the respective Acts.	Provide for payment to the Senior Master of funds awarded to persons under disability. Funds are paid in as if an order was made in a proceeding of the Supreme Court.

Other legislation may apply to the Senior Master in his capacity as a person who holds and invests funds on behalf of others or as an employer.

Trustee Act* 1958 *(Vic)	
Section 69	Where any person holds funds as trustee for another and wishes to pay the funds into Court, s.69 of the Trustee Act allows that person to pay the funds into Court and, by so doing, free themselves from responsibilities, e.g.: • Where an Executor of a Will holds funds for a minor beneficiary. • Where a person refuses to accept entitlement, or cannot be located.
Guardianship & Administration Act* 1986 *(Vic)	
Section 66 - Matters before a Court	Especially s66(3) - Funds ordered to be paid to persons under a disability must be paid into Court and, unless a Court otherwise orders, paid to an Administrator or State Trustees.

Employment Related Legislation

The Senior Master complies with the applicable provisions of the relevant legislation, including:

- ***Occupational Health & Safety Act* 2004 (Vic)**
- ***Payroll Tax Act* 2007 (Vic)**
- ***Income Tax Assessment Act* 1936 (Cth)**
- ***Equal Opportunity Act* (Vic) 2010**
- ***Fair Work Act* 2009 (Cth)**
- ***Fringe Benefits Tax Act* 1986 (Cth)**

***Public Administration Act* 2004(Vic)**	
	A majority of staff employed by the Senior Master are Victorian Public Servants [VPS]. All such employees are bound by the provisions of the Act. The Act provides, *inter alia*, or the Public Sector Standards Commissioner to prepare and issue Codes of Conduct based on the public sector values. The Victorian Public Sector Code of Conduct [the Code] is a public statement of how public sector organisations conduct their business and how they treat clients and colleagues. The Code is binding on any person to whom it applies. **Note:** The Senior Master's Code of Conduct – as set out in the FIC Policy & Procedure Manual – incorporates the VPS Code of Conduct. All FIC employees (whether they are public servants or employed under other arrangements) are subject to provisions of the Code. Further, the Senior Master will enforce the provisions of the FIC and VPS Codes of Conduct, and the applicable provisions of the Act.
***Income Tax Assessment Act* 1936 (Cth)**	
Section 98	Section 98 provides that the Senior Master is liable to pay tax in respect of Trust income as if it were the income of an individual. That income is taxed at ordinary marginal rates.
Section 99A	Governs taxation of income earned by funds held where there is no person "presently entitled". Such income is taxed at the top marginal rate plus the Medicare levy.
Protected Disclosure Act* 2012 *(Vic)	
[replaced former *Whistleblowers Protection Act* 2001 *(Vic)*]	Facilitates disclosure of improper conduct and detrimental action by public officers and public bodies for investigation by the Independent Broad-based Anti-corruption Commission [IBAC]. Disclosure about public officers and public bodies to IBAC includes judicial officers (judges) and judicial employees.

Considered Indirectly Relevant - Voluntary Compliance

As a judicial member of the Court, the Senior Master is not subject to legislation which excludes the Court from its operation. However, where compliance with such indirectly relevant legislation, in the opinion of the Senior Master, ensures that the interests of beneficiaries and other interested parties are protected, and where the provisions of such legislation represent "best practice", the Senior Master complies voluntarily with the relevant provisions.

Audit Act* 1994 *(Vic)	
Section 16G	The Senior Master, however, has a long standing invitation to the Auditor-General to audit all accounts of the Senior Master. See discussion above in relation to s127 of the *Supreme Court Act*.
Information Privacy Act* 2000 *(Vic)	
Section 10	Exempts courts from the operation of the Act. However, the Senior Master has very strict privacy policies and procedures which conform to the requirements of the Act and Privacy Principles. This was confirmed by the Senior Master's internal auditors.
Charter of Human Rights and Responsibilities Act* 2006 *(Vic)	
	The Charter has general application to Courts in respect to people receiving a fair hearing. Internal legal advice has suggested there are no specific provisions pertaining to the rights of people with a disability or presumptions about the incapacity of a person or that the Charter will give rise to serious disruptions of the Senior Master’s functions.
Financial Management Act* 1994 *(Vic)	
	The Victorian Solicitor General has confirmed that the Act does not apply to the Senior Master. The Senior Master's governance structure in respect of investment of funds held in Court is considered robust and transparent. However, the Senior Master voluntarily complies - as a matter of best practice - with the Financial Management Compliance Framework and the Tax Compliance Framework.
Trustee Act* 1958 *(Vic)	
Part I, which includes the following sections: • 5 - Investment of trust funds • 6 - Duties of trustee • 8 - Matters to which trustee must have regard • 11 - Power to purchase a dwelling house	The Senior Master invests funds pursuant to the requirements of the Act, Part I in particular. Whilst the Senior Master is not strictly a trustee, he complies with the law pertaining to the duties and responsibilities of trustees and trustee investments.

Public Records Act* 1973 *(Vic).	
	The Senior Master's annual financial statements are forwarded to the Public Records Office for safekeeping. Beneficiaries' records are, in the main, not considered public records as they pertain to the affairs of individuals. To the extent that beneficiaries' records - or parts thereof - are considered public records, they will be transferred to the Public Records Office.

Considered Indirectly Relevant - Compliance Not Necessary

Some legislation may be considered indirectly relevant to the Senior Master and the operations of the FIC. However, where such legislation excludes the Court from its operations and the Senior Master is of the opinion that such legislation, if it were to apply to the Senior Master, would:

- not be in the best interests of beneficiaries; or
- offend against the Senior Master's position as a Judicial Member of the Court; or
- fetter the Senior Master's independence; or
- provide no operational benefits to the FIC;
- the Senior Master will not comply voluntarily with the provisions of such legislation.

Guardianship & Administration Act* 1986 *(Vic)	
Section 58B - Powers and duties in relation to represented persons	A person's financial assets DO NOT include the funds in Court. The funds in Court are the sole responsibility of the Senior Master. Consequently, an Administrator cannot utilise the funds in Court unless he or she has made application to the Senior Master and he has, by order, provided for the requested use of the funds.
Section 58 - Accounts	Further, when accounting to VCAT, an Administrator is under no obligation to account for the funds in Court. More importantly, State Trustees or VCAT DO NOT have the jurisdiction to demand that either the Administrator or the Senior Master account to them for the use of the funds in Court.
Freedom of Information Act* 1982 *(Vic)	
Section 6	Section 6 provides, in effect, that the Act does not apply to the Court. There is no provision of the Act or Regulations purporting to apply it to the Senior Master.

Ombudsman Act* 1973 *(Vic)

Section 13(3)	
	The Act does not apply to the Senior Master or any administrative decision made by the Senior Master. Whilst the Ombudsman has the power to investigate decisions, actions and conduct of Victorian government departments and statutory bodies, the Ombudsman does not have power to investigate any administrative action taken by: • a court of law or by a judge (including and associate judge) or magistrate: section 13(3)(a); or • a person acting in the capacity as a trustee under the Trustee Act 1958 (Vic): section 13(3)(c), although section13(2A) of the Act allows the Ombudsman to investigate administrative action taken by State Trustees. *See further:* *http://www.ombudsman.vic.gov.au/www/html/44-our-jurisdiction.asp*