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**CANBERRA**
Centre for International Economics
Ground Floor, 11 Lancaster Place
Canberra Airport ACT 2609
GPO Box 2203
Canberra ACT Australia 2601
Telephone +61 2 6245 7800
Facsimile +61 2 6245 7888
Email cie@TheCIE.com.au
Website www.TheCIE.com.au

**SYDNEY**
Centre for International Economics
Suite 1, Level 16, 1 York Street
Sydney NSW 2000
GPO Box 397
Sydney NSW Australia 2001
Telephone +61 2 9250 0800
Facsimile +61 2 9250 0888
Email ciesyd@TheCIE.com.au
Website www.TheCIE.com.au

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1 Background

NSW Public Trustee and Guardian (NSWTG) and IPART’s review

The NSWTG was established in 2009, through the merger of the Office of the Protective Commissioner (OPC) and the Public Trustee (PT) of NSW. It undertakes a number of services, of which those that are the focus for IPART’s review of fees are:

- Financial management services. This involves managing the affairs and property of individuals with diminished capacity to make their own financial decisions, who have been assigned to the NSWTG by a court or tribunal order.
- Trustee services. This includes making wills and powers of attorney, administering estates, and establishing and managing trusts. It provides these services to individuals who cannot afford or who choose not to obtain them from a private lawyer, accountant or trustee company.

The NSWTG’s clients differ widely in terms of their capacity to pay for its services. For example, some managed persons are relatively wealthy, with significant financial assets and income streams. Others have little in the way of assets, and rely on Centrelink benefits.

IPART has been asked to review the fee structure of NSWTG. As part of this task, the CIE has been asked to provide information on the cost of similar services delivered in the private market. This will be one piece of information used by IPART to consider the efficiency of NSWTG and the appropriateness of the fees that NSWTG charges.

Approach

The CIE has collated information about the activities, fees and charges in the private market for services also provided by NSWTG.

The break-down of services that we have used and the activities covered in each service are shown in table 1.1. Powers of Attorney and Financial Management are very similar in the type of activity undertaken, although clients demand for services arise from different pathways.
1.1 Services covered by benchmarking

<table>
<thead>
<tr>
<th>Service</th>
<th>Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trust management</td>
<td>Administration and management of</td>
</tr>
<tr>
<td></td>
<td>- Private trusts</td>
</tr>
<tr>
<td></td>
<td>- Testamentary trusts</td>
</tr>
<tr>
<td></td>
<td>- Compensation trusts</td>
</tr>
<tr>
<td></td>
<td>- Charitable trusts (including private ancillary trusts)</td>
</tr>
<tr>
<td></td>
<td>Including</td>
</tr>
<tr>
<td></td>
<td>- Managing investments</td>
</tr>
<tr>
<td></td>
<td>- Preparing reports</td>
</tr>
<tr>
<td></td>
<td>- Meeting legal reporting burden</td>
</tr>
<tr>
<td>Will-making</td>
<td>Preparation of will document including taking instructions from client as</td>
</tr>
<tr>
<td></td>
<td>needed</td>
</tr>
<tr>
<td>Executor services</td>
<td>Gathering and safeguarding assets, preparing</td>
</tr>
<tr>
<td></td>
<td>documentation, communicating with beneficiaries and distributing assets</td>
</tr>
<tr>
<td>Powers of attorney</td>
<td>Writing and administration of power of attorney</td>
</tr>
<tr>
<td>Financial management</td>
<td>Making financial decisions such as those over real estate, substantial</td>
</tr>
<tr>
<td></td>
<td>expenditure from a trust account and selling shares.</td>
</tr>
</tbody>
</table>

Source: The CIE.

Our approach has focused on collecting fees and charges. In a competitive market, fees and charges should reflect the efficient cost of providing services. This would include a fair return on investment. Further, fee schedules also reveal the drivers of costs — for example, fees typically rise in financial management with the value of the assets being managed. We have also consulted with private companies in order to understand:

- the activities covered within fees;
- the type of market served by the private sector; and
- the extent to which additional costs are incurred and charged outside of fees.

In order to provide costs as relevant to NSWTG as possible we have considered the fee for a client base most relevant to NSWTG. We have restricted the comparison to a client base that would be served by the private sector. This does not, in some cases, cover low value clients of NSWTG.
2 The private market for relevant services

The private market provides a number of services that are similar to those of NSWTG. The private market is highly fragmented, with many smaller operators (such as solicitors) providing the services rather than a small number of dominant service providers. The focus of the information collected in this report is on trustee companies. Law firms also offer trustee services and will-making, however very little fee data was available for these providers.

In each section below, we discuss the extent to which the private market is competitive for each type of service, the coverage of information collected and the relevance of services to those provided by NSWTG.

Extent of limitations on competitiveness of the private market

Government intervention may mean that a private market cannot be considered competitive. In the case of services provided by the NSWTG, there are a number of regulatory requirements, as set out in table 2.1.

In most instances the private markets are competitive. For low asset clients there does not appear to be a significant private sector market.

2.1 Extent to which private market is competitive

<table>
<thead>
<tr>
<th>Service</th>
<th>Competitiveness of market</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trust management</td>
<td>Charitable trust fees are set by the Corporations Act 2001 (Cth), meaning there is no competitive market for Charitable trust management. Other trust management services are competitive. The private sector does not typically provide services for low asset clients.</td>
</tr>
<tr>
<td>Will-making and executor services</td>
<td>Will making services are competitive, however fees for probate are fixed. Executor services are competitive, although there is not necessarily a market for low asset clients.</td>
</tr>
<tr>
<td>Powers of attorney</td>
<td>Fully competitive market for the writing and administration of powers of attorney. The private sector does not typically provide services for low asset clients.</td>
</tr>
<tr>
<td>Financial management</td>
<td>Potentially non-competitive, with NSWTG approval of fees required. Additionally the court may refuse to allow fees it deems excessive based on the advice of NSWTG, who acts to supervise private financial managers.</td>
</tr>
</tbody>
</table>

Source: The CIE.
Companies surveyed in benchmarking exercise

The sample of businesses that have been surveyed has been collated from the membership of the Financial Services Council and web searches. The businesses covered are set out in table 2.2. Discussions have also been held with a number of other businesses, from which information has not been able to be provided in as consistent a form as available from the sample chosen.

2.2 Companies surveyed

<table>
<thead>
<tr>
<th>Company</th>
<th>Trust management</th>
<th>Executor services</th>
<th>Will making</th>
<th>Powers of attorney</th>
</tr>
</thead>
<tbody>
<tr>
<td>Perpetual Trustees</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>ANZ Trustees</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Equity Trustees</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Sandhurst Trustees</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>The Trust Company</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>National Australia Trustees</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Australian Equity Trustees</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Tasmanian Perpetual Trustees</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

Source: The CIE.

Coverage of private market

We conducted consultations with traditional trustee companies and law firms who provide similar services to NSWTG to obtain the following information:

- Would clients similar to the NSWTG typical client be serviced by the trustee company/law firm or is their asset value too low?
- What is the balance between fixed fee and hourly rate remuneration for clients similar to the typical NSWTG client?
- In practice, to what degree do fees charged match the maximum fees prescribed in the fee schedules?

The results of consultations are discussed in Chapter 4 of this report, alongside results.
3 Presentation of cost benchmarks

Cost benchmarks in this report are presented to align to asset tiers for NSWTG clients, as long as this is within the range of clients that the private sector would service. In a number of cases, the private sector does not appear to provide services for low value clients. In these cases, hence no benchmark is provided for the low asset tier and the benchmark is instead for the minimum asset level serviced by the private sector.

NSWTG client base

Table 3.1 summarises the assets of clients for each of the service categories.

3.1 NSWTG Client Characteristics for high, medium and low asset tiers

<table>
<thead>
<tr>
<th>Type of service</th>
<th>High</th>
<th>Medium</th>
<th>Low</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Proportion</td>
<td>Assets</td>
<td>Proportion</td>
</tr>
<tr>
<td></td>
<td>Per cent</td>
<td>$</td>
<td>Per cent</td>
</tr>
<tr>
<td>Trusts</td>
<td>6</td>
<td>763 173</td>
<td>7</td>
</tr>
<tr>
<td>Estates</td>
<td>39</td>
<td>707 902</td>
<td>18</td>
</tr>
<tr>
<td>PoA in force</td>
<td>45</td>
<td>644 398</td>
<td>24</td>
</tr>
<tr>
<td>Direct financial management</td>
<td>9</td>
<td>946 721</td>
<td>7</td>
</tr>
<tr>
<td>Private financial management a</td>
<td>3</td>
<td>322 218</td>
<td>5</td>
</tr>
</tbody>
</table>

Note: Additionally, data on the income of typical clients under direct financial management is available.
Source: NSWTG data.

To determine the fees charged by trustee companies for clients with different asset levels we develop a sample of total fees for each level of typical client. These fees are combined into an average service fee by weighting the average fee for each tier by the proportion of the NSWTG client population that tier represents. This is only done for the asset tiers covered by the private sector.

The formula used to calculate the average fee charged for a trustee service is as follows:

\[
\text{Average fee} = \text{total fee}_{\text{low}} \times \text{proportion}_{\text{low}} + \text{total fee}_{\text{medium}} \times \text{proportion}_{\text{medium}} + \text{total fee}_{\text{high}} \times \text{proportion}_{\text{high}}
\]

Coverage of private sector

The private sector companies for which information has been collected do not provide services to lower asset clients for trust management and Power of Attorney.
administration. Therefore, the private data is presented only over the asset value range where the private sector is considered to provide services.

The minimum threshold for private sector services is set as the asset level at which clients do not face binding minimum fees from any trustee companies. This affects each category of service as follows:

- **Trust administration**: private data is presented for clients with asset values above $300,000 (the ‘lowest private sector asset value’), below which there is no trustee company providing the service without binding minimum fees.

- **Executor services**: Only some trustee companies charge minimum fees for executor services. Therefore, we present average fees across the entire range of client asset values, excluding the fees of trustee companies with prohibitively high minimum fees for client tiers where those fees are binding.

- **Power of attorney drafting**: These fees are not dependent on client asset value, and thus are not affected by this issue.

- **Power of attorney administration**: These fees are presented for clients with asset values above $136,364 (the ‘lowest private sector asset value’), below which there are no trustee companies without binding minimum fees.

- **Direct financial management**: Fee charged by private financial managers are used to produce benchmarks for direct financial management. The client profile serviced from the data available is for assets higher than $100,000. Given this, we present benchmarks for the medium and high NSWTG client tiers only.

- **Private financial management**: There are no private sector benchmarks for the supervisory service provided by NSWTG.

**Estimation of income component**

Estates commonly charge a fee on the income earned by the estate. The sources of income may include rent, interest payments, and dividends among others. In order to estimate the total fees charged for estate administration, we have estimated the income earned by estates.

We estimate the flow of income as a proportion of the assets of an estate. We estimate the rate of return on assets of the estate/trust as being the sum of average nominal returns to government bonds and a Market Risk Premium (MRP).

Our formula for the calculation of income generated by an estate is as follows:

\[
\frac{\text{Income}}{\text{Assets}} = (1 + \text{real gov’t bond rate}) \times (1 + \text{inflation}) - 1 + \text{MRP}
\]

The real government bond rate is the average indexed yield on government bonds over the past 10 years, which is 2.29 per cent. Inflation is set equal to the midpoint of the RBA
target inflation band of 2-3 per cent, therefore 2.5 per cent. Consistent with the approach specified by IPART’s *Review of WACC Methodology*, we use a MRP of 6 per cent.

Certain trustee companies such as Perpetual and National Australia Trustees offer discounted fees where a component of the assets of an estate (or less commonly trust) is a family home. Tasmanian Perpetual Trustees defines a family home (for these purposes) to be a home held jointly under the names of the deceased and the spouse. We have assumed that the family home is an asset held by only the high and medium value typical clients, and that it is 58 and 17 per cent of the gross value of the estate for each tier respectively. This is based on the average proportion of household assets held in the form of the primary residence for a middle and low wealth household respectively.

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4 Benchmarks for costs

Average costs fees charged by trustee companies have been determined by calculating the fees charged for servicing the low, medium and/or high asset clients. These tiers are based on the NSWTG client profile or on the characteristics of the private sector client base where this is more appropriate. All costs are inclusive of GST.

Generally, fees for trusts, will making and estate management and power of attorney and financial management are calculated using specified fee rates. Trustee companies have a legal obligation under the Corporations Act 2001 (Commonwealth) to report their fees in the Financial Services Guide published by that company.

Where we use the NSWTG client profile tiers, we produce an estimate of the average fee charged, which is the fee charged for each tier of client (high, medium and low) weighted by the proportion of the NSWTG client population that comprises that tier.

Trust Management

Results

Table 4.1 shows the benchmarks for trust management costs. These are the average fees charged for each client tier. The annual fee excludes companies that charge a one-off capital commission and an income fee, rather than an annual fee, and an establishment fee. We report results for two client tiers.

1 Clients with an asset level equivalent to the high tier of clients serviced by NSWTG
2 Clients with an asset level equivalent to the lowest amount of assets at which the private sector provides services — which we term the ‘lowest private sector asset value’. This value is assumed to be the lowest level of assets where there is at least one trustee company providing trust management services without a binding minimum fee. For trust management this is $300 000.

Only 6 per cent of NSWTG clients have asset values greater than $300 000, meaning that the range of private fees we present covers a small minority of the NSWTG client base. This reduces the reliability of the estimate of fees and means that substantial adjustment must be made to the estimate in order for it to be taken as a benchmark for private sector costs.
4.1 Benchmarks for trust management costs

<table>
<thead>
<tr>
<th>Size of asset</th>
<th>Average</th>
<th>Median</th>
<th>Confidence Interval for fees</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fee</td>
<td>Fee</td>
<td>Lower bound</td>
</tr>
<tr>
<td></td>
<td>Share of assets</td>
<td>Share of assets</td>
<td>Share of assets</td>
</tr>
<tr>
<td></td>
<td>$</td>
<td>Per cent</td>
<td>$</td>
</tr>
<tr>
<td>Annual fee</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>10 669</td>
<td>1.40</td>
<td>10 494</td>
</tr>
<tr>
<td>Lowest private sector asset value</td>
<td>4 088</td>
<td>1.36</td>
<td>4 125</td>
</tr>
<tr>
<td>Establishment fee</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>6 526</td>
<td>0.86</td>
<td>6 526</td>
</tr>
<tr>
<td>Lowest private sector asset value</td>
<td>3 117</td>
<td>1.04</td>
<td>3 300</td>
</tr>
</tbody>
</table>

Note: Lower bound and upper bound are based on a 90 per cent confidence interval. All figures rounded to the nearest dollar. We have excluded fees of providers who charge a once-off capital commission on the gross value of the trust’s assets. There were 5 companies that specified annual trust management fees in fee schedules.

Source: The CIE.

Chart 4.2 illustrates the annual asset fees charged by each trustee company. It shows that AET and Perpetual charge a minimum annual fee of $4125. The chart also shows that the marginal fee rate charged by a few companies (such as ANZ trustees and NAT) declines as asset value increases, however this decline occurs at an asset level that is higher than the asset level of the high tier NSWTG client. Generally, fees for trust management are a constant proportion of assets within the range of asset values represented in the NSWTG client population.

4.2 Trust management annual asset commission by trustee company

Note: ANZ does not provide trust management services for trusts with an initial gross asset value of $500 000, therefore the fees charged at that asset value are not shown.

Source: Trustee company fee schedules, The CIE.
Qualifications on findings

Fee structures

Trust management fees are capital commissions on the gross values of the assets of the trust. A capital commission is generally charged annually (an annual fee) and at the commence of trust management (an establishment fee). The marginal fee rate declines with respect to the value of trust assets. Some companies place minimum values on the annual and establishment fees, and also may set a minimum initial trust value (e.g. ANZ trustees).

Establishment fees are sometimes not charged for testamentary trusts where the trustee company providing trust management services is the executor of the estate. In the case of estimating the average fee for each client tier, fees from these providers have been included.

We have excluded fees of providers who charge a once-off capital commission (a form of establishment fee) and an income fee from the calculation of average fees. This fee structure is of a substantially different character to the annual plus establishment fees structure and it was not deemed appropriate to try and convert these once-off-fees into annual charges based on the average time a trust is managed. Additionally, there was sufficient data available from other trustee companies to produce a reasonable estimate of the average annual fees for trust management.

Trustee companies also present hourly rates for trust management services beyond what is included in the annual fees (including income fee) and establishment fee. Consultations with trustee companies indicated that charges for additional hourly trust work were not common, especially for low-value estates. They usually relate to legal charges, such as where legal claims are made against a trust and litigation services are required.

NSWTG charges a monthly account fee for trust management, an income fee and an ongoing trust fee (annual) for trusts being managed for over 2 years. The monthly account fee is not an asset commission like what is charged by the trustee companies, but is rather a fixed rate per month. The ongoing trust management fee is charged in lieu of an income commission, and is based on the value of assets. The family home is entirely excluded from the value of assets of a trust.

Additional charges are levied for taxation investigation and lodgement, which are generally also the subject of additional charges in the private sector. Trustee companies generally engage outside service providers for taxation services and fees are passed on to the client. These fees are set by the third party.

Maximum fees compared to actual fees

Consultations also indicated that actual fees for trust management services were consistently the same as the fees provided in the fee schedule, even where fees were

---

4 The fees in the ANZ Trustees fee schedule have still be used to calculate the average fees for trust management despite the requirement of the minimum value of a trust being $500,000.
stated to be maximum possible fees. That is, some fee schedules stated qualifications such as “the fees & charges above are the maximum rates and may be varied at our discretion”. Negotiation around these fee rates does occur, and is more common for high value trusts, which may otherwise have excessive fees.

**Minimum asset value for trusts**

Trustee companies indicated that the minimum annual fees for trust management may create a floor for client asset value, below which it would not be common for the company to manage the trust. For example, given that the minimum fee of $4125 charged by Perpetual for trust management services, clients with asset values below $300,000 might be less likely to seek trust management with that company and, in any event, Perpetual may recommend to the client that they choose to have their trust management by NSW TG.

The minimum fees charged for trusts are sufficiently high that it means the majority of NSW TG clients (94 per cent) fall below the implied asset value floor.

**Will making**

Traditional trustee company fees for will making are generally different for singles and couples, with a discount usually being applied for couples relative to double the single rate. We present fees for single wills and wills for couples.

**Results**

### 4.3 Benchmarks for will making costs

<table>
<thead>
<tr>
<th>Size of asset</th>
<th>Average fee</th>
<th>Median fee</th>
<th>Confidence interval</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
<td>$</td>
<td>Lower bound</td>
</tr>
<tr>
<td>Hourly rate</td>
<td>334</td>
<td>315</td>
<td>281</td>
</tr>
<tr>
<td>Single will</td>
<td>385</td>
<td>385</td>
<td>274</td>
</tr>
<tr>
<td>Couples wills (per person)*</td>
<td>305</td>
<td>330</td>
<td>218</td>
</tr>
</tbody>
</table>

* Fees for will preparation for couples have been converted into a fee per will.

Note: Lower bound and upper bound are based on a 90 per cent confidence interval. Average hourly rate has been calculated as the rate for legal counsel, rather than administrative staff or senior managers/counsel. Amounts have been rounded to the nearest cent. Couples wills are reported in fee schedules as a combined fee for two wills, which has been converted to a fee per person.

Source: The CIE.

---

Qualifications on findings

Fee structures

Single wills generally give the best indication of actual costs for will making, because they involve the preparation of one will document. There are fixed costs to the preparation of the document, and the average cost per person is lower for couples than for singles. For instance, average search costs and information gathering costs per person are reduced. The information that must be gathered from the client is likely to be similar for a couple, and therefore actual costs are lower per person.

We have also calculated the average hourly rate for will making. There are more observations of the hourly rate, because certain trustee companies (such as Perpetual) do not provide the fee per will, but rather only the hourly rate for will-preparation. It is understood that the fixed rates for will preparation (singles or couples) generally involve 1-1.5 hours of work per client.

The sample of hourly will making fees in the schedules includes hourly fees charged by companies for complex will-related work on top of a fixed fee for the will. Complex will work would require work by legal counsel (rather than administrative staff) and therefore fees may be higher for that work.

NSWTG does not charge a fee for drafting of wills.

Maximum fees compared to actual fees

Will-making is consistently charged at the rates published in the fee schedules, with set processes and meeting times to draft the wills. There is no relationship between assets and charges for will-making. Any additional time required for drafting of complex wills or travel to take instructions from a client is charged at an hourly rate.

Executor services

Results

Table 4.4 shows the average estate administration fees charged by trustee companies. The asset fee is almost always a once-off fee, with an income fee being charged per annum.

We have assumed that the family home is an asset held by only the high and medium value typical clients, and that it is 58 and 17 per cent of the gross value of the estate for each tier respectively. This is based on the average proportion of household assets held in the form of the primary residence for a middle and low wealth household respectively.\(^6\)

---

We have produced an average total fee for estate administration based on the expected time taken to administer an estate. A minimum of 6 months must be taken to finalise an estate, however generally administration takes between 9-12 months. Additionally, the time taken to administer an estate depends on its complexity, and higher value estates (with more assets) are generally more complex to administer. Therefore, we have assumed administration times of 6, 9 and 12 months for low, medium and high asset clients respectively.

The low asset value client tier benchmarks potentially understate the costs of estate administration for those clients, because we have excluded trustee company fees that have prohibitively high minimum fees (The Trust Company and Equity Trustees).

### 4.4 Benchmarks for estate administration costs

<table>
<thead>
<tr>
<th>Size of asset</th>
<th>Average</th>
<th>Median</th>
<th>Confidence interval for fees</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fee</td>
<td>Share of assets</td>
<td>Fee</td>
</tr>
<tr>
<td></td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Income fee per annum</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>2 999</td>
<td>0.42</td>
<td>4 291</td>
</tr>
<tr>
<td>Medium</td>
<td>921</td>
<td>0.54</td>
<td>1 050</td>
</tr>
<tr>
<td>Low</td>
<td>182</td>
<td>0.54</td>
<td>207</td>
</tr>
<tr>
<td>Average</td>
<td>1 418</td>
<td>0.50</td>
<td>207</td>
</tr>
<tr>
<td>Total fee over duration of estate administration</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>27 190</td>
<td>3.84</td>
<td>23 967</td>
</tr>
<tr>
<td>Medium</td>
<td>7 814</td>
<td>4.62</td>
<td>7 908</td>
</tr>
<tr>
<td>Low</td>
<td>1 615</td>
<td>4.84</td>
<td>1 571</td>
</tr>
<tr>
<td>Average</td>
<td>12 745</td>
<td>4.41</td>
<td>11 481</td>
</tr>
</tbody>
</table>

Note: Lower bound and upper bound are based on a 90 per cent confidence interval. The asset fee accounts for different fees applied to homes managed as part of the estate. All figures rounded to the nearest dollar. Mutual Trust fees have not been included in these estimates of average fees. We assume the time taken to administer an estate is 6, 9 and 12 months for the low, medium and high clients respectively. The sample is comprised of 8 companies that provided fees in fee schedules. The low asset value client tier benchmarks potentially understate the costs of estate administration for those clients because we have excluded trustee company fees that have prohibitively high minimum fees (The Trust Company and Equity Trustees).

Source: The CIE.

Chart 4.5 illustrates the annual asset commission charged on the gross assets of the estate for each trustee company. This does not include any discount applied to the value of a family home, nor does it include an income fee. There is a clear trend of declining marginal fee rates with respect to estate value among the sample of companies.

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4.5 Executor services annual asset commission by Trustee Company

Note: These fees exclude discounts or reduced rates for the value of a family home as part of an estate. The average data series does not include discounts for the family home, and it includes the minimum fees charged by The Trust Company and Equity Trustees, whose fees for low tier clients have been excluded from the benchmarks.

Source: Trustee company fee schedules, The CIE.

Qualifications on findings

Fee structures

Estate services have an income fee component charged on income earned by the estate. Our method for estimating the income component of estate administration fees has been discussed in Chapter 3.

Certain trustee companies offer lower capital commission rates for assets in the form of the ‘family home’. Tasmanian Perpetual Trustees defines the ‘family home’ as a home held jointly under the names of the deceased and their spouse. This discount is generally in the form of a different capital commission rate applied to the family home. Alternatively, the family home may be entirely excluded from the calculation of the gross value of the estate, or may be subject to a reduced weighting (usually 50 per cent).

Trustee companies also present hourly rates for estate management services beyond what is included in the capital commission and income fee. Consultations with trustee companies indicated that charges for additional hourly trust work were not common, especially for low-value estates. They usually relate to legal charges, such as where legal claims are made against a estate and litigation services are required.

NSWTG charges fees for estate administration based on a sliding scale of asset commission. This is not an annual fee or once-off fee, but rather a commission on assets when they are realised or transferred. A monthly account-keeping fee and income fee are charged. The income fee on rent is lower. The commission on the value of a matrimonial home is lower, which is analogous to the family home discount that is part of some private sector fee structures. Finally, no commission is charged on assets owned as joint tenants.
**Maximum fees compared to actual fees**

Consultations also indicated that actual fees for estate administration were consistently the same as the fees provided in the fee schedule, even where fees were stated to be maximum possible fees. Some negotiation may occur for high value estates, however this does not apply to estates within the typical client base of NSWTG.

**Minimum asset value for estates**

We have excluded The Trust Company and Equity Trustees from the calculation of the average fee for the low and medium clients, because their minimum fees of $11000 and $12750 respectively for estate administration were prohibitively high for low and medium value clients. Consultations with these companies indicated that they would generally not pursue clients where the minimum fee was binding.

In contrast, we have included Tasmanian Perpetual Trustees despite the fact they have a minimum estate administration fee of $1100. This fee is sufficiently low that it is likely it represents the real fixed costs of administration for a small estate. That is, it is unlikely this minimum is sufficiently high to mean that it acts, in practice, as a minimum value of assets below which Tasmanian Perpetual Trustees does have any clients.

**Power of Attorney**

We have categorised Power of Attorney (PoA) services into PoA writing/establishment and PoA administration.

**Results**

Table 4.6 shows benchmarks for Power of Attorney costs. These have been determined using fees charged for power of attorney services.

We have determined the average annual and establishment fees for power of attorney administration for the high tier of NSWTG PoA clients and for clients with the lowest asset value we consider is serviced by the private sector. This value is assumed to be the lowest level of assets where there is at least one trustee company providing PoA administration services without a binding minimum fee. That is, for clients with assets of $136 364, Tasmanian Perpetual Trustees does not have a binding minimum fee, with the fee being calculated using the sliding capital commission scale.

59 per cent of NSWTG clients have asset values greater than $136 364, meaning that the range of private fees we present covers the majority of the NSWTG client base.
4.6 Benchmarks for Power of Attorney costs

<table>
<thead>
<tr>
<th>Size of asset</th>
<th>Average Fee</th>
<th>Share of assets</th>
<th>Median Fee</th>
<th>Share of assets</th>
<th>Lower bound Fee</th>
<th>Share of assets</th>
<th>Upper bound Fee</th>
<th>Share of assets</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
<td>Per cent</td>
<td>$</td>
<td>Per cent</td>
<td>$</td>
<td>Per cent</td>
<td>$</td>
<td>Per cent</td>
</tr>
<tr>
<td>Power of Attorney administration annual fee</td>
<td>9 368</td>
<td>1.45</td>
<td>9 405</td>
<td>1.46</td>
<td>6 809</td>
<td>1.06</td>
<td>11 927</td>
<td>1.85</td>
</tr>
<tr>
<td>Lowest private sector asset value</td>
<td>3 342</td>
<td>2.45</td>
<td>2 750</td>
<td>2.02</td>
<td>854</td>
<td>0.63</td>
<td>5 829</td>
<td>4.27</td>
</tr>
<tr>
<td>Establishment fee</td>
<td>4 885</td>
<td>0.76</td>
<td>4 885</td>
<td>0.76</td>
<td>-1 994</td>
<td>-0.31</td>
<td>11 764</td>
<td>1.83</td>
</tr>
<tr>
<td>Lowest private sector asset value</td>
<td>2 338</td>
<td>1.71</td>
<td>2 338</td>
<td>1.71</td>
<td>451</td>
<td>0.33</td>
<td>4 224</td>
<td>3.10</td>
</tr>
<tr>
<td>Power of Attorney writing</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single</td>
<td>212</td>
<td></td>
<td>220</td>
<td></td>
<td>169</td>
<td></td>
<td>254</td>
<td></td>
</tr>
<tr>
<td>Couple</td>
<td>168</td>
<td></td>
<td>165</td>
<td></td>
<td>132</td>
<td></td>
<td>203</td>
<td></td>
</tr>
<tr>
<td>Hourly</td>
<td>383</td>
<td></td>
<td>385</td>
<td></td>
<td>318</td>
<td></td>
<td>448</td>
<td></td>
</tr>
</tbody>
</table>

\(^a\) The lower bound of the confidence interval is negative because of the wide range in establishment fees ($1375-8394.91) and the small sample size of 2.

Note: Lower bound and upper bound are based on a 90 per cent confidence interval. The asset fee accounts for different fees applied to homes managed as part of the estate. All figures rounded to the nearest dollar. Mutual Trust fees have not been included in these estimates of average fees. No proportion results for Power of Attorney writing because the service is provided without regard to the assets of the client. Three companies provided power of attorney fees in fee schedules.

Source: The CIE.

Chart 4.7 shows the annual asset fee for power of attorney services for each trustee company that provided their fees in a fee schedule. It shows that there are significant minimum fees and that the marginal fee rate is declining with respect to increases in the gross value of assets.
4.7 Power of Attorney services annual asset fee by Trustee Company

Data source: Trustee company fee schedules, The CIE.

Qualifications on findings

Fee structures

Only three companies specified fees for Power of Attorney administration. However Tasmanian Perpetual Trustees and Perpetual Trustees (yet not Sandhurst Trustees) indicated that the fee was for administration under Power of Attorney provisions or administration orders/financial management. This supports the conclusion that power of attorney services and financial management services are similar and likely to have similar costs.

Some additional fees may be charged for services or advice outside of what is included in fees for private financial management. Tasmanian Perpetual Trustees indicated that additional fees may be charged for specialist advice. Likewise, Equity Trustees mention that they will be entitled to charge reasonable fees for preparing and lodging returns for the purpose of tax or duty assessments.8

Maximum fees compared to actual fees

Fees for Power of Attorney administration are charged in the absence of capacity for the individual to make decisions, and therefore we consider it unlikely that fees less than the maximum fee level would be charged. While Tasmanian Perpetual Trustees indicated that fees may be charged for specialist advice, consultations with trustee companies indicated that fees for trustee services published in the fee schedules are generally the same as the actual fees charged, with negotiation generally taking place only for high value clients.

8 Fee Schedule, Equity Trustees.
Minimum asset value for PoA clients

All trustee companies providing Power of Attorney services charge minimum annual fees. Tasmanian Perpetual Trustees charges the lowest minimum annual fee ($1500). This minimum fee and the 1.1 per cent annual fee rate implies that below an asset value of $136,364, clients pay the minimum fee. We have selected this as the asset level for the low client tier. Below this level, minimum fees are binding and therefore potentially prohibitively high.

Direct Financial Management

We can infer costs for direct financial management through private financial management fees data collected by NSWTG. NSWTG supervises private financial managers and has the authority to approve or deny fees that trustee companies seek to charge for this service.

That is, we determine benchmarks for direct financial management costs by examining fees charged by trustee companies for private financial management services.

We have not determined benchmarks for the low asset client tier because we consider that the market has a floor on asset value of $100,000. Therefore, given the average asset value of the low tier is $19,837, there is no private sector benchmark for serving these clients.

The lowest asset value among privately managed clients is $107,027 which has informed our selection of the $100,000 floor on asset value. There is no fee schedule, only a sample of fees charged, and therefore it is not possible to state the fee charged to a client with $100,000 in assets (the ‘lowest private sector asset value’). We present the average/median fees in the sample for each client tier.

Results

The results of benchmarks for fees for direct financial management are shown in table 4.8. These results use fees charged by private companies that are approved by NSWTG.

Note that the private sector benchmarks for Power of Attorney offer an alternative source of information with which to consider costs for direct financial management, as the activities are similar and trustee companies generally have the same fee structure for Power of Attorney and direct financial management (table 4.6). The benchmarks for Power of Attorney could also be used to consider the fee structure (such as establishment fee versus ongoing fee) for direct financial management.
4.8 Benchmarks for direct financial management costs

<table>
<thead>
<tr>
<th>Size of asset</th>
<th>Average</th>
<th>Median</th>
<th>Confidence interval</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fee $</td>
<td>Share of assets</td>
<td>Fee $</td>
</tr>
<tr>
<td>Private financial management total fee</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>9 718</td>
<td>1.03</td>
<td>8 842</td>
</tr>
<tr>
<td>Medium</td>
<td>2 994</td>
<td>1.89</td>
<td>2 773</td>
</tr>
</tbody>
</table>

Note: Lower bound and upper bound are based on a 90 per cent confidence interval. We have excluded fee data from the sample for client records that indicated an accounting period of less than one year because these records would not give the fee charged over a year.

Source: The CIE.

Qualifications on findings

Fee structures

We have not been able to determine the structure of fees charged by private financial managers (where the manager is a trustee company). The source of the fees is a NSWTG database of private financial managers including the fees charged (over which they have oversight), and this data source indicates the total fee charged in one year. Therefore, it cannot be disaggregated into, for example, an establishment fee and an annual fee. NSWTG have indicated that the fee data supplied is the fee charged in one year.

Minimum fee for financial management clients

There are no clients with asset values under $100 000 in the NSWTG private financial managers database, which implies there is an asset value floor below which trustee companies do not provide private financial management services. Therefore, we have produced no benchmark for the low asset value client tier.

Fee schedules as an alternative source of benchmarks

Trustee companies that specified fees for power of attorney administration indicated that these fees also applied to financial management services. Tasmanian Perpetual Trustees and Perpetual Trustees indicated that fees for Power of Attorney administration also applied to financial administration (‘Guardianship’ in Tasmania).

We believe the fees from the fee schedules will be a worse indicator of costs given that the actual fees charged by private financial managers are collected by NSWTG. The fees from fee schedules for financial management may be useful to indicate the suitable structure of fees (balance between establishment and annual fees). Therefore, table 4.6 is relevant in showing the benchmarks for Power of Attorney which can indicate the structure of financial management fees.
However, additionally, ANZ Trustees gave fees for financial management but not power of attorney administration. ANZ trustees indicated that the minimum initial value of assets must be above $500,000. This is prohibitively high for typical NSWTG clients.

**Private Financial Management**

We have not produced benchmarks for the service provided by NSWTG in supervising private financial managers. There is no private sector equivalent service to compare this to.