

## Billing provisions

The Uniform Law and Uniform Rules commenced on 1 July 2015 in NSW, Victoria and on 1 July 2022 in Western Australia, introducing new obligations in relation to billing. This information sheet summarises the relevant provisions.

The billing provisions do not apply where the client or third party payer is a commercial or government authority, including State owned enterprises and corporations.<sup>1</sup> Those clients should make their own arrangements.

### Lump sum or itemised bill

Either a lump sum or an itemised bill may be issued.<sup>2</sup>

When the client, a third party payer or first law practice receives a lump sum bill, they are entitled to request an itemised bill within 30 days of the bill becoming payable.

The request can only relate to the portion of the costs for which that person is liable and the itemised bill must be delivered within 21 days of the request.<sup>3</sup>

### Itemised bill higher than lump sum bill

Under rule 74 of the Legal Profession Uniform General Rules 2015, a law practice may issue a client with an itemised bill for a higher amount if:

- the original lump sum bill included a written statement that the total amount of legal costs may be higher in any itemised bill; and
- the higher level of costs has been determined to be payable after a costs assessment or a binding determination.

Rule 74 does not affect the operation of any costs agreement in relation to the matter.

### Interim bill

An interim bill may be given and may be subject to a costs assessment.<sup>4</sup>

### Notification of client's rights

The bill must include a statement of the client's options in the event of a dispute about legal costs and any relevant time limits.<sup>5</sup>

### Responsible principal

The bill or accompanying letter must be signed by the principal of the law practice or nominate the principal who is responsible for the bill. If the bill is unsigned, or no principal is nominated, each principal is responsible for the bill.<sup>6</sup>

### Delivering a bill

A bill can be given to a client or their agent by personal delivery, post or by DX. A copy of the bill may be left at the usual or last known business or residential address. If the client consents, a bill may also be given by fax, email or mobile phone.<sup>7</sup>

### Charging for bills prohibited

Law practices are prohibited from charging the client the costs of preparing or delivering their bill.<sup>8</sup>

### Progress reports

A client is entitled to make a reasonable request for written progress reports of the legal costs incurred to date or since the last bill was given. This includes the costs of a second law practice retained on their behalf. The second law practice must provide sufficient information for a progress report to be given.

Written progress reports must set out the legal costs to date or since the last bill (if any) and must be provided within a reasonable time.<sup>9</sup>

### Recovery of unpaid legal costs

Proceedings to recover costs can be commenced 30 days after the bill was given or 30 days after the itemised bill was received, provided:

- the bill complies with the Uniform Law and Rules; and
- any costs dispute before the local regulatory

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authority – the Legal Services Commissioner in NSW or Victoria or the Legal Practice Board in Western Australia – has been closed or resolved.<sup>10</sup>

### Interest paid on unpaid legal costs

Interest may be charged on unpaid legal costs according to the terms of a costs agreement or if the bill is unpaid for 30 days or more after delivery.<sup>11</sup>

The bill must contain a statement that interest is payable and that identifies the rate at which it is charged. The rate of interest must not exceed the Cash Rate Target plus two per cent on the date the bill was issued.<sup>12</sup>

Interest cannot be charged on unpaid legal costs if the bill is given more than six months after the completion of a matter. Interest may be charged if the lump sum bill is given within time and an itemised bill is requested after the six months period.<sup>13</sup>

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<sup>1</sup> Legal Profession Uniform Law (**Uniform Law**), s 170; Legal Profession Uniform General Rules 2015 (**Uniform General Rules**), r 71

<sup>2</sup> Uniform Law, s 186

<sup>3</sup> Uniform Law, s 187

<sup>4</sup> Uniform Law, s 193

<sup>5</sup> Uniform Law, s 192

<sup>6</sup> Uniform Law, s 188

<sup>7</sup> Uniform Law, s 189; Uniform General Rules, r 73

<sup>8</sup> Uniform Law, s 191

<sup>9</sup> Uniform Law, s 190

<sup>10</sup> Uniform Law, s 194

<sup>11</sup> Uniform Law, s 195(1) and (2)

<sup>12</sup> Uniform Law, s 195(3) and (4); Uniform General Rules, r 75

<sup>13</sup> Uniform Law, s 195(5) and (6)