

FACT SHEET

Your right to challenge legal costs

If you are not happy with a lawyer's bill, there are a number of formal avenues that are open to challenge that bill. Generally, before you take any formal action, it is wise to first discuss your concerns with your lawyer.

The formal avenues for challenging legal costs include:

Costs review by the Taxing Master

You may apply to the Taxing Master of the Supreme Court of Victoria for a review of the whole or any part of legal costs. An application for a costs review may be made even if the legal costs have been wholly or partly paid.

There are **different time limits** that apply for making an application for costs review because of changes in legislation.

If you first instructed your lawyer **before 12 December 2005**, an application for a costs review must be made within **two months** of receiving the bill.

If you first instructed your lawyer on or **after 12 December 2005**, the time limit varies according to when you received the bill of costs:

- If you received the bill before 9 May 2007, an application for costs review must be made within **60 days** of receiving the bill.
- If you received the bill on or after 9 May 2007, an application for costs review must be made within **12 months** after –
 - the bill was given or the request for payment was made to you; or
 - the costs were paid if neither a bill was given nor a request was made.

The Taxing Master has a discretion in relation to the legal costs of the review process, the issue of **who pays** the legal costs of the review process can depend on how much (if at all) the bill is reduced.

For further information about applications to the Taxing Master, contact the Associate to the Taxing Master on **(03) 9603 9324**.

The setting aside of a costs agreement by the Tribunal

If you have entered into a costs agreement, you may apply to the Victorian Civil and Administrative Tribunal (**the Tribunal**) for an order that the costs agreement be set aside. There is **no time limit** for making this type of application. The Tribunal may set aside a costs agreement if satisfied that the agreement is not fair or reasonable.

If the costs agreement is set aside, the Tribunal may order the legal practitioner to pay your costs of the hearing. If the costs agreement is not set aside, the Tribunal may order you to pay the legal practitioner's costs of the hearing.

For further information, contact the **Legal Practice List** of the Tribunal on **(03) 9628 9081** or visit its website www.vcat.vic.gov.au

Making a complaint to the Legal Services Commissioner

The Legal Services Commissioner may accept complaints involving a dispute (**costs dispute**) in relation to legal costs not exceeding **\$25,000** in respect of any one matter.

A complaint involving a costs dispute must be made within **60 days** after the legal costs were payable or, if an itemised bill was requested in respect of those costs, within **30 days** after the request was complied with. The Commissioner may accept a complaint involving a costs dispute made outside of this period, but made within 4 months after the end of that period, if satisfied that:

- there was a reasonable cause for the delay in making the complaint; and
- legal proceedings have not been commenced for the recovery or review of the legal costs that are the subject of the complaint.

Subject to limited exceptions, a complainant who makes a complaint involving a costs dispute **must lodge** the unpaid amount of the disputed costs with the Commissioner within **28 days** after making the complaint.

The role of the Legal Services Commissioner with respect to a costs dispute is to assist the parties to resolve their dispute. Usually this will involve negotiations by letter or telephone, but may also include referring the dispute to a formal mediation or arranging for a non-binding assessment of legal costs.

If the Legal Services Commissioner is unable to resolve the costs dispute, the Commissioner must give written notice to each party stating that the dispute could not be resolved and setting out the party's right to apply to the Tribunal. The application to the Tribunal must be made within 60 days of receiving the notice.

A lawyer or law firm may use Form B4 in the *Legal Profession Regulations 2005* to advise you about your rights to challenge legal costs and satisfy the disclosure obligations in section 3.4.35 of the *Legal Profession Act 2004*.

This Fact Sheet is made in satisfaction of regulation 3.4.5 of the *Legal Profession Regulations 2005*. It was developed in consultation with the Law Institute of Victoria Ltd and the Victorian Bar Inc.