

Your Right to Challenge Legal Costs



What can I do if I disagree with my legal costs?

This fact sheet provides information to members of the public about what they can do if they have a dispute about their legal costs.

There are a number of avenues available if a dispute about legal costs arises. It is always recommended that you first raise any concerns you have about costs with your lawyer before taking formal action. A lawyer may not know that you are unhappy about their fees and can provide you with an explanation of the work, time and fees.

Request an itemised bill

If you have received a lump sum bill you are entitled to request your lawyer to give you an itemised bill which provides you with additional information about what work was done, the cost of the individual tasks and the total cost. You are entitled to receive an itemised bill within 21 days of your request.

The amount payable for a final itemised bill may be more than the initial lump sum bill.

Apply for a costs assessment

You may apply to a Costs Assessor at the Supreme Court of Tasmania for a review of the whole or any part of your legal bill. An application for a costs assessment may be made

even if the legal costs have been wholly or partly paid.

If you instructed your lawyer after 31 December 2008, you must make an application to the Supreme Court within 60 days after:

- receiving a copy of the bill or a request from the lawyer for payment; or
- The costs were paid but you did not receive a bill or the lawyer did not request payment.

Fees apply to making an application for a costs assessment. For information about fees please contact the Supreme Court on **1300 664 608** or at www.supremecourt.tas.gov.au

The Costs Assessor has a discretion to make orders with respect to who should pay the costs of a costs assessment. Who pays can depend on how much (if at all) the bill is reduced.

Apply to set aside a costs agreement

If you have entered into an agreement with your lawyer about costs, you may apply to a Costs Assessor for an order that the costs agreement be set aside. There is no time limit for making this type of application. The Costs Assessor may set aside a costs agreement if satisfied that the agreement is not fair or reasonable. The Costs Assessor may take into consideration the terms of the agreement, your understanding of the agreement, and whether the legal work undertaken and costs charged for the work were reasonable.¹

¹ *McNamara Business & Property Law v Kasmeridis and Another* [2007] SASC 90 at [27].

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If the costs agreement is set aside, the Costs Assessor may order the legal practitioner to pay your costs of the hearing. If the costs agreement is not set aside, the Costs Assessor may order you to pay the legal practitioner's costs of the hearing.

For further information, contact the Supreme Court of Tasmania on **1300 664 608** or at www.supremecourt.tas.gov.au

Making a complaint to the Legal Profession Board of Tasmania

The Legal Profession Board (the Board) can accept complaints that relate to costs, legal fees and perceptions of overcharging.

Complaints, including those about a cost dispute, should be made to the Board within 3 years of the conduct complained of. There are limitations on the Board's capacity to deal with complaints about conduct occurring more than 3 years from the date that the written complaint is received by the Board. If you are unsure if this applies to you, you can contact the Board to discuss your situation.

See also the Board's '**Out of Time Complaints**' fact sheet.

If any part of a complaint relates to a bill of costs, the Board may:

- Refer the bill of costs to a Costs Assessor to be assessed; or
- Deal with that part of the complaint under Chapter 4 of the *Legal Profession Act 2007* which provides the Board with the power to receive, investigate, mediate and determine complaints.

The Board will try to assist those involved in a costs dispute to resolve their dispute. Usually this will involve negotiations by letter or telephone, but may also include referring the dispute to a mediation. It is helpful for the Board to understand your complaint if you can provide a copy of the bill with the disputed items highlighted and an explanation of why you are disputing those items.

This fact sheet is made in satisfaction of Regulation 67 of the Legal Profession Regulations 2018.

Further information

If you have any questions or require further information, please contact the Legal Profession Board of Tasmania.

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The normal hours of opening at our office are between 9:00am and 5:00pm on weekdays.

