

OFFICIAL

19 August 2022

Ms Megan Pitt
Chief Executive Officer
Legal Services Council
Level 3, 19 O'Connell Street
SYDNEY NSW 2000

By email: [REDACTED]

Dear Megan,

Re: Conditional costs agreements

Thank you for your letter of 18 July 2022 and public consultation paper seeking our feedback on the draft *Legal Profession Uniform Amendment (Conditional Costs Agreements) Rule (No 2) 2022*.

I note the purpose of the rule is to expand the existing prohibition on the use of conditional costs agreements (in relation to criminal and family law proceedings) to child protection, guardianship, adoption, and child support proceedings.

As noted in our previous letter to the LSC dated 15 December 2021, we appreciate that such proceedings involve vulnerable parties whose interests may not be served by protracted litigation – a risk that conditional costs agreements raises. On this basis, we do not oppose the draft rule.

However, we note that – despite general stakeholder support for the changes – there is no evidence about the extent to which conditional costs agreements are being used in child protection, guardianship, adoption, and child support matters. This may be a relevant consideration for the Standing Committee of Attorneys-General in determining whether to make the draft rule.

We have no comments to make regarding the continuation of the prohibition on conditional costs agreements in proceedings that involve the *Family Court Act 1997 (WA)*.

[REDACTED] Manager Policy and Regulatory Strategy, can be contacted at [REDACTED] or by phone on [REDACTED] in relation to this correspondence.

Yours faithfully

[REDACTED]
Fiona McLeay
Board CEO & Commissioner