

Checklist

TIME LIMITS ON A CLIENT'S RIGHT TO DISPUTE LEGAL COSTS

Whenever taking over a file, clarify whether or not you are to advise on prior costs. If not, ensure you are off risk and that the client is aware of any limitation dates and what they mean.

A client or third party payer who is dissatisfied with legal costs can apply for the costs or a disputed component of them to be assessed.¹ The **QLS Costs Guide** (member-only resource) contains a useful overview of that process. This checklist outlines some considerations of time limits that may apply to a client's right to dispute legal costs:

- ☐ An application for assessment must be brought² within 12 months³ of the *final* bill⁴ was given or request for payment was made to the client or third party payer.⁵ Leave to extend may be granted in some circumstances.⁶
- ☐ Assessment may be of all prior costs from commencement of the retainer to which the latest bill pertains, and is not restricted to costs rendered in bills during the preceding 12 month period.⁷
- ☐ There may be more than one 'retainer' within a matter, and a limitation period will run from the final bill of each matter.
- ☐ A solicitor must seek assessment⁸ of counsel's bills within 60 days of delivery after which time the solicitor cannot dispute their indebtedness to counsel, although the client may still do so. (See **QLS Costs FAQ's**).
- ☐ A reminder letter, reissuing a previously rendered bill (with no new charges) or taking steps to enforce an account already rendered is not a 'request for payment'.⁹
- ☐ Similarly, an itemised bill delivered pursuant to a s 332 LPA request is not a new bill¹⁰ and does not re-start the time limitation clock.
- ☐ Before issuing a further bill including leftover WIP or disbursements from a prior phase of the matter consider the risk of exposing such prior work to assessment if that tranche of work was billed more than 12 months previously.

¹ *Legal Profession Act 2007* (Qld) s 335 ('LPA').

² See *Uniform Civil Procedure Rules 1999* (Qld) r 743A for procedural requirements (and Pt IV generally). The application must identify the basis upon which costs are disputed, so time will be required to prepare an outline of objections.

³ LPA (n 1) s 335(5).

⁴ *Stevens v HopgoodGanim Lawyers (a Firm)* [2023] QDC 96, [32].

⁵ David Bowles, 'Time limitations on a client's right to dispute legal costs', *QLS Proctor* (Online, 21 February 2022) <<https://www.qlsproctor.com.au/2022/02/time-limitations-on-a-clients-right-to-dispute-legal-costs/>>. Or request for payment where there is no bill or actual payment of costs where there is neither bill nor request. You do not have to wait until the final bill to seek an assessment of an interim bill or series of them.

⁶ A 'sophisticated client' cannot seek an extension (see LPA (n 1) s 335(6), definition section 300). This includes a legal practice, reinforcing the need to check counsel's bills promptly (a 60 day limit applies to those).

⁷ LPA (n 1) s 333(2); *Challen, PL T/as Hawthorn Cuppaidge & Badgery vs Golder Associates Pty Ltd* [2012] QCA 307; *Turner v Mitchells Solicitors* [2011] QDC 61; *Retemu Pty Ltd v Ryan* [2010] NSWDC 4300/08, *Collection Point Pty Ltd v Cornwallis Lawyers* [2012] VSC 493 contra *Dromana Estate v Wilmoth Field & Warne* [2010] VSC 308.

⁸ Disputing or querying costs is not sufficient – the application and supporting material must be filed within that date. Counsel's bills should be checked and discussed with clients as a matter of priority soon after they are delivered.

⁹ *Mackie & Staff Pty Ltd v Khor & Burr* [2013] VSC 696.

¹⁰ *Old Law Group – A new direction Pty Ltd v Crisp* [2018] QCA 245.