



Factsheet: Requesting a review of your solicitor’s Bill of Costs

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1. Introduction

This factsheet is intended to assist you if you are self-represented and are seeking to review your lawyer's costs.

It contains general information only and is not legal advice. Court staff cannot provide you with legal advice. If you require further assistance you may wish to contact community legal centres, private law firms or the Citizens Advice Bureau.

If you have an issue with your lawyer's bill for legal costs, it is best to discuss it with your lawyer first and see if the issue can be resolved. If the issue cannot be resolved, you may be able to apply to the Legal Practice Board or the Supreme Court of Western Australia for a review of your costs. Your lawyer may also apply to the Legal Practice Board or the Supreme Court to resolve the issue.

Where to apply depends on when you first instructed the law practice and the amount in dispute (see Section 2 below). There are also time limits for applying (see Section 3 below).

This factsheet has been prepared by the Supreme Court and mostly contains information about Supreme Court processes. For more information about applying to the Legal Practice Board, you can visit its website: www.lpbwa.org.au

2. Where should I commence my review?

If you first gave instructions to the law practice **prior to 1 July 2022** then you may only file an application with the Supreme Court of Western Australia.

If you first gave instructions to the law practice **on or after 1 July 2022** then you may **either**:

- apply to the Legal Practice Board to deal with your costs dispute; or
- file an application **for a costs assessment** with the Supreme Court of Western Australia.

The Legal Practice Board and the Supreme Court cannot deal with applications in relation to the same costs dispute at the same time.

Once a costs dispute is lodged with the Legal Practice Board then a costs assessment can only be sought in limited circumstances pursuant to s197 of the *Legal Profession Uniform Law* (the Uniform Law). The Uniform Law is found in Schedule 1 of the Victorian [Legal Profession Uniform Law Application Act 2014](#).

Additionally, the Legal Practice Board may only deal with a costs dispute where:

- the total costs are less than \$100,000 (indexed) in respect of any one matter pursuant to s291(1)(a) of the *Uniform Law*; or
- the total amount in dispute is less than \$10,000 (indexed), although the total costs may be more than \$100,000, pursuant to s291(1)(b) of the *Uniform Law*.

The indexed amounts can be found [here](#).

More information can be found on the Legal Practice Board website www.lpbwa.org.au

An application to the Legal Practice Board does not incur fees or costs. If you apply to the Supreme Court for a costs assessment you will be required to pay a filing fee and the Court may order you to pay the costs of the costs assessment.

Pursuant to s194(2) of the *Uniform Law*, a law practice may begin legal proceedings against a person to recover legal costs 30 days after the provision of the bill, or itemised bill, unless the legal costs are the subject of a costs dispute which has not yet been resolved.

3. How long do I have to request a review?

Complaints to the Legal Practice Board

Generally, a complaint must be made to the Legal Practice Board within 60 days of the date your legal costs become payable.

If you have requested an itemisation of your costs from the law practice, then you only have 30 days after the law practice has provided it to lodge a complaint. The Legal Practice Board may grant an additional four-month extension if you provide suitable reasons to explain the delay.

More information can be found on the Legal Practice Board website www.lpbwa.org.au

Applications to the Supreme Court of Western Australia

An application to the Supreme Court must be made within 12 months of when:

- the bill was given;
- the request for payment was made to the client, third party payer, or law practice; or
- the legal costs were paid if neither a bill was given, nor a request was made.

However, if the 12 month period has expired, you can apply for an extension of time (see Section 6 below for more information).

Different timeframes may apply if a law practice lodges an application at the Supreme Court.

4. What are the stages in the Supreme Court process?

The following stages may apply for an Assessment of Costs in the Supreme Court:

- a) lodge an application on the Supreme Court's electronic document system (see Sections 5 and 7 below);
- b) serve an application on the law practice (see Section 9 below);
- c) attend a directions hearing or a provisional assessment may be undertaken;
- d) attend a confidential settlement conference; and
- e) attend an assessment of costs.

See Section 9 below for more information about Directions Hearings, Provisional Assessments, Confidential Settlement Conferences and Assessments and to understand which processes may apply to your application.

5. What documents do I need to lodge with the Supreme Court?

Prior to logging onto the Supreme Court's electronic document system, you must first ensure that you have the following complete documents:

- a) the bill(s) of costs (invoices received);
- b) any costs agreement applicable to the costs;
- c) any relevant costs disclosure information or estimates; and

- d) a memorandum of conferral.

A Memorandum of Conferral is a document which details how you have tried to resolve the costs dispute with the law practice, which matters are still in dispute, and the directions or orders you are seeking from the Supreme Court.

It is important to confer with the law practice (either in writing, in person or by telephone) prior to applying to the Supreme Court. When conferring with the law practice you must identify:

- a) the costs in question;
- b) the items in the invoices or bill in dispute;
- c) the total value of the items in dispute; and
- d) the reason that each item is in dispute.

A sample Memorandum of Conferral can be located at section 4.7.4.2 of the Consolidated Practice Directions on the Supreme Court website www.supremecourt.wa.gov.au

Which legislation applies to my situation?

If instructions were first given to a law practice **prior to 1 July 2022**, the costs assessment will be carried out under the *Legal Profession Act 2008 (WA)*.

If instructions were first given to a law practice **on or after 1 July 2022**, the *Uniform Law* applies.

6. Lodging an application out of time

Application out of time – Legal Profession Act 2008

If you are applying for a costs assessment under the *Legal Profession Act 2008* after the 12 month period has expired, then **in addition** to the documents required for a costs assessment you must also have the following documents prepared for filing:

- a) Chamber Summons;
- b) An affidavit in support which includes the following details:
 - the delay;
 - reasons for the delay;
 - whether there is evidence that suggests that the costs may be excessive;
 - whether the law practice has indicated it would oppose the application for an extension of time;
 - why it would be just and fair for the costs assessment to be dealt with after the 12 month period.

A template summons and affidavit are available on the Supreme Court website www.supremecourt.wa.gov.au

The Chamber Summons will be listed before the Master of the Supreme Court, who will determine whether the Application for Costs Assessment may proceed out of time.

Application out of time – Uniform Law

If you are applying for a costs assessment under the *Uniform Law* after the 12 month period has expired, then **first** you must apply to the State Administrative Tribunal for an extension of time.

The State Administrative Tribunal will determine whether it is just and fair for the Application for Costs Assessment to be dealt with after the 12 month period.

If an extension of time is granted by the State Administrative Tribunal, you may then lodge an Application for Assessment of Costs in the Supreme Court.

7. Lodging an Application for Assessment of Costs in the Supreme Court

Electronic Document System - eCourts Portal

The Supreme Court uses an electronic document system (**EDS**) for filing documents in the civil jurisdiction of the Court. On the [eCourts Portal](#) the process for electronic filing is called eLodgment.

To become an eCourts user:

- a) go to the eCourts Portal home page;
- b) read the terms and conditions;
- c) click on the Register link;
- d) complete and submit the registration form.

Court Registry staff can assist you to register for the EDS and there are kiosk computers in the Court Registry (Level 11, David Malcolm Justice Centre, 28 Barrack Street, Perth) for you to use if needed.

eLodging the Application for Assessment of Costs

Once logged into the eCourts Portal you must select eLodgment – Lodge a document.

You must then select the Jurisdiction, Division and Location details of ‘Supreme Court’, ‘Civil’ and ‘Perth’.

Next, you must select the document type of ‘Application for Costs Assessment Under the Legal Profession Act 2008/Legal Profession Uniform Law (WA)’ from the drop down list.

The screenshot shows the 'Type of Document Lodgment' form in the eCourts Portal. On the left, there is a 'Document details' section with a 'Type of document' dropdown. The main form area contains the following fields:

- Jurisdiction:** Supreme Court (dropdown)
- Division:** Civil (dropdown)
- Location:** Perth (dropdown)
- Type of document to be lodged:** Application for Costs Assessment Under the Legal Profession Act 2008/Legal Profession Uniform Law (WA) (dropdown)

You must move through each screen by completing all mandatory, and necessary, details. Enter your information as the Applicant. The law practice will be the Respondent.

When you lodge an Application for Costs Assessment in the eCourts Portal there are two remedy types from which to select. It is important you select the correct one to assist in the creation of the correct file. The remedy type you select depends on the date the law practice was first given instructions (see Section 2 above), and are as follows:

- a. Application for Assessment of Costs under the Legal Profession Act 2008; or
- b. Application for Assessment of Costs under the Legal Profession Uniform Law (WA)

In addition to entering information, you must also upload additional documents for filing. As set out above, these documents are:

- the bill or any invoices received;
- any costs agreement applicable to the bill(s);
- any relevant costs disclosure information or estimates;
- memorandum of conferral.

Document Selected

Application for Costs Assessment Under the Legal Profession Act 2008/Legal Profession Uniform Law (WA)

[\[Help\]](#)

Upload Supporting Documents:

Please enter the relevant information for this lodgment.

Place of Trial: * Perth

Remedy: * Application for Assessment of Costs under the Legal Profession Uniform Law (WA)

Supported file formats: .doc, .docx, .pdf

Choose File | No file chosen

Upload Selected File

Application for Assessment of Costs under the Legal Profession Act 2008
Application for Assessment of Costs under the Legal Profession Uniform Law (WA)

* Indicates Mandatory Fields

Save for later | Delete document

Back | Next

On one screen you will be asked the following question:

Q. What was the exact date on which the client first instructed the law practice in matters to which this bill relates?

It is important that you answer this question accurately as the portal will render the 'Application for Costs Assessment' document, and allocate the relevant matter number, from the information you provide.

Document Selected

Application for Costs Assessment Under the Legal Profession Act 2008/Legal Profession Uniform Law (WA)

[\[Help\]](#)

Additional Attributes

Name of the applicant who is applying for an assessment of costs: *

Address of the applicant who is applying for an assessment of costs: *

Address:

Suburb:

PostCode:

The application is for a bill provided by a law practice:

The application is for a bill provided to a client:

If the application is for a single bill, enter the bill date:

If the application is for multiple bills enter all the bill dates:

I have conferred with the law practice who rendered this bill and attach a memorandum of conferral:

I have conferred with the client to whom the bill was provided and attach a memorandum of conferral:

What was the exact date on which the client first instructed the law practice in matters to which this bill relates?: *

* Indicates Mandatory Fields

Save for later | Delete document

Back | Next

8. Is there a fee to lodge my Application for Costs Assessment?

Yes, you must pay a fee to lodge the Application for Costs Assessment pursuant to Item 9(a) in Schedule 1 of the *Supreme Court (Fees) Regulations 2002*.

If an appointment to assess costs is set, an additional fee of 2.5% of the total costs is payable pursuant to Item 9(b) in Schedule 1 of the *Supreme Court (Fees) Regulations 2002*.

In addition, the Taxing Officer may order you to pay any costs associated with the application (the Taxing Officer is a Registrar of the Supreme Court who has been allocated to determine your costs assessment).

9. What happens after I file my documents?

Service of documents

Serving a document means formally delivering it to your law practice after the document has been accepted for filing by the Court.

Once your documents have been accepted for filing by the Court, you must serve them on the law practice.

Once you have served the documents on the law practice, it will have 10 days to file a Memorandum of Appearance if it wishes to participate in the matter.

Directions Hearing

A directions hearing is a short Court hearing where the Taxing Officer will make directions or orders about how the application is to proceed e.g. who needs to do what by when. All parties who intend to participate in the proceeding are expected to attend directions hearings.

If a directions hearing is listed, it will be at least 21 days after the application is filed with the Court.

Alternatively, the Taxing Officer may decide the bill of costs is suitable for provisional assessment prior to listing a directions hearing.

Provisional Assessment

Provisional assessment is a procedure intended to reduce the number of applications that go to a formal Assessment, resulting in a faster process and a saving of costs for parties.

If the Taxing Officer decides the bill of costs is suitable for provisional assessment, he or she will notify the parties of that by letter. The Taxing Officer may make directions about the provisional assessment. This may include the filing of supporting documents and/or the law practice's file.

When a provisional assessment is undertaken, the parties do not appear before the Taxing Officer, and the parties are not entitled to provide any additional materials unless the Taxing Officer requests them.

Once the Taxing Officer has undertaken the provisional assessment, he or she will advise the parties in a Notice of Provisional Assessment of the total costs allowed if the assessment were accepted.

The parties will have 21 days from the date of the Notice of Provisional Assessment to advise if they object to the assessment. Objections must be in writing and directed to the Taxing Officer. The

objection only needs to state that the party objects – grounds of objection are not required. A copy of the objection must be served on the other party.

The parties may advise the Taxing Officer in writing within the 21 day period if they accept the provisional assessment. If no objection is received within the 21 day period the provisional assessment will be assumed to have been accepted.

For applications under the *Legal Profession Act 2008*, if the provisional assessment is either accepted or not objected to within 21 days, the Taxing Officer will certify, in the form of an order, the amount of costs allowed.

For applications under the *Uniform Law*, if the provisional assessment is either accepted or not objected to within 21 days, the application will proceed to a costs assessment on the papers for the purpose of issuing a costs certificate under that scheme.

The Taxing Officer's certificate following a provisional assessment is binding on the parties, bears interest and may be enforced as a judgment of the Supreme Court for the payment of the amount in the certificate

Objection received to Provisional Assessment

If an objection(s) is received, the Taxing Officer may invite the parties to attend a confidential settlement conference, which is like a mediation.

Confidential Settlement Conference

At a confidential settlement conference, the Taxing Officer cannot require anyone to resolve the dispute but will facilitate discussion between the parties with the aim of helping them explore options, negotiate, and reach a settlement, without the need to go to a formal Assessment.

If the costs dispute is not settled at a confidential settlement conference, then the application for costs assessment will be referred to a different Taxing Officer.

Assessment

An Assessment is the formal hearing where a Taxing Officer will review and assess the legal costs. It is usually held in a courtroom and both you and a representative for the law practice are required to attend. The Taxing Officer will hear from the parties at the Assessment.

Before the Assessment (usually at a directions hearing) the Taxing Officer may make programming directions for the Assessment, including:

- (a) the law practice file and serve a Bill of Costs in assessable form, in compliance with O 66 r 42 of the *Rules of the Supreme Court 1971* (WA);
- (b) the paying party file and serve a notice of objections setting out:
 - a. each item in the bill to which the party objects;
 - b. the grounds on which an objection is made; and
 - c. the sum considered to be a reasonable allowance for each item.

The Taxing Officer may also make orders in respect of:

- (a) the time and date on which the Assessment is to be held; and
- (b) the payment of the fee of 2.5% of the total of the costs allowed (see Section 7 above).

The *Legal Profession Act 2008* and the *Uniform Law* set out the relevant criteria for the Taxing Officer to apply to the Assessment.

At the conclusion of an Assessment under the *Legal Profession Act 2008* the Taxing Officer will certify in writing the amount of disputed costs allowed and the costs of the assessment.

At the conclusion of an Assessment under the *Uniform Law* the Taxing Officer will certify in writing the amount of legal costs determined to be payable, the amount of interest to be paid on unpaid legal costs and the costs of the costs assessment.

The Taxing Officer's certificate is binding on the parties, bears interest and may be enforced as a judgment of the Supreme Court for the payment of the amount in the certificate.

10. Courtroom etiquette

You can find information about court etiquette [here](#).

You can find information about the people you can expect to be in Court, and the setup of the Court, [here](#).

11. Contact

Supreme Court Registry and Central Office

Supreme Court staff cannot provide legal advice or assist in the preparation of your paperwork.

The staff can provide procedural advice only.

Website:	www.supremecourt.wa.gov.au
Address:	Level 11, David Malcolm Justice Centre 28 Barrack Street PERTH WA 6000
Telephone:	(08) 9421 5333
Email:	central.office@justice.wa.gov.au
Opening Hours:	9.00am to 4.00pm Monday-Friday (closed public holidays)

Last updated: 2 February 2023