

Submission

THIS SUBMISSION WAS PREPARED BY THE FEDERATION OF COMMUNITY LEGAL CENTRES (VICTORIA) INC, IN CONSULTATION WITH MEMBER CENTRES

Draft Proposed General Uniform Rules

Inquiries to:

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Dale Boucher

Commissioner for Uniform Legal Services Regulation
Legal Services Council

Via email: submissions@legalservicescouncil.org.au

29 January 2015

Dear Mr Boucher,

Federation of Community Legal Centres (Victoria) Inc

The Federation of Community Legal Centres is the peak body for 49 community legal centres (CLCs) across Victoria. CLCs provide free legal advice, information and representation to more than 100,000 Victorians each year. Most CLC clients face significant economic, social or cultural disadvantage. They are generally unable to access private legal services.

As the peak body for Victorian CLCs, the Federation has a unique perspective on the justice system and access to justice issues. Our views are informed by the casework of our member centres.

Cost Disclosures

We have some concerns about the reduced obligations in the legislation regarding costs disclosure for matters where costs are likely to be between \$750 and \$3,000. We understand that a significant number of complaints and disputes arise from these matters. However, we are pleased that the proposed disclosure form requires disclosure of the amount of costs as well as the basis on which this is calculated.

Consumers of legal services who use such services infrequently are likely to find costs disclosure confusing – particularly as these clients are often accessing those services at a point of stress (such as divorce, death of a relative or purchasing a home).

Communication, and a lack of understanding of costs agreement, is a major source of consumer complaint.

Some regulators in other areas are seriously considering the effectiveness of disclosure, taking into account how consumers read and understand them in practice. For example, the Australian Securities and Investments Commission commissioned research which was the “cornerstone” to help ASIC foster industry consensus on a good practice model for disclosing fees.¹

We believe that all costs disclosure forms, including Form 2, should be subject to testing for consumer understanding, and that the Legal Services Council should promote a more consumer focused approach to disclosure.

Debt Collection or Mercantile Agents

The relationships between lawyers and debt collectors can raise problems for individuals who receive correspondence from the lawyer. Particularly where this correspondence is high volume (in one case 20,000 letters per month) there have been problems where the lawyer does not maintain control of the matter.

¹ See: [https://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/Fees_disclosure_report.pdf/\\$file/Fees_disclosure_report.pdf](https://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/Fees_disclosure_report.pdf/$file/Fees_disclosure_report.pdf)

Proposed Rule 2 places obligations on the practitioner in relation to proceedings. However, problems have arisen due to a lack of control of correspondence and other communication.

Rule 2 should be extended to include all communications, in line with current Victorian Rule 29.2.3.

If you have any queries about our submission, please don't hesitate to call me.

Yours Sincerely,

A handwritten signature in black ink that reads "Katie Fraser". The signature is written in a cursive style with a horizontal line at the end.

Katie Fraser

Acting Executive Director

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