



**NSW Government Response To Recommendations Made In The Independent
Pricing and Regulatory Tribunal Review of Fees of the Office of the Protective
Commissioner – September 2008**

NSW Attorney General's Department

THE NSW GOVERNMENT RESPONSE TO RECOMMENDATIONS IN THE IPART REVIEW OF FEES OF THE OFFICE OF THE PROTECTIVE COMMISSIONER

Recommendation 1

That the annual cap on the management fee for directly managed clients be lowered from \$50,000 to \$15,000

Government position

The cap on the management fee for directly managed clients will be lowered. The Government has previously announced the merger of the Office of the Protective Commissioner and the Public Trustee, which is anticipated to occur on 1 July 2009. The size of the reduction in the cap will be considered when the fee structure for the merged entity is established.

Recommendation 2

That the cap on the establishment fee be raised from \$2,200 to \$3,300

Government position

Supported. The Government proposes to raise the cap on the establishment fee from 1 July 2009, when the merger of the Office of the Protective Commissioner and the Public Trustee is anticipated to occur.

Recommendation 3

That the current four per cent annual income fee for privately managed clients be capped at \$2,000 per annum.

Government position

Supported. The Government proposes to cap the current four per cent annual income fee for privately managed clients at \$2,000 per annum from 1 April 2009.

Recommendation 4

That for privately managed clients:

- **The existing 50 per cent threshold test for pension income be removed from 1 January 2009.**
- **In future, all Centrelink, Department of Veterans' Affairs and any overseas pension (equivalent to a Centrelink pension) income up to the level of the Centrelink Single Aged Pension be exempt from the four per cent income fee.**
- **Any allowances relating to Centrelink and Department of Veterans' Affairs pension also be exempted from the four per cent income fee.**

Government position

Supported. The Government proposes to implement these recommendations from 1 April 2009.

Recommendation 5

That the \$100 accounts fee be amended to be \$100 for simple accounts and that the fee be increased to \$200 or \$300 for accounts of greater complexity (as determined by the Office of the Protective Commissioner).

Government position

Supported. The Government proposes to implement these recommendations from 1 July 2009, when the merger of the Office of the Protective Commissioner and the Public Trustee is anticipated to occur.

Recommendation 6

That the new fee structure and associated funding be implemented on 1 January 2009.

Government position

The Government proposes a staged implementation of a new fee structure as outlined in the Government position for recommendations one to five.

Recommendation 7

That the total subsidy of \$8.4million be provided for the Office of the Protective Commissioner in 2008/09, based on a full year subsidy level of \$10.6million.

Government position

The Government proposes that the additional funds required to meet the changes to the fee structure pending the merger of the Office of the Protective Commissioner and the Public Trustee will be met from the retained earnings of the Office of the Protective Commissioner.

Recommendation 8

That the following six high-level KPIs be part of the first multi-year funding arrangement:

- **The setting of measurable major milestones in the Office of the Protective Commissioner's strategic and corporate goals and periodic assessment of progress towards those goals (by June 2010).**

- **Development of a management information system capable of costing services and supporting strategies to improve services and increase productivity (by June 2010).**
- **Development of efficient cost benchmarks (by June 2010).**
- **Development of client service standards (by June 2010).**
- **Measures of responsiveness to clients' requests/needs (starting with timeliness, progressing to quality).**
- **Client and stakeholder satisfaction as measured by independent surveys and number of complaints and appeals.**

Government position

The Government proposes that the entity that is formed by the merger of the Office of the Protective Commissioner and the Public Trustee will report annually on these six high-level KPIs for protected estates.

Recommendation 9

That a rolling four-year funding agreement between Treasury, the Attorney Generals Department and the Office of the Protective Commissioner be implemented in which \$10.6 million be the annual base for the period 2008/09 to 2011/12, from 1 January 2009. The \$10.6 million should be adjusted each year for:

- changes in the CPI for Sydney
- changes in client numbers and
- an efficiency factor of 1 per cent.

In addition, the base should be adjusted to reflect any movements in the Office of the Protective Commissioner's interest income of \$1 million and in the surplus within Unit Registry of \$4.4 million, both estimated for 2008/09 (with the surplus net of counterparty and the Office of the Protective Commissioner's costs). For its part, the Office of the Protective Commissioner is to demonstrate satisfactory performance in terms of a defined list of KPIs (as specified in Recommendation 8) on which it reports annually.

Government position

The Government proposes that until 30 June 2011 the additional funds identified by IPART will be met from the merger between the Office of the Protective Commissioner and the Public Trustee.

The merged body will have sufficient funds because:

- (a) it will retain the dividend and tax-equivalent payments the Public Trustee would have otherwise made under the *Public Finance and Audit Act 1983*; and

- (b) it is proposed that it will have access to surplus funds held by the Public Trustee.

The entity that is formed by the merger of the Office of the Protective Commissioner and the Public Trustee will report annually on the KPIs specified in recommendation 8 for protected estates.

Recommendation 10

That the Office of the Protective Commissioner's financial and management information systems be upgraded as a matter of urgency so that they can generate the information essential for full consideration of the Office of the Protective Commissioner's fee structure in any future review.

Government position

Supported. The Office of the Protective Commissioner's financial and management information systems will be upgraded as part of the merger between the Office of the Protective Commissioner and the Public Trustee.

Recommendation 11

That the fees charged by the Office of the Protective Commissioner continue to be regulated.

Government position

Supported.

Recommendation 12

That a full review of the Office of the Protective Commissioner's fees be conducted again in five years, with the review ending in June 2013. IPART also recommends that a mid-term review be conducted primarily to re-assess private management fees in the light of better data on capacity to pay, costs and revenues that should result from upgrades to the Office of the Protective Commissioner's financial and management information systems. The review would be conditional upon the development of those systems. The mid-term review should conclude by December 2010.

Government position

Supported. It is proposed that the mid-term and full reviews of the Office of the Protective Commissioner's fees will be a review of the protected estates management fees and funding for the new entity that will be formed by the merger of the Office of the Protective Commissioner and the Public Trustee.

Recommendation 13

That all dollar amounts in the recommended fee structure – the caps on the management, establishment and income fees and the account fees – should be adjusted for annual changes in the CPI for Sydney.

Government position

Supported.