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Uniform Law

Responses to Frequently Asked Questions (FAQs) are provided below, click on a question to expand the answer. You may also jump to a section with the links below.

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General

[How will the change to Uniform Law affect my application for admission to the Australian Legal Profession as an Australian lawyer?](#)

Application for Admission

If you have applied to the Supreme Court of Western Australia for admission to the Australian Legal Profession as an Australian lawyer prior to commencement day and no decision about your admission has been made, then your admission application will still be valid and is taken to be an application for admission under the Uniform Law.

Already admitted

If you have already been admitted to the Australian Legal Profession as an Australian lawyer, then your admission is still valid after commencement day. It is not the legislation that admits you but the Supreme Court of the jurisdiction in which you were admitted.

[2. What do I do if I have a current practising certificate that will expire after the commencement day?](#)

If you hold a current practising certificate, it will still be valid on commencement day. You will not need to do anything until it comes time to renew your practising certificate. At that time it is anticipated there will be changes to the application process. We will be doing a lot of work behind the scenes to make sure all practitioners are aware of the changes and their obligations. If commencement day is 1 July the normal renewal process will still apply in May and June. We will be working to simplify and streamline as much of the process as possible.

[3. Will I need to re-apply for my practising certificate when the Uniform Law commences?](#)

You will not be required to re-apply for a practising certificate. The renewal process will still apply under the Uniform Law.

[4. Should I delay applying for a practising certificate until after the commencement day?](#)

That decision is entirely up to you. As long as you ensure that you do not engage in legal work without holding a current valid practising certificate.

5. I have heard that there will be lots of changes to practising certificates, the Conduct Rules, Complaints, Trust Account Audits and Professional Indemnity Insurance. Where can I find information about all this?

The Legal Practice Board is creating Fact Sheets and FAQ's for each of the changes and publishing them as soon as is practicable.

Fact Sheets will be focussed on informing lawyers, law practices, clients and consumers of legal services. We will continue to participate in, and conduct, training and information sessions on changes. You can also contact the Legal Practice Board on uniformlaw@lpbwa.com (mailto:uniformlaw@lpbwa.com) if your query is urgent. Provisions have been made in the Legal Profession Uniform Law Application Bill 2021 (WA) to accept the transitional provisions detailed in Schedule 4 of the Victorian Legal Profession Uniform Law Application Act 2014 as well as creating Western Australian specific transitional Provisions. These provisions cover:

- Current practising certificate holders
- Foreign lawyers with registration certificates
- Government lawyers
- Persons engaging in exempt legal work
- Incorporated legal practices
- Multi-disciplinary practices
- External Examiners
- As well as other provisions

6. Will my CPD requirements change?

Your CPD requirements will continue while you hold your current practising certificate. Points earned prior to commencement day will carry over under the new legislation. The Legal Practice Board is creating Fact Sheets for each of the changes and publishing them as soon as is practicable.

7. What will happen to my supervised practice requirements?

Your supervised legal practice requirements associated with your practising certificate will remain unchanged while you hold your current practising certificate. In the unlikely event that anything changes the Legal Practice Board will be in touch with you to discuss the changes.

8. Will my Insurance change or need to be changed?

You will still need to be covered by an insurance policy applicable to requirements in Western Australia. You will not need to modify your coverage for the remainder of the practising certificate year. If you have an exemption prior to commencement day the exemption will still be valid until it expires.

Applications for exemption under the Uniform Law will be managed by the Legal Practice Board, not Law Mutual (WA).

9. What will happen if I have an outstanding complaint about me or my law practice?

Any complaint or investigation that was commenced before the commencement day will continue to be handled under the Legal Profession Act 2008. The Uniform Law Application Bill 2021 (WA), when passed through parliament, includes transitional provisions to cover these matters. After commencement day new complaints will be handled under the Uniform Law generally, even where they are about something that happened before commencement day.

10. What is commencement day and when is it?

When the Application Bill is passed into law, the government will proclaim a commencement day. This is the day that the Uniform Law (WA) actually comes into force. The commencement day for the Uniform Law will not be known until the Application Bill is passed into law.

Receiving Trust Money - Profession

You may also wish to refer to the Public Statement on Authorising the Receipt of Trust Money (PDF) ([/Documents/Uniform-Law/20211007-Public-Statement-Authorising-the-receipt.aspx](#))

1. I am a principal of a law practice that does not operate a trust account. Can I be authorised to receive trust money?

Not as part of this current process. If you can demonstrate that you have the requisite skills and experience to operate a trust account then there will be opportunity in the future for you to apply to have the condition authorising the receipt of trust money.

The Board will publish a policy for the process and skills you need to be able to demonstrate competency in operating a trust account.

2. I'm currently in the middle of the approved practice management course? Will I get authorised automatically?

No you will not. Upon completion of the practice management course, and in particular the trust account module, you may apply to the Board to have your practising certificate amended to impose the condition allowing the receipt of trust money. You will not be authorised to receive trust money unless your law practice is going to operate a trust account.

If you already have a varied PMC condition and you have opened a trust account you will be required to complete the trust account module within a specified period of time. You should contact the Board to go through the requirements.

3. I am intending to begin the approved practice management course very soon. Can I be authorised to receive trust money now?

Not yet, however the requirement that you complete an approved trust account course is not likely to impede you becoming a principal with a varied PMC condition, limiting only that the law practice will not be able to open a trust account.

After 30 June 2022, if your law practice already operates a trust account it is likely that you will need to complete an approved trust account course before the PMC condition will be varied.

4. I am thinking to become a sole practitioner. Can I be authorised to receive trust money conditionally before I complete the approved practice management course?

No, please see question 3 above.

5. The PMC condition was never imposed on my practising certificate and I have never operated a trust account. I am a principal of a law practice. Can I be authorised to receive trust money?

The Board has published a list of approved trust accounting courses that meet the Board requirements under the current policy. A link to a list of approved courses is attached here. (<http://www.lpbwa.org.au/Legal-Profession/Continuing-Professional-Development/Approved-QA-Providers>)

6. What course do I need to complete to be allowed to receive trust money?

The Board has published a list of approved trust accounting courses that meet the Board requirements under the current policy. A link to a list of approved courses is attached here. (<http://www.lpbwa.org.au/Legal-Profession/Continuing-Professional-Development/Approved-QA-Providers>)

7. Do you have a policy on the condition to receive trust money I can refer to?

A link to the public statement authorising the receipt of trust money can be found here.

(<https://www.lpbwa.org.au/Documents/Uniform-Law/20211007-Public-Statement-Authorising-the-receipt.aspx>)

8. What do I do if I am a principal of a law practice and I do not want to be authorised to receive trust money?

If you are a principal of a law practice that operates a trust account you must be authorised to receive trust money.

If you are a principal of a law practice that does not operate a trust account you will not be authorised to receive trust money.

9. Can only principals be authorised to receive trust money?

Under the Legal Profession Act 2008, only principals can be authorised to receive trust money.

However, under the Uniform Law other Australian legal practitioners can be authorised to receive trust money. All practitioners must either be authorised or not authorised to receive trust money. The Board is developing a policy on this issue.

10. What does it mean to be authorised to receive trust money? Do I need to be accountable for every transaction?

Each law practice that operates a trust account must have at least one principal authorised to receive trust money under the Legal Profession Act 2008.

However, all principals, whether under the Legal Profession Act 2008 or the Uniform Law, are responsible for the transactions on that trust account. Any person who receives trust money on behalf of the law practice must be an Australian legal practitioner and must be authorised to receive trust money.

11. When do I need a condition authorising me to receive trust money in place?

If you are currently a principal of a law practice operating a trust account you will need the Authorising Condition on your practising certificate now, before the Uniform Law commences.

All other practitioners will only need a condition authorising the receipt of trust money on their practising certificate if they become a principal before or after 30 June 2022, or if they intend to receive trust money after 30 June 2022.

12. Can my administrative staff disburse trust money for my law practice?

After the commencement day of the Uniform Law, only authorised principals, other authorised legal practitioners, or authorised associates of the practice, either legal or non-legal, will be able to disburse trust money from the law practice trust account.

Rule 50(2) of the Legal Profession Uniform General Rules 2015 provides for a law practice to authorise associates and Australian Legal Practitioners to disburse money from the trust fund of the law practice. Rule 42 of the Legal Profession Uniform General Rules 2015 details how money can be withdrawn from the trust account to pay legal fees and section 6 of the Uniform Law defines who is an associate of a law practice.

13. Why is this change necessary now?

The only changes now are:

(a) The imposition of the Authorising Condition on the practising certificate of principals of a law practice operating a trust account.

(b) Practitioners who intend becoming principals from now on will be required to complete an approved trust account course before they can open or operate a trust account.

The Board's policy in this regard is to maintain the integrity of a law practice trust account as consumers of legal services are entitled to expect proper management for the safekeeping of their money. Lawyers who are entitled to receive trust money have a fiduciary duty to those persons on whose behalf it is held. By ensuring a principal has the requisite skills and knowledge to properly manage a trust account the risk of improper use or detriment to the consumers of legal services in WA whose money is being held on trust.

Costs Disclosure

1. What does giving costs disclosure involve?

Lawyers must give a single figure estimate of the total legal costs payable in the matter, and the basis on which costs will be charged in writing.

Where the total legal costs in a matter are likely to be between \$750 and \$3,000, lawyers may use the standard form of costs disclosure.

The standard form of costs disclosure can be found in Schedule 1 of the Legal Profession Uniform General Rules 2015. The Uniform Law costs disclosure forms can be found on the Legal Services Council webpage here (<https://www.legalservicescouncil.org.au/Pages/legal-practioners/for-legal-practioners.aspx#Costsdisclosureforms>) or directly here. (<https://www.legalservicescouncil.org.au/Documents/information-res/form-1-solicitor-standard-costs.docx>)

2. Is costs disclosure always required?

Similar to the Legal Profession Act 2008, written costs disclosure is required as soon as possible after a lawyer is briefed about a matter. Where the total legal costs in a matter are not likely to exceed \$750 written disclosure may be given but is not required. As soon as it is expected that costs will exceed \$750 then written disclosure is required.

A lawyer may choose to provide a client with the standard form or with full costs disclosure regardless of the expected costs. It is still best practice, and the best way to avoid misunderstandings, to inform your client of the costs you will be charging them and how you will be charging those costs prior to commencing work.

Costs disclosure is not required to be given to a commercial or government client.

3. 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, in order to avoid any unwelcome surprises for the client.

4. Is there any other information that must be given to clients under the costs disclosure provisions?

Very much like current disclosure requirements, Section 174 of the Uniform Law sets out a number of clients' rights that must be disclosed, including the right:

- to negotiate a costs agreement;
- to negotiate a billing method;
- to receive a bill and to request an itemised bill; and
- to seek the assistance of the Legal Practice Board in the event of a dispute about legal costs

5. Can I provide a range of costs as an estimate?

No. Estimates of costs under the Uniform Law must be provided as a single figure excluding GST and disbursements.

6. How do I give a costs estimate without knowing how a matter will evolve?

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 will also go some way to satisfying the Uniform Law requirement to ensure that the client understands the scope and associated costs of the work proposed in their matter. It can also set up a framework where non-standard items or complications can be discussed and to ensure that the costs and benefits of continuing are regularly discussed, along with the potential final cost.

7. What do I do if circumstances change after initial disclosure?

Lawyers are required to provide updated written costs disclosure as soon as practicable after there is a change. The obligation is ongoing, simple to comply with and is the same as current disclosure obligations.

Updated and ongoing disclosure should be provided as soon as it is apparent that the events or costs associated with initial costs disclosure have been reached or concluded.

8. Do I have to give costs disclosure in a 'no win – no fee' matter?

Yes, it is not just your own professional fees you must disclose, but all other potential costs that the client may incur, for example disbursements and another party's costs. This disclosure must always be signed by the client, it should clearly define what constitutes a successful outcome and must be in plain English with a cooling off period.

9. How can I ensure I meet the costs disclosure requirements?

Clear and transparent communication is at the core of costs disclosure. A 'no surprises' approach is best, whereby the client is given clear notice in advance that they will be charged in a certain way, and a warning when costs are exceeding previous estimates and fresh instructions are sought as complications occur or costs increase.

10. What are the consequences of failing to provide the correct or adequate costs disclosure?

A law practice is not required to enter into a costs agreement but is required to meet their costs disclosure obligations to their client.

Failure to meet the costs disclosure obligations or a contravention of the costs disclosure obligations may render any associated costs agreements void.

A void costs agreement does not affect the right of a law practice or lawyer to the payment of fees accrued while acting on lawful instructions from the client. It does mean that the client or an associated third party payer is not required to pay the legal costs until they have been assessed or any costs dispute has been determined.

Where a costs agreement is deemed void due to a failure by a law practice or lawyer to disclose or to meet disclosure obligations, it is important to note the effect of rule 72A in the Legal Profession Uniform General Rules 2015.

Rule 72A allows that a costs dispute by the Board or a costs assessment by the Supreme Court of WA, may also determine that the costs agreement is still valid in the case where:

- the law practice took reasonable steps to comply with the disclosure obligations of the Uniform Law before becoming aware of the contravention;
- the law practice, no later than 14 days after the date on which it became aware of the contravention, rectified the contravention, by providing the client with the necessary information required to be disclosed under the Uniform Law; and
- where the contravention was not substantial and where it would not be reasonable to expect that the client would have made a different decision.

Government Lawyer

1. Who is required to get a government PC?

Any Australian Lawyer employed by a government employing authority and engaging in legal practice as part of their employment is required to hold a practising certificate.

2. Am I required to get a practising certificate before commencement day?

No. The Legal Profession Uniform Law Application Bill 2021 (WA) includes transitional arrangements to cover government lawyers. If you are currently practising solely as a government lawyer you are not required to apply for a practising certificate prior to commencement day.

Clause 283 of the Legal Profession Uniform Law Application Bill 2021 (WA) states that WA government lawyers will be taken to hold current a Australian practising certificate granted under the Legal Profession Uniform Law (WA) authorising the holder to engage in legal practice as a government legal practitioner for the period beginning on commencement day and lasting for 6 months or until a new certificate is issued; whichever comes first.

3. Is there a definition of legal work?

There is no definition in the legislation or related interpretation acts that specifically defines legal work. Section 6 of the Uniform Law does define the phrase 'engage in legal practice' —

engage in legal practice includes practise law or provide legal services, but does not include engage in policy work (which, without limitation, includes developing and commenting on legal policy)

4. If there a definition of a government lawyer or legal practitioner?

Section 6 of the Uniform Law has the following definitions for a government lawyer.

government lawyer means a person who engages in legal practice only—

- (a) as an officer or employee of a government authority; or
- (b) as the holder of a statutory office of the Commonwealth or of a jurisdiction; or
- (c) in another category specified in the Uniform Rules;

government legal practitioner means a government lawyer who is an Australian legal practitioner.

Clause 125 of the Legal Profession Uniform Law Application Bill 2021 (WA) also defines a contract legislative drafter to be a government lawyer for the purposes of Uniform Law.

5. Do I need to pay for my practising certificate?

Unless exempt, each Australian Legal practitioner who applies for a practising certificate is required to pay the prescribed fees to accompany an application for a practising certificate.

6. Do I need to organise professional indemnity insurance?

Government lawyers have a statutory exemption from holding professional indemnity insurance in relation to the work that they do as part of their employment as a government lawyer.

7. What will my CPD requirements be and how will I accrue CPD points under the Uniform Law?

All practitioners who hold a practising certificate will be required to meet the CPD requirements under Uniform Law. CPD points accrued prior to commencement day will be carried over under Uniform Law.

8. Will there be a special process for Government lawyers to apply for a practising certificate?

No. Government lawyers will be required to apply for a practising certificate in the normal course. Legal Practice Board staff will be available to assist a government lawyer applying for a practising certificate for the first time.

9. What happens if I forget to apply for a new practising certificate?

After commencement day government lawyers will be deemed to hold a practising certificate for 6 months or until a new certificate is issued. If a practitioner fails to apply for a practising certificate before the expiration date then that practitioner will not be permitted to engage in legal practice until they have a current practising certificate.

10. Am I required to undergo a period of supervised legal practice?

It is a statutory requirement that all practitioners undergo a period of supervised legal practice. If you believe that you have already engaged in a period of supervised legal practice you should contact the Legal Practice Board to enquire how you can satisfy the Board that the condition should not apply. It is recommended that this be done prior to the commencement day.

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[Trust Accounts \(/Legal-Profession/Trust-Accounts\)](#)

[Continuing Professional Development \(/Legal-Profession/Continuing-Professional-Development\)](#)

[Restricted Practice and Supervised \(/Legal-Profession/Restricted-Practice-and-Supervised\)](#)

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BECOMING A LAWYER

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GET IN TOUCH

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📍 [Legal Profession Complaints Committee](#)

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