

# Policy: Fees – Waiver, Remission, Deferral and Reduction

## Purpose

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To ensure fees are charged as provided for in the regulation unless levying such fees would cause extreme hardship or would be inequitable. Inequitable includes the charging of fees that would not otherwise have been charged but for the fraud, negligence or maladministration by staff of NSW Trustee & Guardian.

## Policy statement

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Equity between clients demands that the correct fee should be levied in accordance with the [NSW Trustee and Guardian Regulation 2017](#) and any relevant NSW Trustee & Guardian policies. Fees must always be charged as provided for in the Regulation unless levying such fees would cause extreme hardship or would be inequitable. NSW Trustee & Guardian staff must not unilaterally determine that a fee should not be levied. Only delegated officers can decide to waive, remit or reduce fees.

In considering whether to waive, remit or reduce a fee the delegated officer must take into consideration the following factors:

- the size of the estate
- the client's needs
- the estate's commitments and liabilities
- whether the payment of the fees can be deferred
- whether the estate could pay for the fees over time
- whether the estate can make a part payment
- whether the client would suffer any financial or other hardship in paying the fees
- the impact of any decision on NSW Trustee & Guardian's funding should it be applied to similar estates.

To be eligible to have fees waived, reduced or remitted on the basis of hardship, there must be clear and demonstrable evidence on which to base such a decision. It cannot be based on conjecture or hypothetical argument.

It is NSW Trustee & Guardian policy not to waive fees if there is any possibility of collecting them in part, in instalments or at a later date. To do otherwise would be to require unreasonable cross-subsidisation by other clients. Where fees may be collected at a later date, for example, following the sale of a property, collection of fees may be deferred pending the receipt of funds.

## Scope

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All staff of NSW Trustee & Guardian.

## Legislative context

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[NSW Trustee and Guardian Act 2009](#)

[NSW Trustee and Guardian Regulation 2017](#)

## Document information

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<b>Title:</b>	Fees – Waiver, Remission, Deferral and Reduction
<b>Owner:</b>	Director Financial Performance and Investments
<b>Approver:</b>	Chief Executive Officer
<b>Date of Effect:</b>	16 April 2018