

Mental Health Trust Fund No. 9 – Departments of Health and Finance and Treasury Board



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2024 Volume I Chapter 5 Highlights

There is no plan in place to make use of the funds for deserving New Brunswickers

The Department of Health does not have an adequate understanding of the Trust

After 46 years, the donor's wishes have not been fulfilled

Overall Conclusions

Our audit work on the Mental Health Trust Fund No. 9 concluded that the Department of Health has not been effective in fulfilling their obligations pertaining to the Trust. The Department of Finance and Treasury Board has effectively fulfilled their obligations pertaining to the Trust.

Results at a Glance

Mental Health Trust Fund No. 9

Trust Funds Remain Unused After 46 years



Findings



Department of Health officials did **not** have an adequate understanding of the Trust



Department of Health did **not** have mechanisms in place to allow for use of the Trust



Department of Finance and Treasury Board **has** effectively fulfilled its duty in reporting and investing

About the Audit

Introduction to the Audit

- 5.1** The Province of New Brunswick is named trustee of The Mental Health Trust Fund No. 9 (the Trust) in the notes to the annual consolidated financial statements. The Trust was valued at \$1.6M as of March 31, 2023, and is described as being “used to pay for the psychoanalysis treatment of deserving New Brunswick residents”.
- 5.2** As per sections 29(1) and 29(2) of the *Trustees Act*, a trustee has a fiduciary duty in the administration of the trust to act in good faith and in accordance with the terms of the trust. “A trustee shall exercise the powers and perform the duties of the office of the trustee solely in the best interests of the beneficiaries or purposes of the trust.”
- 5.3** Our audit is not to imply judgement as to the purpose of the Trust but to determine if it has been managed effectively.

Why we Chose this Topic

- 5.4** Demand for addictions and mental health services continues to rise in New Brunswick with less than 50% of high priority cases receiving treatment within national benchmarks. Timely access to mental health treatment has been established as a key action area for the Department of Health.
- 5.5** The Trust’s value continues to increase year over year increasing the risk that the Province is not exercising its fiduciary duty to fulfil the donor’s intentions and its resources are not being made available to address the pressing needs in our community.

Auditee

- 5.6** Our auditees were the Department of Health and the Department of Finance and Treasury Board.

Audit Objective

- 5.7** Our audit objective was to determine if the Department of Health and the Department of Finance and Treasury Board have effectively fulfilled their obligations pertaining to the Mental Health Trust Fund No. 9.

Audit Scope

- 5.8** We examined Department of Health’s and Department of Finance and Treasury Board ’s actions in fulfilling their obligations pertaining to the Trust.
- 5.9** The audit covered the period from the Trust’s creation in 1977 to February 29, 2024. Information outside of this period was also collected and examined as deemed necessary. As part of our work, we interviewed department officials, and reviewed associated documents and financial reporting of trust fund assets.
- 5.10** More details on the audit objective, criteria, scope, and approach we used in completing our audit can be found in Appendix II and Appendix III.

Conclusion

- 5.11** Our audit work concluded that the Department of Finance and Treasury Board has effectively fulfilled their obligations pertaining to the Mental Health Trust Fund No. 9. The Department of Health has not been effective in fulfilling their obligations pertaining to the Mental Health Trust Fund No. 9 and our overall findings are:
- Department of Health officials do not have an adequate understanding of the Trust
 - the Department of Health did not have the mechanisms in place to allow for timely use of the Trust as intended

Background

- 5.12** The Mental Health Trust Fund No. 9 (the Trust) was established in 1977 from a bequest made to the Province of New Brunswick. The Trust, designated for psychoanalysis treatment of deserving New Brunswickers, represents a financial resource to address a pressing societal need.
- 5.13** A bequest is an act of estate planning whereby an individual leaves a gift to a person, organization, or foundation for a specific purpose in their will creating a lasting legacy. The recipient becomes a trustee to give effect to the intentions of the donation.
- 5.14** In 1977, \$85,866.39 was withdrawn from estate investments and deposited to the Trust. This has an equivalent value of approximately \$420,851.32 at the time of this report.
- 5.15** As the recipient of the bequest, the Province of New Brunswick is the legal Trustee of the Trust with the fiduciary duty to give effect to the purpose of the trust terms. Upon creation of the Trust over 46 years ago, responsibilities were assigned to both the Department of Health and the Department of Finance, now known as the Department of Finance and Treasury Board through the terms of the Trust. The Trust is governed by the terms of the Trust and the *Trustees Act*.

Lack of Timely Effort by Department of Health

- 5.16** Under the terms of the Trust, the Department of Health is to draw funds for the purpose of psychoanalysis. The Department has the responsibility to determine which cases are most deserving based on an individual's mental health condition and their financial resources.
- 5.17** Psychoanalysis treatment is not covered under the *Medical Services Payment Act* and we have been informed by the Department of Health that it has not been offered in New Brunswick over the life of the Trust. The Canadian Psychoanalytic Society's webpage lists a total of 336 members throughout Canada, the majority of whom are in the Provinces of Quebec and Ontario and none in Atlantic Canada.
- 5.18** The limitation on the use of the Trust fund assets for psychoanalysis treatment has been identified as a challenge in accessing the funds by the auditees. We were informed there were attempts to apply to the courts to have the terms of the trust modified but these attempts were denied as the Department of Health had not demonstrated enough effort to use the funds for their intended purpose.
- 5.19** In 1995, the then Department of Finance was informed by the Mental Health Commission, later amalgamated with the Department of Health, it had "not had time to deal with the issues relating to the use of funds".
- 5.20** We were not able to obtain evidence of a plan to use the funds, guidelines to evaluate applicants for funding, or communication with the mental health community to ensure there was awareness of the Trust.
- 5.21** At the time of our audit, the Department of Health has acknowledged they have not leveraged the Trust.
- 5.22** We found the Department of Health has not made a timely effort to utilize the funds. The current Departmental officials have little knowledge of the Trust, its terms, and its history. The Department was unable to present evidence of any kind regarding the Trust, including any efforts made to give effect to the terms of the trust and fulfill the donor's wishes.

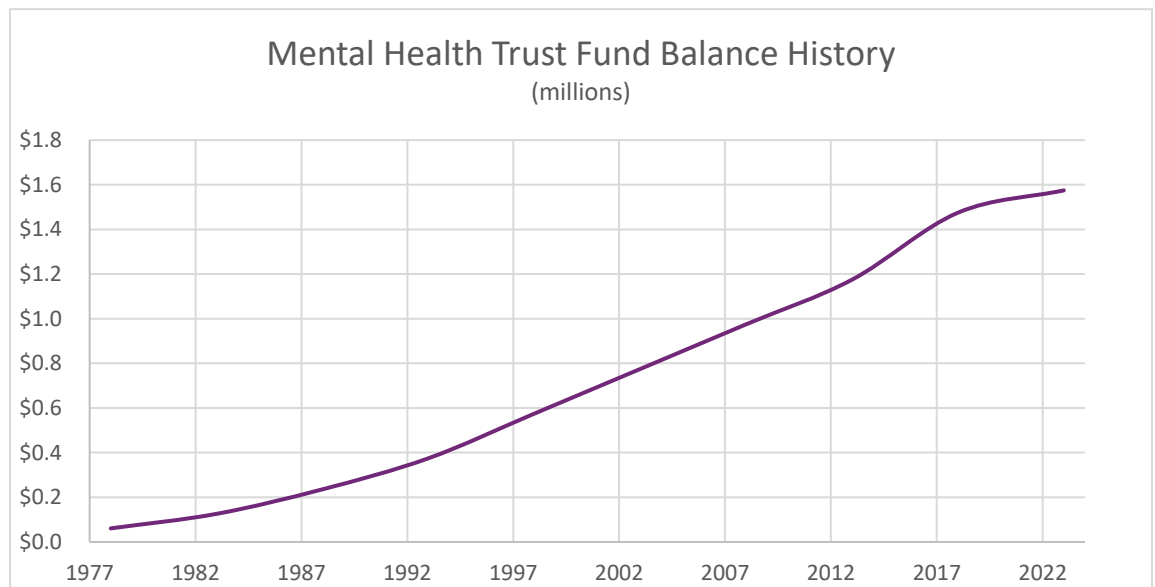
Recommendation

5.23 We recommend the Department of Health take action to develop and implement a comprehensive plan to use the funds as per the terms of the trust. This plan should include regularly updating Department of Finance and Treasury Board on progress with Trust programs and cashflow requirements to ensure resources are effectively utilized, outcomes are achieved, and adjustments can be made as needed to optimize impact.

Trust Effectively Administered by Department of Finance and Treasury Board

5.24 Under the terms of the Trust, the Department of Finance and Treasury Board is assigned administrative responsibility. For the purposes of our audit, we defined administrative responsibility as having reported and invested the Trust’s assets.

5.25 As of March 31, 2023, the Trust’s value is approximately \$1,635,256. The Department of Finance and Treasury Board prepares annual financial statements for the Trust, from which the assets have been disclosed in the notes to the annual audited consolidated financial statements of the Province of New Brunswick. A graph of the Trust’s value since its inception to March 31, 2023, is presented below.



- 5.26** Trust assets have increased steadily since inception. The Department of Finance and Treasury Board established an investment policy with a goal of preserving capital and earning income through a buy and hold strategy portfolio of fixed income investments. We have been informed that no investment management expenses are incurred by the Trust. The policy has been reviewed and updated most recently in 2015 and 2023 to ensure investments continue to be appropriate for the circumstances of the Trust. The Department of Finance and Treasury Board sought the Department of Health’s input when establishing the policy to ensure the probable duration of the Trust was also considered.
- 5.27** As of March 31, 2023, approximately 30% of assets are liquid and accessible within one year while the remainder of funds are held in long term investments ranging in maturity up to five years. Depending on the future funding needs identified by the Department of Health, there may be a risk to providing capital in a timely fashion to New Brunswickers.
- 5.28** The Department of Finance and Treasury Board has shared information and sought input with the Department of Health at key milestone dates over the life of the Trust in an effort to help the Department of Health utilize the funds as intended.
- 5.29** We found the Department of Finance and Treasury Board has effectively fulfilled its duties as the Administrator of the Trust.

Appendix I: Recommendation and Response

Par. #	Recommendation	Department’s Response	Target Implementation Date
We recommend the Department of Health:			
5.23	take action to develop and implement a comprehensive plan to use the funds as per the terms of the trust. This plan should include regularly updating Department of Finance and Treasury Board on progress with Trust programs and cashflow requirements to ensure resources are effectively utilized, outcomes are achieved, and adjustments can be made as needed to optimize impact.	A comprehensive plan is currently in the process of being developed to ensure proper use of the funds per the terms of the trust. As part of this plan, the Department of Health will provide regular updates to the Department of Finance and Treasury Board	October 2024

Appendix II: Audit Objective and Criteria

The objective and criteria for our audit of the Departments of Health and Finance and Treasury Board are presented below. The Departments and their senior management reviewed and agreed with the objective and associated criteria.

Objective **To determine if the Department of Health and the Department of Finance and Treasury Board have effectively fulfilled their obligations pertaining to the Mental Health Trust Fund No. 9.**

Criterion 1 Department of Health has made all reasonable efforts to utilize the funds as they were intended in a timely manner.

Criterion 2 Department of Finance and Treasury Board has effectively administered the Mental Health Trust Fund No. 9.

Appendix III: Independent Assurance Report

This independent assurance report was prepared by the Office of the Auditor General of New Brunswick on the Department of Health and the Department of Finance and Treasury Board's Mental Health Trust Fund No. 9. Our responsibility was to provide objective information, advice, and assurance to assist the Legislative Assembly in its scrutiny of these Departments with respect to their obligations under the Trust.

All work in this audit was performed to a reasonable level of assurance in accordance with the Canadian Standard on Assurance Engagements (CSAE) 3001 – Direct Engagements set out by the Chartered Professional Accountants of Canada (CPA Canada) in the CPA Canada Handbook – Assurance.

AGNB applies the Canadian Standard on Quality Management 1 – Quality Management for Firms That Perform Audits or Reviews of Financial Statements, or Other Assurance or Related Services Engagements. This standard requires our office to design, implement, and operate a system of quality management, including policies or procedures regarding compliance with ethical requirements, professional standards, and applicable legal and regulatory requirements.

In conducting the audit work, we have complied with the independence and other ethical requirements of the Rules of Professional Conduct of Chartered Professional Accountants of New Brunswick and the Code of Professional Conduct of the Office of the Auditor General of New Brunswick. Both the Rules of Professional Conduct and the Code are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.

In accordance with our regular audit process, we obtained the following from management:

- confirmation of management's responsibility for the subject under audit
- acknowledgement of the suitability of the criteria used in the audit
- confirmation that all known information that has been requested, or that could affect the findings or audit conclusion, has been provided
- confirmation that the findings in this report are factually based

Period covered by the audit:

The audit covered the period between January 1, 1977 to February 29, 2024. This is the period to which the audit conclusion applies. However, to gain a more complete understanding of the subject matter of the audit, we also examined certain matters outside of this period as deemed necessary.

Date of the report:

We obtained sufficient and appropriate audit evidence on which to base our conclusion on May 31, 2024, in Fredericton, New Brunswick.