

## **The Independent Pricing and Regulatory Tribunal**

Re: Issues Paper 2104

A fair and transparent fee structure for the NSWTG

I have been invited by the NSWTG to participate by furnishing comment pertaining to the above Issues Paper. My comments follow below, using the same numbering system as that of the Issues Paper.

1. In general the broad principles used for the 2008 review are probably appropriate for the current review. Having said this, I do however believe that IPART should additionally consider qualitative factors in its review. Having a schedule of fees is one thing, but if the service delivery is lacking, sub-standard or tardy, should the NSWTG be entitled to collect such fees?

The NSWTG is largely a monopoly provider and as such there appears to be no accountability mechanisms in place to protect the best interests of its clients. The Guardianship Tribunal appears to be extremely reluctant to vary orders, so in affect the NSWTG is protected from competition and accountability.

In view of this, I believe that fees for services should not only be regulated but also be subject to performance based criteria.

2. I agree with the preliminary view to recommend fees for identified NSWTG services, but again subject to performance based criteria.
3. No particular comment
4. The only comment I wish to make is that whatever benchmarks are adopted and methodology used to estimate efficient costs, these should be subject to performance criteria and accountability.
5. In essence the interpretation of "clear, fair and transparent" fee structure is appropriate, however there is disconnect between the definition of "fair" and the

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application of asset based caps in the fees structure. The definition of “fair” includes “clients with the capacity to pay should not systematically pay more than the cost of services they receive.”

Potentially an asset rich client could pay \$15000 p.a. for services which may not amount to more than a handful of transactions per month. So where is the fairness in a situation such as this? In fact the application of a capped fee is systematic, thus in contradiction with the definition of “fair”.

Perhaps consideration should be given to a fee structure based on frequency and complexity of services provided such that true “fairness” is applied. The comments in 1. above are also relevant.

6. See 5. Above.
7. Fees should be based on the actual services provided in an efficient and timely manner rather than on asset based criteria. Potentially this may mean that some clients may pay more and others less, but a true user pays type fee structure is the most fair and appropriate structure. At present there is a monopoly situation which denies the potential for clients to receive more cost effective, more efficient and perhaps more competitive services.  
The Government should provide for those that cannot afford the necessary services.
8. Yes.
9. The current caps are not necessarily appropriate to all clients of NSWTC (see 5. above). It is therefore difficult to say whether the current caps are at the right levels; the private market may be a more appropriate benchmark to aid in determining this. With respect to indexation, perhaps the CPI or market rates could be used as a guide for indexation.
10. Some solicitors offer half-price and nominal price structures for preparing wills for the elderly. I don't believe the NSWTC should charge market rates for such services, but perhaps should look at pricing initiatives offered up by some sectors of the private sector.
11. The Government should meet funding shortfalls. The NSWTC should however be audited with the aim of obtaining efficiency gains, internal cost reductions and right-sizing as appropriate.
12. I can't comment as to whether the service provided by the NSWTC has improved over the last 5 years. I can only offer opinion based on my dealings with NSWTC over the last two and a half years. As far as this is concerned, the quality of service has been sub-standard and inefficient in managing my mother's affairs. During this time, the NSWTC has:
  - a. been extremely tardy in attending to a number of outstanding accounts
  - b. incurred late fees in attending to overdue accounts
  - c. wasted money on what appeared to be a superfluous insurance policy

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- d. not attended to mum's wishes
  - e. allowed rental leases to expire and not affected renewals
  - f. has not affected market rate rental, thus depriving mum of optimal income
  - g. allowed agistment leases to lapse and not affected renewals
  - h. not attended to maintenance of rental properties
  - i. not responded to correspondence
  - j. not made any effort to secure optimal interest rates for term deposit moneys.

There are a number of issues with the NSW TG which could easily be remedied by varying the Guardianship order, however the Tribunal considers only the NSW TG as having the "expertise" to handle mum's affairs. The Tribunal was quite accepting of the NSW TG simplistic statement of "there have been delays" and the suchlike and have rejected two applications to date (despite evidence to the contrary).

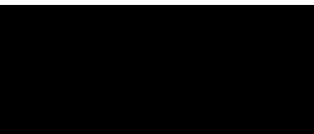
Unfortunately we have a bureaucratic monopoly situation which by all appearances is impossible to escape from. Consequently freedom of choice is anything but free and there is no choice when it comes to services.

I am sure that my mum's case is not an isolated one of NSW TG mismanagement and under-delivery. I think it's fair to say that a comprehensive overhaul of practices is required, and importantly clients are given freedom of choice.

13. Yes.

14. If the NSW TG was in a position to deliver services in a satisfactory, efficient and economic manner, I would say yes. As things stand today it would not make sense to use an internal fee structure as a benchmark to assess fees charged by private managers. It would be akin to comparing apples with oranges.

Sincerely,



Z. Huszar

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