

Standard Terms & Conditions

HICKS
OAKLEY
CHESSELL
WILLIAMS

Lawyers & Notary

1. Legal costs

1.1 Fees

Unless a fixed quote or other basis of charging has been agreed, our legal fees are based primarily on the time spent by our professional staff (including lawyers and support staff) in acting on your behalf. Time is recorded in six minute units. The hourly rate depends on the seniority and expertise of the person who carries out the work. Full details of hourly rates are available on request. However, the final amount for costs is subject to variation to take into account any extraordinary factors which may affect the figure because the record of time spent on its own does not reflect the skill, care and responsibility exercised by our firm: for example, urgent attention or complex issues.

It is your right to negotiate a costs agreement with the law practice and be notified of any substantial change to the matters disclosed.

1.2 Disbursements

In addition to our professional fees, you will be responsible for payment of out of pocket expenses which we incur on your behalf. This may include charges for such things as expert reports; photo-copying; facsimile charges; courier fees; travel expenses; court filing fees; stamp duty; agents' fees (including amounts charged by service providers for filing documents and attending settlements, etc.) and FDT charges. GST normally applies.

In some cases, particularly in litigation, it may be necessary to brief counsel. By instructing us you authorise us to retain barristers, including senior counsel, to advise, draw and settle and appear on your behalf as an advocate in court.

Should a barrister or other such legal representative be employed by us, their legal services will be charged in accordance with an agreed hourly rate that may typically be between \$200 and \$400 an hour or alternatively pursuant to a court scale. Senior Counsel will charge at a higher rate. Please note that counsel's fees may not always be fully recoverable from the other party in the event of a costs order in your favour.

2. Queries

We strongly recommend that you prepare a note of your queries or concerns before you attend an appointment at our office or telephone us. This will ensure that you raise all of your concerns at the appropriate time. You will save additional expense on attendances by us in person or telephone.

3. Telephone calls

If the person you call is unavailable and your query must be answered by that person you may:

- a. leave a message for the call to be returned. We always attempt to return calls on the same day; this can be delayed if your line is unattended or engaged;
- b. leave a short message with an assistant or our receptionist so that your query can be answered promptly. This can avoid delays particularly when lawyers are engaged in Court.

Please note that under normal circumstances, you will be billed for ALL phone call enquiries to our office, whether they are to a lawyer or their support staff.

4. Correspondence

We will provide you with copies of any significant correspondence with other parties so that you will have a full record of our letters. Unless you specifically request it, we will not send copies of every letter received or sent on the file.

5. Disputes as to our legal costs

Should you have any query about, or are dissatisfied with our legal costs, please contact the person handling your matter, or if the issue cannot be resolved then contact a Principal. They will be happy to answer your questions and explain how the total costs were calculated.

In the event that there is a dispute or complaint in relation to legal costs the following avenues are open to you:

- a. apply to the Costs Court for a review of the whole or any part of legal costs. You must apply within 12 months of receiving your bill or a request for payment is made; or
- b. make a complaint to the Legal Services Commissioner (**LSC**), www.lsc.vic.gov.au. For disputes for total costs that do not exceed \$25,000 the complaint must be made within 60 days after the costs become payable or within 30 days after the request for an itemised bill has been complied with;
- c. failing settlement of a dispute of costs that do not exceed \$25,000, the client or the legal practitioner may refer the dispute to the LSC where mediation will be attempted and if not successful an order may be obtained;
- d. if your dispute cannot be dealt with by the LSC you can apply to the Victorian Civil and Administrative Tribunal (**VCAT**) to resolve the dispute.

6. The setting aside of a costs agreement

If you have entered into a costs agreement, you may apply to VCAT for an order that the costs agreement be set aside. VCAT may set aside a costs agreement if satisfied that the agreement is not fair or reasonable. If the

Contact us at:

Melbourne Office
Phone: **03 9629 7411**

Level 18
461 Bourke Street
Melbourne 3000

Fax: 03 9629 7422
DX: 31331 Mid-town
PO Box 16067
Collins Street West 8007

Mt Waverley Office
Phone: **03 9550 4600**

Central 1, Level 2, Suite 17
1 Ricketts Road
Mt Waverley 3149

Fax: 03 9544 8711
DX: 32002 Mt Waverley
PO Box 2165
Mt Waverley 3149

enquiries@hocw.com.au
www.hocw.com.au

Liability limited by a scheme
approved under Professional
Standards Legislation

Legal services include:

- Commercial Law;
- Commercial Litigation;
- Commercial Tenancy Law;
 - Family Law;
- Workplace Relations;
 - Wills & Estates;
- Property & Conveyancing



Please turn over...

costs agreement is set aside, VCAT may order the legal practitioner to pay your costs of the hearing. If the costs agreement is not set aside, VCAT may order you to pay the legal practitioner's costs of the hearing. There is no time limit for making this type of application.

7. Requesting funds on account

We have a policy of seeking funds from clients in advance. These funds are necessary to cover the disbursements which may be incurred on your behalf from time to time, in addition to our professional fees as they accrue.

We will assume upon receipt of such funds, your authority to draw on the money paid for expenses and our professional fees, as they become due. We shall also assume your authority is given for any moneys which we receive on account of costs to be paid directly to our trust account and to pay ourselves from this money immediately after sending you our bill of costs.

8. Billing

We will forward an interim account from time to time in the matter, for example monthly, and a final bill of costs will be given at the conclusion of the matter.

You have the right to request a bill of costs from us, and to request an itemised bill within 30 days after receipt of a lump sum bill.

If you have any particular billing requirements, please ensure that you advise us, in writing, as soon as possible.

9. Reporting

Our practice is to keep you advised at reasonable intervals of the progress of the matter. This is the right given to you under the *Legal Profession Uniform Law Application Act 2014 (Uniform Law)*. If at any time you need more information you should contact us.

10. Payment and charge

Our payment terms are normal trading terms of seven days from receipt of account. If you have any difficulty with meeting these terms please contact us immediately.

Interest may be charged on legal costs, at a rate not exceeding the Cash Rate Target, as fixed by the Reserve Bank of Australia, plus 2%, from the period beginning 30 days after payment is demanded until the legal costs are paid.

The Uniform Law provides for interest to be charged on accounts unpaid after 30 days. This interest will be added to any unpaid account unless other arrangements have been made.

If an interim account is unpaid after 45 days we will be unable to carry out any further work or incur further costs on your behalf until the account is paid.

Subject to compliance with the National Credit Code (pursuant to the *National Consumer Credit Protection Act 2009 (Cth)*), it is the firm's practice to insist upon the right to lodge a Caveat over real estate to better secure payment of costs in situations where any of our accounts are unpaid after 30 days or where reasonable funds on account are not provided following our request. This requires agreement by you that any interest in real estate will be charged to better secure payment of amounts outstanding for costs and fees. These

fees will include fees for registration and withdrawal of Caveat at the Land Titles Office, but will not include any professional costs for preparation of the Caveat.

11. Settlement negotiations

By agreeing to these terms you specifically authorise Hicks Oakley Chessel Williams to enter into settlement negotiations on your behalf. We will not however settle any matter without instructions.

12. Our expectations of you

We expect that we will be given full instructions in the matter and that you cooperate with us in preparing your matter and do all that we reasonably ask of you.

We expect that you will follow our reasonable legal advice, including advice as to settlement offers and that you continue your claim and not withdraw it, unless we advise discontinuance or withdrawal.

13. Change of address/contact number

Please note that it is your responsibility to keep us informed of your current residential street address, postal address, email address and contact telephone number. Your failure to do this may result in you not receiving important notification from us in relation to critical limitation dates.

14. Service

If you have any queries about any of the matters referred to in these conditions, or in relation to any scale of costs applicable to your matter, please contact us. We will be happy to discuss these queries with you at any time. Our aim is to provide a prompt and efficient service at reasonable cost.

If there is a complaint about provision of the legal services you may contact the LSC, www.lsc.vic.gov.au.

15. File retention, archives & destruction including associated disbursements

We will, on completion of your matter, engage Fileman Pty Ltd or another provider, to retain any documents to which you are entitled, but leave in our possession (except documents you require us to hold in safe custody) for no more than seven years from the date of our final bill and you acknowledge that we and Fileman Pty Ltd or another provider, have your authority to destroy those documents seven years from completion of your matter and the date of our final bill, unless you write to us requesting retention for a longer period. At the end of the matter, and provided our invoices are paid in full, we will release your file and your documents as you direct.

We may also request that you provide us with payment in advance of us incurring a disbursement on your behalf. These funds will be held in our trust account until payment of the disbursement is required.

Archiving fees and charges (relating to storage, scanning and indexing) will be charged to you at the cost invoiced to us for engaging Fileman Pty Ltd or another provider, to retain your completed file for a minimum period of seven years (statutory period) and the secure destruction of your client file at the end of the statutory period, (except documents you require us to hold in safe custody), unless otherwise stated by you in writing.