



COSTS DISCLOSURE REASONABLE STEPS

The Legal Profession Uniform Law (NSW), (the Uniform Law), the Legal Profession Uniform Law Application Act 2014 together with subordinate legislation commenced in NSW on 1 July 2015. It replaces the Legal Profession Act 2004 and the Legal Profession Regulation 2005.

Disclosure Requirements

Initial Disclosure

Under the Uniform Law¹ a law practice must provide the client with information disclosing the basis on which legal costs will be calculated and an estimate of the total legal costs. The law practice must also provide the client with information about the client's rights:

- to negotiate a costs agreement with the law practice;
- to negotiate the billing method;
- to receive a bill and an itemised bill; and
- to seek assistance of NSW Commissioner in the event of a dispute about legal costs

Ongoing Obligation to Disclose

If there is any significant change to anything previously disclosed to the client the law practice must provide the client with sufficient information about the impact of that change on the legal costs that will be payable to allow the client to make informed decisions about the further conduct of the matter.

Client's consent and understanding

When providing the client with both initial and ongoing disclosure the law practice must take all reasonable steps to satisfy itself that the client has understood the information provided and given consent to the proposed course of action for the conduct of the matter and the proposed costs².

Reasonable steps

The Uniform Law does not provide a definition of 'all reasonable steps'. However, good communication skills will no doubt feature strongly in their implementation.

Hints for clients other than commercial and government clients

The hints outlined in this fact sheet are for guidance only. Reasonable steps will depend on individual facts and circumstances.

1. Ask your client to complete a client information sheet.
2. Identify your client. Law Cover has a checklist³.
3. Ask your client what he/she wants to achieve.
4. Explain in detail the client's proposed course of action in plain clear language.
5. Explain available options and an estimate of legal costs associated with those options.
6. Confirm your client's instructions after you have preliminary search results, including conflict of interest searches and perused any available relevant documents.
7. Let your client know that they can ask questions.
8. Ask the client to explain to you in their own words their understanding of the proposed course of action and the costs involved.
9. Send a detailed letter to the client confirming their proposed course of action and the proposed costs.
10. If there is any significant change to anything previously disclosed to the client provide the client with information disclosing the change, including any significant change to the legal costs that will be payable by the client.

Further information

For further assistance or information please contact:

Professional Standards Department
The Law Society of New South Wales

Call: (02) 9926 0115

Email: psd@lawsociety.com.au

¹ Legal Profession Uniform Law (NSW) s174(1)

² Legal Profession Uniform Law (NSW) s174(3)

³ <http://lawcover.com.au/?s=identification>