

2/9/03

Mr John Feneley  
Protected Estates Regulation Review  
Legislation and Policy Division  
Attorney General's Department  
GPO Box 6  
Sydney 2001

Dear Mr Feneley

Thank you for providing the Mental Health Co-ordinating Council (MHCC) with the opportunity to contribute to the review of the Protected Estates Regulation 1995 and the proposed Protected Estates Regulation 2003. MHCC is the state peak body for non-government organisations (NGOs) working for mental health throughout NSW. MHCC represents the views and interests of over 130 NGOs in the formation of policy and acts as a liaison between the government and non-government sectors. Our member organisations specialise in the provision of services and support for people with a disability due to mental illness.

MHCC strongly supports improvements in the provision of services to clients of the Office of the Protective Commissioner (OPC) and welcomes the review of the Regulation.

### Comments

- The proposal to change the fee structure so that OPC clients will, in total, pay less than they currently pay, is supported.
- The proposed reduction in the existing cross-subsidisation of some clients by other clients is welcome. However, it is noted that the cross-subsidisation will be reduced rather than abolished, which would be preferable. When cross-subsidisation does occur, it would be helpful if information relating to the clients affected and the amounts involved could be clearly identified and easily accessible. There should also be an accessible complaints and appeals process, which clients or their representatives can utilise if they feel that the cross-subsidisation process is unfair.
- The exclusion of the client's principal place of residence from the total value of his or her assets for the purpose of assessing the ongoing management fees is fair and sensible particularly in view of current real estate values.



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- It is proposed to retain fees for Tax return preparation and lodgement; Financial plan development; Filing, examination and passing of accounts; and Other services. This is fair and reasonable, however, the fees to be charged are not clearly stated. The statement “Such reasonable fee.....as the Protective Commissioner may fix” is too vague and open-ended. An example of a typical fee or range of fees or a clear statement of the upper limit is needed (as in the case of filing, examination and passing of accounts – private management only, where the upper limit is stated as not exceeding \$100.) There also needs to be an accessible complaints and appeals process, which clients or their representatives can utilise if they feel that the fees charged are excessive.
- The proposal to monitor the revenue generated by fees and to ensure that revenue is not generated in excess of OPC’s costs is supported.
- The examination by OPC of the merits of an activity based management system, which may further rationalise the fee structure with a view to eliminating cross-subsidisation between clients is welcomed.

In general, the proposed changes are positive, however, the issues identified above need to be addressed.

If you would like to clarify any points raised in this submission, please do not hesitate to contact Ann MacLochlainn on (02) 9555 8388. MHCC would be happy to review any further proposals.

Thank you for considering this feedback.

Yours sincerely

Jenna Bateman  
Executive Officer  
Mental Health Co-ordinating Council