The Public Advocate
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Queensland Public Trustee
Fees and Charges Project
GPO Box 1449
BRISBANE QLD 4001

Via email: feesandchargesproject@pt.qld.gov.au

Dear Samay and colleagues,

Re: Fees and charges reform for key services – public consultation

Thank you for the opportunity to make a submission regarding the fees and charges reform proposals developed by the Public Trustee Queensland for consultation.

The proposed fees and charges reform options realise a recommendation included in *Preserving the financial futures of vulnerable Queenslanders: A review of Public Trustee fees, charges and practices,* the report prepared under the leadership of the previous Public Advocate, Ms Mary Burgess, and tabled in the Queensland Parliament on 10 March 2021.

The development of these reform options has been preceded by the fees and charges review completed by Price Waterhouse Coopers (PwC) in June 2022.

The Public Trustee has also implemented a number of fee related initiatives prior to the development of the reform options which specifically address some of the recommendations included in the previous Public Advocate's report. These include:

- updating the eligibility criteria for Community Service Obligation financial management customers so they will not pay more than 5% of the value of their assessable assets in fees (excluding special fees and outlays) each year; and
- excluding the customer's principal place of residence from assessable assets.

These two initiatives have contributed to lessening the fee burden experienced by those financial management customers highlighted in the previous Public Advocate's report, being those with modest assets but a fixed pension-based income.[1]

I do want to flag a concern I have about the impact of the fees and charges reform proposals on people in this cohort of financial management customers, which I will come to shortly.

Before that, allow me to make some preliminary points about the context of this review, and about the principles guiding this important reform.

First, to the context of the review. It is perhaps an obvious point, but it is important to note that the Public Trustee is essentially self-funding.

In addition to the charges met by customers, the organisation's revenue is bolstered by the 'interest differential'; namely the difference between what is earned on 'common fund' customer asset investments and what is returned to customers.

[1] Public Advocate (Qld), *Preserving the financial futures of vulnerable Queenslanders: A review of Public Trustee fees, charges and practices*, January 2021.

In the absence of increased government investment, internal cost-cutting and/or the development of new income streams, the challenge confronting the organisation is that it must generate sufficient revenue from its customer base to cover its costs.

With that in mind, I do recognise that the following concerns and suggestions that I outline would likely only be able to be met through significant additional government investment in the Public Trustee's operations.

The basis for fees and charges calculations

I raise here two points concerning the foundational principles that inform the current review.

The first of these concerns the setting of fees in line with the cost of service. The consultation paper notes that 'QPT is taking all practical steps to ensure that financial management fees are commensurate with the costs of service'.[2]

Again, perhaps it is an obvious point, but cost recovery models are unusual in the delivery of services to vulnerable people, even where some contributions are required of them.

The second preliminary point to note is that under the preferred reform proposal, consumers will continue to pay more once they go beyond a certain level of frequency of contact with the Public Trustee (as they do under the existing regime). This clashes somewhat with the increasing requirement on substitute decision makers to support decision making by the person concerned, and to make decisions based on what the person themselves would have wanted. As you know, doing this effectively inevitably requires routine engagement with the person; it will be important to show how charging people more for more frequent contact will not inhibit supported decision-making developments.

The impact of the new fees and charges options on those with modest assets

As indicated earlier, I would like you to consider a concern I have about the impact of the preferred fees and charges reform option on people who have modest assets and are on fixed pension incomes (and I note that 90% of the Public Trustee's financial management customers receive a fixed pension).[3]

While the exclusion of the family home from assessable assets has significantly reduced the financial burden placed on financial management customers who own their own home, calculations based on the new fees and charges proposals show that a significant financial burden will continue to be borne by these customers should they have a modest nest egg like superannuation.

The process of fee calculation can be complicated, given that it is based (as noted above) on where customers live and how often they have contact with the Public Trustee.

The following hypothetical example has been put together in order to demonstrate how the application of the new fees and charges proposal (Public Trustee preferred option 1) will impact on the disposable income available to customers with modest assets (and do please correct me if I am wrong in any of the workings out that follow).

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[2] Queensland Public Trustee, *Proposed fees and charges reform for key services – public consultation paper*, February 2024.
[3] Queensland Public Trustee, *Proposed fees and charges reform for key services – public consultation paper*, p 35, February 2024

Example – Bill

Bill, at the age of 45, was involved in an accident that resulted in an acquired brain injury. At the time of the accident, Bill was recently divorced and in some debt following the settlement process. His partner retained the family home. He did, however, have a superannuation account with the average level of retirement savings for a working male of his age – approximately $220,000.[4]

Following his initial recovery, Bill moved into a share home and received funding from the NDIS to assist in providing the disability related supports he required. The Public Trustee was appointed as Bill's financial administrator. His immediate debts were cleared from the cash he had in a savings account, and he secured a Disability Support Pension from the Commonwealth Government, which was his only source of income.

Under the Public Trustee preferred option 1, Bill would be classified as PFA 5 (living in the community with personal financial administration assistance from the Public Trustee and/or day to day assistance provided by support workers. Contact with the public trustee is once a fortnight or less), with fees totalling $4,932 per year.

Given that Bill has a superannuation account with an average level of retirement savings for his age, he does not qualify for any rebates or community service obligations and must pay these fees from his disability support pension.

This means that Bill's fees of $4932, based on the current rate of the Disability Support Pension, will account for 17% of his income, or approximately $95 a week from a total income of $548 a week.

This leaves him with only $453 a week to pay for all other expenses, including rent, food and utilities.

Should Bill become more independent in the future, and move from a share home into a different rental arrangement, and increase his contact with the Public Trustee to more than once a fortnight, he would then be classified as a PFA level 6 customer. His annual charges would then increase (under option 1) to $7,731 or 27% of his pension, leaving him with only $399 a week for all other expenses associated with everyday living.

This would be a very significant financial burden, particularly when one considers that the Government imposed rent for public and social housing in Queensland is currently capped at 25% of a person's assessable income.[5]

In a scenario like Bill's, there would likely be a requirement to liquidate an existing asset held by the customer (which for some customers might include the family home), to use any cash assets they have, or to have the Public Trustee seek fee payments from the customer's superannuation fund.

The amount nominated above is also exclusive of any additional hourly fees that may be charged by the Public Trustee for asset management (should it be greater than five hours per annum) or special fees and outlays. This may add substantially to fees, given that independent financial advice regarding a customer's superannuation account with a balance over $50,000 is sought annually by the Public Trustee.

An income driven fees and charges proposal

I do suggest here, for your consideration, an alternative model that would have particular relevance for people on low fixed incomes (and I repeat my earlier recognition that this model would very likely require greater government contribution to the costs of the Public Trustee's operations).

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[4] Australian Retirement Trust, *How much super do most people have?*, < https://www.australianretirementtrust.com.au/superannuation/how-much-super-should-i-have>, table sourced from Australian Bureau of Statistics (ABS), Household Income and Wealth, Australia 2019–20, accessed 2 August 2023.

[5] Queensland Government, Homes and Housing, Your rent, *How your rent is calculated,* < https://www.qld.gov.au/housing/public-community-housing/public-housing-tenants/your-rent/how-rent-is-calculated>, 21 September 2023.

As 90% of the Public Trustee's financial management customers are currently in receipt of a fixed income pension from the Government, a more equitable approach may be to instigate a fees and charges model for these customers that is based on income and considers assets, as opposed to being based on the value of a customer's assessable assets.

In practice, this may mean that a cap is placed on the proportion of a customer's income (if this is a fixed income primarily from the government) that can be allocated to Public Trustee fees and charges.

It could be implemented on a sliding scale that is related to assets, so that those customers with little or no assets still pay significantly reduced fees and charges, which gradually increase in line with the value of their assessable assets, until the cap is reached.

In terms of where the cap on income is set, an acceptable level may be somewhere between 10 and 12% of the Disability Support or Aged Pension. This would mean that any person under financial administration, provided their income is solely derived from a fixed government payment, would not pay any more than 12% of their income in fees in any given year. Based on the current rate of the disability support pension, this equates to $3420 per year.

The implementation of a charging structure based partly on income would significantly decrease the burden placed on financial management customers with fixed pension incomes and a modest level of assets.

It may also lead to customers not having to liquidate assets to fund the payment of fees and charges, meaning that those customers with modest assets could still retain some of the comforts in later life they expected prior to being placed under financial administration.

Thank you again for considering the ideas presented in this submission, and for the opportunity to participate in this consultation, which is of fundamental importance to the financial futures of the more than 10,000 Public Trustee financial management customers across Queensland.

If you would like to discuss this submission further, please do not hesitate to contact me or the Office Manager, Tracey Martell, by phone on (07) 3738 9511 or via email to tracey.martell@justice.qld.gov.au.

Yours sincerely

John Chesterman (Dr)
Public Advocate