

Information for New Clients and Terms of Retainer

In acting for you as solicitors, this legal firm will operate on the following terms:

Legal Fees

1. Our terms of acting do not ordinarily involve up front or interim charges.
2. You have the right to negotiate a costs agreement with us.
3. Insofar as an estimate of costs and charges for legal fees relating to your claim is concerned, we **attach** a range of estimates which may be applicable to your case. You will permit us, at any time by notice to you, to vary any of the above terms.
4. We charge all disbursements incurred on your behalf on an up front basis, that is, on receipt of an invoice from a third party we will forward that invoice on to you for payment. If Bradford & Co pay any disbursements on your behalf, we may require you to deposit into our Trust Account a sum of money to repay the amounts disbursed on your behalf.
5. From time to time Bradford & Co may require you to deposit into our Trust Account an amount representing anticipated future disbursements. This amount will be kept in our Trust Account to cover disbursements incurred on your behalf during the currency of your file.
6. During the time that we act for you, we will keep a full account of all charges and disbursements we have incurred on your behalf and such information can be provided to you at any time.
7. We will keep our charges and disbursements to a minimum.
8. We will keep the charges and disbursements in reasonable proportion to the value of your claim.
9. Our charges for common law and criminal injury claims are in accordance with the Legal Practitioners' (Supreme Court) (Contentious Business) Determination 2008 which is varied from time to time. At present, the scale allows for a charge of \$396.00 per hour (including GST) for a senior solicitor, \$275.00 per hour (inclusive of GST) for a junior solicitor and \$198.00 per hour (inclusive of GST) for a clerk.
10. Our charges for Workers' Compensation matters at WorkCover are in accordance with the Workers' Compensation (Legal Practitioners and Registered Agents) (DRD) Costs Determination 2005 which is varied from time to time. At present, the scale allows for a charge of \$198.00 per hour (including GST), (and up to \$286.00 per hour (including GST) for certain items depending on the level of complexity) for a legal practitioner, and 50% of this for a Registered Agent.
11. Our charges for Magistrate's Court matters are in accordance with the Legal Practitioners' (Magistrates Court) (Civil Jurisdiction) Determination 2008 which is varied from time to time. At present, the scale allows for a charge of \$330.00 per hour (including GST) for a senior solicitor, \$231.00 per hour (inclusive of GST) for a junior solicitor and \$110.00 per hour (inclusive of GST) for a clerk.
12. You may request a bill of costs from us.
13. After receiving a lump sum bill from us, you may request an itemised bill of costs.
14. Upon request we will provide a written report about the progress of your claim, and the costs incurred in your claim, at no cost to you.
15. If you are not happy with your bill, you may:
 - 15.1. request an itemised bill;
 - 15.2. discuss your concerns with the solicitor handling your file;
 - 15.3. have our costs assessed;
 - 15.4. apply to set aside your costs agreement (if applicable).
16. If your case proceeds to trial, we may have to brief an independent barrister on your behalf, whose fee may exceed the Supreme Court Scales. Alternatively the barrister at trial may be a member of this firm whose fee will be the maximum rate allowable by the Supreme Court Scales.

Disbursements

17. Any amounts paid by Bradford & Co on your behalf, and not repaid by you prior to your matter resolving, will be recovered from the proceeds of your claim.
18. Disbursements that you may be charged and the basis for calculating these are set out as follows:

- 18.1. Telephone call fees are to be recovered at the rate charged to us by our telephone service provider including any GST thereon;
- 18.2. Facsimile charges are to be charged at the rate charged to us by our telephone service provider including any GST thereon;
- 18.3. Photocopying fees are to be charged at .60 cents per page;
- 18.4. Counsel's fees are to be in accordance with the fees charged by independent counsel including GST thereon;
- 18.5. Court fees are to be charged at the same rate imposed by the Court;
- 18.6. Medical report fees are to be charged at the rates imposed by the relevant medical practitioners (inclusive of GST);
- 18.7. Expert fees are to be charged at the rates imposed by the relevant experts (inclusive of GST);
- 18.8. Investigators' fees are to be charged at the rates imposed by the relevant investigators (inclusive of GST);
- 18.9. Any other fees or expenses incurred by us are likewise recoverable from you in full.

General

19. We undertake, in good faith to you, to only vary the terms upon which we will act for you as described here if and when:
 - 19.1. your case has limited prospects of success; or
 - 19.2. you do not follow our reasonable advice; or
 - 19.3. your own credibility undermines the prospects of success in your case; or
 - 19.4. no offer is made by the other side; or
 - 19.5. you provide us with incorrect or inaccurate instructions; or
 - 19.6. charges and/or disbursements reach an unacceptable level in our sole discretion.
20. If an offer of settlement is made to you and, based on our reasonable advice you instruct us to reject the offer, then your case is likely to proceed to trial. If your case proceeds to a trial and you are not successful, we *may* choose not to recover any legal costs. However, you will still be liable for the unpaid disbursements incurred on your behalf by Bradford & Co. In addition you will also be liable for the legal costs and disbursements of the successful party.
21. If you are successful at trial or your case is settled informally or at a pre-trial conference, a substantial proportion of your own legal costs and disbursements will be recoverable from the other side, leaving the balance to be paid by yourself. In that event, we will require you to provide an authority to us which allows us to recover the balance of legal costs and disbursements from the settlement or judgment money.
22. You have the right to apply for our costs to be assessed within 12 months if you are unhappy with our costs
23. You may apply for your costs agreement to be set aside (if applicable).
24. You may accept or reject an offer we make for an interstate costs law to apply to your matter.
25. You may notify us that you require an interstate costs law to apply to your matter.

For more information about your rights, please read the **attached** fact sheets

- "Legal Costs – Your Right To Know"
- "Your Right to Challenge Legal Costs"

These fact sheets are also available on our website: www.bradfordandco.com.au

We hope that this Information Brochure and Terms of Retainer helps you to understand the basis upon which we will act for you. We will, at all times, act in your best interest and will endeavour to provide you with prompt and efficient legal advice.



Cost Estimates

1. It is our experience that in acting for persons in personal injury claims, a more than 90% settlement rate is achieved. As we advised you in our Information Brochure and Terms of Retainer, when your case is settled or is successful at trial, you will be able to recover a substantial proportion of legal costs and disbursements from the other side.
2. You should be aware that every legal case is different. Some cases resolve relatively quickly and require a relatively small amount of work on our behalf. Other cases may take several years to finalise. In that event, usually, a substantial amount of time is required to be spent on your case.
3. If, as an example, your case was able to settle at a pre-trial conference and a total of 40 hours of our time had been spent working on the case, we would estimate that the fees would be legal costs of \$15,000.00 (inclusive of GST) and disbursements of \$3,000.00, which means total costs of \$18,000.00. You may be required to contribute + \$5,000.00 from your settlement proceeds.
4. In another example, if your case settled at a pre-trial conference and we were required to spend 75 hours of time on your case, we would estimate the legal fees to be \$27,000.00 (inclusive of GST) and disbursements of \$5,000.00, which means total costs of \$32,000.00. You may be required to contribute + \$7,000.00 from your settlement proceeds.
5. If your case proceeded to a number of pre-trial conferences or to a trial at the District Court, we may have to spend in excess of 100 hours of time on your case. In that event, legal fees could exceed \$60,000.00 (inclusive of GST) and disbursements could be in the region of \$10,000.00 to \$20,000.00.
6. We reiterate that this is an estimate only and each case varies in accordance with the amount of work required.

This information can be viewed at any time by visiting our website: www.bradfordandco.com.au



Information You May Need to Know About Your Personal Injury Claim

Your Medical Progress

You should keep us advised of your medical progress, including the dates and times of your appointments with various doctors. This will enable us to request medical reports, as required, from your doctors.

Video Surveillance

Sometimes it is the practice of Defendants or Insurance Companies to instruct investigators to obtain video surveillance film of you, either at home or elsewhere. The purpose of this is to monitor your activity levels on a day to day basis. Video surveillance film is obtained in some, but not all cases.

Investigators & Assessors

The Insurance Company or the other side may appoint a representative to attempt to interview you for the purpose of obtaining a statement. You should not give any statement or sign any documents without discussing these with us first. You should ask the investigator or assessor to contact our office before speaking with you further.

Taxation Returns and Other Economic Loss Documents

Your claim frequently may involve a claim for lost earnings or economic loss. It is usual for us to request that you provide us with copies of your income taxation returns and any other documents which are relevant to a claim for lost earnings.

Return to Work

If, whilst we are acting for you, you return to work or are contemplating returning to work, you should advise us immediately. In that event, this may be relevant to your entitlement to weekly compensation or claim for lost earnings.

FACT SHEET

LEGAL COSTS – YOUR RIGHT TO KNOW

FORM 2

Legal Profession Regulations 2009
Regulation 80(1) – Form of disclosure of clients’ rights
Legal Profession Act 2008 (the Act)
Section 260(5) and Section 260(1)(b)(i), (ii), (iii), (g), (i), (j) and (l)

1. Your right to negotiate a costs agreement with the law practice

The majority of law practices will ask you to sign a costs agreement. You have the right to negotiate with your lawyer about the terms of the costs agreement including the rate at which your lawyer and associates of the law practice will charge for their legal services.

You should ensure that you understand the terms of the costs agreement including when the agreement will take effect. It may not be necessary for you to sign the agreement before it takes effect.

2. Your right to receive a bill of costs from the law practice

You have a right to receive a bill before you pay for legal work (section 290 of the Act).

You will receive either:

- a bill that summarises the work that has been done and the total cost of this work (lump sum bill); or
- a bill that details each item of work, usually in units of 6 minutes at the relevant hourly rate (itemised bill).

All bills, or an accompanying letter from the law practice, must be signed on behalf of the law practice.

3. Your right to request an itemised bill after receiving a lump sum bill

If you do not receive an itemised bill, you have a right to request one (section 292 of the Act).

Your lawyer cannot charge for preparing the itemised bill.

However, it is possible that the total amount of the bill may increase when each item of work has been itemised and the cost calculated.

It is recommended that your request for an itemised bill reach the law practice within 30 days after you receive the lump sum bill. Although you are not required by law to request an itemised bill within 30 days your lawyer is entitled to sue you for unpaid legal fees after 30 days have elapsed since you were given the bill. If you request an itemised bill the 30 days will run from the date your request was complied with by the law practice.

4. Your right to know the rate of interest to be charged by the law practice

A law practice is entitled to charge interest on overdue legal costs.

You have a right to know the rate of interest that the law practice charged on overdue legal costs, whether that rate is a specific rate of interest specified in the costs agreement or a benchmark rate of interest as prescribed by the *Legal Profession Regulations 2009* (section 273 of the Act).

5. Your right to be notified of any substantial change to estimate of costs and other matters disclosed to you when retaining the law practice

It is difficult to predict the exact cost of litigation in advance. The cost of court proceedings can vary depending on a number of factors including the actions of the other party which cannot be anticipated.

Your lawyer must give you an estimate of the costs to be charged to you, the costs you are likely to get back if you win and the costs you are likely to pay if you lose, but generally your lawyer will not be able to tell you these exact costs at the outset.

If there is substantial change to anything that your lawyer has told you, your lawyer must tell you of the changes as soon as it is reasonably practical for your lawyer to do so (section 267 of the Act).

6. Your right to progress reports

You have a right, on reasonable request, to:

- a written report of the progress of the matter;
- a written report of the legal costs incurred by you to date or since the last bill (if any) in the matter.

The law practice may charge a reasonable amount for the report of the progress of the matter but cannot charge you for a report on legal costs that have been incurred by you (section 269 of the Act).

7. Your right to a notice telling you about your rights

A notice telling you about your rights to challenge legal costs must be sent with the bill (section 291 of the Act).

8. Your rights in the event of a dispute in relation to legal costs

Your rights include:

- (i) the right to apply for costs assessment;
- (ii) the right to apply to set aside your costs agreement;
- (iii) the right to make a complaint.

(i) Costs assessment

An application for assessment of a bill must be made within 12 months after the bill was received by you (section 295 of the Act).

However, if an application is made out of time, a Supreme Court Officer may determine, having regard to the delay and the reasons for the delay that it is just and fair for the application for assessment of the bill to be dealt with after the 12 month period.

(ii) Setting aside the costs agreement

On application by a client, the Supreme Court may order that a costs agreement be set aside if satisfied that the agreement is not fair or reasonable (section 288 of the Act).

There is no time limit prescribed in the Act for bringing an application to set aside a costs agreement.

In determining whether or not to set aside a costs agreement, the Supreme Court will have regard to a number of factors including:

- whether the client was induced to enter into the agreement by fraud or misrepresentation;
- whether any practitioner acting for the law practice has been found guilty of unsatisfactory professional conduct or professional misconduct in relation to the legal services to which the costs agreement relates;
- the circumstances and conduct of the parties before and after the agreement was made;

- the disclosure made by the law practice and how the costs agreement and billing under the agreement address changed circumstances that might foreseeably arise.

(iii) The making of a complaint

The Legal Profession Complaints Committee is the statutory body established under the Act to receive and investigate complaints against Australian legal practitioners.

A complaint may be made about conduct of an Australian legal practitioner irrespective of when the conduct is alleged to have occurred.

However, a complaint cannot be dealt with (otherwise than to dismiss it or refer it to mediation) if the complaint is made more than 6 years after the conduct is alleged to have occurred unless the Legal Profession Complaints Committee determines that –

- (a) it is just and fair to deal with the complaint having regard to the delay and the reasons for the delay; or
- (b) the complaint involves an allegation of professional misconduct and it is in the public interest to deal with the complaint.

A determination under subsection (2) is final and cannot be challenged in any proceedings by the complainant or the Australian legal practitioner concerned (sections 411(1)-(3) of the Act).

A complaint should be made to:
The Law Complaints Officer
Legal Profession Complaints Committee
2nd floor “Colonial Building”
55 St George’s Terrace
PERTH WA 6000

Phone: (08) 9461 2299
Fax: (08) 9461 2265
Email: lpcc@bigpond.com.au

Additional information about making a complaint is available at www.lpbwa.org.au
Scroll down the Menu on the left hand side of the Legal Practice Board’s home page to ‘Complaints Committee’.

9. Your right to have Western Australian or interstate costs law apply to your matter

Ordinarily, the law that will apply to your dealings with your lawyer, including in relation to costs, will be the law of the State of Western Australia.

However, the law of another State or Territory may apply if your matter has a substantial connection to that other State or Territory or if you and your lawyer agree that law of that other State or Territory will apply.

FACT SHEET
YOUR RIGHT TO CHALLENGE
LEGAL COSTS

FORM 3

Legal Profession Regulations 2009
Regulation 82(1) – Form of Notification of clients’ rights
Legal Profession Act 2008 (the Act)
Section 291(3) and Sections 291(1)(a) and (b)

All bills issued by law practices must include or be accompanied by a written statement setting out –

- (a) That the following avenues are open to the client in the event of a dispute in relation to legal costs -**
 - (i) costs assessment under Division 8;**
 - (ii) the setting aside of a costs agreement under section 288;**
 - (iii) making a complaint under Part 13; and**

- (b) any time limits that apply to the taking of any action referred to in paragraph (a).**

(sections 291(1)(a) and (b) of the Act).

Form 3 to the *Legal Profession Regulations 2009* state that clients should discuss their concerns with their lawyer.

1. Requesting an itemised bill

If you do not receive an itemised bill, you have a right to request one (section 292 of the Act).

The law practice must comply with your request within 21 days after the date on which your request is made.

Your lawyer cannot charge for preparing the itemised bill.

However, it is possible that the total amount of the bill may increase when each item of work has been itemised and the cost calculated.

It is recommended that your request for an itemised bill reach the law practice within 30 days after you receive the lump sum bill. Although you are not required by law to request an itemised bill within 30 days, your lawyer is entitled to sue you for unpaid legal fees after 30 days

have elapsed since you were given the bill. If you request an itemised bill, the 30 days will run from the date your request is complied with by the law practice.

2. Discussing your concerns with your lawyer

It is prudent to discuss your concerns with your lawyer. It may be that you have misunderstood your bill or it may be that the lawyer has made a mistake. Discussing your concerns with your lawyer could lead to an early resolution of your concerns and thereby avoid the delays and costs associated with the exercise of your other rights.

3. Having your costs assessed

An application for assessment of a bill must be made within 12 months after the bill was given to you (section 295 of the Act).

However, if an application is made out of time, a Supreme Court Taxing Officer may determine, having regard to the delay and the reasons for the delay that it is just and fair for the application for assessment of the bill to be dealt with after the 12 month period.

4. Applying to set aside the costs agreement

On application by a client, the Supreme Court may order that a costs agreement be set aside if satisfied that the agreement is not fair or reasonable (section 288 of the Act).

There is no time limit prescribed by the Act for bringing an application to set aside a costs agreement.

In determining whether or not to set aside a costs agreement, the Supreme Court will have regard to a number of factors including:

- whether the client was induced to enter into the agreement by fraud or misrepresentation;
- whether any practitioner acting for the law practice has been found guilty of unsatisfactory professional conduct or professional misconduct in relation to the legal services to which the costs agreement relates;
- the circumstances and conduct of the parties before and after the agreement was made;

- the disclosure made by the law practice and how the costs agreement and billing under the agreement address changed circumstances that might foreseeably arise.

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A complaint may be made about conduct of an Australian legal practitioner irrespective of when the conduct is alleged to have occurred.

However, a complaint cannot be dealt with (otherwise than to dismiss it or refer it to mediation) if the complaint is made more than 6 years after the conduct is alleged to have occurred unless the Legal Profession Complaints Committee determines that –

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A complaint against a lawyer should be made to:

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Legal Profession Complaints Committee
2nd Floor “Colonial Building”
55 St George’s Terrace
PERTH WA 6000

Phone: (08) 9461 2299

Fax: (08) 9461 2265

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