

Costs Disclosures

What is Uniform Law?

The Legal Profession Uniform Law (WA) (Uniform Law) will create a common legal services market across NSW, Victoria & Western Australia, encompassing more than three quarters of Australia's lawyers. Uniform Law creates a simpler and more efficient system for both the law practice and clients by cutting red tape, better protecting consumers and ensuring consistency across our borders.

Western Australia is one step closer to joining the Uniform Law, with enabling legislation introduced into State Parliament on 18 March 2020. The Legal Profession Uniform Law Application Bill 2020, when passed by parliament, details the transitional arrangements for the commencement date.

Requirement to give a Costs Disclosure

The Uniform Law makes some significant changes in relation to costs disclosures that law practices and legal practitioners should be aware of. Under the Uniform Law, a law practice must give an estimate of the total legal costs payable in the matter, and the basis on which costs will be charged.

It is no longer acceptable to provide a range of costs but a single figure needs to be provided as a part of proper costs disclosure.

Changed thresholds for requiring a costs disclosure

Under Uniform Law:

- No costs disclosure is required if the total legal costs in a matter, excluding GST and disbursements, are not expected to exceed \$750.
- If the practice estimates that the cost for legal work is likely to exceed \$750 but not \$3000, then they may make a disclosure by providing their client with the uniform standard disclosure form prescribed by the Uniform Rules.
- If costs are expected to exceed \$3000 full costs disclosure must be provided.

This means that all costs over \$750 require a written costs disclosure. Costs between \$750 and \$3000 can use a standard short form disclosure. The main difference between the two types of disclosure is the need to disclose how costs will be calculated in the full disclosure. Costs disclosure is not required to be given to a commercial or government client. Failure to meet the costs disclosure requirements may render any costs agreement void.



QUICK FACTS

Uniform Law creates a common legal services market across NSW, Victoria & Western Australia.

A single figure cost needs to be provided in a costs disclosure.

New \$750 and \$3000 Costs Disclosure limits.

Client needs to understand and consents to actions and costs.

New powers have been included to aid the timely and effective resolution of disputes.

'No Win – No Fee' Costs Disclosure must be signed.

Legal Services Council and the Commissioner for Uniform Services Regulation have guidelines and directions for cost disclosures and estimates.

When do I give costs disclosure?

Disclosure must be made in writing either before the law practice is retained, or as soon as practicable thereafter.

A law practice must also take reasonable steps to ensure that the client understands and has consented to the proposed action and to the estimated costs.

Information that must be given to clients

Clients' rights that must be disclosed include the right:

- to negotiate a costs agreement;
- to negotiate a billing method;
- to receive a bill and to request an itemised bill;
- to seek assistance from us in the event of a dispute about legal costs; and
- any time limits which may apply to those options.

How to give a costs estimate

Setting out standard parameters and stages in a matter will help the client to understand the legal process, the scope of work to be done and the likely cost at each stage. This approach sets up a framework where non-standard items or complications can be discussed. It should also ensure that the costs and benefits of continuing are regularly discussed, along with the potential final cost.

What to do if circumstances change after initial disclosure

Under the Uniform Law, legal practitioners are required to provide updated costs disclosure in writing as soon as practicable. Any changes in the expected costs associated with a matter should be discussed and updated in writing as soon as possible.

Costs disclosure in a 'no win – no fee' matter?

Your own professional fees must be disclosed in a conditional costs disclosure (No win No fee) as well as all other potential costs which the client may incur, such as disbursements and another party's costs as well as when they may incur them.

Conditional costs agreements must always be signed.

Additional resources

Costs disclosure can be made using a costs disclosure form where the estimated legal costs are not likely to be more than \$3000 before disbursements and GST are added.

The forms are available in user friendly formats:

[For law practices \(other than barristers\)](#)

[For barristers \(briefed directly\)](#)

[Costs Disclosure Forms information sheet](#)

for legal practitioners; explains how to use the forms.

The [Commissioner for Uniform Legal Services Regulation](#) has released some guidelines and directions on cost disclosures and estimates.