



Report
Legal Services Council
Consumer Survey 2017

LEGAL PROFESSION
Uniform Law

LSC LEGAL
SERVICES
COUNCIL

 **PIAZZA**
RESEARCH

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Introduction

Together, the Legal Services Council (LSC) and Commissioner for Uniform Legal Services Regulation oversee the operation of the Legal Profession Uniform Law scheme. The LSC sets the rules and policy to underpin the Uniform Law, ensuring it is applied consistently across participating States. Costs disclosure obligations in the Uniform Law and in the law governing the legal profession in other jurisdictions are an important safeguard for consumer rights.

Statistically robust, representative research on Australian consumers (and potential consumers) of legal services has been sought by the LSC to provide authoritative evidence to assess the needs and wants of Australian consumers of legal services concerning costs disclosure. This report details the results of an Australia-wide survey conducted during December 2016.

Methodology

An online survey of 2,070 Australian consumers and potential consumers of legal services was conducted. This method was chosen to provide respondents with an easy to use platform which would have access to an example Costs Disclosure Form. This is already in use in the two Uniform Law jurisdictions.

Quality assurance

Certification – This research project complies with ISO 20252 Market, Opinion and Social Research Standard.

Pilot test – A small pilot test was conducted to assess the survey from the perspective of respondents and to evaluate usability, question design and functionality.

Web-survey design

The survey was accessed by consumers via email link. It was designed to be capable of completion in approximately 10-15 minutes. For efficiency and usability the system collected both closed (numerical or 'tick box' responses) and free text responses for respondents to make comments. Key to the survey was the testing of the Costs Disclosure Form, which was provided as a viewable form as part of the survey.

Cognitive testing

The survey underwent cognitive testing with a small sample of the target population. Participants were asked to complete the survey in full and provide written feedback on the usefulness of the survey and of their comprehension of the survey topics. These individuals were then interviewed by phone to gain an in depth understanding of their feedback from the survey.

Sample design

A sample of n = 2,070 Australian consumers and potential consumers of legal services was achieved. The sampling method incorporated both quota sampling and data weighting techniques to achieve results that accurately represent Australian consumer demographic characteristics.

Sample achieved and accuracy of results

After data cleaning, the survey achieved a final sample of n = 2,069 complete responses. This result is accurate to within a +/- 2.2% margin of error for overall results and State breakdowns are accurate to within (between) +/-4.7% to 13.1% margin of error. The table below shows the margin of error achieved by State and Territory. Due to the unavailability of comprehensive consumer panels (databases) for the NT, the margin of error for NT results is greater than for other jurisdictions which all show statistically reliable responses.

State	+/- Margin of Error
NSW	4.7
QLD	5.8
VIC	5.8
SA	5.9
WA	6
TAS	6.3
ACT	8.4
NT	13.1

Data collection and security

Respondents were emailed a secure survey link on 16th December 2016. Data collection was closed on 20th December 2016 when a sufficient sample was achieved. Piazza Research used encrypted data transfer to protect respondent answers during transmission over the Internet. All data is securely held on Piazza Research Australian servers and complies with Australian Government Data Retention requirements.

Data processing and analysis

Piazza Research used its own statistical software, 'Q', and Excel to analyse survey results. A descriptive analysis was performed producing graphs, tables and frequency counts. For simplicity of describing results in the written commentary, overall satisfaction trends may be described by grouping similar responses together to represent the general opinion; for example grouping 'satisfied' and 'very satisfied'.

Rounding error – Percentage results have been rounded to the nearest whole per cent. Percentages in some graphs may total slightly more or less than 100% for this reason.

Multiple choice questions – Percentages may also add to more than 100% for questions where respondents could select more than one option from a list.

Result breakdowns – Key results were broken down into various groups to provide a more specific understanding of results among different groups where needed.

Treatment of open-ended questions – Open-ended (or free form) responses were analysed using a thematic content analysis. Analysts developed a coding frame for these questions, sorting similar types of answers into descriptive categories. These groupings were then statistically analysed.

Summary of main findings

Acceptable minimum standard to inform consumers about costs – The majority of Australian legal consumers (51%) believe that lawyers should always inform them of their fees in writing regardless of the level of fee involved. The next largest proportion believes that written advice about fees should be provided for any fees likely to be more than \$750. Overall 88% of consumers therefore expect that written advice about fees should be provided always or at a low cost threshold (\$750).

Consumer experience regarding costs disclosure – 30% of consumers report that they were not told by their lawyer, barrister or solicitor how much their matter was likely to cost before the work started. Fifty one per cent (51%) thought they were told; of those, the majority (60%) were informed orally.

Almost half (46%) of consumers understood only a little about what their costs were likely to be or did not understand what their costs were likely to be when engaging their lawyer.

Bill shock damaging to legal profession - Twenty-two per cent (22%) of respondents reported paying more than was estimated by their lawyer. Of those 22% receiving a higher bill than expected, 48% will shop around more for lawyers in the future and 32% will switch to a different lawyer or will be less likely to use a lawyer in the future.

Costs Disclosure Form and consumer understanding of rights regarding costs – Despite consumers having just read the Costs Disclosure Form before answering questions, there appeared to be confusion for consumers regarding when it was appropriate to use the form (despite this being mentioned on the form itself).

The majority of consumers (53%) did not understand or were unsure about what ‘disbursements’ meant as part of the costs to them.

While the majority of consumers reading the form accurately described the form as an estimate only, almost a quarter (24%) considered it a quote that showed their total legal costs.

Having seen the Costs Disclosure Form, the majority (56%) considered the form to provide sufficient detail to allow them to make an informed decision.

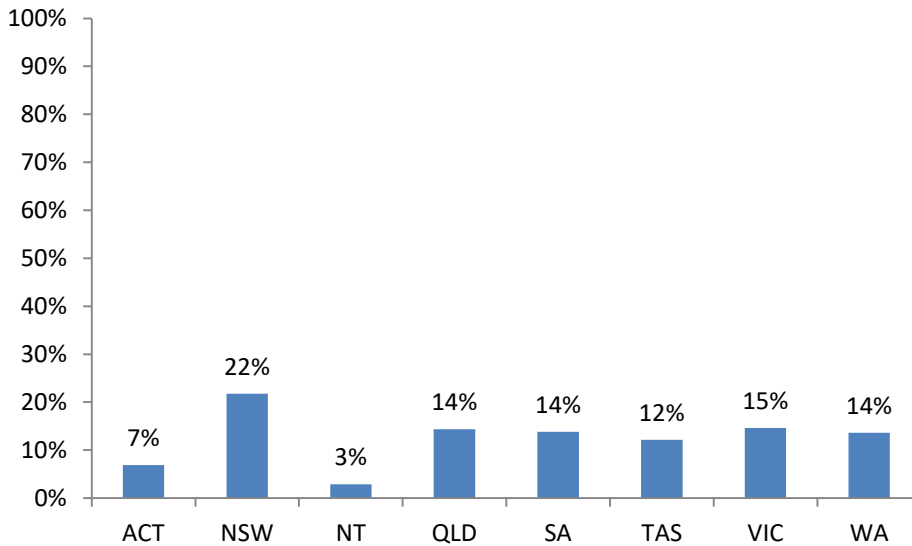
After reading the Costs Disclosure Form, most consumers answered questions regarding their rights associated with the costs and fees charged by their lawyers. The greatest uncertainty related to consumers’ rights to negotiate costs agreements, billing methods and whether there was a regulatory authority to complain to regarding costs disagreements. Across the range of consumer rights presented, there were notable proportions of consumers (between 12% and 44%) who were either unsure or incorrect about their rights when dealing with lawyers. This indicates an opportunity to better inform Australian consumers of their rights regarding costs and fees charged by their lawyers.

Sixty-eight per cent (68%) of consumers would be happy for their lawyer to extend the Costs Disclosure Form with a table (e.g. on the back of the original form) if new work were required and the costs estimate were revised.

Detailed results

Demographics of respondents

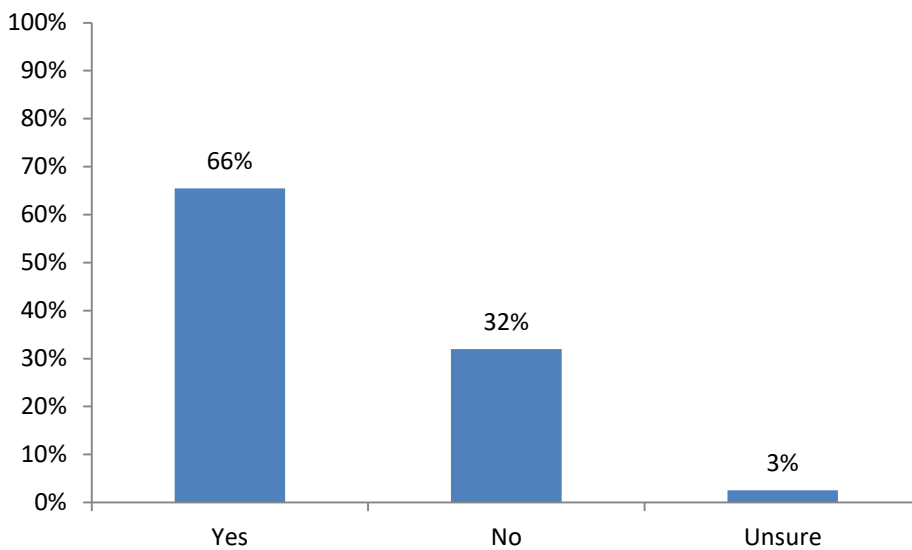
Q1. State



Base = 2069

The survey sample was designed to achieve a statistically reliable number of responses for each State. NT and ACT had less comprehensive consumer databases (panels) than other States and therefore achieved a lower number of responses. Results for ACT and NT show a higher margin of error than for other States however within acceptable limits for showing overall key trends. (See “Sample achieved and accuracy of results for more detail).

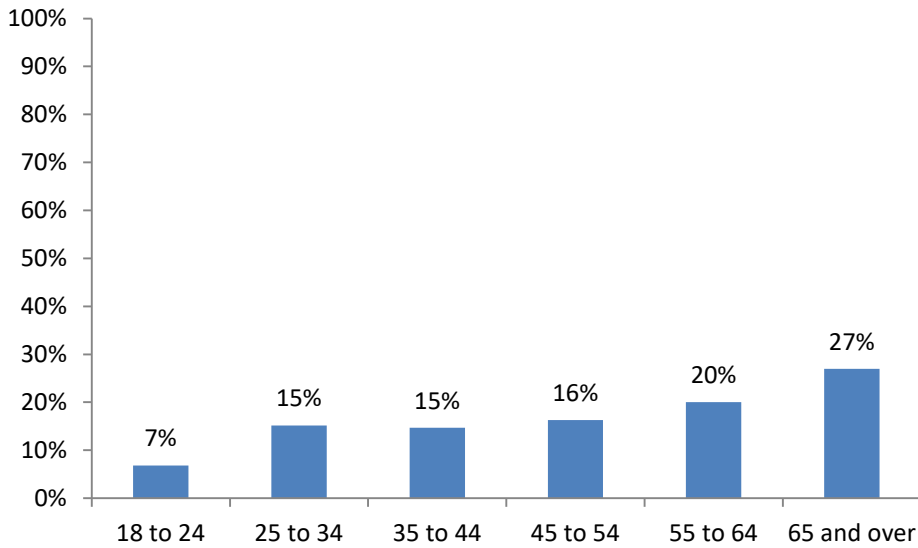
Q2. Have you ever used a lawyer of any kind, such as a solicitor, or barrister, who charged you fees for their work?



Base = 2064

Two thirds (66%) of respondents had previously used a lawyer of some kind, 32% had not and a further 3% were unsure.

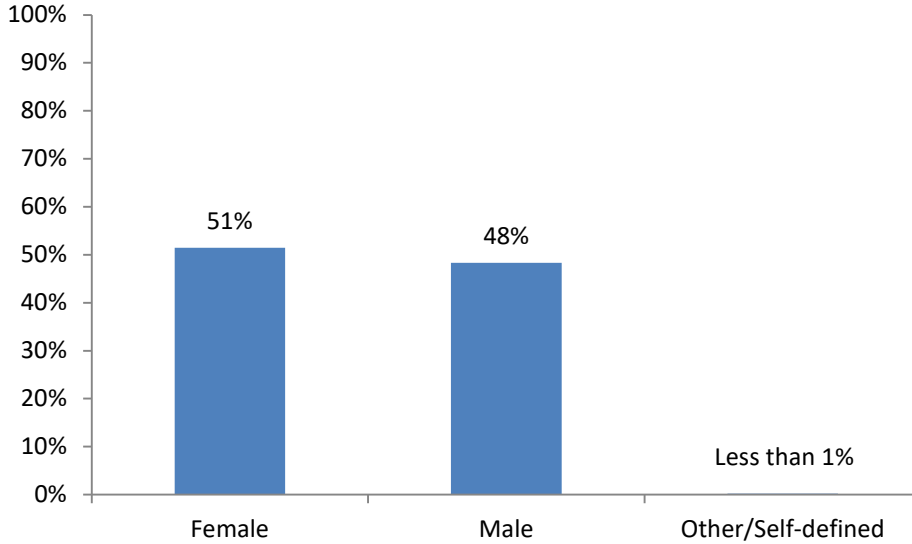
Q3. Age



A wide spread of ages of consumers was sampled.

Base = 2069

Q4. Gender



The sample achieved a good cross-section of consumers by gender.

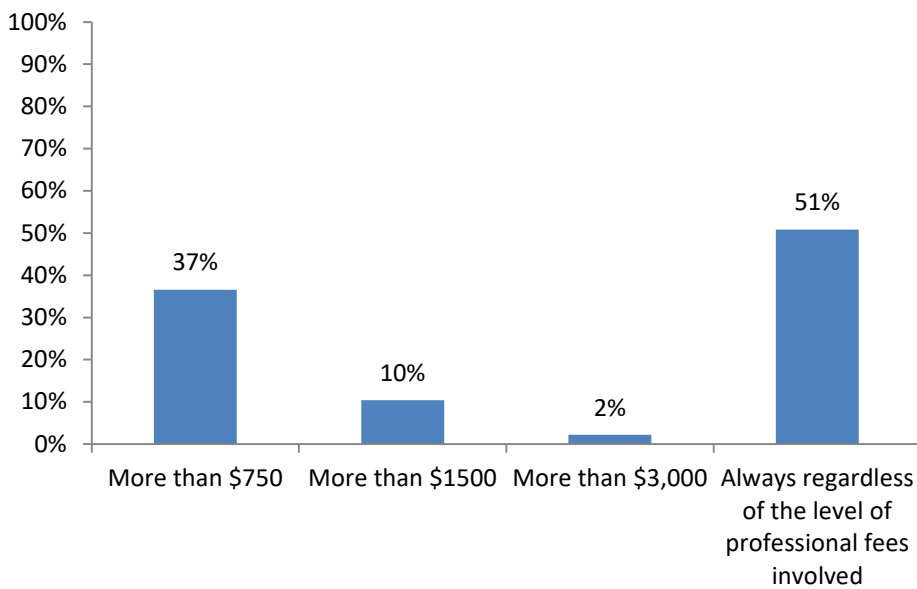
Base = 2061

Part 1: What consumers want to know about their legal costs

Q5. Lawyers who charge fees for their work are not required to provide their client a written estimate of total legal costs unless their professional fees are likely to be over a certain amount (such as \$750 or \$1500 depending on which State you live in). This reduces the amount of detailed paper-work.

Which of the following do you think is an acceptable minimum standard that would enable you to be adequately informed about costs?

A requirement that lawyers must inform you in writing if their professional fees are likely to be:



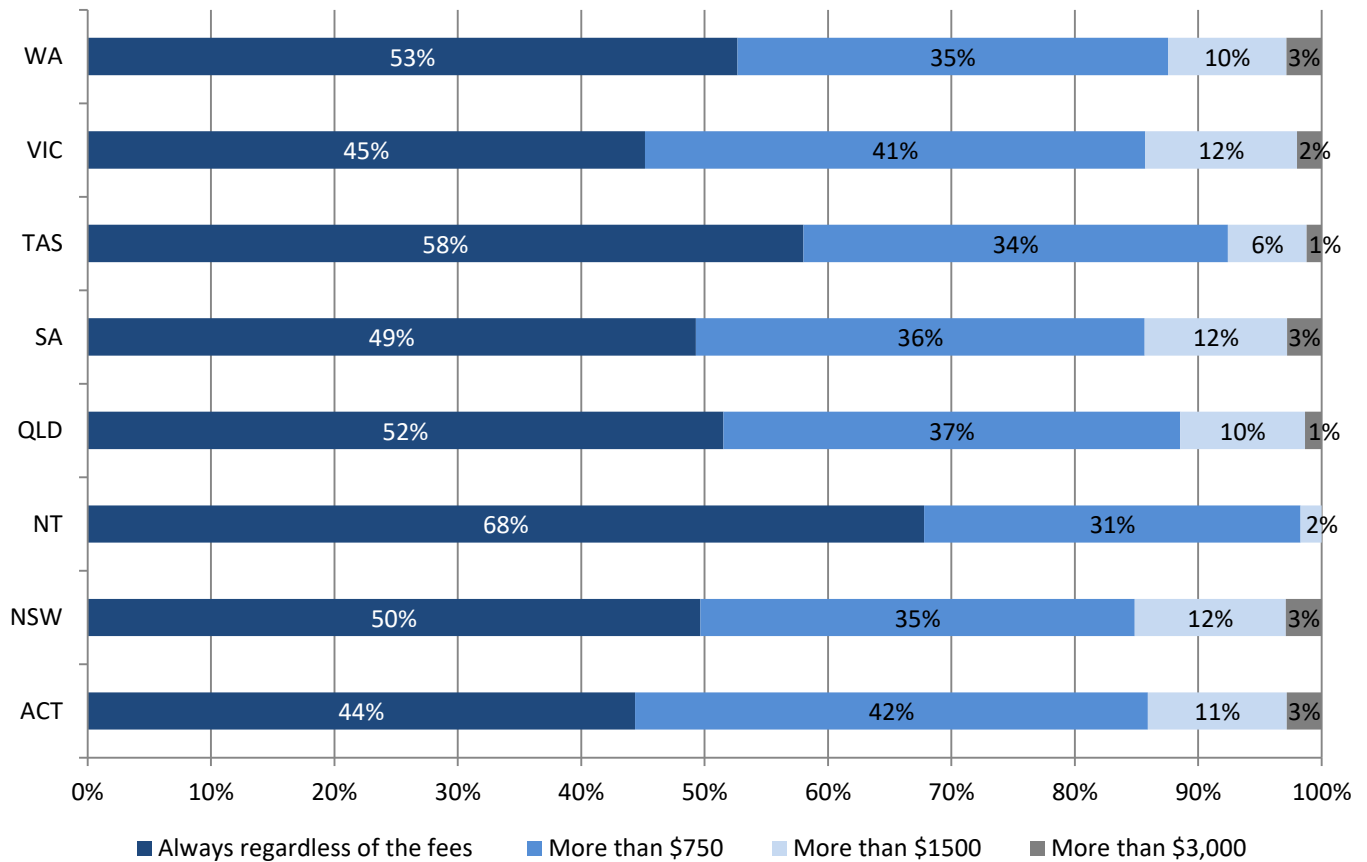
The majority (51%) of Australian legal consumers believe that lawyers should always inform them in writing of their fees regardless of the level of fee involved.

The next largest proportion believes that written advice about fees should be provided for any fees likely to be more than \$750.

Overall 88% of consumers therefore expect that written advice about fees should be provided always or at a low cost threshold (\$750).

Base = 2069

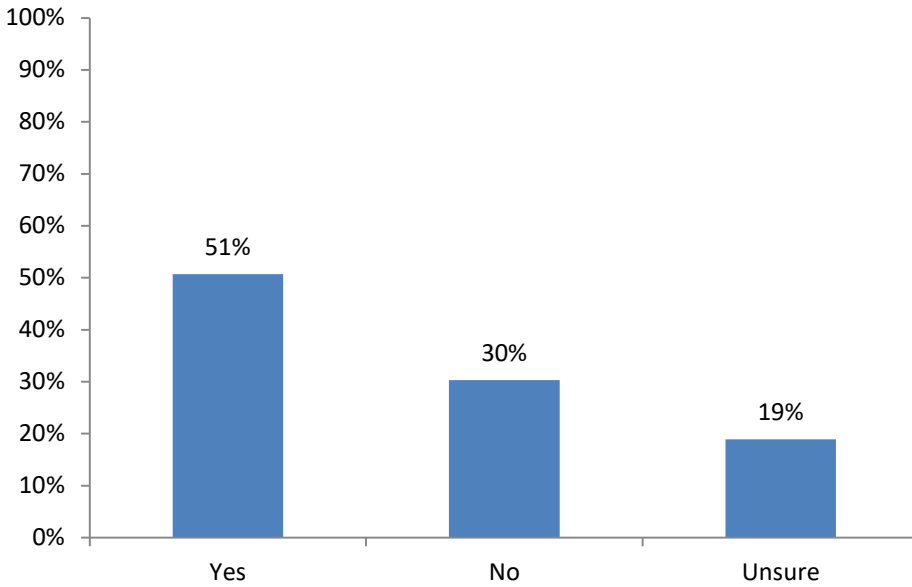
Q5. Breakdown by State



Base = 2065

The highest proportion of consumers in every State and Territory believed lawyers should have to inform them in writing of their fees regardless of the level of the fee involved. The next highest proportion in every State and Territory believed that costs disclosure should occur if fees are more than \$750.

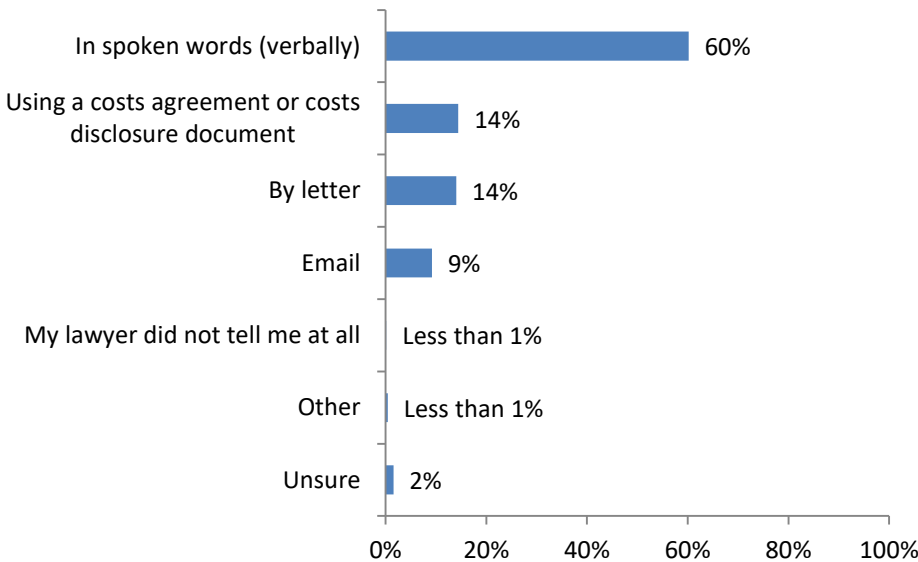
Q6. Think back to the last time you used the services of a lawyer, barrister or solicitor who charged you fees. Did they tell you how much your matter was likely to cost before the work started?



Fifty-one per cent (51%) of consumers agreed that their lawyer informed them of the cost of their services prior to commencing work. A high proportion though (30%) disagreed and a further 19% were unsure.

Base = 1394

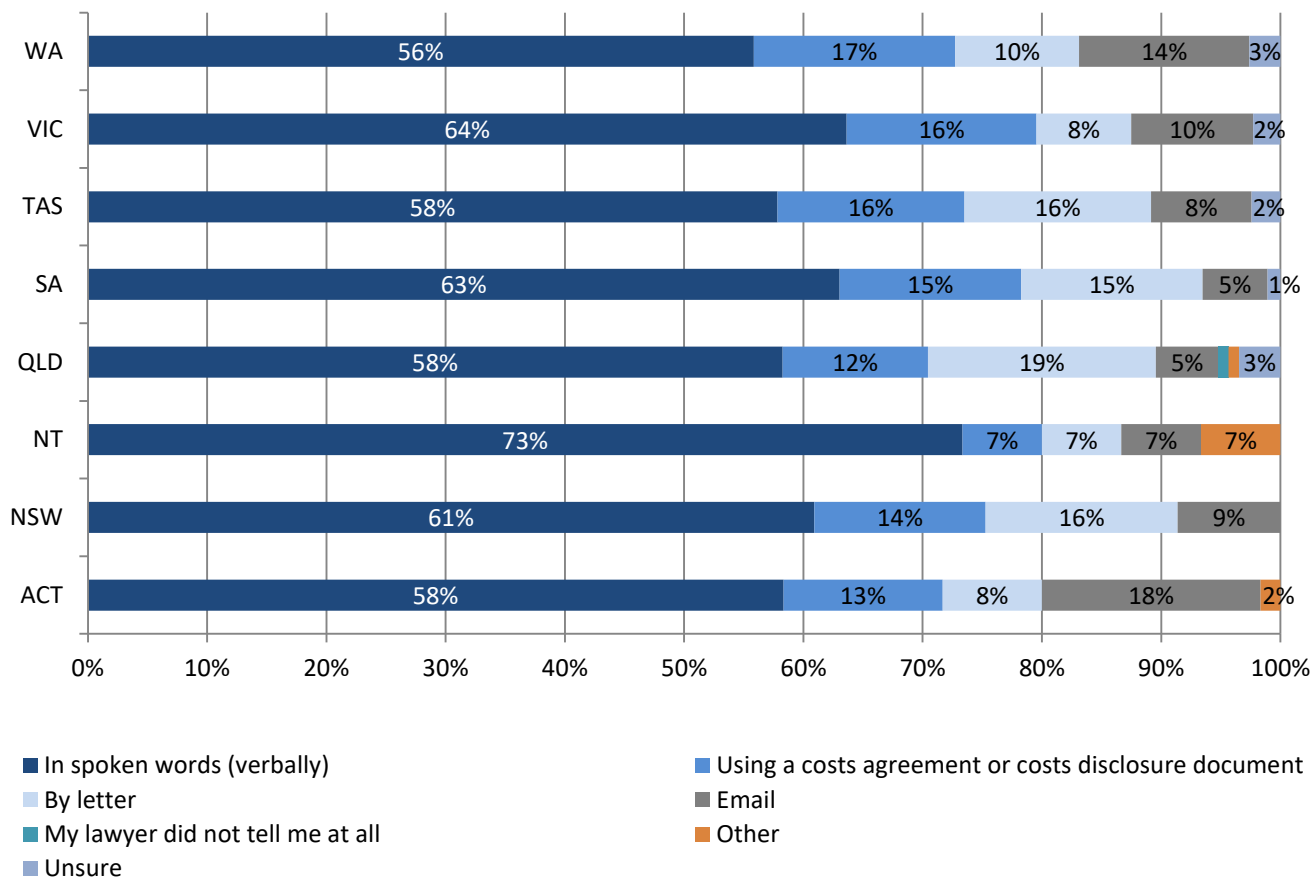
Q7. How did your lawyer tell you how much your matter was likely to cost?



Of those who were informed of cost prior to commencing work, 60% were told orally, 14% using a cost agreement or costs disclosure document, 14% by letter and 9% by email.

Base = 706

Q7. Breakdown by State

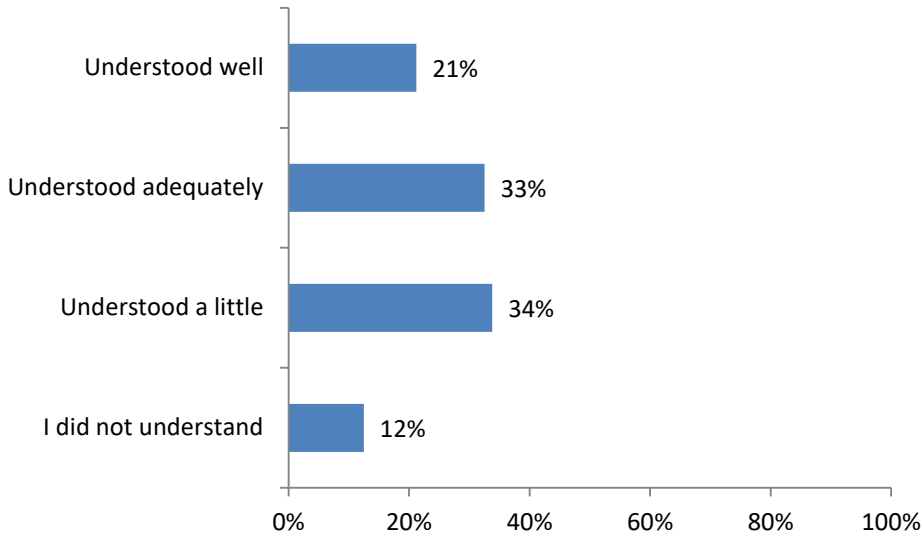


Base = 704

The way lawyers communicate cost changes in Australia shows consistency across States, however there are noticeable variances. In the NT, most consumers (73%) were informed of cost changes orally, while 21% were informed via written communication including letter, email or a cost agreement/disclosure document.

All other States (excluding NT) had similar rates of use of costs agreements or costs disclosure documents (between 13-17%). In terms of email, the ACT (18%) and WA (14%) had higher usage than other States, the ACT being double that of the percentage of national use of emails for this purpose. Traditional letter communication was more common in QLD (19%), TAS (16%), NSW (16%), and SA (15%).

Q8. How well did you understand what the costs were likely to be?

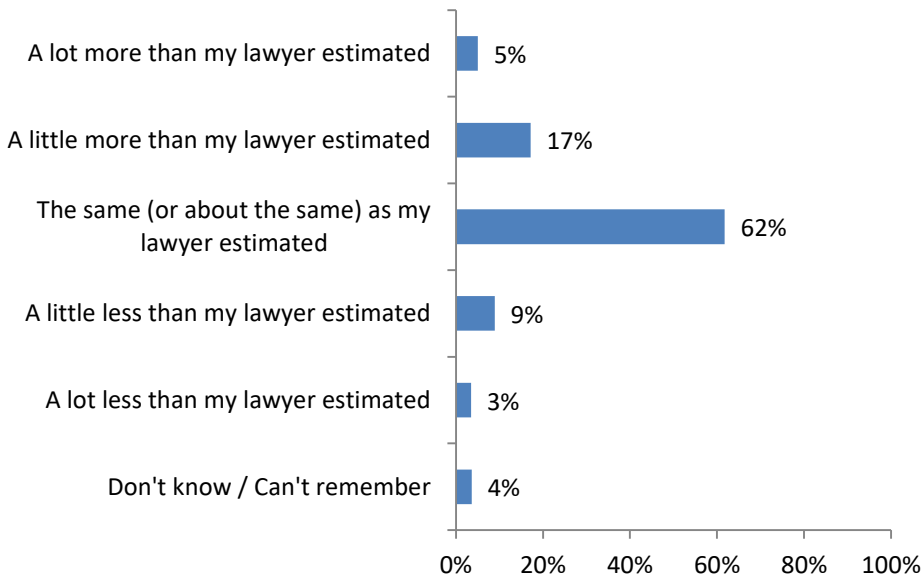


More than half of consumers (54%) believe they understood the cost of their legal services well or adequately.

Almost half of consumers (46%) understood only a little about what their costs were likely to be or did not understand (at all) what their costs were likely to be.

Base = 1402

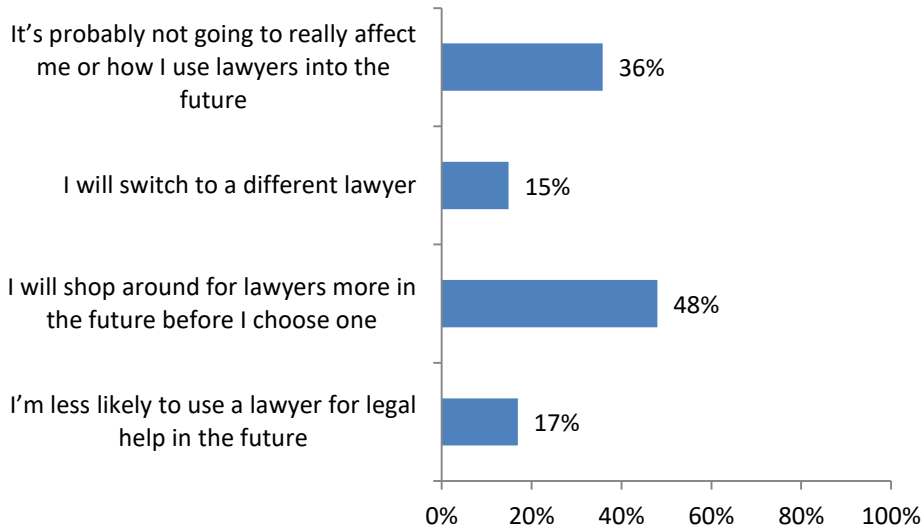
Q9. Was the amount you paid your lawyer after work was done the same, more or less than their final estimate?



Most consumers (62%) believed they paid the same amount as their lawyer had estimated for their legal services. Overall, 22% paid more than was estimated.

Base = 693

Q10. How does your experience with receiving a higher bill than your lawyer’s final estimate affect you in terms of using legal services in the future?

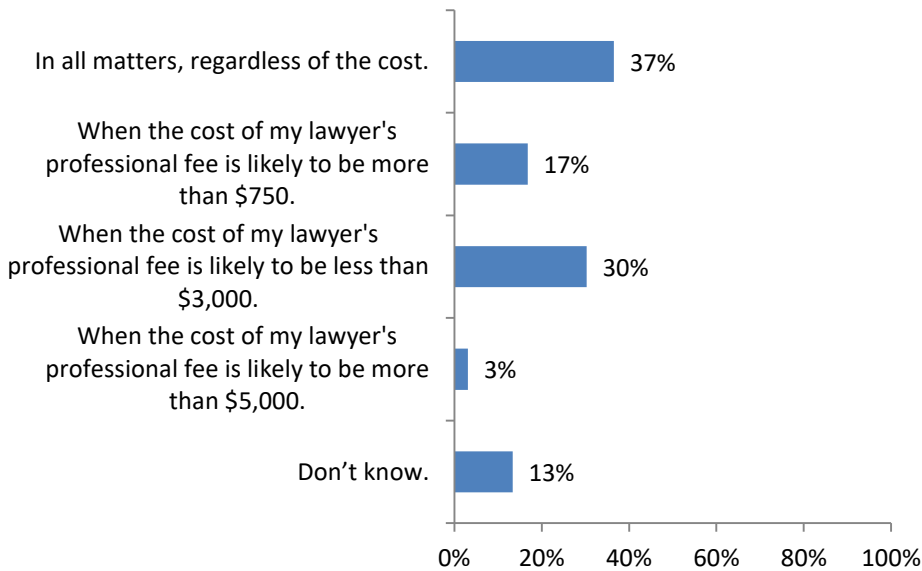


Of those 22% who received a higher bill than their lawyer’s estimate, almost half (48%) will shop around for lawyers more in the future. Thirty two per cent (32%) will switch to a different lawyer or will be less likely to use a lawyer in the future.

Base = 148

Part 2: How you want your costs information

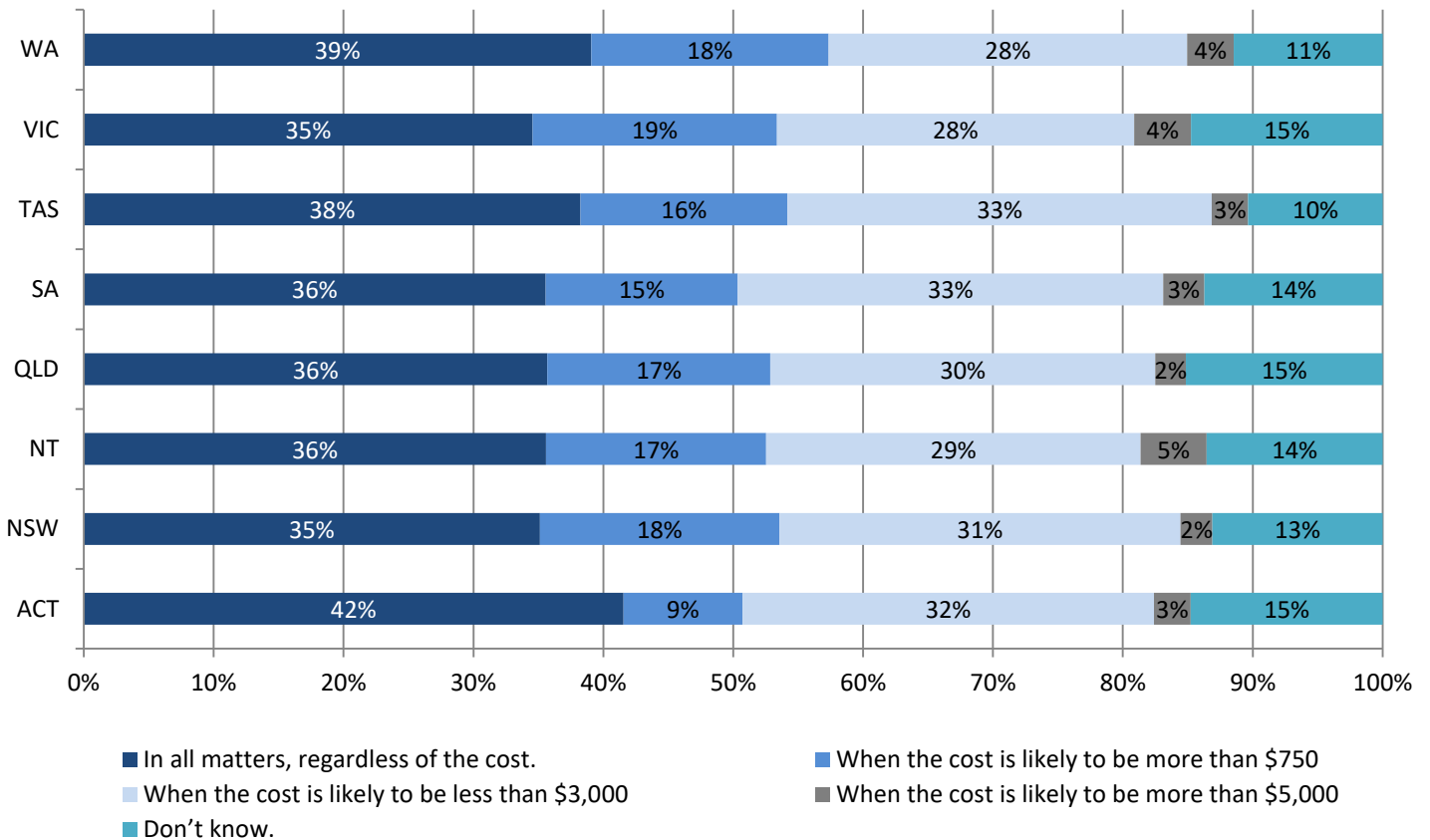
Q12. Which of the following most accurately describes when this (Costs Disclosure Form) form can be used by a lawyer to tell their client of expected costs?



There appears to be confusion or lack of clarity for consumers regarding the appropriate use of the Costs Disclosure Form. Answers regarding perceived correct use varied despite consumers having just read the form.

Base = 2064

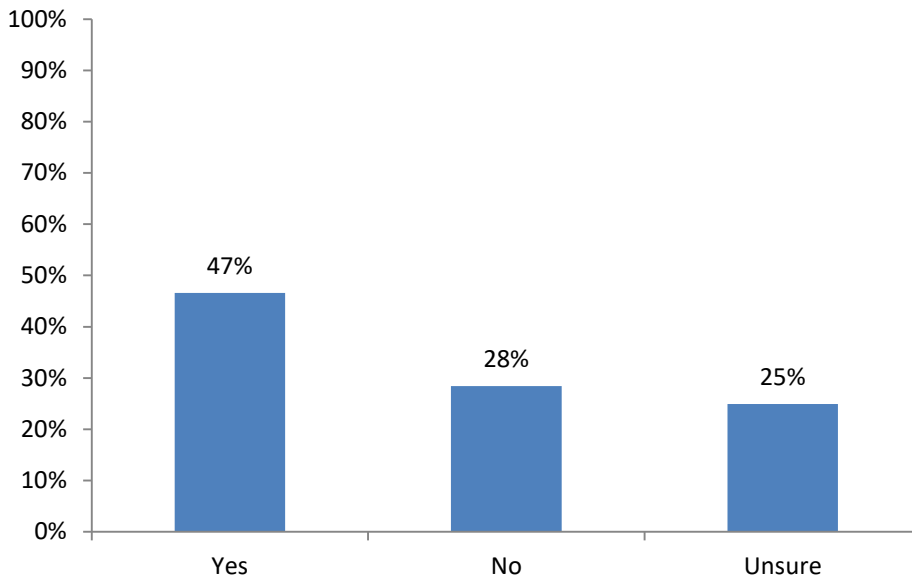
Q12. Breakdown by State



Base = 2060

Perceptions among Australians about when lawyers should use a Costs Disclosure Form are consistent across States. In the ACT, 42% of respondents believed the Costs Disclosure Form could be used in all matters, noticeably higher than other States.

Q13. Do you know what 'disbursements' mean as part of the costs to you?

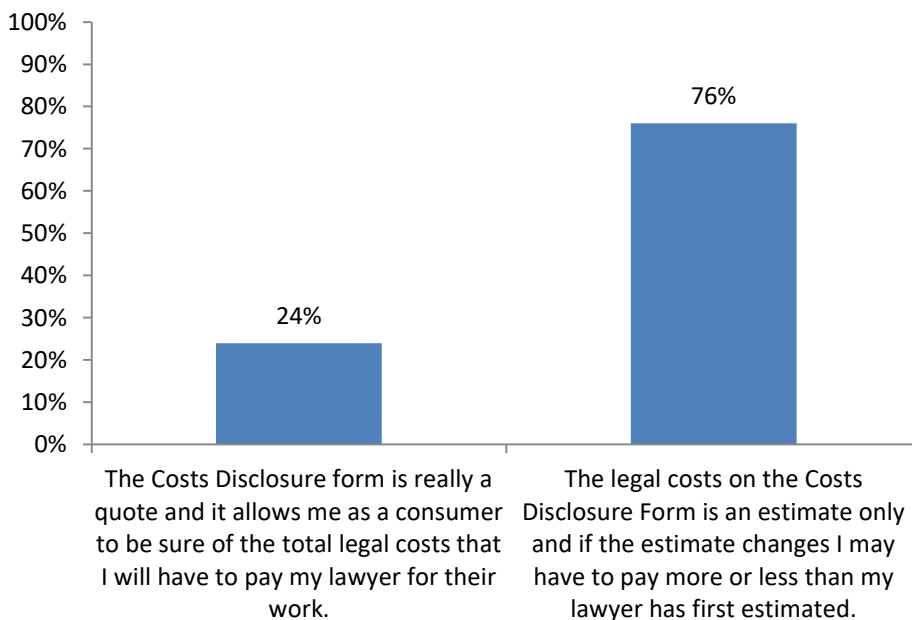


Almost half (47%) of consumers agreed that they understand what disbursements mean as part of their legal costs.

Fifty three per cent (53%) did not understand or were unsure.

Base = 2060

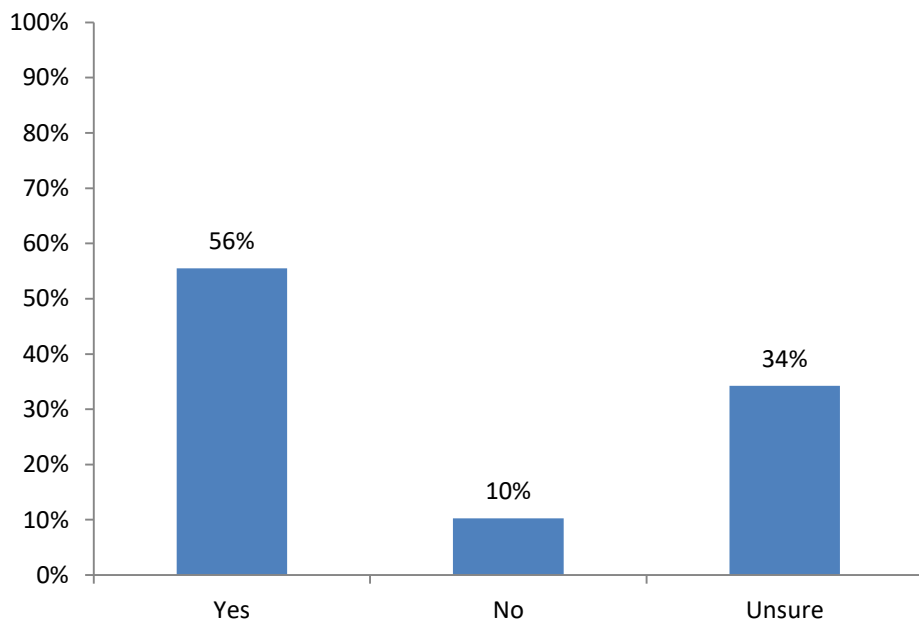
Q14. Which of the following do you think is true about the Costs Disclosure Form?



Three quarters (76%) of Australian consumers believed that the Costs Disclosure Form is an estimate only. Almost a quarter (24%) believed it to be a fixed price quote of the total cost they will need to pay.

Base = 2057

Q15. Having seen the Costs Disclosure Form for lower-cost matters, do you think it is detailed enough to give you the information you need to make an informed decision about the costs?



Fifty-six per cent (56%) of consumers believed the Costs Disclosure Form is detailed enough to give the information they need to make an informed decision. Ten per cent (10%) disagree and a further 34% were unsure.

Base = 2057

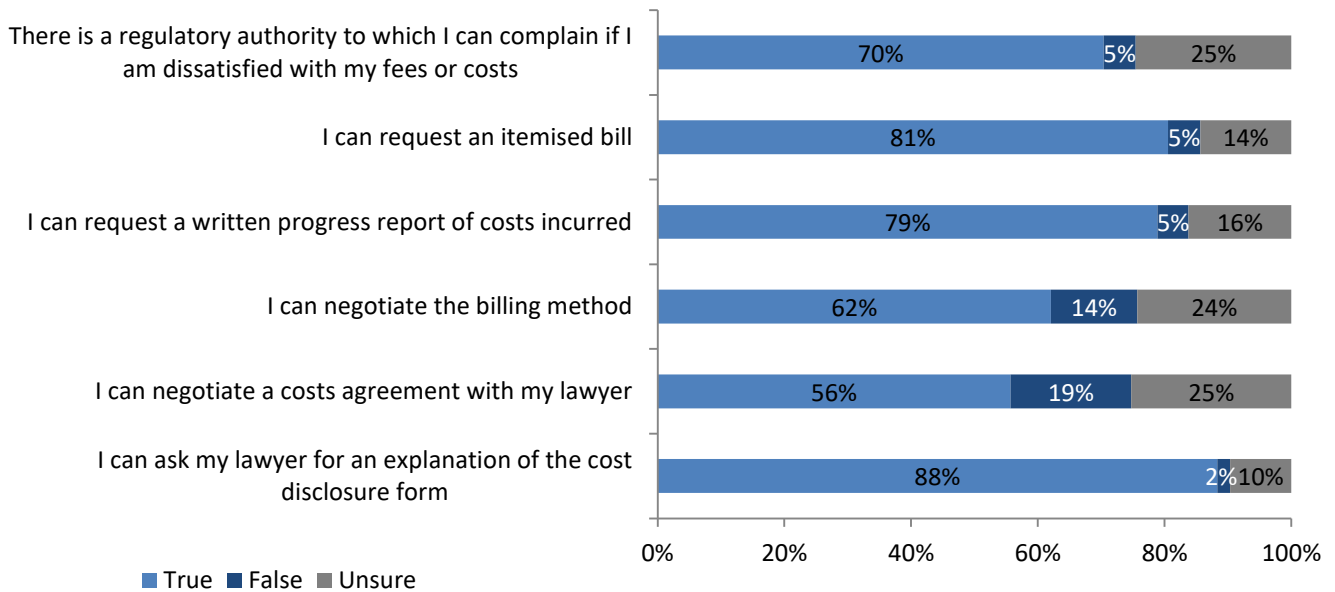
Q15. Comments - respondents who answered 'no' were asked to explain their answer

Comments	%
Give a detailed breakdown of services provided, fees and disbursements	41%
Should have full disclosure of all possible costs	30%
Needs to be a quote rather than an estimate - to be legally binding	28%
Provide a better explanation of legal terms - write in plain English	14%
Provide information on how cost increases will be communicated	5%
Other	3%

Base = 187

Please note: percentages may add up to more than 100% as respondents could give more than one answer.

Q16. As a consumer, you have certain rights regarding the costs and fees charged by your lawyer. Please indicate for each of the following, which are true and which are false.

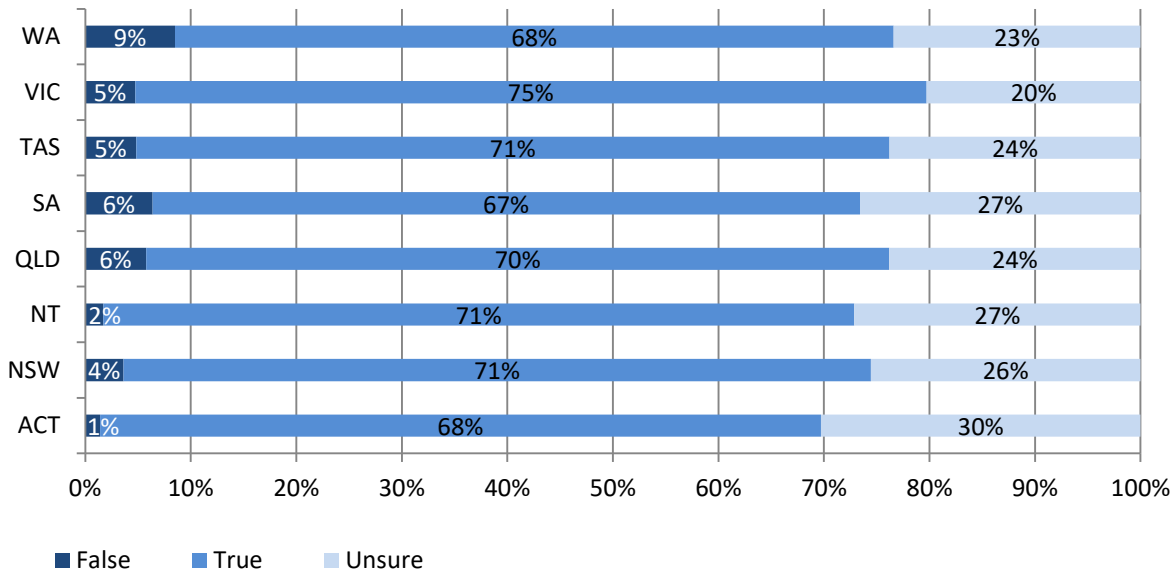


Base = 2044 to 2056

Most consumers correctly answered questions regarding their rights associated with the costs and fees charged by their lawyers. However, there was substantial uncertainty (25%) around the ability to negotiate costs agreements, billing methods and the existence of a regulatory authority to complain to. Across the range of consumer rights presented, there were notable proportions of consumers (between 12% and 44%) who were either unsure or incorrect about their rights when dealing with lawyers. This indicates an opportunity to better inform Australian consumers of their rights regarding costs and fees charged by their lawyers.

Q16. Breakdown by States

There is a regulatory authority to which I can complain if I am dissatisfied with my fees or costs

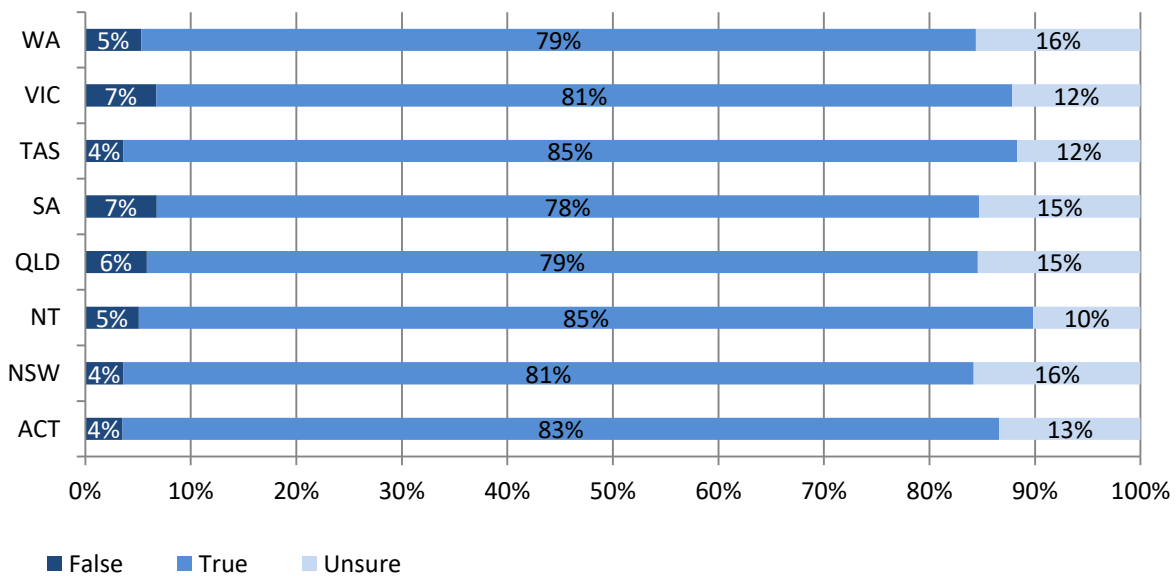


Base = 2045

There was a high level of recognition (between 67% and 75% of consumers responding) across all jurisdictions of the existence of a regulatory authority for costs complaints.

Consumers in WA, SA and QLD were less likely to believe there is a regulatory authority to which they can complain if they are dissatisfied, whilst those in the ACT, SA and NT were the most unsure.

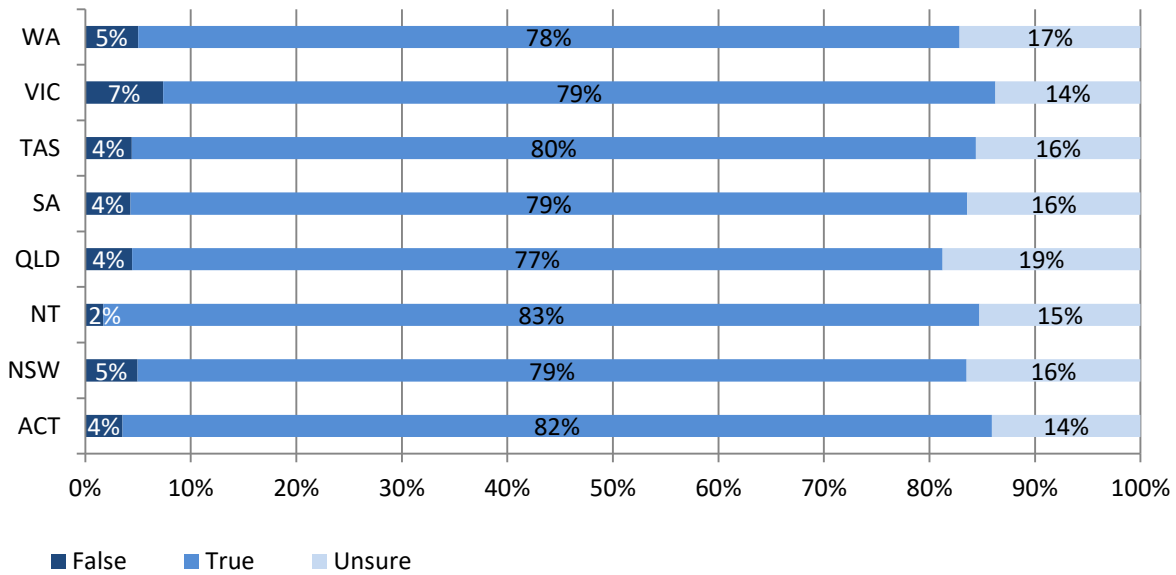
I can request an itemised bill



Base = 2043

Perceptions of the right to request an itemised bill did not vary significantly across States with between 78-85% of respondents agreeing this is true.

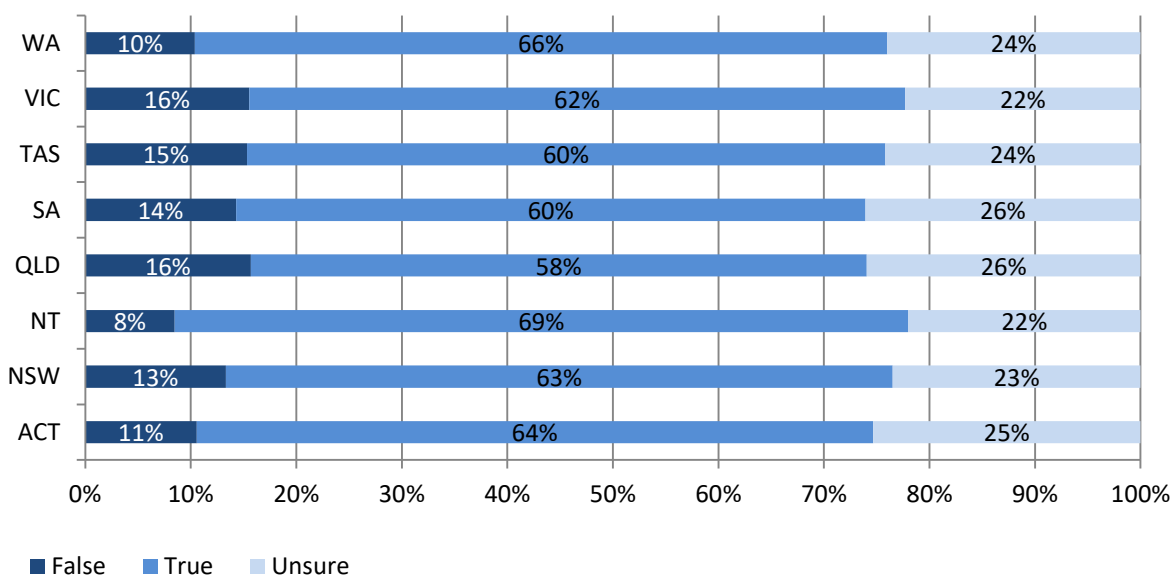
I can request a written progress report of costs incurred



Base = 2045

Perceptions of the right to request a written progress report also did not vary significantly across States; with between 77-83% of respondents agree this is true.

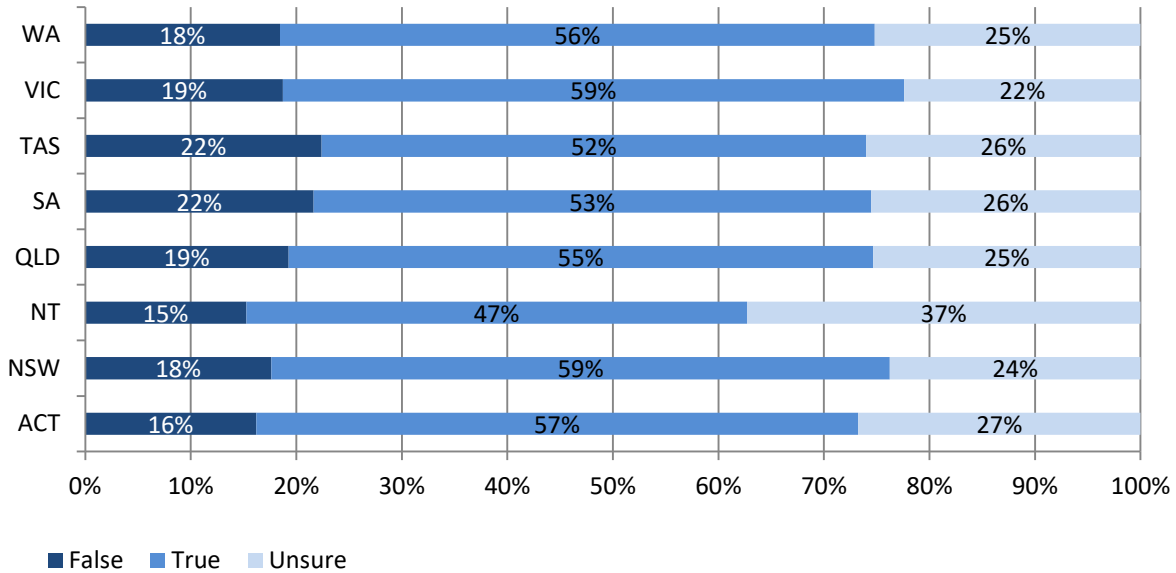
I can negotiate the billing method



Base = 2040

Between 8% and 16% of consumers across State and Territories believed they cannot negotiate a billing method.

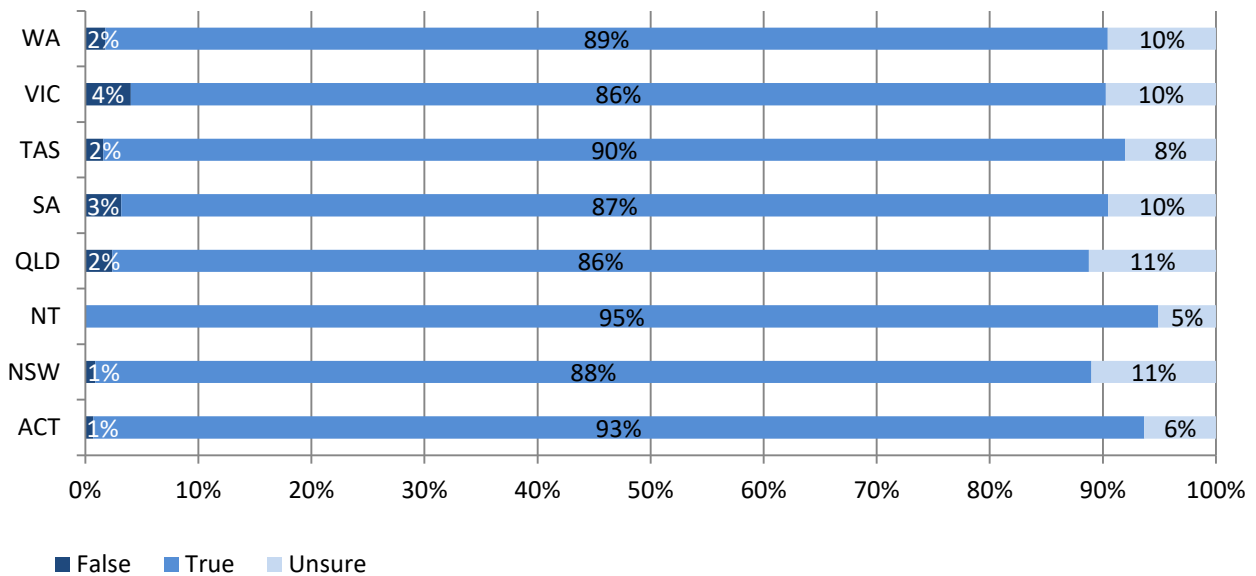
I can negotiate a costs agreement with my lawyer



Base = 2052

The proportions of consumers who believed they cannot negotiate a costs agreement with their lawyer (15% to 22%) is high compared to incorrect answers regarding other consumer rights questions.

I can ask my lawyer for an explanation of the Costs disclosure form

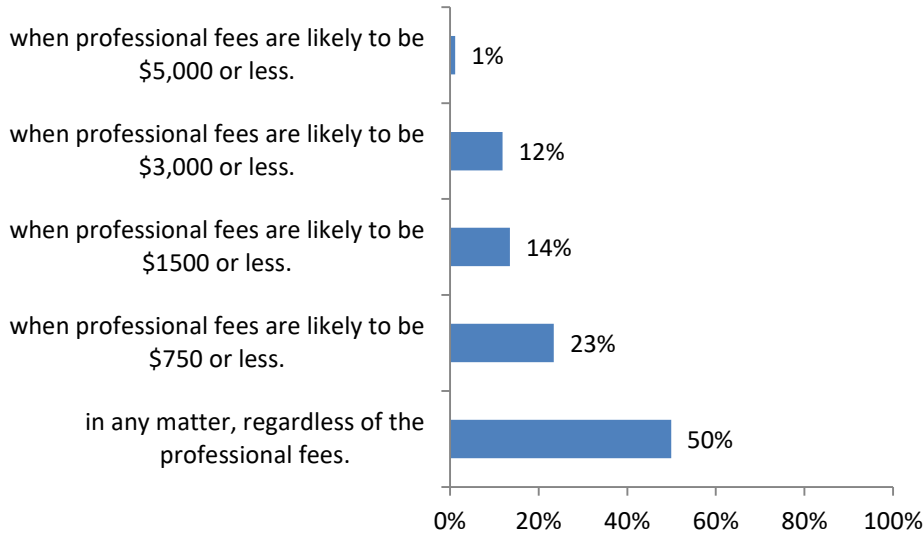


Base = 2052

There is consistency across all States regarding consumer rights to ask their lawyer for an explanation of the Costs Disclosure Form; with most (86% to 95%) correctly answering they can ask their lawyer for an explanation of the Costs Disclosure Form.

Part 3: Other issues

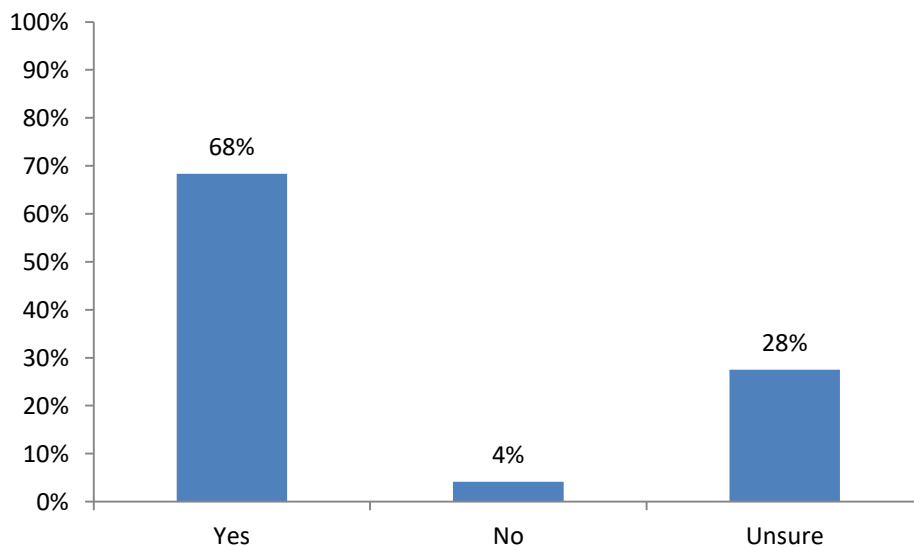
Q17. Please indicate which of the following is an acceptable minimum standard about when lawyers should be able to use a summarised Costs Disclosure Form to estimate costs (rather than using a more detailed form of disclosure).



The highest proportion of consumers (50%) believed lawyers should use a Costs Disclosure Form in any matter, regardless of professional fees. Twenty-three per cent (23%) believe the form should only be used when fees are likely to be \$750 or less.

Base = 2068

Q18. If circumstances changed after you engaged your lawyer and extra work was required, would you be happy with your lawyer extending the Costs Disclosure Form with a table to show you the new costs? (E.g. Using a table on the back of the original form?)



Most consumers (68%) would be happy with their lawyer extending the Costs Disclosure Form with a table as new work was required. Twenty-eight per cent (28%) were unsure, and 4% disagreed.

Base = 2058

Q18. Comments - respondents who answered 'no' where asked to explain their answer

Comments	%
Provide a new form including breakdown of all costs and services (previous and future)	37%
Should sign a new agreement	24%
Should communicate on cost increase clearly and early through legal process	18%
Initial estimate should be more accurate and include all likely costs	17%
Should provide option to cancel or renegotiate the agreement	13%
Lawyer should maintain the initial agreement regardless of circumstances	8%
Other	7%

Base = 71

Please note: percentages may add up to more than 100% as respondents could select more than one answer.

Q19. As a consumer, are there any other issues regarding the disclosure of costs for legal services that you'd like to bring to the attention of the Legal Services Council?

Comments	%
Provide detailed breakdown of costs and services beforehand, throughout and afterwards	24%
Should lower the costs of legal services/increase access to Legal Aid or free legal advice	18%
Disclose all possible costs	17%
Would like overall greater transparency	11%
Improve communication about changes to costs and services	10%
Use simpler/plain language and explain all legal terms	9%
Cost of certain services such as phone calls and photocopying is excessive	9%
Final price to match initial quote/estimate provided	8%
Lawyers should have set fees or a range for certain services	5%
Currently satisfied - no issue to report	4%
Provide assistance on how to resolve disputes about costs, work performed, legal outcomes	3%
Give clients realistic information on possible outcomes of case	3%
Advise how to ensure lawyer is qualified and able to deal with specific issues	3%
Payment should be subject to the efficiency of the service received	2%
Enable clients to negotiate agreement if significant changes to costs and/or services provided	2%
Other	3%

Base = 441

Please note: percentages may add up to more than 100% as respondents could select more than one answer.

Appendix – Costs Disclosure Form Example Used in Survey

Legal Profession Uniform Law s 174(5)

Schedule 1 Form 1 Standard costs disclosure form for clients – solicitors and other law practices (except barristers)

The standard costs disclosure Form 1 can be used when your professional fee is not likely to be more than \$3000 (before adding GST and disbursements).

Date provided to client: December 2016

Law practice details

Name:	AB LAW			Contact:	Jo Smith
Address:	123 Jones Street JONESTOWN			Phone:	[REDACTED]
				Mobile (Optional):	[REDACTED]
State/Territory:	VICTOR IA	Postcode:	3333	Email (Optional):	jsmith@[REDACTED].com.au

Client details

Name:	Harry White			Phone:	[REDACTED] 6789
Address:	[REDACTED] Smith Street SMITHMEADOW			Mobile (Optional):	
				Email (Optional):	harrywhite@[REDACTED].com
State/Territory:	NSW	Postcode:	2222		

What we will do for you

Undertake legal work for the sale of property at 321 Smith Street, Smithmeadow, including:

- the preparation of the Contract of Sale;
- dealing with the real estate agent;
- dealing with the Purchaser and/or its solicitor/conveyancer-
- liaising with your mortgagee re discharge of mortgage and
- arranging and attending to settlement of the sale

How much we estimate you will need to pay

Estimated total cost of our legal services (excl. GST):	\$1200	The basis for calculating costs Lump sum or fixed rate \$1870 lump sum Further Details: This figure is an estimate only (see note below) and does not include complications in the conveyancing transaction such as any advocacy required arising from a breach of contract. Any work additional to the one required for a standard conveyancing transaction will attract additional fees which will be charged on a time spent basis applying the following hourly rates: \$350 per hour
Estimated amount for disbursements (excl. GST): <i>Itemised disbursements (Optional)</i> <i>*Click and delete instruction to complete electronically or print*(for example: title search and final search, zoning certificate, drainage diagram, pool certificate, fee for lodging the discharge of mortgage, land tax certificate clearance etc)</i>	\$500	
Estimated total cost of barrister or other law practice (excl. GST): <i>[Attach information from the second law practice]</i>	\$0	
GST:	\$170	
Estimated full amount you will need to pay (incl. GST):	\$1870	

This is an estimate only. We will inform you if anything happens that significantly changes this estimate. If our professional fee is likely to be more than \$3000 (before GST and disbursements are added) we will provide you with a full disclosure of costs in writing.

Your rights include to:

- ▶ *Ask for an explanation of this form*
- ▶ *Negotiate a costs agreement*
- ▶ *Negotiate the billing method (e.g. timing or task)*
- ▶ *Request a written progress report of costs incurred*
- ▶ *Receive a written bill for work done*
- ▶ *Request an itemised bill*
- ▶ *Contact your local regulatory authority.*

Information sheets for [consumers \[PDF, 228KB\]](#) and [legal practitioners \[PDF, 253KB\]](#) explain this form

This report was produced by Piazza Research Pty Ltd, Ph. (02) 6282 4963, for the Legal Services Council, PO Box H326, Australia Square, NSW 1215, www.legalservicescouncil.org.au.

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Lead Consultants: Grant Piazza, Mathilde Lamerton, and Nick Anasson

Project reference number: #LSC080816
