

Review of the NSW TG  
Independent Pricing and Regulatory Tribunal

5 June 2014

Dear Sir/Madam

### **A fair and transparent fee structure for the NSW Trustee & Guardian**

The NSW TG has sent me a letter encouraging me to make a submission to IPART.

I am now a private manager for a family member. In the past, that family member was managed directly by the Office of the Protective Commissioner. So I have direct experience of both types of fees and services.

#### General comment: Cross-subsidies between clients

One of the accepted meanings of "fair" is that clients with the capacity to pay should not systematically pay more than the costs of the services they receive (in other words, they should not cross-subsidise the fees paid by other clients).

If clients with low assets are to be subsidised (and I believe that they should be subsidised for equity reasons), then this should be done by government subsidy, not by other clients. A subsidy from one client to another client has the nature of a charitable donation. However, both the NSW TG and private managers are specifically prohibited from making charitable donations out of client funds. *The current practice of subsidising low net worth clients by high net worth clients is therefore in contravention of the NSW TG's own prohibition.*

#### Issue 7: Appropriate level of fees

*The fee structure varies between privately managed protected persons, who are charged on a percentage of income basis, and directly managed protected persons, who are charged on a percentage of assets basis. This distinction is logical and it should continue.* The service provided by NSW TG for privately managed persons consists mainly of checking the annual accounts which have been prepared by the private manager. The annual accounts are income accounts. The services provided for directly managed protected persons include management of their entire estate. This task is more closely related to assets than to income.

#### Issue 9: Caps on Fees

The caps introduced in the 2008 review were intended to ensure that those with high wealth or high income do not pay more in fees than the cost of providing the services they receive. However, the caps are a very crude measure of the cost of the services. It is arguable that those with high wealth and high income but estates which are simple to manage and supervise continue to pay more the cost of providing the services they receive, and thereby continue to cross-subsidise other clients.

The solution is that clients should pay either the cap or the actual cost of providing the service, whichever is less.

If caps were to be indexed without regard to the cost of providing the services, the degree of cross-subsidy from large but simple estates would increase.

Therefore I submit that *caps should not commence to be indexed until NSWTG is able to calculate the cost of services provided to each client.*

#### Issue 11: Funding shortfalls

*For equity reasons, all shortfalls should be met by persons without a disability, i.e. the taxpayer.*

#### Issue 12: Level of service provided by the NSWTG

For legal reasons I am unable to comment on this topic.

#### General comment: Regulation

I strongly believe that regulation should continue, because the NSWTG does not operate in a competitive market and because the use of the NSWTG's services may be imposed by a Court against the wishes of the both the client and the private manager. *NSWTG has a statutory monopoly in the provision of private management supervision services. It is the public interest for any monopoly to have its prices regulated.*

Yours sincerely

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Alan Sauran