Agenda **Roundtable**

Topic	**Review of fees of the Office of the Protective Commissioner**
Date	7 August 2008
Time	2.30pm to 5.30pm
Location	IPART Offices in the BT Tower Level 8, 1 Market Street, Sydney

2.15 pm	Arrival – Tea and Coffee served
2.30 pm	Roundtable commences
2:35	Chairman's opening remarks
2:45	Broad issue - fee-for-service system or current fee structures (both subsidised)? - should client fees be flat reflecting service or % of assets/income?
3:15	Fee structure – Directly managed clients ▼ 1.1% management fee ▼ 1% establishment fee ▼ 0.5% investment fee
3:45	Fee structure – privately managed clients ▼ 4% income fee ▼ $100 account fee
4:15	Short break
4:30	Quality of services and Cost of services
5:00	Other issues ▼ Revenue shortfall/subsidy ▼ Deregulating fees ▼ Timing of next review period
5.30	Roundtable concludes

Roundtable Participants

Name	Title	Organisation
Representing IPART		
Dr Michael Keating	Chairman	IPART
Mr James Cox	Tribunal Member	IPART
Ms Sibylle Krieger	Tribunal Member	IPART
Mr Steve Lyndon	Secretariat	IPART
Dr Dennis Mahoney	Secretariat	IPART
Representing the OPC		
Ms Imelda Dodds	Protective Commissioner	OPC
Mr Kevin Robinson	Deputy PC	OPC
Representing organisations		
Mr Robert Ramjan	CEO	Schizophrenia Fellowship
Mr Peter Whitehead	Public Trustee	PT NSW
Mr Mark Grierson	CEO	Disability Advocacy NSW Inc
Mr Jim Simpson	President	Council for Intellectual Disability
Ms Ethel McAlpine	Deputy Director-General	DADHC
Mr Brian Cohen	Chairman	OPC Advisory Council
Mr Ross Ellis	Executive Director	Trustee Corporations Assoc.
Representing OPC clients		
Mr John Mundy		Individual
Ms Jacqui Begbie		Individual

Other expected attendees

Name	Title	Organisation
Mr Peter Graham	Consultant	Ernst & Young
Mr Trevor Lester	Director, Assets	OPC
Mr Bernie Farrell	Director, Finance & Investment	OPC
Ms Francesca Guido	Asst Director, Private Management	OPC
Ms Catherine Peek	Mid North Coast Regional Coordinator	Disability Advocacy NSW Inc
Ms Carol Berry	Executive Officer	Council for Intellectual Disability
Mrs Janet Mundy	(Wife of Private Manager)	Individual
Mr Dennis Ryan	(Private Manager)	Individual

Independent Pricing and Regulatory Tribunal

IPART New South Wales

Review of Fees of the Office of the Protective Commissioner

Roundtable Issues for Discussion

Thursday 7 August 2008

Overview

After considering the written submissions and other information provided by stakeholders, IPART has identified a number of key issues that it wishes to explore at the roundtable discussion. These are set out below.

Current fee structure

IPART is interested in further exploring the benefits and drawbacks of the current fee structure. In the Issues Paper, we argued that fees should be:

- **clear** – fees should be easily understood by clients/stakeholders, suggesting also that fees should be **simple**
- **fair** – fees should not burden clients with limited capacity to pay and they should not exceed the cost of the services provided
- **transparent** – there should be no hidden fees and no surprises when invoices are presented to clients
- **flexible** – there should be room to consider hardship cases and waive fees
- **competitive** – clients should not pay more than the amount that a commercial organisation would charge for similar services.

Many submissions argued that fairness is the greatest weakness, in both of the senses noted above, of the current fee structures for both directly managed and privately managed clients. The social policy aspect of the OPC's services was widely accepted.

Directly managed clients

Many submissions argued that the current fees paid by directly managed clients are high, compared to the services provided, and that fees should not be increased. Some submissions argued that cross-subsidies should be removed and any shortfall should be funded by Government.

1.1% management fee

Management fees cannot be traced back to costs in OPC. When fees cannot be directly related to costs, it is reasonable to put a cap on a fee to limit the amount that clients pay. OPC did this in 2006 when it introduced the caps of $50,000 for the total management fee and $2,200 for the establishment fee.

IPART has attempted to assess whether the caps are reasonable. The Issues Paper attempted two comparisons. First, it noted that the average cost of services to the OPC client group that required the most intensive servicing in 2002/03 was around $10,000 in today's dollars. Second, it noted that the highest price charged for any group of clients for personal financial management by the Public Trustee in Queensland (PTQld) is around $6,000.

A conservative approach might therefore be to suggest that the OPC's ongoing management fee should be capped at a much lower amount than its present $50,000. Of course, reducing the cap will reduce OPC's fee revenues and increase its annual shortfall and call on subsidy finance.

Should the cap on OPC's total management fee be reduced on grounds of fairness?

1% establishment fee

According to Ernst and Young's full cost analysis, the 1 per cent establishment fee only recovered $290,000 of the almost $1m cost of establishing new directly managed clients. This means that the establishment fee may be too low compared to the cost incurred by OPC to set up new clients.

Should the establishment fee be increased and/or the cap lifted above $2,200 to improve the level of cost recovery in establishing new clients?

0.5% investment fee

The investment fee is not capped. The case for not capping it is based on industry practice. Fees are not capped in the private funds management industry. As the submission from the Trustees Corporation Association notes, funds managers are rewarded for the risks they undertake and not simply for the costs they incur.

Investment fees charged by Perpetual Trustees range widely from around 0.3% for cash and bond-type funds up to 4% for specialist funds, depending on their nature.[1] State Street's charges for its range of Indexed Funds are 0.1% to 0.3%. Vanguard's fees on its retail index funds are 0.35% to 0.9%, depending on the type of fund and amount invested.[2]

In essence, OPC's 0.5% is not uncompetitive. That said, the investment fee is more than recovering costs (as Ernst and Young's report shows). Is there a strong argument to change the investment fee from the current 0.5%?

Should the investment fee be increased or decreased from 0.5%?

Another fee issue

IPART would also like stakeholders to discuss the related issue:

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1 The fee range for Perpetual excludes front end fees, advisor commissions, buy/sell spreads, performance fees and fee rebates. http://www.perpetual.com.au/privateclients/4040.htm

2 http://www.vanguard.com.au/Personal_Investors/Fund_performance/Investor_index_funds/Fees/index.aspx

- should management fees be based on a flat fee structure that reflects the level of service provided, as opposed to fees that are based on a percentage of assets or income.

Privately managed clients

Many of the submissions from private managers express concerns about the fairness of the fees. In particular, private managers of long-standing in the OPC could not see the links between the income fee and services rendered. Instead, several felt that they did all the (unpaid) work for their relatives, complied with OPC's requirements and then paid a fee to submit the accounts.

Few stakeholders appreciate the auditing, inspecting and monitoring functions that OPC fulfils to ensure that clients are being fairly treated by their private managers.

4% income fee

In terms of capacity to pay, the income fee takes little or no account of high medical or carer costs since these are not tax-deductible and therefore are not deducted before the OPC calculates "net income". Yet for some clients these costs appear to erode their capacity to pay significantly.

The income fee has three noteworthy features – some income is exempt, the fee is uncapped and the fee is unrelated to the level of services provided.

If a private client's income is derived at least 50% from a Government pension, DVA pension or equivalent overseas pension, the OPC calculates client "net income" by deducting from reported income the maximum rate of the single aged pension plus the value of any allowances (rental, pharmaceutical etc) to which the client is entitled. However it could be argued that financial hardship is more closely associated with low income rather than the sources from which it is derived.

The income fee is uncapped. No reasonable estimates of the maximum cost of servicing private managed clients are presently available to IPART to assist it to indicate what might be a reasonable level to the cap on the income fee.

Some privately managed clients need almost no services other than accounts auditing by the OPC, others require guidance that ranges from minor to quite considerable assistance. The income fee does not reflect these widely differing levels of service.

Should a cap on OPC's income fee be introduced? If so, what would be an appropriate level for the cap?

$100 account fee

At present the account audit fee is set at $100. For many clients with few assets and one source of income this may be a reasonable price. But for clients with several sources of income and several major assets, the fee appears low. Unfortunately, no data are available on the cost of accounts auditing across the privately managed client base.

Should the accounts fee be scaled to reflect the complexity of the account audit task?

The changes to the current fees canvassed above, such as lowering caps, are short-term changes to immediately address fairness issues. Even if these changes were made, the OPC's fee structure would not closely reflect the costs of providing OPC's services. The restructure of OPC in 2008/09 provides an opportunity to categorise clients

by the extent to which they make use of OPC's services and to record the costs of services in such a way that fees would be structured to reflect those costs.

To this end, IPART is considering whether a more cost-reflective fee structure should be introduced at the OPC at a later date. This would include subsidies for clients.

Would a subsidised fee-for-service system be more appropriate than OPC's current subsidized fee structures?

Range and quality of OPC's services and their costs

This is a difficult matter to address. IPART is mindful of the difficulties faced by OPC staff in serving clients of widely varying degrees and kinds of disability. At the same time, it is important that OPC's services meet the needs of clients, especially since clients are effectively unable to opt out of OPC management.

The OPC's July submission notes that the effect of its restructure on the cost and quality of its service is expected to be positive, but that it could not be quantified in advance.

IPART is interested in possible key performance indicators (KPIs) by which OPC and others might assess the range and quality of its services. A suite of KPIs helps to focus staff on ways services might be improved. But the number of KPIs should be limited because too many becomes ineffective (and costly to monitor).

OPC currently reports performance in their annual report, covering the areas of staff, complaints, and investment funds performance. Other KPIs may be appropriate as well.

Submissions have suggested that KPIs should include independent client satisfaction surveys, response times and accessibility measures.

Several submissions expressed dissatisfaction with OPC's services on various grounds, including what clients or their private managers perceive to be slow response times.

On physical accessibility, OPC has two offices; one at Parramatta and the other in Clarence St, Sydney. As at 2 July 2008, OPC had 365 of its 8,876 directly managed clients living interstate. Of the 96 per cent who live in NSW, two thirds live in the Sydney metropolitan area and one third do not (Attachment A).

What KPIs should be adopted to monitor OPC's performance?

The Issues paper presented an analysis of OPC's costs at an aggregate level. It has not been possible to establish costs by detailed client groups and/or services. Such information would be crucial if a system of full fees for service with rebates is to be considered. In addition, the costs that should be reflected in fees are the costs of efficiently providing the services.

How should OPC better measure what it costs to provide its services?

Other issues

Size and nature of subsidy

In 2008/09 the NSW Government provided a subsidy of $2.8 million to the OPC. The projected operating deficit of around $4.0 million in 2008/09 will also require funding by Government. In sum, around $6.8 million is the present effective minimum subsidy required to be paid to the OPC.

The size of the subsidy to OPC will increase considerably if the following changes are made:

- introduction of a cap on the income fee charged to privately managed clients, and
- a reduction in the cap on the management fee charged to directly managed clients.

What size of subsidy, given OPC's costs of $31m in 2007/08, would be a reasonable reflection of the social obligations that the OPC seeks to fulfill?

Deregulating fees and the next review

The Issues Paper expressed IPART's view that fees would need to continue to be regulated given the monopoly nature of the OPC's involvement in its clients' financial affairs. However given the impending restructure of OPC and issues related to information quality, IPART is inclined to recommend a shorter period than five years before the next review.

Should OPC's fees be deregulated?

Should the next fees review for OPC be in 2-3 years time?

Attachment A

Geographical distribution of OPC's clients

The following tables show the geographical distribution of OPC's directly managed clients as at 2 July 2008. Estimate of client locations are based on matching client housing postcodes to states (the first table) and to ABS statistical divisions (the second table).

	Directly managed client number	%
NSW	8511	95.9
Vic	48	0.5
Qld	142	1.6
WA	5	0.1
SA	23	0.3
NT	3	0.03
ACT	15	0.2
Tas	10	0.1
No postcode provided	119	1.3
Total	8876	100.0

NSW statistical divisions	Directly managed client number	%
Sydney	5434	63.8
Hunter	852	10.0
Illawarra	515	6.1
Central West	338	4.0
Far West	292	3.4
Mid-North Coast	277	3.3
Northern	205	2.4
Richmond-Tweed	168	2.0
North Western	168	2.0
Murray	138	1.6
Murrumbidgee	89	1.0
South Eastern	34	0.4
Off shore	1	0.01
Total NSW	8511	100.0