

LEGAL COSTS: YOUR RIGHT TO KNOW



Disclosure of Costs to Clients, *Legal Profession Act 2006* (NT)

This notice does not apply to costs in Family Court matters commenced before 1 July 2008. The rules for disputing costs in those matters are summarised in the Family Court of Australia Costs Notice, which is available at www.familycourt.gov.au. Different time limits may apply. Please speak to the Family Court for further information.

Part 1: Your right to negotiate

You can negotiate with your lawyer about the amount that your lawyer will charge you. Make sure that you understand what you are agreeing to, and ask questions if you are unsure about the costs agreement. You will have to pay the costs that you have agreed to, unless the agreement is set aside (see Part 5).

Part 2: Your right to enter into a costs agreement and receive information about costs

You have a right to enter into a Costs Agreement with your lawyer. A lawyer must also disclose a range of information about anticipated legal costs (including the basis on which costs will be calculated, an estimate of the total legal costs, details of billing interval, the rate of interest on unpaid costs and what costs might be recovered from another party to litigation) if the anticipated legal costs (not including disbursements) are more than \$1500 (exclusive of GST). Lawyers are exempt from disclosing costs information to certain 'sophisticated' clients such as large businesses.

Part 3: Your right to receive a bill of costs

You have a right to receive a bill before you pay for legal work. Usually, the bill gives a summary of the work and asks you to pay the full amount. If you want more information about how the costs were calculated, you can ask for a detailed account (an itemised bill) that sets out what work your lawyer did and how much your lawyer has charged for each item of work.

Your lawyer cannot charge for preparing the itemised bill. However, it is possible that the total amount of the bill may increase once each piece of work is itemised. The itemised bill must be provided within 21 days of being requested. Your lawyer has a right to take court action against you if you fail to pay your bill. However, your lawyer cannot start legal action against you until 30 days after giving you the bill (or 30 days after giving you an itemised bill, if you have requested one) or during a costs assessment. A notice telling you about your rights to challenge legal costs must be sent with the bill.

Part 4: Your right to be notified of changes

It is not possible to predict the exact cost of litigation in advance. The cost of a court case will vary depending on the actions of other parties, orders made by the court and other factors. Your lawyer must give you an estimate, but often cannot tell you the exact cost up front. If there is a substantial change to anything that your lawyer has told you previously about your costs, the lawyer must tell you of the change as soon as they can.

Part 5: Your right to request written progress reports

You can ask your lawyer for a written report about (a) the progress of your matter, and (b) the legal costs you have run up in total, or since your last bill. Your lawyer can charge for the progress reports, but is not allowed to charge for the update on legal costs.

Part 6: What to do if you are unhappy with your legal costs

There are time limits that apply to taking particular action in relation to legal costs. You should read this fact sheet carefully, and seek advice if you are unsure about anything in it.

Discuss your concerns with your lawyer: Most clients resolve their concerns about their legal costs simply by discussing their concerns with their lawyer. If you are not happy with a bill, your first step should be to do this, either before or after receiving an itemised bill. Once your lawyer has understood your concerns s/he may agree to review the bill.

Mediation: If negotiating with your lawyer does not work you should consider costs mediation. Costs mediation may be formal or informal, and provides you with an opportunity to discuss your concerns with the assistance of an independent facilitator. Mediation is generally a quicker and cheaper alternative to costs assessment. Mediators cannot give legal advice during the mediation, and cannot decide on the fairness or reasonableness of the costs. In the Northern Territory, your lawyer can be required to participate in costs mediation if the amount in dispute is less than \$10,000. Contact the Law Society Northern Territory or the Statutory Supervisor for more information.

Costs assessment: This is where an independent person appointed by the Law Society, or the Supreme or Local Court, considers the bill and your objections to it. The costs assessor will decide what is a fair and reasonable amount for you to pay. You have 12 months from the bill being given to you (or a request for payment being made, or when you paid the costs) to apply for costs assessment. The Supreme Court of the Northern Territory will only grant extensions of time in special circumstances. There is a fee for applying for costs assessment. However, if the bill is reduced by 15% or more, or your lawyer did not make proper costs disclosure, you lawyer may be required to pay the costs of the assessment.

Setting aside the Costs Agreement: If you believe that your costs agreement is not fair or reasonable, you can apply to a costs assessor to have the whole, or part, of it set aside. If the Costs Agreement is set aside, the costs assessor will then decide how much you should pay for the legal work. There may be other ways you can resolve your concerns about legal costs. You should seek legal advice if you feel that the avenues set out above are not appropriate for you.

Part 7: Which law will apply?

Ordinarily, the law that will apply to your dealings with your lawyer will be the law of the State or Territory in which you first engaged the lawyer. However, the law of another State or Territory may apply if your matter has a substantial connection to that other State or Territory, and you and your lawyer agree that law of that other State or Territory will apply.

Part 8: Who to contact for more information

Legal Profession Regulators

Costs mediation

Statutory Supervisor
C/- Department of Justice
GPO Box 1722 Darwin NT 0801
T: (08) 8999 6682

Costs assessment

Law Society Northern Territory
GPO Box 2388 Darwin NT 0801
T: (08) 8981 5104
www.lawsocietynt.asn.au

Legal and procedural advice

The following organisations provide free legal advice.

Legal Aid Commission Northern Territory
T: (08) 8999 3000
www.nt.gov.au/ntlac