



Auditor General's Report and allegations by Mr A McCullagh

Mr Andrew McCullagh has made many allegations over a long period to property agents, politicians and others in relation to the operations of the Property Agents Board and the integrity of its members and employees. The Board considers that these allegations are unfounded. Although Mr McCullagh has promised information to substantiate his allegations, this has not been forthcoming.

One of the allegations made related to the administration of funds directed to education of estate agents, and in particular funds paid to the REIT for that purpose. The position of the Board has always been that actual expenditure of the REIT is invoiced and scrutinized by the Board before payment is made, and these payments have always been lower than the original approved budget.

This allegation has now been investigated by the Auditor General who has confirmed the Board's position.

His report to Parliament says:

"Our enquiries did not identify any inappropriate payments by the PAB to the REIT. Payments are based on actual claims and invoices which often differed from original estimates and budgets. It seems to us that the referrer based his concerns on estimated costs provided by REIT to PAB rather than on the actual costs invoiced and paid."

At another point in the report, the Auditor General says:

"To assist with budget and planning, REIT annually provides PAB with estimates of the cost of training courses to be delivered and then invoices PAB for actual costs as they are incurred. Costs only relate to the extent to which training courses run by REIT are not self-funding. PAB pays REIT on the basis of invoices or claims received, not on estimates."

"Our enquiries led us to the conclusion that the payments made by the PAB to the REIT had been audited and were in line with invoices or claims received, although these understandably differed from original estimates."

This is completely consistent with the view the Board has taken all along in response to these allegations.

In the conclusion to his report the Auditor General says that his enquiries suggest to him no wrong doing in the payment of funds between the various entities and "the payments made were consistent with existing legislative and regulatory frameworks".

A recommendation that the Property Agents Trust (which is a separate entity to the Board) should take steps to align its financial reporting period to that of the Property Agents Board has, we understand, already been adopted.

In relation to the issue of conflict of interest, the report states that any perception of this can be addressed by Board governance arrangements and that no evidence of lack of independence has been identified. The report says:

"Although the current arrangements and roles of these entities have over time evolved into a complicated relationship, there is no identifiable conflict of interest, since it is appropriate, and not uncommon, that the industry should have representation on these bodies."

It is the position of the Board that it is vital that there be industry representation on the Board (as there is with similar regulatory bodies), and the Board notes that industry members have been scrupulous in any situation where there is even a remote possibility of a conflict arising.

It has been inferred by Mr McCullagh that the reason that the Board was unable to meet for a period between April and August this year was that it had been stood down while his allegations were investigated. This is untrue. The Board was unable to function because there were administrative delays, not caused by the Board, in appointing four of its members.

Mr McCullagh continues to be the subject of investigation by the Board and disciplinary action. He recently again failed to pay a fine imposed by the Disciplinary Tribunal within the specified period. As a consequence his registration has been suspended for a period of 1 month from the 1st November 2010.

John Upcher, Chairman

Nicky McKibben

John Soundy

Ian Wells

Elizabeth Gillam

15 November 2010