



LOCAL COURT CIVIL PRACTICE NOTE

NUMBER 1 OF 2000 LEGAL COSTS

As a joint initiative between the Local Court and the Law Society of NSW, guidelines for the calculation of legal profession costs in Local Court civil litigation have been prepared.

The Local Court has the power to determine costs under s 2081 of the Legal Profession Act 1987, and in short and straightforward cases it is both just and efficient to finalise the question of costs before the Local Court. Assessment under the Costs Assessment Scheme remains an available option for deciding costs in long and more complex cases.

Legal costs always remain at the discretion of the Court, and the guideline figures which follow do not diminish that discretion. The guidelines will assist parties to reach agreement on costs, as both parties will be aware of the manner in which costs will be determined by the Court, if necessary.

Local Court Costs Procedure:

1. On the hearing day, practitioners for each party should have a summary of the fair and reasonable costs which will be sought, if their client is successful. Evidence of time spent, such as copies of time ledger print-outs, file notes and memoranda should be available.
2. At the end of the hearing, the Court will encourage the parties to negotiate an agreement on costs. The application of the costs guidelines will assist the parties to reach agreement. If necessary, the Court will adjourn the question of costs for that purpose. If agreement is reached after the hearing day, consent orders can be filed without a further appearance in Court.
3. Costs will be allowed by reference to time reasonably spent on the case, however the Court will not engage in taxing exercise (whereby individual items on a bill of costs are either allowed or disallowed). There is no requirement to distinguish between time spent on the hearing and on interlocutory matters, unless costs in the interlocutory matter have been separately determined. The legal practitioner seeking costs bears the onus of establishing what time was spent on the case, and that the time spent was reasonable in all the circumstances.
4. On request, the Court will determine any application for indemnity costs before asking the parties to negotiate an agreement on costs.
5. If the parties are unable to reach an agreement on costs, and a party is opposed to the Court determining costs, the question of reasonable costs will be referred for assessment under the Costs Assessment Scheme.

6. **Guideline Amounts**

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| (a) | Statement of Claim - instructions, drawing, typing, checking, and filing | \$572 |
| (b) | Certificate of Readiness - drawing, typing, checking, filing and service | \$125 |
| (c) | Other documents, such as defences and subpoenas - drawing, typing, checking, filing and service | \$20
(per 6 minutes actual time Involved) |
| (d) | Perusals, letters, telephone calls etc | \$20
(per 6 minutes actual time involved) |
| (e) | Conferences (client and witnesses) | \$200
(per hour based on 6 minute units of actual elapsed time) |
| (f) | Attending call-overs, preparation for hearing (including preparing witness statements), attending court (including travelling and waiting time) | \$50
(per ¼ hour or part thereof) |
| (g) | Disbursements | As reasonably incurred |
| (h) | Counsel's fees | As disclosed, in a reasonable amount, and as reasonably incurred. |
7. Where a clerk or para-legal carries out the attendances, costs for that person should be allowed at 40% of the amount for a qualified legal practitioner.
8. Any increases in the Consumer Price Index since the publication of this Practice Note should be reflected in the costs awarded.

Patricia J Staunton AM
Chief Magistrate
22 May 2000