

Dispute Resolution & Complaints

What is Uniform Law?

The Legal Profession Uniform Law (WA) (Uniform Law) will create 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.

Complaints

The Uniform Law provides that a complaint may be a Consumer Matter, a Disciplinary Matter or both.

Under the Uniform Law a complaint may be made either about a lawyer or about a law practice or both.

The Uniform Law also reduces the time to make a complaint from 6 years to 3 years from when the event took place. There are even shorter time frames for costs disputes. Discretionary powers are provided to allow us to accept complaints outside of this time limit under certain conditions.

Consumer Matters

A Consumer Matter is a complaint which relates to the provision of legal services to the complainant by a lawyer or law practice and may include –

- service related concerns;
- a financial loss resulting from the conduct of a lawyer;
- concerns related to a lien held by a lawyer over a client's property or files; or
- a "costs dispute".

The Uniform Law requires us to attempt to resolve Consumer Matters by informal means as soon as practicable. These means can include mediation or the making of binding determinations or both. Determinations for Consumer Matters can include cautions, reprimands, apologies, redoing any or all of the work, compensation and even special training requirements.

When handling a consumer matter, we need to be able to establish that at least one of the parties has made a reasonable but unsuccessful attempt to resolve the matter.



QUICK FACTS

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

New emphasis on Complaint resolution

Complaints can be made about a lawyer, a law firm or both

Consumer Matters are complaints between clients and a lawyer, a law firm or both

Disciplinary Matters relate to the possible 'misconduct' of a lawyer

Costs disputes have 30 day, 60 day and 6 month time limits for making complaints

Dispute resolution may include mediation, informal settlement as well as formal determinations

Disciplinary Matters

Disciplinary matters are complaints about the conduct of a lawyer or law practice that may amount to Unsatisfactory Professional Conduct and Professional Misconduct. Unsatisfactory Professional Conduct and Professional Misconduct are defined in the legislation.

Costs Disputes

A costs dispute is separately defined in the Uniform Law. Broadly speaking, a costs dispute is a Consumer Matter involving a dispute about legal costs payable between a lawyer and a law practice and a person who is charged with or liable to pay those costs. The complainant may be a client of the lawyer or law practice or may also be a third party payer.

There are shorter time limits associated with raising a costs dispute. Complaints relating to costs need to be received within 60 days of the bill becoming payable if a lump sum bill was provided and 30 days if an itemised bill was provided. An additional discretionary 4 month extension may be granted if suitable reasons explaining the delay in lodging the complaint can be provided.

There are also monetary limits which determine which costs disputes we can deal with. We may deal with costs disputes if the total cost of the bill is less than \$106,835 or where the total bill exceeds \$106,835 but the total amount in dispute is less than \$10,685.

Costs Dispute Resolution

The Uniform Law allows us to assist parties in the process of trying to reach a resolution of any dispute over legal costs, although we cannot give legal.

During the resolution process:

- Both parties will be contacted by telephone or by letter by an officer to discuss the dispute.
- The officer will ask for offers and suggestions for possible resolution from the parties.
- If necessary the officer may arrange a formal face-to-face meeting with the parties.
- In some cases we may make formal written determinations to resolve the dispute.

The term 'costs' refers to the bill a consumer receives for legal services and covers fees charged by the lawyer as well as disbursements.