

Costs disclosure form

Costs disclosure forms are an easy alternative to full costs disclosure in lower priced matters. The new costs disclosure form enables you to give your client an overall picture of the costs they can expect to pay.

This information sheet explains the information to be included if you choose to use the costs disclosure form instead of making a full costs disclosure.

When can I use this form?

From 1 July 2015, a law practice in NSW or Victoria (including a barrister when briefed directly) can use a costs disclosure form when legal costs are not likely to exceed \$3000, before disbursements and GST are added.¹

Is the costs disclosure form a costs agreement?

A costs disclosure form is an estimate only. It is not a costs agreement.

Can I use the form if the overall costs are likely to be more than \$3000?

The threshold of \$3000 does not include the cost of disbursements or GST. The cost of disbursements, the fee for a barrister or another law practice and GST must be shown to give the client the overall picture of what they can expect to pay.²

How do I disclose the basis for calculating costs?

If you use the costs disclosure form available from the Legal Services Council website, you can choose from the drop down box (hourly rate, fixed rate) and include the rate or fixed price in the space provided.

How do I outline the work to be done?

A summary of the work is sufficient, but you should provide enough detail so the client can understand the proposed course of action. It is best to use language that the client can easily understand.

Can I use the costs disclosure form if a barrister or second legal practice is engaged?

The costs disclosure form can be used in any matter when your own fee is not likely to be more than \$3000, before disbursements and GST are added.

Your form must include an estimate of the total fee payable for the barrister or other law practice you retain on behalf of the client. The barrister or other law practice must provide you with sufficient information to give your client full disclosure. This information should be attached to the form.³

What if something changes?

You must inform your client in writing if circumstances change that significantly alter any of the information disclosed on the form, including legal costs.⁴

You must provide sufficient information about the changes to ensure your client understands the impact on legal costs, and can make an informed choice about future conduct of the matter.⁵

If the change in circumstances means that your legal costs are likely to exceed \$3000, you must provide full written disclosure to the client.⁶

What rights does the client have?

An objective of the Uniform Law is that clients of law practices are able to make informed choices about their legal options.

A client has the right to have proposed work and estimated costs explained to them.

You should also give your client the Costs Disclosure Form information sheet for consumers, which explains the cost disclosure form and the rights a client has in relation to costs disclosure and billing.

Where can I find the forms?

The costs disclosure forms are prescribed in the Uniform General Rules Schedule 1 Form 1 for solicitors and other law practices (except barristers) and Form 2 for barristers being briefed directly by a client.

A user friendly version of the forms is available from the Legal Services Council website at: www.legalservicescouncil.org.au.

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Table 1 Summary of Costs Disclosure Obligations⁷

Thresholds	Solicitors	Barristers (briefed directly)
Estimate of total legal costs not more than \$750 before disbursements and GST are added	<p>No legal obligation to disclose legal costs (s 174(4)).</p> <p>Options:</p> <ul style="list-style-type: none"> • short form disclosure (s 174(5)); or • full disclosure (s 174(1)). <p>If you do not disclose costs, and circumstances change you can use the form if the estimate of your fee is not more than \$3000 (s 174(7)).</p>	<p>No legal obligation to disclose costs (s 174(4)).</p> <p>Options:</p> <ul style="list-style-type: none"> • short form disclosure (s 174(5)); or • full disclosure (s174(1)). <p>If you do not disclose costs, and circumstances change you can use the form if the estimate of your fee is not more than \$3000 (s 174(7)).</p>
Estimate of total legal costs more than \$750 but not more than \$3000 before disbursements and GST are added	<p>Options:</p> <ul style="list-style-type: none"> • short form disclosure (s 174(5)); or • full disclosure (s 174(1)). <p>You can use the form for your own costs disclosure if you engage a second legal practice, provided the estimate of your fee is not more than \$3000.</p> <p>You should attach the information from the second legal practice to the costs disclosure form, and include the total in the space provided on the form.</p> <p>Disclose relevant information to any associated third party payer (s 176).</p>	<p>Options:</p> <ul style="list-style-type: none"> • short form disclosure (s 174(5)); or • full disclosure (s 174(1)). <p>Disclose relevant information to any associated third party payer (s 176).</p>
Total legal costs likely to exceed \$3000	<p>Full disclosure (s 174(1)).</p> <p>Disclose relevant information to any associated third party payer (s 176).</p>	<p>Full disclosure (s 174(1)).</p> <p>Disclose relevant information to any associated third party payer (s 176).</p>
All	<p>If you engage counsel, or another legal practice you must also disclose the cost of these legal services to your client (s 175(1)).</p>	<p>If you are engaged by a solicitor, you must give the solicitor all the information necessary for the full disclosure of your costs to the client (s 175(2)).</p>

Costs disclosure obligations do not apply to larger commercial or government clients. This includes state owned enterprises.

¹ Legal Profession Uniform Law, s 174(5)

² Above, note 1 s 174(5)

³ Above, note 1 s 176

⁴ Above, note 1 s 164(1)(b)

⁵ Above, note 1 s 174(2)(b)

⁶ Above, note 1 s 174(8)

⁷ This information sheet does not deal with costs disclosure obligations in settlement of litigation. See Legal Profession Uniform Law, s 177.