RSM Bird Cameron

Office of the Protective Commissioner

Private Management Fees Review

September 2006

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Accompanying this report is the financial model referred to in paragraph 1.8 and represented by the Microsoft Excel file named: 060805_Model v6_OPC Private Management Fee Review.xls

1 Executive Summary

1.1 The Office of the Protective Commissioner (the OPC) is currently performing a review of the current fees and considering a proposal to develop a new fee structure in relation to its Private Management Branch.

1.2 As part of this review RSM Bird Cameron has been engaged to prepare a report for inclusion in a consultation paper for stakeholders.

1.3 This report considers the background material set out in the Scoping Document prepared by the OPC (**Error! Reference source not found.**).

1.4 The OPC's stated objectives of a new fee structure are:

1. To ensure OPC is provided with the resources to enable it to fairly and efficiently undertake its role in the direction and authorisation of private managers;

2. To reduce cross-subsidisation and provide an equitable fee structure; and

3. To increase OPC's ability to recover its costs more directly and transparently.

1.5 The terms of reference for this report, as set out in the Scoping Document, is to develop a new fee structure for private management services that:

(a) charges a set rate for core functions (guided by the principle that fees should be fair and reflect the actual cost of providing the service);

(b) is easy to administer;

(c) is comparable to fees for the same work in other jurisdictions;

(d) removes cross subsidisation between directly managed clients and the private management services; and

(e) generates revenue which meets the full allocated costs of private management services.

1.6 In developing the proposed new fee structure we have considered five base models of price determination as follows:

(i) No fees – funding from NSW Treasury

(ii) Current fees – income fee, investment management fee, annual accounts fee and special fees

(iii) Set annual fee – one equivalent fee amount for all clients

(iv) Hourly rate for core functions – time costing model with variable rate for each function

(v) Set rate for core functions – variable rate for each function without the need for time costing

1.7 In addition, we have considered two combination models that reflect the impact on the level of fees payable by clients if the new fee structure is supplemented by funding from the NSW Treasury. The combination models are set out in section 7 and include:

(i) Set annual fee with NSW Treasury funding

(ii) Set rate for core functions with NSW Treasury funding

1.8 A financial model has been developed within Microsoft Excel which outlines the calculation methodologies applied in each proposed fee model. The financial model accompanies this report.

1.9 The financial model is based upon certain estimates and assumptions which have been provided by the management of OPC's Private Management Branch. These estimates and assumptions include the number of clients or matters per annum and the allocation of staff duties to the core functions. In addition, the cost allocations are heavily reliant upon the survey data provided in Appendix G of the Scoping Document. We have relied upon this information in the preparation of the financial model and in the preparation of this report.

1.10 The impact of the current fee structure and no fees model alternative are outlined at the end of section 3. The current fee structure is compared to the alternate fee models in Section 2 where we have also provided examples of the fees that would be charged to a sample of typical client scenarios.

1.11 Each alternate fee model is based upon a concept of full cost recovery which is explained further in section 3.

1.12 The alternate fee models outlined in sections 4 through 6 are considered against OPC's objectives and guiding principles for a new fee structure, including:

- Recovery of fully allocated costs in a direct and transparent manner;
- Fairness and reflecting the actual costs of providing services;
- Ease of administration;
- Comparability to other jurisdictions; and
- Removal of cross subsidisation.

1.13 The affordability of the proposed fees from each alternate fee model is considered in section 7 together with the impacts of using NSW Treasury funding to cover the fees of those clients below a given income threshold. We have also considered the potential reduction in fees that could be achieved by utilising further NSW Treasury funding up to a level equivalent to the value of funding currently attributable to the private management services branch.

2 Comparison of Price Models

Base Models

2.1 Table 1 below provides a comparison of the fees for four of the base models dealt with in this report. The fifth base model is that of no client fees and the impact of that model on NSW Treasury funding is set out in section 3.

Table 1 Comparison of Fees – Full Cost Recovery

	Year Ended 30 June 2006			
	Fee per Matter ($)			
Core Function	Current Fees Model[2]	Set Annual Fee[3]	Hourly Rate[4] for Core Functions	Set Rate for Core Functions
Directions	519	1,310	1,348	1,340
Accounts	100	100	745	812
Authorised Visitor			4,649	4,864
Director of Nursing Reports			116	112
Investment			1,916	2,095
Real Estate – Sale & Purchase			2,305	2,646
Real Estate – Other[1]			181	-
Guardianship Tribunal – Referrals			1,614	1,550
Guardianship Tribunal – Reports			538	517

1 *Real Estate – Other is expected to have approximately 991 hours per year with a variable number of matters and hours per matter.*

2 *The current fees model Directions fee represents a simple average of the Regulation 4(1)(c) Income Fees and is shown here for comparison purposes only. The actual fees to clients are higher or lower than this amount based upon the client's annual net income.*

3 *Accounts fee with respect to the Set Annual Fee model are separated for comparison purposes only. This fee forms part of the one annual fee proposed under this fee model.*

4 *The fees per matter shown for the Hourly Rate model represent estimates only based upon the average hours per matter. The actual fees charged using this fee model would be higher or lower for each client based upon the actual time spent by OPC support officers.*

5 *The differences between the hourly rate and set rate models for core functions are largely attributable to the different hours spent by support officers at different grades.*

2.2 The estimated fees for the hourly rate model are not substantially different to those for the set rate for core functions model. This is attributable to the similarities in the allocation of costs prior to dividing by the number of hours spent or client matters. That is, the preliminary cost allocations in each case are based upon the time spent by support officers weighted by the salary levels attributable to the different support officers involved.

2.3 It is also noticeable that the fees for Directions in each of the two core functions models are not dissimilar to the set annual fee from the model of the same name.

2.4 It should be noted that the Directions are usually set out at the commencement of the supervision by OPC's private management services. In addition, where reviewable orders are issued the Directions will be revisited after a period of say 6, 12 or 18 months. As such, it is anticipated that each new client will be charged the Directions fee in the first year. In addition, those clients with reviewable orders may be charged this fee twice in the first year or perhaps may be charged the fee again in the second year of supervision (when the directions are reviewed). Existing clients may be charged this fee in later years when circumstances change.

2.5 However, it is highly likely that a client will not be charged an Accounts fee in the first year of supervision. That is because the Accounts will only be reviewed after the completion of the first year of supervision.

2.6 For these reasons it is unlikely that both the Directions and Accounts fees would be charged in each and every year for all clients.

2.7 It is also important to note that the list of fees set out in Table 1 above for the core functions models are not additive for all clients. The core functions models are intended to be "user pays" fee models.

2.8 The table below sets out the way in which these fees would be charged for example client scenarios. These fees are then compared to the current fee model and set annual model.

Table 2 Example Clients – Fee Comparisons

Example Client Details		Year 1	Year 2 & subsequent	Later Years
Example 1				
John is 26, lives at home with his mother (private manager), he has an intellectual disability. His estate consists of savings of $55,000 and a disability pension. John's approximate net annual income is $16,000. In year 2, John's mother is no longer able to care for him he moves out of the family home into a group home. In later years, John's mother dies.	Directions Fee charged Year 1 & Later years, not intervening period Accounts Fee charged from year 2 onwards Director Of Nursing Report from Year 2 onwards (Group Home) Authorised Visitor Report in year 1 to asses home ($4,864 optional) Real Estate sale in later year when mother dies.			
Current Fee Model		915	1,015	1,015
Set Annual Fee Model		1,410	1,410	1,410
Set Fee for Core Functions				
	– investment fee excluded	6,204	924	4,798
	– investment fee included	5,862	1,107	4,596

Table 2 Example Clients – Fee Comparisons				
Example Client Details		**Year 1**	**Year 2 & subsequent**	**Later Years**
Example 2				
Mary 74 resides with her husband (private manager) in their jointly owned property. Mary and her husband have an investment portfolio of some $250,000 some holdings are joint some are not. The Tribunal's Order is reviewable in 18 months. Mary's approximate net annual income is $20,000. In later years, the husband can no longer look after Mary, they move to hostel accommodation requiring payment of a bond.	Directions Fee charged Year 1 & Later years, not intervening period Accounts Fee charged from year 2 onwards An investment fee is charged in year 1 regarding review of the current portfolio. In the later year a Director of Nursing Report is required.			
Current Fee Model		800	900	900
Set Annual Fee Model		1,410	1,410	1,410
Set Fee for Core Functions				
– investment fee excluded		3,435	812	2,264
– investment fee included		3,094	731	2,039
Example 3				
Steve is 84 he has dementia and is currently awaiting placement in aged care accommodation. He owns his house and is a self funded retiree with an investment portfolio of some $675,000 including annuities paying him $20,000 p/a. Steve's approximate net annual income is $50,000 and the investment portfolio is assumed to be held in OPC's Common Fund.	Directions Fee charged in Year 1 only. Accounts Fee charged from year 2 onwards An investment fee is charged in year 1 regarding review of the current portfolio. Certain issues remain unresolved until Year 2 and hence the investment fee is also charged in that year. An Authorised Visitor Report in year 1 to assess home ($4,864 optional)			
Current Fee Model		5,375	5,475	5,475
Set Annual Fee Model		1,410	1,410	1,410
Set Fee for Core Functions				
– investment fee excluded		8,299	2,907	812
– investment fee included		10,849	5,993	4,106
Example 4				
Julianna is a 22 year old single woman with a severe acquired brain injury. She has just received an award of $6.5m. Her father is her private manager . She is supported in the home by her mother with the assistance of professional carers. The mother has sought reimbursement for past gratuitous care. It is assumed that the $6.5m is held in OPC's Common Fund.	Directions Fee charged in Year 1 only. Accounts Fee charged from year 2 onwards An investment fee is charged in year 1 regarding review of the current portfolio. In later years, the father proposes a restructure of the investments and hence the investment fee is charged again. In Year 1, a new home is purchased and the Real Estate fee is charged.			
Current Fee Model		44,500	44,600	44,600
Set Annual Fee Model		1,410	1,410	1,410
Set Fee for Core Functions				
– investment fee excluded		6,082	812	2,907
– investment fee included		37,977	33,231	35,118

1 *Where investment fees are included in relation to the Set Rate for Core Functions Model, the investment fee is equivalent to the amount included within the Current Fee Model amount and component fees for other core functions are reduced. Both amounts are calculated based upon the full rate of 0.5% as set out in Regulation 4(1)(b).*

Combination Models

2.9 The combination models are considered in section 7. It is estimated that providing NSW Treasury Funding of $650,000 will decrease the set annual fee by 22% from $1,270 to $993. A 22% reduction is also expected for the set fees by core function area as demonstrated in Table 15 (page 22). This is in addition to NSW Treasury funding required to subsidise clients with annual net income below a given threshold of $5,000.

Guiding Principles

2.10 Table 3 summarises the ability of each fee model to meet the OPC's guiding principles and objectives.

Table 3 Comparison of Fee Models – Guiding Principles

Guiding Principle	Full Revenue Recovery				NSW Treasury Funding		
(Yes/No or High/Medium/Low)	1.6 ii	1.6 iii	1.6 iv	1.6 v	1.6 i	1.7 i	1.7 ii
Revenue meets fully allocated costs	N	Y	Y	Y	N	N	N
Fair & reflect actual costs of services	L	M	H	H	L	M	H
Cross subsidisation between clients	H	M	L	L	N/A	M	L
Ease of administration	M	H	L-M	M	H	H	M
Transparency	L	M	H	M	H	M	M
Affordability	M	M	M	M	N/A	H	H

Fee models numbered according to the paragraphs containing their description in the Executive Summary

2.11 Further detail of these considerations is contained in later sections of this report.

3 Principle of Full Cost Recovery

3.1 The OPC's objectives in developing a new fee structure include increasing its ability to recover its costs more directly and transparently. Further, the terms of reference for this report include developing a new fee structure that generates revenue which meets the full allocated costs of private management services.

Costs to be Recovered

3.2 The table below summarises the fully allocated costs attributable to the private management branch of the OPC.

Table 4 Costs of Private Management Branch

	Year Ended 30 June			
	2003	2004	2005	2006[1]
Employee Related Expenses	1,445,196	1,273,961	1,446,561	1,541,271
Discretionary Expenses[2]	18,822	12,704	22,585	41,160
Non Discretionary Expenses	265,770	248,099	303,342	273,191
Depreciation	7,064	40,300	48,907	48,336
Total Direct Expenditure	1,736,852	1,575,064	1,821,395	1,903,958
Additional Absorption Costs	1,287,904	1,167,936	1,350,595	1,411,816
Total – Fully Allocated Costs	3,024,756	2,743,000	3,171,990	3,315,774

1 The values for the year ended 30 June 2006 are draft, unaudited values as at 3 July 2006

2 Discretionary expenses have been reduced by the value of sundry income items not reflected in Table 5

3.3 The Additional Absorption Costs reflected in Table 4 are based upon a report prepared in March 2005 by RSM Bird Cameron for the OPC/NSW Treasury which calculated the total costs of service delivery for the organisation using an Activity-Based-Costing methodology. The methodology used in the March 2005 report was consistent with an understanding of the concept of fully distributed costs (or full cost attribution) set out in NSW Government policies and guidelines.

3.4 The OPC's Scoping Document also refers to a Regulatory Impact Statement in August 2003 which performed a similar exercise in determining total costs of OPC services, including absorption costs. RSM Bird Cameron assisted with the August 2003 costing calculations for the Regulatory Impact Statement. We are of the opinion that the later report of March 2005—upon which the additional absorption costs in Table 4 are based—was performed with a higher degree of rigour and additional relevant information regarding the delivery of services within OPC. As such we have disregarded the August 2003 absorption costing information for the purposes of this report.

3.5 The March 2005 report determined that the fully allocated costs for the year ended 30 June 2004 were $2,743,000. We have deducted the direct expenditure from this figure to determine the additional absorption costs for 2004. The absorption costs for 2004 represented 42.5% of the total and this proportion has been used to estimate the absorption costs for the remaining periods.

3.6 It is possible that the indirect services, and consequently indirect (or absorption) costs may have changed since the March 2005 report was issued. However, we do not consider that the changes will be materially different based upon our discussions with OPC management.

3.7 We are aware, however, that organisational changes are occurring within OPC as a result of recommendations from the March 2005 report. Such changes may impact the allocation of absorption costs and we recommend that further consideration be given to this issue prior to finalising a decision on the price of services under a new fee structure.

3.8 We do not consider any changes in the allocation of absorption costs will materially change the outcomes of the analysis in this report regarding fee structure or other terms of reference such as ease of administration and cross subsidisation.

Revenue Recovery

3.9 It is recognised by OPC that the current fee structure applicable to private manager clients does not fully recover either the direct or the fully allocated costs of the private management branch.

3.10 The historical revenue under the current fee structure is presented in the table below.

Table 5 Historical Revenue of Private Management Branch

	Year Ended 30 June			
	2003	2004	2005	2006[1]
Income Fees [regulation 4(1)(c)]	655,236	698,400	579,101	1,221,565
Accounts Fees [regulation 4(1)(f)]	162,823	126,251	584,626	186,818
Financial Plan Fees [regulation 4(1)(e)]	-	-	-	-
Other Fees [regulation 4(1)(g)]	72,158	39,902	54,676	47,019
Total – Private Management Branch[2]	890,217	864,553	1,218,403	1,455,402
Investment Fees [regulation 4(1)(b)]	345,415	363,699	321,721	329,710
Total – Private Manager Clients	1,235,632	1,228,252	1,540,124	1,785,112

1 The values for the year ended 30 June 2006 are draft, unaudited values as at 3 July 2006

2 Total revenue excludes sundry income that has been offset against discretionary expenses in Table 4. This sundry income does not relate to revenue from clients.

3.11 Financial Plan Fees are excluded from Table 5 as they represent the revenue of a separate profit centre within the OPC. The Activity Based Costing model used for the allocation of costs to service delivery only allocated costs from the financial planning team to private management branch where no fees were charged to the clients.

3.12 The Investment Fees included in Table 5 represent an estimate by OPC based upon the funds managed on behalf of private manager clients. This revenue is not allocated to the private management branch within the management reports of OPC.

3.13 The investment fees charged to clients under regulation 4(1)(b) are 0.5% of the monies managed within any of the OPC's Investment Funds. However, the revenue estimate shown in Table 5 represents a fee of only 0.3% on managed funds. The difference represents external and internal costs of the Investment Management function of the OPC that must be recovered before a net revenue amount can be attributed to a branch such as Private Management.

3.14 It should also be noted that in the year ended 30 June 2006 OPC provided a remission of 19 basis points (of the 50 basis point, or 0.5%, fee) to its clients with respect to the investment fees. We are informed by OPC's Director of Finance that the remission of fees may not occur in the future and it is not currently expected that a permanent reduction of the investment fee will occur.

3.15 It should also be noted that in the year ended 30 June 2006 OPC provided a remission of 19 basis points (of the 50 basis point, or 0.5%, fee) to its clients with respect to the investment fees. We are informed by OPC's Director of Finance that the remission of fees may not occur in the future and it is not currently expected that a permanent reduction of the investment fee will occur.

3.16 The level of cost recovery resulting from the current fee structure is summarised in Table 6 below.

Table 6 Historical Cost Recovery of Private Management Branch

	Year Ended 30 June			
	2003	2004	2005	2006[1]
Direct				
Revenue	890,217	864,553	1,218,403	1,455,402
Costs	1,736,852	1,575,064	1,821,395	1,903,958
Under Recovery of Direct Costs	846,635	710,511	602,992	448,556
Fully Allocated				
Revenue	1,235,632	1,228,252	1,540,124	1,785,112
Costs	3,024,756	2,743,000	3,171,990	3,315,774
Under Recovery of Fully Allocated Costs	1,789,124	1,514,748	1,631,866	1,530,662

1 The values for the year ended 30 June 2006 are draft, unaudited values as at 3 July 2006

2 Values in this table are taken from Table 4 and Table 5 above

3 In determining the under recovery of fully allocated costs we have included the investment fees earned by OPC from private manager clients

3.17 It can be seen from Table 6 that the recovery of costs has improved over the past three years. However, a significant under recovery of fully allocated costs remains under the current fee structure of OPC.

3.18 Over this period, the OPC has received significant funding from NSW Treasury (in the order of $8 million for the year ended 30 June 2005 and budgeted for year to 30 June 2006[1]). No allocation of this funding amount has been made to the private management branch. For the purposes of this report we have assumed that the under recovery shown in Table 6 represents the current level of funding by NSW Treasury.

Impact on Funding Required

3.19 For this reason the level of funding required from NSW Treasury under the **current fees model** is estimated to be in the order of $1.5 million.

3.20 Under a **no fees model** the NSW Treasury funding required would be in the order of $3.3 million.

3.21 The Regulatory Impact Statement in August 2003 indicated that the revenue shortfall for private management services was in the order of $1.8 million, which is consistent with the results of this report as indicated in Table 6.

3.22 Further consideration of the impact of NSW Treasury funding is set out in section 7 of this report.

Alternative Fee Structures

3.23 The sections that follow consider three alternative models for a proposed new fee structure, being:

- A set annual fee per client for all services provided (section 4);
- An hourly rate for core functions provided (section 5); and
- A set rate for each core function provided (section 6).

[1] We are informed by OPC that NSW Treasury has reduced the funding for the year to 30 June 2006 to approximately $7.4million.

4 Set Annual Fee Model

4.1 The Scoping Document considers an alternative fee structure, being a set annual fee per client. That is an equivalent fee for each client regardless of the quantum of service delivered.

4.2 The set annual fee is proposed to be calculated in order to achieve full cost recovery for the private management branch. Table 7 below presents the data and resulting fees for this proposed fee model.

Table 7 Set Annual Fee Model

	Year Ended 30 June			
	2003	2004	2005	2006[1]
Number of Clients	2,105	2,184	2,224	2,352
Revenue to recover Fully Allocated Costs	3,024,756	2,743,000	3,171,990	3,315,774
Set Annual Fee per Client	1,437	1,256	1,426	1,410
Revenue net of Investment Fees[3]	2,679,341	2,379,301	2,850,268	2,986,065
Set Annual Fee per Client	1,273	1,089	1,282	1,270

1 The values for the year ended 30 June 2006 are draft, unaudited values as at 3 July 2006

2 Values in this table are taken from Table 4 and Table 5 above and from the client data presented in the accompanying financial model.

3 An alternative considered in section 2 is that the investment fee is retained, as a market accepted rate, and used to reduce the level of other fees that need to be recovered from clients.

4.3 Based upon the data in Table 7 a set annual fee of approximately $1,430 should achieve full cost recovery. This fee could be reduced to approximately $1,270 (a reduction of $160) if the investment fee was retained.

4.4 Section 2 of this report contains a comparison of this set annual fee model to the alternate fee models.

Guiding Principles

4.5 The OPC's guiding principles of a new fee structure are that the fees should be fair and reflect the actual cost of providing the service. This simple model of one set annual rate for all clients will reflect an under recovery of actual costs for some clients and an over recovery for others. This cross subsidisation between clients is unlikely to be considered fair.

4.6 Other objectives of the OPC for a new fee structure are ease of administration, transparency and generating revenue that meets the full allocated cost of private management services. All of these objectives are met by this proposed fee model.

4.7 However, it is not possible to compare this fee against fees charged in other jurisdictions. This is because the range of services provided by the OPC is wider than most other organisations in other jurisdictions.

5 Hourly Rate for Core Functions

5.1 A fee structure based upon hourly rates for core functions are used in some jurisdictions as set out in the Scoping Document. The OPC has prepared some data from staff regarding time expended in performing core functions.

5.2 The OPC have requested that a model be developed to calculate the potential revenue that could be generated through fees charged on the basis of a set hourly rate. We also comment in this section on how such a fee model meets the objectives and guidelines of the OPC.

Fee Model

5.3 The methodology for calculating the recommended hourly rates and potential revenue for core functions is set out in the financial model that accompanies this report. The core functions are described in Annexure 1.

5.4 The results of these calculations are summarised in Table 8 and Table 9 below.

Table 8 Hourly Rate for Core Functions

	Year Ended 30 June			
	2003	2004	2005	2006
Revenue to recover Fully Allocated Costs ($)	3,024,756	2,743,000	3,171,990	3,315,774
Available Hours[1]	32,359			
Base Hourly Rate	$94	$85	$98	$103
Direct Service Delivery Hours[1]	18,275			
Hourly Rate for Core Functions	**$166**	**$150**	**$174**	**$181**
Adjusted Hourly Rate (include Investment Fee)	$147	$130	$156	$163
Revenue recovery thru Adjusted Rate ($)	2,679,341	2,379,301	2,850,268	2,986,065

1 *The private management branch has had a constant level of staffing over the review period as such the available hours are assumed to be the same in each period. The direct service delivery hours used are based upon the sample prepared by the OPC as set out in the Scoping Document. Further, detail of adjustments and calculations regarding hours are detailed in the accompanying financial model.*

5.5 The adjusted hourly rate shown at the bottom of Table 8 provides an indication of the reduction to the hourly rate that could be achieved if the investment fee is retained as described in section 3 (refer to 3.12 to 3.15).

5.6 The next table provides further detail on the application of the hourly rate for each core function area. Table 9 has been prepared on the basis of the hourly rate set to recover revenue equal to the fully allocated costs of private management services (that is, excluding any reduction attributable to the investment fee).

Table 9 Estimated Fee per Matter – Hourly Rate Model

Core Function	Year Ended 30 June 2006			
	Hours per Matter (Hrs)	Matters per Category (#)	Fee per Matter ($)	Estimated Annual Revenue ($)
Directions	7	599	1,348	807,679
Accounts	4	1,891	745	1,407,927
Authorised Visitor	26	15	4,649	69,740
Director of Nursing Reports	1	1,123	116	130,136
Investment	11	145	1,916	277,872
Real Estate – Sale & Purchase	13	115	2,305	265,117
Real Estate – Other[1]	1.05	944	190	179,758
Guardianship Tribunal – Referrals	9	60	1,614	96,843
Guardianship Tribunal – Reports	3	150	538	80,703
				3,315,774

1 Real Estate – Other is expected to have approximately 991 hours per year with a variable number of matters and hours per matter.

5.7 The above results of the hourly rate fee model are compared to the alternative fee models in section 2 of this report. The remainder of this section provides a commentary of how well the hourly rate model meets the terms of reference and objectives of the OPC with regard to a new fee structure.

Guiding Principles

5.8 The OPC's guiding principles of a new fee structure are that the fees should be fair and reflect the actual cost of providing the service.

5.9 The concept of an hourly rate model is consistent with the principle of reflecting the actual cost of providing the service. However, the calculation methodology we have utilised applies one hourly rate to all services regardless of the differing experience (and hence salary cost) of the support officers delivering the service. For this reason, there is an inconsistency with the actual cost of service and the fee charged. Some services will be charged a fee higher than cost, and others a below cost fee.

5.10 This choice in methodology was made to recognise the impact upon efficiency if the system designed differentiated between support officers with different skill levels. That is, if the system does not concern itself with this differentiation then the team can allocate work in what is considered the most efficient manner without adverse pricing or cost recovery impacts.

5.11 The inconsistency between price and actual service delivery cost was considered acceptable as one third of the hourly rate represents indirect allocated costs which do not vary based on which support officer delivers the service.

5.12 Further, the use of one hourly rate has benefits in meeting other objectives of the OPC including transparency, ease of administration, and comparability between jurisdictions.

5.13 The hourly rate model proposed has been based upon a recovery of fully allocated costs. This eliminates the cross subsidisation between directly managed clients and private management services. Cross subsidisation does still exist between private management clients as explained in 5.9 above. However, this cross subsidisation is minimal given that it is restricted to the hourly rate, while each client should be charged based upon actual hours spent by the support officers.

5.14 It should be noted that the hourly rate model proposed does not contain any cross subsidisation between clients on the basis of the client's income level as is the case with the current fee structure (regulation 4(1)(c) Income Fees).

5.15 The ability of the proposed hourly rate model to meet the objective of full cost recovery is reliant upon the ability to track actual hours spent on each service and to charge the clients for those services. Even where this is implemented adequately, there is still a risk of under-recovery if the volume of clients and matters changes disproportionately to costs given that the model is based on historical volumes. This represents an unavoidable risk due to the nature of OPC's business.

5.16 To increase the ease of administration we suggest that a separate time tracking system is not utilised on a day-by-day basis. Rather, a standard range of fees could be set on the basis of hours spent on typical matters, whether simple or complex and including different steps from a range of work procedures. Such a system is akin to the fee model described in section 6 of this report with benefits in being more flexible and more closely reflecting actual costs of service delivery. However, the set rate for core functions set out in section 6 better achieves the objective of ease of administration.

5.17 To administer the hourly rate model, a periodic review of time expended by core function and revision of the fee model should be performed by management on a basis similar to that used in preparing the Scoping Document and this report.

5.18 The periodic reviews should be performed at least annually. Such a review should also consider the total costs of the private management branch and reflect any cost efficiency measures implemented throughout the organisation.

Fee Comparison

5.19 The hourly rate calculated for OPC's private management services is compared to the rates used by other jurisdictions in Table 10 below.

Table 10 Hourly Rate Comparison

Organisation	Jurisdiction	Hourly Rates Charged		
Office of the Protective Commissioner	NSW	*2005*		*2006*
Fully Allocated Costs		$174		$181
Adjusted for investment fee		$156		$163
		From		*To*
Public Trustee	QLD			$154
National Australia Trustees	QLD	$150	-	$195
Perpetual Trustees	QLD			$245
Public Trustee	WA			$66
Private managers (legislature approved rate)	SA			$58

The comparison rates for other jurisdictions were obtained by the OPC and are set out in further detail in the Scoping Document.

5.20 The effective dates of the comparison rates are not defined in the Scoping Document. It is anticipated that they are at least six to twelve months old. As such we have included the additional calculated hourly rates for OPC based upon costs as at 30 June 2005.

5.21 The calculated hourly rates for OPC appear to be consistent with the rates set in the jurisdiction of Queensland. The Public Trustee in Queensland has, for a number of years, based a majority of its fees to clients on hourly rates.

6 Set Rate for Core Functions

6.1 The conclusions of OPC's Scoping Document, in section 14 thereof, was that the most likely model for a new fee structure that met OPC's objectives is one consisting of a set rate for core functions.

6.2 As requested by the OPC we have developed a model to calculate a range of fees for the various core functions performed by the OPC's private management branch.

Fee Model

6.3 The methodology for calculating the recommended range of fees is set out in the financial model that accompanies this report. The core functions are described in Annexure 1.

6.4 The results of these calculations are summarised in Table 11 below.

Table 11 Estimated Fee per Matter – Set Rate for Core Functions Model

Core Function	Year Ended 30 June 2006		
	Matters per Category (#)	Fee per Matter ($)	Estimated Annual Revenue ($)
Directions	599	1,340	802,918
Accounts	1,891	812	1,535,032
Authorised Visitor	15	4,864	72,955
Director of Nursing Reports	1,123	112	126,239
Investment	145	2,095	303,782
Real Estate – Sale & Purchase	115	2,646	304,330
Real Estate – Other[1]	-	-	-
Guardianship Tribunal – Referrals	60	1,550	93,010
Guardianship Tribunal – Reports	150	517	77,508
			3,315,774

1 Real Estate – Other is not considered to be cable of charging a set fee due to the variable nature of the work tasks included therein. All costs associated with this core function have been reallocated proportionately to the Directions and Accounts functions and are recovered through the set fees for those core functions.

6.5 The above results of the set rate for core functions fee model are compared to the alternative fee models in section 2 of this report.

6.6 As was the case with the Hourly Rate for Core Functions model, we have also calculated the fees that would apply to this fee model if the current Investment Fees

were retained and applied to reduce the amount of revenue to be recovered from the core function fees. The impact of such reduced fees is demonstrated in the examples discussed in section 2 and are also shown in comparison to the combination model set out in Table 15 (page 22).

6.7 The remainder of this section provides a commentary of how well the set rate for core functions model meets the terms of reference and objectives of the OPC with regard to a new fee structure.

Guiding Principles

6.8 The OPC's guiding principles of a new fee structure are that the fees should be fair and reflect the actual cost of providing the service.

6.9 The calculation methodology of the set fee per function model is based upon the time spent in delivering the services to clients by the support officers. The total allocated costs are applied to the different services based upon a weighted allocation percentage determined by the different salary levels of the support officers supplying the services.

6.10 This has been done in order to ensure that the revenue generated by the services will reflect the actual cost of providing the services.

6.11 A key measure of whether fees are fair is the level of cross subsidisation. As with the proposed hourly rate model (section 5) cross subsidisation between directly managed clients and private management services is eliminated by this set rate model. In addition, cross subsidisation between the core functions should be eliminated.

6.12 However, a degree of cross subsidisation will remain between clients utilising the same core function. That is, some client matters will be more complex and time/cost consuming than other client matters, all of whom are charged the same fee.

6.13 Similarly to the proposed hourly rate model, cross subsidisation between clients on the basis of their income levels is eliminated by this set rate model.

6.14 We consider that the level of transparency of the proposed set rate model is equivalent to the proposed hourly rate model, while the degree of simplicity and understandability of the fees is higher in the case of the proposed set rate model set out in this section of the report. That is, clients will have a clear and precise guidance regarding the level of fees charged based upon the services they receive. The hourly rate model has the potential for clients to call into question the fees charged based on their own perception of the time spent on a task. Further, the hourly rate model has more potential for manipulation by OPC officers in order to disguise inefficiencies.

6.15 The ability of the proposed set rate model to achieve full cost recovery is subject to similar risks as the proposed hourly rate model, in that the volume of client matters may change disproportionately to costs (refer also paragraph 5.15). However, the risks are reduced in the case of the set rate model because there is no reliance to track the time spent on each service.

6.16 The ease of administration of the proposed set rate model is considered better than the hourly rate method. This is because there is clear guidance to staff regarding the charges that apply for each service and knowledge of the number of hours spent is not required.

6.17 However, the ease of administration would be reduced if varying levels of fees, rather than just one discrete fee, were to be utilised for each discrete core function. That is, for example differing fees based upon the degree of complexity.

6.18 In all other aspects the administration of the set rate and hourly methods is considered to be similar. That is because the underlying basis of calculating the set rate fees is linked to the same time allocation exercise that was used in the hourly rate model.

6.19 Our recommendation for a periodic review of time expended and costs set out in paragraphs 5.17 and 5.18 also applies to this proposed set rate for core functions model.

Fee Comparison

6.20 The fees for core functions calculated for OPC's private management services are compared to the rates used by other jurisdictions in Table 12 below. This has only been performed for the Accounts fee as it does not appear that other fees are comparable.

Table 12 Fee Comparison for Core Functions

Organisation	Jurisdiction	Rates Charged	
Office of the Protective Commissioner	NSW	*2005*	*2006*
Fully Allocated Costs		981	812
Adjusted for investment fee		881	731
Current Fee		100	100
		From	*To*
Public Trustee	VIC	50	100
Public Trustee	SA		75
Public Guardianship Office – UK & Wales	UK		250

1 *The comparison rates for other jurisdictions were obtained by the OPC and are set out in further detail in the Scoping Document.*

2 *The rate for the Public Guardianship Office – UK & Wales represents the Australian dollar equivalent of the quoted fee (£105 at 0.42)*

6.21 The effective dates of the comparison rates are not defined in the Scoping Document. It is anticipated that they are at least six to twelve months old. As such we have included the additional calculated hourly rates for OPC based upon costs as at 30 June 2005.

6.22 The comparisons shown indicate that OPC's fee, if amended in accordance with the proposed fee model set out above, would be substantially higher than other jurisdictions. An analysis of the functions and duties performed by each entity should be performed in order to identify whether the fees are truly comparable.

7 Impact of NSW Treasury Funding

7.1 Although not directly allocated, the OPC currently receives approximately $1.5 million[2] of funding from NSW Treasury to support the provision of private management branch services.

7.2 The alternate models presented in the preceding three sections were based upon a requirement that the fees set would result in full recovery of the fully allocated costs of the private management branch.

7.3 While these alternate fee models may achieve improvements in terms of fairness, transparency and reduction in cross subsidisation, they do not consider the affordability of the fees to the clients.

7.4 The OPC considers—in section 14.4 of the Scoping Document—that one possible solution to the question of affordability is to utilise NSW Treasury Funding to meet the cost of fees attributable to clients whose income level is at or below a particular level.

7.5 Table 13 considers the potential funding required from NSW Treasury if such a solution were utilised. It is assumed that the average fees for clients in the Hourly Rate and Set Rate for Core Functions Models will equate to the fee determined by the Set Annual Fee per Client model.

Table 13 Potential Funding – Affordability

Fee Model	Threshold Income	No. of Clients	Average Fee[1]	Total Funding
Current - Income Fee only	No Income	160	-	16,000[2]
Set Annual Fee per Client	No Income	160	1,270	203,200
	>$1 < $5,000	693[3]	1,270	880,110
		853		1,083,310

1 *The average fees used represent those calculated with the current investment fee included so as to reduce the total value of revenue to be recovered from other client fees and NSW Treasury funding. In the case of the core function fee models, the fees utilised represent those for Accounts & Directions only*

2 *The funding required where a client has no income equates to the Accounts fee of $100 per annum.*

3 *The number of clients with income below $5,000 is based upon the data file supporting Appendix E of the Scoping Document provided by OPC.*

7.6 An alternative to the above use of NSW Treasury funding is to utilise that funding to benefit all clients of the OPC's private management branch. That is, reducing the net amount to be recovered in fee revenue and thereby reduce the fees set by the relevant

[2] Refer to section 3, including Table 6 and paragraphs 3.18 and 3.19

fee models. An element of the NSW Treasury funding would still need to be set aside to assist clients for whom these lower fees are not considered affordable.

7.7 Table 14 below sets out the reduced fee rates required if $650,000 of NSW Treasury funding were used to lower the revenue burden of clients. This assumes that $847,000 of NSW Treasury Funding is still required to meet the costs of the 853 clients (from Table 13) who would still not be able to afford the reduced fees.

Table 14 Potential Funding – Overall Fee Reduction

	Threshold Income	No. of Clients	Average Fee[1]	Total Funding
Client Revenue				
Set Annual Fee per Client	>$1 >$5,000	1,499	993	1,488,507
Investment Fees				329,710
Total Client Revenue				1,818,217
NSW Treasury Funding				
Affordability Subsidisation	No Income	160	993	158,880
	>$1 < $5,000	693	993	688,149
General Funding				650,000
Total Funding		853		1,497,029
Total Revenue - Private Management[2]		2,352		3,315,246

1 *Revised average fee calculated after deducting general funding amount of $650,000 from total revenue to be recovered.*

2 *Fully Allocated Costs total $3,315,774 as set out in Table 4*

7.8 The current funding provided by NSW Treasury to the OPC is approximately $8 million, of which approximately $1.5 million is estimated to be attributable to the private management services branch.

7.9 The impact on set rates by function (refer section 6) of the scenario proposed in Table 14 are summarised in the table below.

Table 15 Potential Funding - Impact on Set Rate for Core Functions

	Fee per Matter ($)	
Core Function	Initial[1]	Reduced
Directions	1,207	944
Accounts	731	572
Authorised Visitor	4,380	3,427
Director of Nursing Reports	101	79
Investment	1,887	1,476
Real Estate – Sale & Purchase	2,383	1,864
Guardianship Tribunal – Referrals	1,396	1,092
Guardianship Tribunal – Reports	465	364

1 *Represents fee set out in Table 11 reduced by the impact of including the Investment Fee.*

Annexure 1 Definition of Core Functions

Core Function	Definition
Directions	All time associated with the process of ultimately issuing Directions & Authorities to the private manager.
Accounts	All time associated with obtaining, performing examination of, passing and processing accounts as well as the collection of related fees.
Authorised Visitor	All time associated with identifying the need for reports, appointment of the visitor and subsequent receipt of reports together with follow up of recommendations with private managers and payment of fees due to the Authorised Visitor.
Director of Nursing Reports	Reports are provided free of charge by the Director Of Nursing (DON) and include feedback, generally annually, from care facilities to determine if the clients' needs are being met. These were initially introduced as a means of reducing the volume of Authorised Visitor reports required and thereby reducing costs to clients. Should circumstances warrant, these DON reports can lead to the appointment of an Authorised Visitor.
Investment	In new matters or on changes in client circumstances, private managers are required to provide a proposal fro investment of estate funds. This process covers items such as: identification of the need for a review of investments; receipt and submission of the proposal; advice back to the private manager; and review of security. While this process will be required for all clients, the matters included within this "core function" are those outside the normal directions and annual review process. That is, the more significant investment matters which are generally submitted to the Regional Managers for review.
Real Estate – Sale & Purchase	Any transactions for the sale or purchase of real estate that are submitted for review and/or approval by a private manager.

Core Function	Definition
Real Estate – Other	Includes activities associated with lease of properties, repairs, renovations, occupation by family members, and other sundry matters.
Guardianship Tribunal – Referrals	"Applications to the Guardianship Tribunal &/or Courts" Where it is necessary to refer matters to the Tribunal with requests for review of orders due to the resignation, death or non-performance of private managers. Time spent on preparing application for the Tribunal, preparation of report and where necessary, attending the tribunal hearing.
Guardianship Tribunal – Reports	"Reports as requested by the Guardianship Tribunal" Where orders made by the Tribunal, both Financial Management and Guardianship, are limited and OPC is required to provide the Tribunal with an updated report on the circumstances of the client. This often results in the need to issue a new set of Directions and Authorities.