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LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022

LEGAL PROFESSION (MAGISTRATES COURT) (CRIMINAL)
REPORT AND DETERMINATION 2026

LEGAL PROFESSION (MAGISTRATES COURT) (CIVIL) REPORT
AND DETERMINATION 2026

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LEGAL PROFESSION (MAGISTRATES COURT) (FAMILY LAW)
REPORT AND DETERMINATION 2026

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022**LEGAL PROFESSION (MAGISTRATES COURT) (CRIMINAL) REPORT 2026**

Made by the Legal Costs Committee under Division 1 of Part 6 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

PART 1—PRELIMINARY**1 Citation**

- (a) This Report may be cited as the *Legal Profession (Magistrates Court) (Criminal) Report 2026*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Magistrates Court) (Criminal) Determination 2026*.

PART 2—NOTICE AND INQUIRIES**2 Notice under section 139 of the Act**

The Legal Costs Committee has complied with the notice provisions of section 139 of the Act.

3 Inquiries and submissions under section 138 of the Act

Before making the *Legal Profession (Magistrates Court) (Criminal) Determination 2026*, the Legal Costs Committee—

- (a) reviewed submissions received as a result of the notice given under section 139 of the Act, including submissions made by The Law Society of Western Australia (Inc), the Australian Lawyers Alliance, the Bar Association of Western Australia, private practitioners and costs consultants;
- (b) considered the comments and suggestions made at a Law Society seminar with members of the legal profession and other attendees held on 24 March 2026;
- (c) considered the impact of changes in relevant Australian Bureau of Statistics data for the period, specifically consumer price index and wage price index data for the period since 1 July 2024;
- (d) considered the potential impact of the amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, which now imposes a regulatory framework on sectors of legal services, with the aim of protecting the integrity of the Australian financial system;
- (e) undertook a review of cost regimes in other Australian jurisdictions;
- (f) met with Registrars of the District Court and Supreme Court of Western Australia, and considered observations concerning taxation practice and the practical operation of the scale of costs;
- (g) met with a representative of the Bar Association of Western Australia;
- (h) met with Parliamentary Draftspersons and a representative of the Department of Justice responsible for legislative services concerning the proposed drafting and structure of the Determination;
- (i) held meetings on eleven separate occasions since the commencement of the *Legal Profession (Magistrates Court) (Criminal) Determination 2024* on 1 July 2024; and
- (j) noted the following changes in the membership and offices of the Committee since the publication of the *Legal Profession (Magistrates Court) (Criminal) Determination 2024*—
 - (1) Mr Craig McKie ceased acting as Chair of the Committee and was succeeded as Chair by Mr David Bayly SC from 15 July 2024;
 - (2) Mr Craig McKie continued as Deputy Chair; and
 - (3) Dr Anne Peachey was appointed as a member of the Committee from 1 January 2025 to fill a vacant member position.

PART 3—REPORT OF LEGAL COSTS COMMITTEE'S CONCLUSIONS**4 Maximum hourly and daily rates changed**

- (a) The Legal Costs Committee notes that the criminal jurisdiction of the Magistrates Court covers a wide range of summary criminal matters.
- (b) The Legal Costs Committee considers that as a consequence of the position stated in subclause 4(a), it is appropriate for a general scale of fees based on hourly rates to continue to apply to the time reasonably taken to perform the services provided by a law practice in, or for the purposes of contentious business in the criminal jurisdiction of the Magistrates Court.
- (c) Having regard to the information gained as a result of the inquiries and submissions described in clause 3, the Legal Costs Committee considers it appropriate that the hourly and daily rates be varied from the rates used in the *Legal Profession (Magistrates Court) (Criminal) Determination 2024*.

- (d) The Committee considers it appropriate that the hourly and daily rates charged by law practices under the *Legal Profession (Magistrates Court) (Civil) Determination 2026* should be adopted as the basis for costs for the supply of legal services covered under the *Legal Profession (Magistrates Court) (Criminal) Determination 2026*.
- (e) The Committee considers it appropriate that Table B of the *Legal Profession (Magistrates Court) (Criminal) Determination 2026* be adopted as the basis for costs for the supply of those legal services itemised in that Table.

5 Alignment of Counsel (other than Senior Counsel) and Senior Practitioner rates

- (a) The Committee considered the distinction between the maximum hourly rate applicable to Counsel and the maximum hourly rate applicable to a Senior Practitioner.
- (b) Contemporary litigation practice requires Counsel to undertake work of substantial complexity and responsibility.
- (c) The Committee considers it appropriate that the maximum hourly rate for Counsel be aligned with the maximum hourly rate for a Senior Practitioner, with a corresponding adjustment to the applicable daily rate for Counsel.
- (d) The Committee considered that the alignment of those rates would simplify the operation of the Determination and more accurately reflect contemporary litigation practice.

6 Disbursements

- (a) The Committee noted that the *Legal Profession (Magistrates Court) (Criminal) Determination 2024* did not include an allowance for disbursements.
- (b) The Committee considers it appropriate to include an allowance for disbursements both as between a law practice and client and as between party and party.
- (c) The relevant allowances are set out in Table B of the 2026 Determination.

DAVID BAYLY SC	Chair of the Committee
CRAIG MCKIE	Deputy Chair
GREG RICKIE	Member
ANNETTE MORGAN	Member
CAROLYN MEIGHAN	Member
ANNE PEACHEY	Member

Schedule

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022

LEGAL PROFESSION (MAGISTRATES COURT) (CRIMINAL) DETERMINATION 2026

Made by the Legal Costs Committee under section 133 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

1 Citation

This Determination may be cited as the *Legal Profession (Magistrates Court) (Criminal) Determination 2026*.

2 Commencement

This Determination comes into operation on 21 September 2026.

3 Application

- (a) This Determination applies to the remuneration of fee earners in respect of advice given by legal practitioners in or for the purposes of criminal proceedings in the Magistrates Court.
- (b) This Determination does not apply to the remuneration of fee earners based on costs incurred in respect of work carried out before the commencement of this Determination.

4 Restricted Practitioner category

The amendments brought in by the *Legal Profession (Magistrates Court) (Criminal) Determination 2016* remain in effect, other than clause 5(e) of that Determination.

5 Increase generally

- (a) The Committee is of the view that increases in the cost of practice over the past several years have justified an increase in the rates in Table A and the amounts in Table B.
- (b) Given the inquiries made by the Committee as set out in clause 3 of the Report, the Committee determined that it was appropriate to include a general increase.

- (c) In making its decision, the Committee is particularly cognisant of the increased costs to law practices occasioned by inflationary pressures, subscriptions for legal resources, investment in technology and cyber security, investments made by law practices in staff skills and initiatives, and increasing costs of regulatory and compliance systems, including integrity obligations affecting sectors of legal services from 1 July 2026.
- (d) Except for the alignment of Counsel and Senior Practitioner rates referred to in clause 6(c), the increases in the rates in Table A are not uniform but have been calculated generally in the range of 14% to 16%, with rounding so that each amount is divisible by 11 in accordance with the long-standing policy of the Committee. The amounts in Table B have been calculated by reference to applicable rates and allowances in this Determination.

6 Counsel fees

- (a) Fees charged by practitioners who practise solely as barristers in accordance with Supreme Court Practice Direction 10.5 are only to be charged at the rates provided for Counsel or Senior Counsel, as applicable, in Table A.
- (b) Recovery of daily fees for Counsel on the taxation or assessment of a bill of costs is intended to apply only when a full day has been worked, either in Court or in Court and in preparation for a subsequent hearing day.
- (c) The maximum hourly rate for Counsel, other than Senior Counsel, is aligned with the maximum hourly rate for a Senior Practitioner. The applicable rates are set out in Table A.
- (d) Nothing in this clause prevents the Court or taxing officer from disallowing, reducing or otherwise adjusting Counsel fees that are not reasonable in the circumstances.

7 Maximum hourly and daily rates

- (a) The hourly and daily rates set out in Table A are the maximum hourly and daily rates, inclusive of GST, which the Legal Costs Committee determines shall be used to calculate the remuneration of law practices in respect of time reasonably taken to perform services in or for the purposes of criminal proceedings before the Magistrates Court.
- (b) The rates referred to in paragraph (a) were ascertained in the manner set out in clause 4 of the *Legal Profession (Magistrates Court) (Criminal) Report 2026*.
- (c) The daily rates set out in Table A are intended to cover all work done on a hearing or trial day, whether in or out of Court, including preparation of written submissions, and are not intended to be supplemented by additional hourly charges given that the maximum number of hours allowed for the daily rate is 10 hours per day.

Table A

Fee earner	Rate type	Maximum allowable hourly and daily rates
Senior Practitioner (permitted to practise on his or her own account for 5 years or more) (SP) ¹	hourly rate	\$561
Junior Practitioner (permitted to practise on his or her own account for less than 5 years) (JP) ¹	hourly rate	\$440
Restricted Practitioner (RP) ^{1, 2}	hourly rate	\$319
Clerk/Paralegal (C/PL) ³	hourly rate	\$220
Counsel fees charged as a disbursement to practitioners or charged by in-house Counsel:		
Counsel (C) ⁴	hourly rate	\$561
	daily rate	\$5,610
Senior Counsel (SC) ⁵	hourly rate	\$715
	daily rate	\$7,150

Notes—

1. The reference to Restricted Practitioner, Junior Practitioner or Senior Practitioner in this Determination includes all legal practitioners even if the services were rendered in another State or Territory. Where a local practitioner has held an interstate practising certificate, the length of unrestricted legal practice in that other jurisdiction is to be counted in assessing that practitioner's years of practice for the purposes of this Determination.
2. The reference to Restricted Practitioner in this Determination includes practitioners undertaking restricted legal practice for the purposes of obtaining the required experience set out in the Act and does not include a reference to an Australian legal practitioner who has a condition placed on their practising certificate by the Legal Practice Board, State Administrative Tribunal or otherwise, requiring them to practise under supervision for disciplinary, medical, or other reasons.
3. The reference to Clerk/Paralegal in this Determination includes a law graduate prior to their admission to practise as an Australian lawyer.

4. The reference to Counsel in this Determination means a practitioner acting as a barrister other than a Senior Counsel.
5. The reference to Senior Counsel in this Determination means a person within the meaning of item 5 or item 6 of rule 9 of the *Legal Profession Uniform General Rules 2015 (WA)*.

8 Travel

- (a) For the purposes of this Determination, minor travel means incidental travel associated with attendance at court for a hearing where that travel is of a minor duration. Examples of minor travel include, but are not limited to—
 - (1) a practitioner walking from their usual place of business to a court;
 - (2) a practitioner walking from a carpark to a court; or
 - (3) a practitioner walking or taking public transport from one centrally located court to another centrally located court.
- (b) As between a law practice and its own client, time spent travelling by a law practice, other than minor travel, is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day.
- (c) In making its decision in this Determination, the Committee has taken note of the Law Society of Western Australia's Standard Costs Agreement, which contains a provision that a law practice will charge travel at 50% of the agreed hourly rates.
- (d) The Legal Costs Committee has also considered an informal policy of the former Legal Profession Complaints Committee that travel should not ordinarily be charged at a rate of more than 50% of a law practice's normal hourly charge-out rate.
- (e) Whilst the Legal Costs Committee recognises that during a travel period a law practice may not necessarily utilise legal skill and knowledge, there is recognition of a loss of opportunity for the time spent travelling.
- (f) The Legal Costs Committee notes that, having regard to the above—
 - (1) it is the responsibility of a law practice to allocate the cost of time spent on travel fairly and reasonably where the travel is necessary to service more than one client on the day of travel; and
 - (2) whilst nothing contained in this Determination prevents a law practice from charging time spent on a client matter or client matters in the course of travel (air travel by way of example), the law practice is not entitled to charge a client or clients for both the time spent on a client matter (regardless of whether that time relates to the client for whom the travel is being undertaken) and the amount allowed for travel under this Determination.

9 Costs

- (a) Subject to the provisions of the Act permitting a law practice to make a written agreement as to costs with a client, the costs of or in relation to a prosecution of an accused (inclusive of GST and Counsel fees, but exclusive of other disbursements)—
 - (1) recoverable by one party from another party; or
 - (2) payable by a party to that party's own law practice,
 shall not exceed the amounts set out in Table B.
- (b) Items in the Scale of Costs specify a dollar amount or otherwise identify the basis on which an allowance is to be made. Where a dollar amount is specified, the purpose is to indicate the maximum amount for the work indicated in the item, but on assessment, less might be allowed. In no respect is the Scale to be seen as providing a minimum charge for any work. The reason for stating the number of hours estimated to be necessary to perform particular items of work described in the Scale is to provide guidance to the Assessing Officer when dealing with the question of costs so that the Assessing Officer has some idea how much time is reasonably necessary to perform the work in most cases.
- (c) Work undertaken by Senior Counsel shall be allowable in accordance with the rates in Table A of this Determination.

Table B
Magistrates Court Criminal Scale of Costs 2026

Item	Description	Time	Fee earner	\$
1.	Adjournments			
	(a) Subject to paragraphs (b) and (c), allow for one adjournment only	1 hour	SP	561
	(b) Costs for additional adjournments to be awarded on application to, and at the discretion of, the presiding Magistrate			
	(c) Each Court ordered adjournment	1 hour	SP	561

Item	Description	Time	Fee earner	\$
2.	Bail application			
	(a) Preparation for, and appearance at, initial bail application and/or application for bail in respect of serious offences set out in the <i>Bail Act 1982 (WA)</i>	3.5 hours	SP	1,964
	(b) Preparation for, and appearance at, application to vary bail conditions	1.5 hours	SP	842
3.	Directions hearing			
	Directions hearing, including preparation	4 hours	SP	2,244
4.	Trial			
	(a) Preparation of case and half day trial, including Counsel fee		C/SP/JP	11,979
	(b) Second half day		C/SP	1,408
	(c) Second and each successive day of trial	per day	C/SP	5,610
	(d) Allowance for preparation where the trial does not proceed or the prosecution offers no evidence		C/SP	An amount which is reasonable in the circumstances
5.	Other appearances			
	Counsel fee for attending court for remand appearance, directions hearing, status conference, mention, callover, reserved decision or other appearance not otherwise accounted for	3 hours	C	1,683
6.	Pleas			
	(a) Short Plea in mitigation, including preparation (plea of up to 30 minutes)	3 hours	RP	957
	(b) Long Plea in mitigation, including preparation (plea in excess of 30 minutes)	4 hours	SC	2,860
7.	Copying			
	Copies where reasonably necessary, including of documents for which allowance is otherwise made in this Determination. This item covers all forms of electronic reproduction and copying.	per page		0.22
8.	Disbursements			
	In addition to the fees and charges allowed under this Determination— (a) As between a law practice and client, a law practice may charge and be allowed disbursements incurred by the law practice except insofar as they are of an unreasonable amount or have been unreasonably incurred, so that subject to the above exceptions, the law practice is fully reimbursed for its disbursements; and (b) As between party and party, a party may be allowed disbursements that are necessarily or reasonably incurred by that party, so that that party is fully reimbursed for its disbursements.			

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022**LEGAL PROFESSION (MAGISTRATES COURT) (CIVIL) REPORT 2026**

Made by the Legal Costs Committee under Division 1 of Part 6 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

PART 1—PRELIMINARY**1 Citation**

- (a) This Report may be cited as the *Legal Profession (Magistrates Court) (Civil) Report 2026*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Magistrates Court) (Civil) Determination 2026*.

PART 2—NOTICE AND INQUIRIES**2 Notice under section 139 of the Act**

The Legal Costs Committee has complied with the notice provisions of section 139 of the Act.

3 Inquiries and submissions under section 138 of the Act

Before making the *Legal Profession (Magistrates Court) (Civil) Determination 2026*, the Legal Costs Committee—

- (a) reviewed submissions received as a result of the notice given under section 139 of the Act, including submissions made by The Law Society of Western Australia (Inc), the Australian Lawyers Alliance, the Bar Association of Western Australia, private practitioners and costs consultants;
- (b) consulted with the Magistrates Court of Western Australia;
- (c) considered the comments and suggestions made at a Law Society seminar with members of the legal profession and other attendees held on 24 March 2026;
- (d) considered the impact of changes in relevant Australian Bureau of Statistics data for the period, specifically consumer price index and wage price index data for the period since 1 July 2024;
- (e) had regard to relevant provisions of the *Magistrates Court Act 2004* and the *Magistrates Court (Civil Proceedings) Act 2004*, and in particular noted section 13 of the latter Act, which sets out principles for the conduct of civil proceedings in the Court;
- (f) considered the potential impact of the amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, which now imposes a regulatory framework on sectors of legal services, with the aim of protecting the integrity of the Australian financial system;
- (g) undertook a review of cost regimes in other Australian jurisdictions;
- (h) met with Registrars of the District Court and Supreme Court of Western Australia, and considered observations concerning taxation practice and the practical operation of the scale of costs;
- (i) met with a representative of the Bar Association of Western Australia;
- (j) met with Parliamentary Draftspersons and a representative of the Department of Justice responsible for legislative services concerning the proposed drafting and structure of the Determination;
- (k) held meetings on eleven separate occasions since the commencement of the *Legal Profession (Magistrates Court) (Civil) Determination 2024* on 1 July 2024; and
- (l) noted the following changes in the membership and offices of the Committee since the publication of the *Legal Profession (Magistrates Court) (Civil) Determination 2024*—
 - (1) Mr Craig McKie ceased acting as Chair of the Committee and was succeeded as Chair by Mr David Bayly SC from 15 July 2024;
 - (2) Mr Craig McKie continued as Deputy Chair; and
 - (3) Dr Anne Peachey was appointed as a member of the Committee from 1 January 2025 to fill a vacant member position.

PART 3—REPORT OF LEGAL COSTS COMMITTEE'S CONCLUSIONS**4 Maximum hourly and daily rates changed**

- (a) Having regard to the information gained as a result of the inquiries and submissions described in clause 3, the Legal Costs Committee considers it appropriate that the hourly and daily rates be varied from the rates used in the *Legal Profession (Magistrates Court) (Civil) Determination 2024*.
- (b) The Committee has concluded that the principles reflected in section 13 of the *Magistrates Court (Civil Proceedings) Act 2004* properly inform the approach to the recovery of costs under this Determination. In particular the Committee notes—
 - (1) the Magistrates Court is not a court of pleadings;

- (2) there are substantial differences in practice and procedure between the Magistrates Court and other civil courts in this State;
- (3) it is intended that the Magistrates Court be a low cost jurisdiction;
- (4) actions where the quantum is not more than \$10,000 do not attract an entitlement to party/party costs, without a special costs order; and
- (5) the monetary jurisdiction of the Magistrates Court is presently \$75,000.
- (c) Having regard to the information gained as a result of the inquiries and submissions described in clause 3, the Committee has concluded it remains appropriate to—
 - (1) order the scale to reflect the procedures utilised in the Magistrates Court and the flow of litigation;
 - (2) maintain consistency where practicable with the format of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2026*; and
 - (3) provide for hourly and daily rates applicable to Counsel and Senior Counsel.
- (d) The Committee considers it appropriate that, as a result of the inquiries and submissions described in clause 3, the scale of costs be varied in the manner set out in Table B of the *Legal Profession (Magistrates Court) (Civil) Determination 2026*.
- (e) The Committee intends, because the Determination sets maximum hourly and daily rates and amounts and allowances that must not be exceeded, that the hourly and daily rates in Table A and scale of costs in Table B will apply in circumstances requiring the determination of allowable and other costs in the minor cases procedure of the Magistrates Court.
- (f) The Committee intends that the Determination shall apply to all civil proceedings dealt with in the Magistrates Court, including civil jurisdiction conferred on the Court by a written law, including, for example, the *Dividing Fences Act 1961* and the *Restraining Orders Act 1997*.
- (g) The Committee's conclusions are not intended to override any entitlement of a law practice to make a written agreement as to costs with a client under the Act or any similar legislation.

5 Alignment of Counsel (other than Senior Counsel) and Senior Practitioner rates

- (a) The Committee considered the distinction between the maximum hourly rate applicable to Counsel and the maximum hourly rate applicable to a Senior Practitioner.
- (b) Contemporary litigation practice requires Counsel to undertake work of substantial complexity and responsibility.
- (c) The Committee considers it appropriate that the maximum hourly rate for Counsel be aligned with the maximum hourly rate for a Senior Practitioner, with a corresponding adjustment to the applicable daily rate for Counsel.
- (d) The Committee considered that the alignment of those rates would simplify the operation of the scale, promote greater consistency in recoverable costs outcomes and more accurately reflect contemporary litigation practice.

6 Increase in hour allocations for certain scale items

- (a) As part of the 2026 review, the Committee considered whether the time allowances specified in particular items continued to provide a realistic allowance for work reasonably undertaken in contemporary litigation.
- (b) The inquiries and submissions described in clause 3 indicated that some existing allowances understated the time reasonably required to complete the work covered by the relevant items.
- (c) The Committee considered, in particular, allowances for pleadings, particulars, applications and other preparatory work.
- (d) The Committee considers it appropriate to increase the allowable hours for relevant items where the existing allowances do not adequately reflect the work reasonably required. The revised allowances are set out in Table B of the 2026 Determination.

DAVID BAYLY SC	Chair of the Committee
CRAIG MCKIE	Deputy Chair
GREG RICKIE	Member
ANNETTE MORGAN	Member
CAROLYN MEIGHAN	Member
ANNE PEACHEY	Member

Schedule**LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022****LEGAL PROFESSION (MAGISTRATES COURT) (CIVIL) DETERMINATION 2026**

Made by the Legal Costs Committee under section 133 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

1 Citation

This Determination may be cited as the *Legal Profession (Magistrates Court) (Civil) Determination 2026*.

2 Commencement

This Determination comes into operation on 21 September 2026.

3 Application

- (a) This Determination applies to the remuneration of fee earners in respect of advice given by legal practitioners in or for the purposes of civil proceedings before the Magistrates Court, including applications under Part 21 of the *Magistrates Court (Civil Proceedings) Rules 2005*.
- (b) This Determination does not apply to the remuneration of fee earners based on costs incurred in respect of business carried out before the commencement of this Determination.

4 Definitions

In this Determination—

MC Act means the *Magistrates Court (Civil Proceedings) Act 2004*, as amended from time to time; and

Rules means the *Magistrates Court (Civil Proceedings) Rules 2005*, as amended from time to time.

5 No minimum charge

In no respect is this Determination to be seen as providing a minimum charge for any work other than the items referred to in clause 6.

6 Fixed items

Some items in this Determination have been fixed without any indication of how these items have been calculated. These items are 1, 2(a), 2(b), 4(a), 11(a), 12(c), 17(a)(2), 17(b), 18(a), 20 and 21(a). These have been fixed because, based on past practices, the Court staff require a fixed figure when completing the form of Entry of Judgment by Default and the like.

7 Settled proceedings

It is intended that item 13 should apply even if there is no trial. Therefore, if the case is settled before trial and the law practice can demonstrate that preparation for trial was carried out, costs may be recovered for that work and allowed on an assessment of costs.

8 Restricted Practitioner category

The amendments brought in by the *Legal Profession (Magistrates Court) (Civil) Determination 2016* remain in effect, other than clause 10(e) of that Determination.

9 Increase generally

- (a) The Committee is of the view that increases in the cost of practice over the past several years have justified an increase in the rates in Table A and the corresponding amounts in Table B.
- (b) Given the inquiries made by the Committee as set out in clause 3 of the Report, the Committee determined that it was appropriate to include a general increase.
- (c) In making its decision, the Committee is particularly cognisant of the increased costs to law practices occasioned by inflationary pressures, subscriptions for legal resources, investment in technology and cyber security, investments made by law practices in staff skills and initiatives, and increasing costs of regulatory and compliance systems, including integrity obligations affecting sectors of legal services from 1 July 2026.
- (d) The increases in the rates in Table A are not uniform but have been calculated generally in the range of 14% to 16%, with rounding so that each amount is divisible by 11 in accordance with the long-standing policy of the Committee.
- (e) The amounts in Table B have been calculated by reference to the applicable rates and allowances in this Determination.

10 Counsel fees

- (a) In items 14 and 15 of Table B, if independent Counsel is not retained for the trial, this will be a factor to be considered by the Assessing Officer who might not then permit the full amount in the Determination for fee on brief under item 15(a), as well as a full getting up allowance under item 13. This is in line with the decisions of *Commonwealth v Magriplis* (1962) 3 FLR 47 and *Washbourne v SEC* (1992) 8 WAR 188.

- (b) Fees charged by practitioners who practise solely as barristers in accordance with Supreme Court Practice Direction 10.5 are only to be charged at the rates provided for Counsel or Senior Counsel, as applicable, in Table A.
- (c) Recovery of daily fees for Counsel on the taxation or assessment of a bill of costs is intended to apply only when a full day has been worked, either in Court or in Court and in preparation for a subsequent hearing day.
- (d) The maximum hourly rate for Counsel, other than Senior Counsel, is aligned with the maximum hourly rate for a Senior Practitioner. The applicable rates are set out in Table A.
- (e) Nothing in this clause prevents the Court or taxing officer from disallowing, reducing or otherwise adjusting Counsel fees that are not reasonable in the circumstances.

11 Maximum hourly and daily rates

- (a) The hourly and daily rates set out in Table A are the maximum hourly and daily rates, inclusive of GST, which the Legal Costs Committee determines shall be used to calculate the dollar amounts set out in Table B. Except for certain items, each item in this Determination specifies a dollar amount with reference to the fee earner.
- (b) The rates referred to in paragraph (a) were ascertained in the manner set out in clause 4 of the *Legal Profession (Magistrates Court) (Civil) Report 2026*.
- (c) The daily rates set out in Table A are intended to cover all work done on a hearing or trial day, whether in or out of Court, including preparation of written submissions, and are not intended to be supplemented by additional hourly charges given that the maximum number of hours allowed for the daily rate is 10 hours per day.

Table A

Fee earner	Rate type	Maximum allowable hourly and daily rates
Senior Practitioner (permitted to practise on his or her own account for 5 years or more) (SP) ¹	hourly rate	\$561
Junior Practitioner (permitted to practise on his or her own account for less than 5 years) (JP) ¹	hourly rate	\$440
Restricted Practitioner (RP) ^{1, 2}	hourly rate	\$319
Clerk/Paralegal (C/PL) ³	hourly rate	\$220
Counsel fees charged as a disbursement to practitioners or charged by in-house Counsel:		
Counsel (C) ⁴	hourly rate	\$561
	daily rate	\$5,610
Senior Counsel (SC) ⁵	hourly rate	\$715
	daily rate	\$7,150

Notes—

1. The reference to Restricted Practitioner, Junior Practitioner or Senior Practitioner in this Determination includes all legal practitioners even if the services were rendered in another State or Territory. Where a local practitioner has held an interstate practising certificate, the length of unrestricted legal practice in that other jurisdiction is to be counted in assessing that practitioner's years of practice for the purposes of this Determination.
2. The reference to Restricted Practitioner in this Determination includes practitioners undertaking restricted legal practice for the purposes of obtaining the required experience set out in the Act and does not include a reference to an Australian legal practitioner who has a condition placed on their practising certificate by the Legal Practice Board, State Administrative Tribunal or otherwise, requiring them to practise under supervision for disciplinary, medical, or other reasons.
3. The reference to Clerk/Paralegal in this Determination includes a law graduate prior to their admission to practise as an Australian lawyer.
4. The reference to Counsel in this Determination means a practitioner acting as a barrister other than a Senior Counsel.
5. The reference to Senior Counsel in this Determination means a person within the meaning of item 5 or item 6 of rule 9 of the *Legal Profession Uniform General Rules 2015 (WA)*.

12 Costs

- (a) Subject to the provisions of the Act permitting a law practice to make a written agreement as to costs with a client, the costs of or in relation to a party to an action or other proceeding (inclusive of GST and Counsel fees, but exclusive of other disbursements)—
- (1) recoverable by one party from another party; or
 - (2) payable by a party to that party's own law practice,
- shall not exceed the amounts set out in Table B except as otherwise provided in item 25 of Table B.
- (b) Allowances made under item 25 of Table B are only to be awarded as between a law practice and its client, and not between party and party unless the Court otherwise orders. The item is not intended to be used to claim increased allowances for items which should properly fit into another item in this Determination.
- (c) Items in the Scale of Costs specify a dollar amount or otherwise identify the basis on which an allowance is to be made. Where a dollar amount is specified, the purpose is to indicate the maximum amount for the work indicated in the item, but on assessment, less might be allowed. In no respect is the Scale to be seen as providing a minimum charge for any work. The reason for stating the number of hours estimated to be necessary to perform each of the items of work described in the Scale is to provide guidance to the Assessing Officer when dealing with the question of costs so that the Assessing Officer has some idea how much time is reasonably necessary to perform the work in most cases.
- (d) The Committee notes the impact of the decision in *Rodwell v Hutchinson* [2010] WASCA 197, and so no allowance is made in this Determination for an award of indemnity costs.
- (e) The Committee notes the comments of the Court in *Defendi v Eden Hill Plasterers* [2008] WASCA 269 at [7] as to the importance of the proportionality principle in litigation in this Court, which arises in respect to all costs incurred in the Magistrates Court.
- (f) Work undertaken by Senior Counsel shall be allowable in accordance with the rates in Table A of this Determination.

Table B
Magistrates Court Civil Scale of Costs 2026

Item	Description	Time	Fee earner	\$
1.	Letter of demand			
	Letter of demand issued prior to proceedings			88
2.	Claim			
	(a) Claim, including instructions, but excluding Statement of Claim			561
	(b) For each additional defendant			66
	(c) Statement of Claim including preparation and lodgement	13.5 hours	SP	7,574
3.	Appointment of litigation guardian			
	Appointment of litigation guardian	2 hours	RP	638
4.	Response			
	(a) Lodgement of a response to a claim			319
	(b) Statement of defence	13.5 hours	SP	7,574
	(c) Reply to defence	2 hours	SP	1,122
	(d) Defence and counterclaim, including instructions and statement of claim in the counterclaim and all other necessary documents	13.5 hours	SP	7,574
	(e) Defence to counterclaim	2.5 hours	SP	1,403
5.	Third party claim			
	Third party claim, including instructions and list of documents	16 hours	SP	8,976

Item	Description	Time	Fee earner	\$
6.	Particulars			
	(a) Requesting particulars	3.5 hours	SP	1,964
	(b) Providing particulars	5 hours	SP	2,805
7.	Disclosure			
	(a) Providing informal disclosure under Rule 30A	2 hours	RP	638
	(b) Giving additional disclosure where ordered by the Court or a Registrar	5 hours	RP	1,595
8.	Status conference			
	Status conference conducted under rule 46 of the Rules, including preparation, attendance and reporting to client	1.5 hours	SP	842
9.	Interpleader proceedings			
	(a) where uncontested	1 hour	JP	440
	(b) where contested			An allowance in accordance with item 10
10.	Application to the Court			
	(a) Applications made under rule 109 of the Rules and responses to applications under rule 112 of the Rules, including all documentation and written submissions in preparation for hearing, and hearing	16 hours	SP	8,976
	(b) Applications made ex parte	2 hours	JP	880
11.	Application for judgment			
	(a) Application for entry of judgment of a liquidated sum by default without trial			220
	(b) Application for and entry for judgment for an unliquidated sum by default, including preparation of Form 13 application and affidavits and attendance at hearing if required	3 hours	JP	1,320
12.	Offers of settlement, notices, practice directions, applications, declarations, memoranda, affidavits, certificates			
	(a) Offers of settlement	2 hours	SP	1,122
	(b) Acceptance of offer of settlement	2 hours	SP	1,122
	(c) Other notices and certificates referred to or required by the MC Act, Rules or procedures of the Court, including practice directions, not otherwise specified in this Determination			220
	(d) Preparation, lodgement and service of affidavits and statutory declarations not otherwise provided for	per hour	SP	At applicable Table A rate
13.	Preparation of case			
	Preparation for trial, including work reasonably and necessarily undertaken prior to commencement of proceedings	50 hours	SP	28,050

Item	Description	Time	Fee earner	\$
14.	Witness examination			
	Examination of witness before trial by a legal practitioner, pursuant to an order			An allowance in accordance with item 15(e) or (f)
15.	Trial			
	(a) Fee on brief for Counsel, i.e. half day trial and preparation	2 days preparation; ½ day trial	C	14,025
	(b) Allowance for second half day of trial	½ day	C	2,805
	(c) Fee on brief for Senior Counsel, i.e. half day trial and preparation (where two or more Counsel are certified for)	2 days preparation; ½ day trial	SC	17,875
	(d) Allowance for second half day of trial for Senior Counsel	½ day	SC	3,575
	(e) Counsel fee for the second and each successive day of hearing	per day	C	5,610
	(f) Counsel fee for Senior Counsel for the second and each successive day of hearing	per day	SC	7,150
	(g) Instructing legal practitioner attending trial	per hour	JP/RP	At applicable Table A rate
	(h) Clerk attending trial	per hour	C/PL	At applicable Table A rate
	Note: Subject to paragraphs (a)—(h) if— (1) the trial lasts less than 2 hours; or (2) the trial does not commence and settles or adjourns on the day of the trial, the Assessing Officer shall allow an amount which is reasonable in the circumstances.			
	(i) Attending on reserved judgment, including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders	per hour	C	At applicable Table A rate
16.	Pre-trial, mediation, conferrals, or other conferences			
	(a) Where required by the Rules, practice direction, order of the Court or legislation; (b) including informal conferences where reasonably held after commencement of proceedings; and (c) preparation reasonably undertaken for the conferences described in paragraphs (a) and (b) of this item.	per hour	SP	At applicable Table A rate
17.	Judgment and orders			
	(a) Settling and extracting judgment or order			
	(1) With appointment	1 hour	RP	319
	(2) Without appointment			319
	(b) Request for certified copy of judgment or order			220
18.	Enforcement			
	(a) Execution			242

Item	Description	Time	Fee earner	\$
	(b) If against land, an additional	3 hours	RP	957
19.	Proceedings in court pursuant to <i>Civil Judgments Enforcement Act 2004</i> for the following, including preparation			
	(a) Means Inquiry	1.5 hours	JP	660
	(b) Default Inquiry	1.5 hours	RP	479
	(c) Suspension of enforcement order application	1.5 hours	C/PL	330
	(d) Application to cancel or amend an order, or any other application under the <i>Civil Judgments Enforcement Act 2004</i> not otherwise provided for			An amount which is reasonable in the circumstances
20.	Registration of judgments			
	Registration of judgments including those under <i>Service and Execution of Process Act 1992 (Cth)</i>			253
21.	Assessment of costs including drawing bill			
	(a) Lodgement of bill of costs		JP	77
	(b) Drawing bill of costs, copies and service	2 hours	JP	880
	(c) Making an objection to a bill	1 hour	JP	440
	(d) Assessment of costs (including the time spent in preparing for the assessment)	2 hours	JP	880
22.	Appeals			
	An appeal to a Magistrate from a decision of a Registrar			An amount calculated in accordance with item 10
23.	Copying			
	Copies where reasonably necessary, including of documents for which allowance is otherwise made in this Determination. This item covers all forms of electronic reproduction and copying.	per page		0.22
24.	Accounts and inquiries			
	Attending on taking accounts, inquiries		SP	An amount which is reasonable in the circumstances
25.	Other work			
	(a) Time reasonably spent by a legal practitioner on work requiring the skill of a legal practitioner (of the standing indicated) but not covered by any other item	per hour	SC / C / SP / JP / RP	At applicable Table A rate
	(b) Time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner, on work not covered by any other item or by paragraph (a)	per hour	SC / C / SP / JP / RP / C/PL	At applicable Table A rate

Note: Allowances under item 25 are only to be awarded as between a law practice and its client, and not between party and party unless the Court otherwise orders.

Item	Description	Time	Fee earner	\$
26.	Disbursements			
	In addition to the fees and charges allowed under this Determination— (a) As between a law practice and client, a law practice may charge and be allowed disbursements incurred by the law practice except insofar as they are of an unreasonable amount or have been unreasonably incurred, so that subject to the above exceptions, the law practice is fully reimbursed for its disbursements; and (b) As between party and party, a party may be allowed disbursements that are necessarily or reasonably incurred by that party, so that that party is fully reimbursed for its disbursements.			
27.	Allowances for witnesses			
	The amount of any costs to be paid in respect of work done by a legal practitioner in conducting any proceedings in a case may include a reasonable allowance for— (a) witnesses necessary to the case because of their professional, scientific or other special skill or knowledge; and (b) witnesses necessary to the case other than those covered in paragraph (a). In fixing an allowance for witnesses under paragraph (b), including the Claimant and Defendant, the Assessing Officer may have regard to the amount of salary, wages, or income (if any) actually lost by the witness. In fixing an allowance for witnesses under either paragraph (a) or paragraph (b), regard should be given to whether it was reasonable in all the circumstances to call a witness in person when the witness was able to give evidence by use of audio-link, video-link or similar technology.			
28.	Travel			
	(a) As between party and party, minor travel as defined in the <i>Legal Profession (Magistrates Court) (Civil) Determination 2016</i> is to be allowed as part of the costs awarded for an attendance at chambers or court within the existing item, without further order. (b) As between party and party, time spent travelling by a law practice which is not minor travel and which is required by reason of an order of the Court requiring the parties to attend at a location other than the location at which the proceedings are case managed is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day, without further order. (c) As between a law practice and its own client, time spent travelling by a law practice, other than minor travel, is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day. Note: Allowances under item 28(c) are only to be awarded as between a law practice and its client, and not between party and party unless the Court otherwise orders.			

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022**LEGAL PROFESSION (OFFICIAL PROSECUTIONS) (ACCUSED'S COSTS) REPORT 2026**

Made by the Legal Costs Committee under Division 1 of Part 6 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

PART 1—PRELIMINARY**1 Citation**

- (a) This Report may be cited as the *Legal Profession (Official Prosecutions) (Accused's Costs) Report 2026*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Official Prosecutions) (Accused's Costs) Determination 2026*.

PART 2—NOTICE AND INQUIRIES**2 Notice under section 139 of the Act**

The Legal Costs Committee has complied with the notice provisions of section 139 of the Act.

3 Inquiries and submissions under section 138 of the Act

Before making the *Legal Profession (Official Prosecutions) (Accused's Costs) Determination 2026*, the Legal Costs Committee—

- (a) reviewed submissions received as a result of the notice given under section 139 of the Act, including submissions made by The Law Society of Western Australia (Inc), the Australian Lawyers Alliance, the Bar Association of Western Australia, private practitioners and costs consultants;
- (b) considered the comments and suggestions made at a Law Society seminar with members of the legal profession and other attendees held on 24 March 2026;
- (c) considered the impact of changes in relevant Australian Bureau of Statistics data for the period, specifically consumer price index and wage price index data for the period since 1 July 2024;
- (d) considered the potential impact of the amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, which now imposes a regulatory framework on sectors of legal services, with the aim of protecting the integrity of the Australian financial system;
- (e) undertook a review of cost regimes in other Australian jurisdictions;
- (f) met with Registrars of the District Court and Supreme Court of Western Australia, and considered observations concerning taxation practice and the practical operation of the scale of costs;
- (g) met with a representative of the Bar Association of Western Australia;
- (h) met with Parliamentary Draftspersons and a representative of the Department of Justice responsible for legislative services concerning the proposed drafting and structure of the Determination;
- (i) held meetings on eleven separate occasions since the commencement of the *Legal Profession (Official Prosecutions) (Accused's Costs) Determination 2024* on 1 July 2024; and
- (j) noted the following changes in the membership and offices of the Committee since the publication of the *Legal Profession (Official Prosecutions) (Accused's Costs) Determination 2024*—
 - (1) Mr Craig McKie ceased acting as Chair of the Committee and was succeeded as Chair by Mr David Bayly SC from 15 July 2024;
 - (2) Mr Craig McKie continued as Deputy Chair; and
 - (3) Dr Anne Peachey was appointed as a member of the Committee from 1 January 2025 to fill a vacant member position.

PART 3—REPORT OF LEGAL COSTS COMMITTEE'S CONCLUSIONS**4 Maximum hourly and daily rates changed**

- (a) Having regard to the information gained as a result of the inquiries and submissions described in clause 3, the Committee considers it appropriate that the hourly and daily rates set out in Tables A and B of the *Legal Profession (Official Prosecutions) (Accused's Costs) Determination 2026* be adopted for the supply of legal services for an official prosecution and the award of costs to a successful accused under sections 5 or 7 of the *Official Prosecutions (Accused's Costs) Act 1973*.
- (b) The hourly rates applicable to Senior Practitioners, Junior Practitioners, Restricted Practitioners and Clerks/Paralegals referred to in paragraph (a) are set out in Table A of the *Legal Profession (Official Prosecutions) (Accused's Costs) Determination 2026*.

- (c) The hourly and daily rates applicable to Counsel and Senior Counsel referred to in paragraph (a) are set out in Table B of the *Legal Profession (Official Prosecutions) (Accused's Costs) Determination 2026*.
- (d) The Committee considers it appropriate that the scale of costs set out in Table C of the *Legal Profession (Official Prosecutions) (Accused's Costs) Determination 2026* be adopted.
- (e) The Committee considers it appropriate that the hourly and daily rates and scale of costs continue to be inclusive of GST.
- (f) The Committee considers that it is impossible to include an item for witness fees because of the wide range of occupations of witnesses who are called to give evidence. Witness fees should be allowed as a disbursement and at the discretion of the Court or the taxing officer but loss of earnings by a witness or the accused are not intended to be recoverable.
- (g) The position stated by the Committee in paragraph (f) is not intended to affect the generality of item 7 of the scale of costs set out in Table C of the *Legal Profession (Official Prosecutions) (Accused's Costs) Determination 2026*.
- (h) In calculating the revised rates, the Committee has taken into account the incidental administrative implications of the calculation of the Goods and Services Tax and the Committee's established rounding methodology.

5 Alignment of Counsel (other than Senior Counsel) and Senior Practitioner rates

- (a) The Committee considered the distinction between the maximum hourly rate applicable to Counsel and the maximum hourly rate applicable to a Senior Practitioner.
- (b) Contemporary litigation practice requires Counsel to undertake work of substantial complexity and responsibility.
- (c) The Committee considers it appropriate that the maximum hourly rate for Counsel be aligned with the maximum hourly rate for a Senior Practitioner, with a corresponding adjustment to the applicable daily rate for Counsel.
- (d) The Committee considered that the alignment of those rates would simplify the operation of the scale, promote greater consistency in recoverable costs outcomes and more accurately reflect contemporary litigation practice.

DAVID BAYLY SC	Chair of the Committee
CRAIG MCKIE	Deputy Chair
GREG RICKIE	Member
ANNETTE MORGAN	Member
CAROLYN MEIGHAN	Member
ANNE PEACHEY	Member

Schedule

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022

LEGAL PROFESSION (OFFICIAL PROSECUTIONS) (ACCUSED'S COSTS) DETERMINATION 2026

Made by the Legal Costs Committee under section 133 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

1 Citation

This Determination may be cited as the *Legal Profession (Official Prosecutions) (Accused's Costs) Determination 2026*.

2 Commencement

This Determination comes into operation on 21 September 2026.

3 Interpretation

Words and phrases used in this Determination have the same meaning as in the *Official Prosecutions (Accused's Costs) Act 1973*.

4 Application

- (a) This Determination applies to the remuneration of fee earners in respect of an official prosecution in or for the purposes of proceedings before a Magistrates Court or an Appeal Court, as defined in the *Official Prosecutions (Accused's Costs) Act 1973* and the amount of costs ordered to be paid to a successful accused under sections 5 or 7 of the *Official Prosecutions (Accused's Costs) Act 1973*.

- (b) This Determination does not apply to the remuneration of fee earners or the calculation of costs to be awarded to a successful accused for costs incurred in respect of business carried out before the commencement of this Determination.

5 Restricted Practitioner category

The amendments brought in by the *Legal Profession (Official Prosecutions) (Accused's Costs) Determination 2016* remain in effect, other than clause 5(e) of that Determination.

6 Increase generally

- (a) The Committee is of the view that increases in the cost of practice over the past several years have justified an increase in the rates in Tables A and B and the corresponding amounts in Table C.
- (b) Given the inquiries made by the Committee as set out in clause 3 of the Report, the Committee determined that it was appropriate to include a general increase.
- (c) In making its decision, the Committee is particularly cognisant of the increased costs to law practices occasioned by inflationary pressures, subscriptions for legal resources, investment in technology and cyber security, investments made by law practices in staff skills and initiatives, and increasing costs of regulatory and compliance systems, including integrity obligations affecting sectors of legal services from 1 July 2026.
- (d) The increases in the rates in Tables A and B in this Determination are not uniform but have been calculated generally in the range of 14% to 16%, with rounding so that each amount is divisible by 11 in accordance with the long-standing policy of the Committee.
- (e) The amounts in Table C have been calculated by reference to the applicable rates and allowances in this Determination.

7 Maximum hourly and daily rates

- (a) The hourly rates set out in Table A are the maximum hourly rates, inclusive of GST, which the Legal Costs Committee determines shall apply to the remuneration of fee earners and the award of costs to a successful accused (where the successful accused has been represented by a legal practitioner) in respect of an official prosecution in or for the purposes of proceedings before a Magistrates Court and shall be used to calculate the dollar amounts in the scale of costs set out in Table C.
- (b) The hourly and daily rates set out in Table B for Counsel and Senior Counsel are the maximum hourly and daily rates, inclusive of GST, which the Legal Costs Committee determines shall apply to the remuneration of Counsel and Senior Counsel in respect of an official prosecution in or for the purposes of proceedings before a Magistrates Court and shall be used to calculate the dollar amounts in the scale of costs set out in Table C.
- (c) The rates referred to in paragraphs (a) and (b) were ascertained in the manner set out in clause 4 of the *Legal Profession (Official Prosecutions) (Accused's Costs) Report 2026*.

Table A

Fee earner	Rate type	Maximum allowable hourly rates
Senior Practitioner (permitted to practise on his or her own account for 5 years or more) (SP) ¹	hourly rate	\$561
Junior Practitioner (permitted to practise on his or her own account for less than 5 years) (JP) ¹	hourly rate	\$440
Restricted Practitioner (RP) ^{1, 2}	hourly rate	\$319
Clerk/Paralegal (C/PL) ³	hourly rate	\$220

Notes—

1. The reference to Restricted Practitioner, Junior Practitioner or Senior Practitioner in this Determination includes all legal practitioners even if the services were rendered in another State or Territory. Where a local practitioner has held an interstate practising certificate, the length of unrestricted legal practice in that other jurisdiction is to be counted in assessing that practitioner's years of practice for the purposes of this Determination.
2. The reference to Restricted Practitioner in this Determination includes practitioners undertaking restricted legal practice for the purposes of obtaining the required experience set out in the Act and does not include a reference to an Australian legal practitioner who has a condition placed on their practising certificate by the Legal Practice Board, State Administrative Tribunal or otherwise, requiring them to practise under supervision for disciplinary, medical, or other reasons.
3. The reference to Clerk/Paralegal in this Determination includes a law graduate prior to their admission to practise as an Australian lawyer.

Table B

Fee earner	Rate type	Maximum allowable hourly and daily rates
Counsel (C) ⁴	hourly rate	\$561
	daily rate	\$5,610
Senior Counsel (SC) ⁵	hourly rate	\$715
	daily rate	\$7,150

Notes—

4. The reference to Counsel in this Determination means a practitioner acting as a barrister other than a Senior Counsel.
5. The reference to Senior Counsel in this Determination means a person within the meaning of item 5 or item 6 of rule 9 of the *Legal Profession Uniform General Rules 2015 (WA)*.
- (d) The daily rates set out in Table B are intended to cover all work done on a hearing or trial day, whether in or out of Court, including preparation of written submissions, and are not intended to be supplemented by additional hourly charges given that the maximum number of hours allowed for the daily rate is 10 hours per day.

8 Scale of costs

- (a) Subject to clause 9, the costs recoverable by a successful accused in an official prosecution (inclusive of Counsel fees but exclusive of other disbursements) shall not exceed the amounts set out in Table C.
- (b) Fees charged by practitioners who practise solely as barristers in accordance with Supreme Court Practice Direction 10.5 are only to be charged at the rates provided for Counsel or Senior Counsel, as applicable, in Table B.
- (c) Recovery of daily fees for Counsel on the taxation or assessment of a bill of costs is intended to apply only when a full day has been worked, either in Court or in Court and in preparation for a subsequent hearing day.
- (d) Nothing in this clause prevents the Court or taxing officer from disallowing, reducing or otherwise adjusting Counsel fees that are not reasonable in the circumstances.

9 Complex matters and matters involving a high degree of skill or urgency or requiring Senior Counsel

- (a) Where a matter is complex, or involves a high degree of skill or urgency, or requires Senior Counsel, notwithstanding the rates set out in the Tables to this Determination, the accused is entitled to recover a fee that is greater than the one that is set out in this Determination, if it is reasonable in the circumstances.
- (b) Work undertaken by Senior Counsel shall be allowable in accordance with the rates in Table B of this Determination.

10 Appeals

All costs incurred in relation to an appeal to the Supreme Court of Western Australia or the District Court of Western Australia are to be taxed in accordance with the relevant items in Table B of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2026*.

Table C**Official Prosecutions (Accused's Costs) Scale of Costs 2026**

Item	Description	Time	Fee earner	\$
1.	Adjournments			
	(a) Subject to paragraphs (b) and (c), allow for one adjournment only	1 hour	SP	561
	(b) Costs for additional adjournments to be awarded on application to, and at the discretion of, the presiding Magistrate			
	(c) Each Court ordered adjournment	1 hour	SP	561

Item	Description	Time	Fee earner	\$
2.	Bail application			
	(a) Preparation for, and appearance at, initial bail application and/or application for bail in respect of serious offences set out in the <i>Bail Act 1982</i> (WA)	3.5 hours	SP	1,964
	(b) Preparation for, and appearance at, application to vary bail conditions	1.5 hours	SP	842
3.	Directions hearing			
	Directions hearing, including preparation	4 hours	SP	2,244
4.	Trial			
	(a) Preparation of case and half day trial, including Counsel fee		C/SP	14,025
	(b) Second half day		C/SP	2,805
	(c) Second and each successive day of trial	per day	C/SP	5,610
	(d) Allowance for preparation where the trial does not proceed or the prosecution offers no evidence		C/SP	An amount which is reasonable in the circumstances
5.	Counsel's fee			
	For attending court for remand appearance, directions hearing, status conference, mention, callover, reserved decision or other appearance not otherwise accounted for.	3 hours	C	1,683
6.	Copies			
	Copies where reasonably necessary, including of documents for which allowance is otherwise made in this Determination. This item covers all forms of electronic reproduction and copying.	per page		0.22
7.	Disbursements			
	In addition to the fees and charges allowed under this Determination, disbursements (for example transport, accommodation, meals and travel costs of an accused, solicitor, Counsel or witness actually incurred by an accused as a necessary incident to defending an official prosecution) may be allowed insofar as they are necessarily or reasonably incurred.			

Made by the Legal Costs Committee on 31 August 2026.

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022**LEGAL PROFESSION (STATE ADMINISTRATIVE TRIBUNAL) REPORT 2026**

Made by the Legal Costs Committee under Division 1 of Part 6 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

PART 1—PRELIMINARY**1 Citation**

- (a) This Report may be cited as the *Legal Profession (State Administrative Tribunal) Report 2026*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (State Administrative Tribunal) Determination 2026*.

PART 2—NOTICE AND INQUIRIES**2 Notice under section 139 of the Act**

The Legal Costs Committee has complied with the notice provisions of section 139 of the Act.

3 Inquiries and submissions under section 138 of the Act

Before making the *Legal Profession (State Administrative Tribunal) Determination 2026*, the Legal Costs Committee—

- (a) reviewed submissions received as a result of the notice given under section 139 of the Act, including submissions made by The Law Society of Western Australia (Inc), the Australian Lawyers Alliance, the Bar Association of Western Australia, private practitioners and costs consultants;
- (b) considered the comments and suggestions made at a Law Society seminar with members of the legal profession and other attendees held on 24 March 2026;
- (c) consulted with the State Administrative Tribunal (Tribunal);
- (d) had regard to the relevant provisions of the *State Administrative Tribunal Act 2004* and the *State Administrative Tribunal Rules 2004*;
- (e) considered the impact of changes in relevant Australian Bureau of Statistics data for the period, specifically consumer price index and wage price index data for the period since 1 July 2024;
- (f) considered the potential impact of the amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, which now imposes a regulatory framework on sectors of legal services, with the aim of protecting the integrity of the Australian financial system;
- (g) undertook a review of cost regimes in other Australian jurisdictions;
- (h) met with Registrars of the District Court and Supreme Court of Western Australia, and considered observations concerning taxation practice and the practical operation of the scale of costs;
- (i) met with a representative of the Bar Association of Western Australia;
- (j) met with Parliamentary Draftspersons and a representative of the Department of Justice responsible for legislative services concerning the proposed drafting and structure of the Determination;
- (k) held meetings on eleven separate occasions since the commencement of the *Legal Profession (State Administrative Tribunal) Determination 2024* on 1 July 2024; and
- (l) noted the following changes in the membership and offices of the Committee since the publication of the *Legal Profession (State Administrative Tribunal) Determination 2024*—
 - (1) Mr Craig McKie ceased acting as Chair of the Committee and was succeeded as Chair by Mr David Bayly SC from 15 July 2024;
 - (2) Mr Craig McKie continued as Deputy Chair; and
 - (3) Dr Anne Peachey was appointed as a member of the Committee from 1 January 2025 to fill a vacant member position.
- (m) The Legal Costs Committee acknowledges that the general position of the Tribunal, as expressed through its enabling legislation, is that parties appearing before the Tribunal are to bear their own costs of proceedings.

However, the Legal Costs Committee also recognises that there are many types of matters heard before the Tribunal which are of a substantial nature in respect of which legal advice may be sought, but are not necessarily the subject of costs orders in the Tribunal.

Consequently, and in light of the costs disclosure framework under the *Legal Profession Uniform Law (WA)* and the Act, the Legal Costs Committee considers it remains appropriate to determine a scale of fees on a law practice/client basis as established under the *Legal Practitioners (State Administrative Tribunal) Determination 2008*¹.

¹ Published in *Government Gazette* dated 16 December 2008

PART 3—REPORT OF LEGAL COSTS COMMITTEE'S CONCLUSIONS

4 Maximum hourly and daily rates changed

Having regard to the information gained as a result of the inquiries and submissions described in clause 3, and to the provisions of the *State Administrative Tribunal Act 2004* and the *State Administrative Tribunal Rules 2004*, the Legal Costs Committee has determined that—

- (a) it is unnecessary as at the date of this Report to provide for a scale of fees in the Tribunal in respect of party/party costs; but
- (b) it is appropriate to continue to determine a scale of fees applicable to the work of legal practitioners, clerks and paralegals in, and in connection with, the Tribunal on a law practice/client basis; and
- (c) it is appropriate to continue to adopt hourly and daily rates (inclusive of GST) set out in Table A in the *Legal Profession (Magistrates Court) (Civil) Determination 2026* as the hourly and daily rates applicable to fee earners in the Tribunal as set out in Table A of this Determination.

5 Alignment of Counsel (other than Senior Counsel) and Senior Practitioner rates

- (a) The Committee considered the distinction between the maximum hourly rate applicable to Counsel and the maximum hourly rate applicable to a Senior Practitioner.
- (b) Contemporary litigation practice requires Counsel to undertake work of substantial complexity and responsibility.
- (c) The Committee considers it appropriate that the maximum hourly rate for Counsel be aligned with the maximum hourly rate for a Senior Practitioner, with a corresponding adjustment to the applicable daily rate for Counsel.
- (d) The Committee considered that the alignment of those rates would simplify the operation of the Determination and more accurately reflect contemporary litigation practice.

DAVID BAYLY SC	Chair of the Committee
CRAIG MCKIE	Deputy Chair
GREG RICKIE	Member
ANNETTE MORGAN	Member
CAROLYN MEIGHAN	Member
ANNE PEACHEY	Member

Schedule

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022

LEGAL PROFESSION (STATE ADMINISTRATIVE TRIBUNAL) DETERMINATION 2026

Made by the Legal Costs Committee under section 133 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

1 Citation

This Determination may be cited as the *Legal Profession (State Administrative Tribunal) Determination 2026*.

2 Commencement

This Determination comes into operation on 21 September 2026.

3 Application

This Determination applies to the remuneration of fee earners in respect of advice given by legal practitioners in or for the purposes of proceedings or potential proceedings before the State Administrative Tribunal.

4 No minimum charge

In no respect is this Determination to be seen as providing a minimum charge for any work.

5 Restricted Practitioner category

The amendments brought in by the *Legal Profession (State Administrative Tribunal) Determination 2016* remain in effect, other than clause 5(e) of that Determination.

6 Increase generally

- (a) The Committee is of the view that increases in the cost of practice over the past several years have justified an increase in the rates in Table A.
- (b) Given the inquiries made by the Committee as set out in clause 3 of the Report, the Committee determined that it was appropriate to include a general increase.

- (c) In making its decision, the Committee is particularly cognisant of the increased costs to law practices occasioned by inflationary pressures, subscriptions for legal resources, investment in technology and cyber security, investments made by law practices in staff skills and initiatives, and increasing costs of regulatory and compliance systems, including integrity obligations affecting sectors of legal services from 1 July 2026.
- (d) The increases in the rates in this Determination are not uniform but have been calculated generally in the range of 14% to 16%, with rounding so that each amount is divisible by 11 in accordance with the long-standing policy of the Committee.

7 Counsel fees

- (a) Fees charged by practitioners who practise solely as barristers in accordance with Supreme Court Practice Direction 10.5 are only to be charged at the rates provided for Counsel or Senior Counsel, as applicable, in Table A.
- (b) Recovery of daily fees for Counsel on the taxation or assessment of a bill of costs is intended to apply only when a full day has been worked, either in the Tribunal or in the Tribunal and in preparation for a subsequent hearing day.
- (c) The maximum hourly rate for Counsel, other than Senior Counsel, is aligned with the maximum hourly rate for a Senior Practitioner. The applicable rates are set out in Table A.

8 Maximum hourly and daily rates

- (a) The hourly and daily rates set out in Table A are the maximum hourly and daily rates, inclusive of GST, which the Legal Costs Committee determines shall be used to calculate the dollar amounts chargeable by law practices for legal services provided by fee earners in respect of proceedings and potential proceedings in the Tribunal under the *State Administrative Tribunal Act 2004*.
- (b) The rates referred to in paragraph (a) were ascertained in the manner set out in clause 4 of the *Legal Profession (State Administrative Tribunal) Report 2026*.
- (c) The daily rates set out in Table A are intended to cover all work done on a hearing day, whether in or out of the Tribunal, including preparation of written submissions, and are not intended to be supplemented by additional hourly charges given that the maximum number of hours allowed for the daily rate is 10 hours per day.

Table A

Fee earner	Rate type	Maximum allowable hourly and daily rates
Senior Practitioner (permitted to practise on his or her own account for 5 years or more) (SP) ¹	hourly rate	\$561
Junior Practitioner (permitted to practise on his or her own account for less than 5 years) (JP) ¹	hourly rate	\$440
Restricted Practitioner (RP) ^{1, 2}	hourly rate	\$319
Clerk/Paralegal (C/PL) ³	hourly rate	\$220
Counsel fees charged as a disbursement to practitioners or charged by in-house Counsel:		
Counsel (C) ⁴	hourly rate	\$561
	daily rate	\$5,610
Senior Counsel (SC) ⁵	hourly rate	\$715
	daily rate	\$7,150

Notes—

- The reference to Restricted Practitioner, Junior Practitioner or Senior Practitioner in this Determination includes all legal practitioners even if the services were rendered in another State or Territory. Where a local practitioner has held an interstate practising certificate, the length of unrestricted legal practice in that other jurisdiction is to be counted in assessing that practitioner's years of practice for the purposes of this Determination.
- The reference to Restricted Practitioner in this Determination includes practitioners undertaking restricted legal practice for the purposes of obtaining the required experience set out in the Act and does not include a reference to an Australian legal practitioner who has a condition placed on their practising certificate by the Legal Practice Board, State Administrative Tribunal or otherwise, requiring them to practise under supervision for disciplinary, medical, or other reasons.
- The reference to Clerk/Paralegal in this Determination includes a law graduate prior to their admission to practise as an Australian lawyer.
- The reference to Counsel in this Determination means a practitioner acting as a barrister other than a Senior Counsel.

5. The reference to Senior Counsel in this Determination means a person within the meaning of item 5 or item 6 of rule 9 of the *Legal Profession Uniform General Rules 2015 (WA)*.

9 Disbursements

In addition to the fees and charges allowed under this Determination as between a law practice and client, a law practice may charge and be allowed disbursements incurred by the law practice except insofar as they are of an unreasonable amount or have been unreasonably incurred, so that subject to the above exceptions, the law practice is fully reimbursed for its disbursements.

10 Travel

- (a) For the purposes of this Determination, minor travel means incidental travel associated with attendance at court or the Tribunal for a hearing where that travel is of a minor duration. Examples of minor travel include, but are not limited to—
- (1) a practitioner walking from their usual place of business to a court or the Tribunal;
 - (2) a practitioner walking from a carpark to a court or the Tribunal; or
 - (3) a practitioner walking or taking public transport from one centrally located court or the Tribunal to another centrally located court or the Tribunal.
- (b) As between a law practice and its own client, time spent travelling by a law practice, other than minor travel, is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day.
- (c) In making its decision in this Determination, the Committee has taken note of the Law Society of Western Australia's Standard Costs Agreement, which contains a provision that a law practice will charge travel at 50% of the agreed hourly rates.
- (d) The Legal Costs Committee has also considered an informal policy of the former Legal Profession Complaints Committee that travel should not ordinarily be charged at a rate of more than 50% of a law practice's normal hourly charge-out rate.
- (e) Whilst the Legal Costs Committee recognises that during a travel period a law practice may not necessarily utilise legal skill and knowledge, there is recognition of a loss of opportunity for the time spent travelling.
- (f) The Legal Costs Committee notes that, having regard to the above—
- (1) it is the responsibility of a law practice to allocate the cost of time spent on travel fairly and reasonably where the travel is necessary to service more than one client on the day of travel; and
 - (2) whilst nothing contained in this Determination prevents a law practice from charging time spent on a client matter or client matters in the course of travel (air travel by way of example), the law practice is not entitled to charge a client or clients for both the time spent on a client matter (regardless of whether that time relates to the client for whom the travel is being undertaken) and the amount allowed for travel under this Determination.

11 Costs

Unless a law practice has made a written agreement as to costs with a client under the provisions of section 180 of the *Legal Profession Uniform Law (WA)*, the costs of or in relation to a party to an action or other proceeding (inclusive of GST and Counsel fees but exclusive of other disbursements) in the Tribunal are payable by a party to that party's own law practice and must not exceed an amount calculated at the hourly rates in Table A.

Made by the Legal Costs Committee on 31 August 2026.

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022**LEGAL PROFESSION (SUPREME AND DISTRICT COURTS) (CONTENTIOUS BUSINESS)
REPORT 2026**

Made by the Legal Costs Committee under Division 1 of Part 6 of the *Legal Profession Uniform Law Application Act 2022* (‘the Act’).

PART 1—PRELIMINARY**1 Citation**

- (a) This Report may be cited as the *Legal Profession (Supreme and District Courts) (Contentious Business) Report 2026*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2026*.

PART 2—NOTICE AND INQUIRIES**2 Notice under section 139 of the Act**

The Legal Costs Committee has complied with the notice provisions of section 139 of the Act.

3 Inquiries and submissions under section 138 of the Act

Before making the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2026*, the Legal Costs Committee—

- (a) reviewed submissions received as a result of the notice given under section 139 of the Act, including submissions made by The Law Society of Western Australia (Inc), the Australian Lawyers Alliance, the Bar Association of Western Australia, private practitioners and costs consultants;
- (b) considered the comments and suggestions made at a Law Society seminar with members of the legal profession and other attendees held on 24 March 2026;
- (c) considered the impact of changes in relevant Australian Bureau of Statistics data for the period, specifically consumer price index and wage price index data for the period since 1 July 2024;
- (d) considered the potential impact of the amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, which now imposes a regulatory framework on sectors of legal services, with the aim of protecting the integrity of the Australian financial system;
- (e) undertook a review of all cost regimes in other Australian jurisdictions dealing with contentious business;
- (f) met with Registrars of the District Court and Supreme Court of Western Australia, and considered observations concerning taxation practice and the practical operation of the scale of costs;
- (g) met with a representative of the Bar Association of Western Australia;
- (h) met with Parliamentary Draftspersons and a representative of the Department of Justice responsible for legislative services concerning the proposed drafting and structure of the Determination;
- (i) held meetings on eleven separate occasions since the commencement of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024* on 1 July 2024; and
- (j) noted the following changes in the membership and offices of the Committee since the publication of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024*—
 - (1) Mr Craig McKie ceased acting as Chair of the Committee and was succeeded as Chair by Mr David Bayly SC from 15 July 2024;
 - (2) Mr Craig McKie continued as Deputy Chair; and
 - (3) Dr Anne Peachey was appointed as a member of the Committee from 1 January 2025 to fill a vacant member position.

PART 3—REPORT OF LEGAL COSTS COMMITTEE’S CONCLUSIONS**4 Structural review of the Determination**

- (a) In undertaking the 2026 review, the Legal Costs Committee considered that it was appropriate to undertake a broader review of the structure and operation of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024*, rather than confining the review to an adjustment of rates by reference to economic indicators and other factors.

- (b) The inquiries and submissions described in clause 3 identified practical difficulties in the interpretation and application of a number of provisions of the existing Determination. Particular consideration was given to items 10 (Chambers), 11 (Motions) and 22 (Trial) of the scale of costs. The Committee also considered the operation of items 1 (Writ), 2 (Next Friend or Guardian *Ad Litem*), 3 (Defence), 5 (Third party proceedings), 6 (Particulars), 9 (Interrogatories), 16 (Offers of compromise), and 25(f) (Preparation of appeal).
- (c) The Committee considered that aspects of the existing structure gave rise to uncertainty as to—
 - (1) the practitioner categories applicable to particular work;
 - (2) the operation of hour and dollar limits specified in particular items;
 - (3) the relationship between different categories of work included within a single scale item;
 - (4) whether components of a composite scale item were intended to operate as separate maximum allowances;
 - (5) the methodology to be applied when calculating the maximum amount recoverable under an item; and
 - (6) the work intended to fall within item 19 (preparation) and item 38 (other work).
- (d) The Committee was satisfied that restructuring and clarifying the relevant items will improve certainty, promote consistency in taxation practice, reduce disputes concerning the application of the scale and better reflect contemporary litigation practice.
- (e) The amendments made in the 2026 Determination are intended to achieve these aims while preserving the discretion of the Court and taxing officers to determine reasonable allowances in the circumstances of each case with reference in some items to maxima.

5 Maximum hourly and daily rates changed

- (a) The information gained as a result of the inquiries and submissions described in clause 3 satisfied the Legal Costs Committee that it remained appropriate to adopt hourly and daily rates charged by law practices as the basis for most of the rates used in this Determination.
- (b) The Committee noted the increasing divergence between the maximum rates recoverable under the scale and the rates commonly charged by law practices. The Committee considers that the scale should continue to provide a meaningful basis for the recovery of party to party costs.
- (c) The Committee was conscious that the level of recoverable costs may affect litigants in different ways. The Committee wishes to balance the competing interests of litigants the subject of costs orders.
- (d) The Committee considers it appropriate that the maximum hourly and daily rates be varied from the rates used in the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024*. The revised rates are set out in Table A of the 2026 Determination.
- (e) In calculating the revised rates, the Committee has taken into account the incidental administrative implications of the calculation of the Goods and Services Tax and has adopted the Committee's established rounding methodology.

6 Alignment of Counsel (other than Senior Counsel) and Senior Practitioner rates

- (a) The Committee considered the distinction between the maximum hourly rate applicable to Counsel and the maximum hourly rate applicable to a Senior Practitioner.
- (b) Contemporary litigation practice requires Counsel to undertake work of substantial complexity and responsibility.
- (c) The Committee considers it appropriate that the maximum hourly rate for Counsel be aligned with the maximum hourly rate for a Senior Practitioner, with a corresponding adjustment to the applicable daily rate for Counsel.
- (d) The Committee considered that the alignment of those rates would simplify the operation of the scale and more accurately reflect contemporary litigation practice.

7 Increase in hour allocations for certain scale items

- (a) As part of the structural review, the Committee considered whether the time allowances specified in particular items continued to provide a realistic allowance for work reasonably undertaken in contemporary litigation.
- (b) The inquiries and submissions described in clause 3 indicated that some existing allowances significantly understated the time reasonably required to complete the work covered by the relevant item.
- (c) In particular, the Committee considered the items listed in clause 4(b). The complexity and volume of work associated with those items can be greater than is reflected in the existing maximum allowances.
- (d) The Committee considered that appropriate allowances in scale items can assist the efficient conduct of litigation. In particular, properly prepared pleadings and particulars can narrow issues in dispute, reduce uncertainty and assist the parties and the Court to identify the matters requiring resolution.
- (e) The Committee considers it appropriate to increase the allowable hours for the relevant items where the existing allowances do not adequately reflect the work reasonably required. The revised allowances are set out in Table B of the 2026 Determination.

8 Written submissions

- (a) During consultation it became apparent that in contemporary litigation practice, law practices and Counsel are increasingly required to prepare written submissions at various stages in litigation.
- (b) The Committee considers it appropriate that the scale requires a separate item for written submissions required by the Court (or otherwise reasonably necessary) to accurately reflect contemporary litigation practice.

9 Fee earner roles—Items 7 and 8

- (a) The Committee reviewed provisions of the existing scale that identify a particular class of practitioner for work associated with discovery and inspection.
- (b) Contemporary litigation practice commonly involves collaboration between any one or combination of Senior Practitioners, Junior Practitioners, Restricted Practitioners, possibly with the assistance of Clerks and Paralegals, in performing that work. The allocation of work can vary according to the nature of the proceedings, the volume and complexity of the material and the level of supervision required.
- (c) The Committee considers it appropriate that all classes of fee earners be referenced in items 7 and 8.

10 Composite scale items

- (a) The Committee also considered the interpretation and application of composite scale items, including items 10, 11 and 22.
- (b) The Committee had regard to the approach taken by the Court in *Commonwealth Bank of Australia v Pankaj Oswal in his own capacity and as trustee for the Burrup Trust [No 2] [2012] WASC 180* (Oswal).
- (c) The Committee recognises that composite scale items can involve a combination of preparation, appearances, submissions, conferences and related work. Where an item is expressed as a composite allowance, it should be applied as a composite item.

11 Lost Counsel fees

- (a) As a result of the inquiries set out in clause 3, the Committee is aware that, on occasion, litigation is settled (or compromised) proximate to trial in circumstances where Counsel has prepared for trial.
- (b) The scale does not presently allow a costs order for the payment of those Counsel fees (or a portion thereof) on a party to party basis.
- (c) The Committee is aware that parties to litigation can unreasonably delay the resolution of litigation without costs consequences (on a party to party basis) for cancelled Counsel fees.
- (d) The Committee considers it appropriate that a scale item be included to permit the payment of cancellation of Counsel fees as determined by a Court when it is proper and reasonable for an order to be made.

12 Future review considerations

- (a) The Committee identified additional matters that warrant further consideration as litigation practice continues to evolve.
- (b) The Committee notes that future reviews may examine the treatment of specialised electronic document management and other technology-assisted processes in litigation.
- (c) The Committee will continue to consult to ensure that the Determinations are consistent with contemporary litigation practice.

DAVID BAYLY SC	Chair of the Committee
CRAIG MCKIE	Deputy Chair
GREG RICKIE	Member
ANNETTE MORGAN	Member
CAROLYN MEIGHAN	Member
ANNE PEACHEY	Member

Schedule**LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022****LEGAL PROFESSION (SUPREME AND DISTRICT COURTS) (CONTENTIOUS BUSINESS) DETERMINATION 2026**

Made by the Legal Costs Committee under section 133 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

1 Citation

This Determination may be cited as the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2026*.

2 Commencement

This Determination comes into operation on 21 September 2026.

3 Application

- (a) This Determination applies to the remuneration of fee earners regarding advice given by legal practitioners in respect of contentious business carried out by legal practitioners in or for the purposes of proceedings before the Supreme Court of Western Australia and the District Court of Western Australia.
- (b) This Determination applies to all contentious business previously covered by the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024* and its predecessor Determinations.
- (c) This Determination does not apply to the remuneration of law practices based on a written agreement as to costs under the *Legal Profession Act 2008*, the Act or any successor legislation, to the extent that a law practice is entitled to charge other than in accordance with this Determination.
- (d) This Determination does not apply to costs incurred before 21 September 2026.

4 Application of O.66, r 11(3), r 13, r 18, r 19, r 20(3), r 21 and r 23 of the Rules of the Supreme Court

In the circumstances set out in Order 66, rules 11(3), 13, 18, 19, 20(3), 21 and 23 of the Rules of the Supreme Court, the Legal Costs Committee determines that the Court or the taxing officer, as the case may be, has the power to make the orders and allowances referred to in those rules.

5 Catastrophic personal injury claims

The reference to catastrophic personal injury claims in the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024* remains relevant to this Determination.

6 Historical child sexual abuse claims

The maximum limits in items 18, 19 and 22 were removed as from 1 July 2022 in cases brought as a result of the 2018 amendments to Part 2A of the *Civil Liability Act*, which removed the limitation period for the bringing of personal injuries claims for historical child sexual abuse claims. The rationale for the removal of those item limits was explained in the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2022* and remains relevant to this Determination.

7 Item 12—Family Provision Act claims

- (a) Item 12 applies to claims brought under the *Family Provision Act 1972* (WA).
- (b) Item 12(a) provides a capped maximum allowance for each of the parties up to mediation. As a result of its inquiries in the making of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2026*, the Committee holds concerns as to the varied amounts being charged by law practices on a solicitor and own client basis up to and including mediation in proceedings under the *Family Provision Act*. The Committee will continue to monitor data and submissions concerning the costs of proceedings under the *Family Provision Act*.
- (c) Appropriate reductions in the allowances in item 12(a) should be made for affidavits which include material that goes beyond the requirements of Supreme Court Practice Direction 9.2.2, or any other relevant practice direction.
- (d) The Committee considers it appropriate that, in line with the changes made in the 2024 Determination, item 12(b) of this Determination for attendances at mediation reflects hourly rates for senior counsel, counsel and senior practitioners to take into account the significant variation in cases (factually, legally and as to value of estates) which comprise the cases brought under the *Family Provision Act* and a general desirability to have independent counsel involved in the conduct of such cases at mediation.
- (e) Item 12(c) applies to proceedings which do not conclude at mediation and is to be calculated in accordance with item 11(a) to (f), save that item 11(d) is modified so that the reference to 50 hours is to be read as 40 hours.
- (f) Items 12(a)(2) and (3) and 12(b)(2) and (3) are not to both be claimed if the executor and beneficiary defendant are represented by the same legal practitioner.

- (g) A legal practitioner acting for more than one executor or beneficiary defendant may only claim the amounts set out in items 12(a)(2) and (3) and 12(b)(2) and (3) once, and may not claim an amount for each individual executor or beneficiary defendant who they represent.
- (h) A legal practitioner acting for a beneficiary defendant who is also a claimant under the *Family Provision Act* may claim their costs as if they were acting as a plaintiff from the time the relevant beneficiary defendant commences his or her claim.
- (i) Subject to any appropriate or necessary other orders as to costs, or when a special costs order is made, parties to *Family Provision Act* claims are not able to recover costs under any items of this Determination other than items 3(a), 7 (where ordered), 16, 20, 28 (where ordered), 33, 34, 35 and 38 (where ordered as between party and party), 36 and 37 (where ordered as between party and party).
- (j) Nothing in item 12 is intended to derogate from the trial Judge's discretion as to the awarding of costs.

8 Item 26—District Court appeals and single Judge appeals in the Supreme Court

Clause 12 of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2022* continues to apply to this Determination. The amendments made to item 26 in the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2024* remain in effect.

9 Discovery and inspection

- (a) Items 7 and 8 are intended to recognise that discovery and inspection work may reasonably be undertaken by different fee earner categories according to the nature of the work, the volume and complexity of the documents and the level of supervision required.
- (b) The fee earner categories permitted for items 7 and 8 are specified in Table B.
- (c) An allowance under items 7 and 8 is only to be made for work reasonably undertaken. The same work is not to be allowed more than once merely because more than one practitioner or fee earner was involved.

10 Written submissions

- (a) Item 27 applies to the preparation of written submissions required by the Court, the Rules, a practice direction, or otherwise reasonably necessary.
- (b) Without limiting subclause (a), item 27 may apply to written submissions in relation to—
 - (i) proceedings in Chambers;
 - (ii) motions;
 - (iii) interlocutory applications;
 - (iv) trial (closing and opening); or
 - (v) any other hearing, application or proceeding in which written submissions are required (or otherwise reasonably necessary) and for which Table B does not otherwise provide a specific allowance.
- (c) Item 27 does not apply where another item in Table B expressly provides a specific allowance for the relevant written submissions.

11 Composite scale items

- (a) This clause applies where a single item in Table B encompasses more than one category of work, including preparation, appearances, submissions, conferences or other related work.
- (b) Unless Table B expressly provides otherwise, the maximum monetary allowance specified for a composite item applies to the item as a whole. The categories of work included within the item are not separate items with separate maxima.
- (c) In determining an appropriate allowance under a composite item, the taxing officer is to have regard to the work reasonably undertaken within each relevant category and the total amount claimed.
- (d) The fact that one category of work does not occur, or occurs for a shorter period than contemplated by the item, does not of itself require a proportionate reduction of the maximum amount that may be allowed under the item.

12 Items 10 and 11—Chambers, motions and originating process

- (a) Items 10(a), 11(a) and 22(a) and (b) are composite scale items for the purposes of clause 11.
- (b) Items 10 and 11 are intended to identify more clearly the applicable practitioner categories, the work included within each item and the calculation of the maximum allowance.
- (c) Where a matter is determined on the papers, the absence of an oral hearing does not of itself preclude an allowance for preparation reasonably undertaken.

13 Items 19 and 38—Preparation of case and other work

- (a) Item 19 is intended to apply to work reasonably and necessarily undertaken in preparation of a case for trial, including work undertaken before the commencement of proceedings, to the extent that the work is not otherwise covered by another item in Table B.
- (b) Item 38 is intended to apply to work requiring the skill of a legal practitioner, or work otherwise described in that item, which is reasonably undertaken but not covered by another item in Table B.

- (c) The same work is not to be claimed under both item 19 and item 38, or under either of those items and another item in Table B.

14 Item 22—Trial

- (a) Item 22 is a composite scale item for the purposes of clause 11 to the extent that a fee on brief includes preparation and the first day of trial.
- (b) A fee on brief is only to be allowed where preparation has been reasonably undertaken and the allowance is reasonable in the circumstances, having regard to the work done and the stage reached by the proceeding.
- (c) Item 22(e) introduced a new cancellation fee item for counsel. The item is intended to permit an allowance where a matter is resolved or otherwise does not proceed to trial after counsel has reasonably undertaken preparation, and where the making of such an allowance is proper in the circumstances as described in clause 11 of the Report.

15 Increase generally

- (a) The Committee is of the view that increases in the cost of practice over the past several years have justified an increase in the rates in Table A and the corresponding amounts in Table B.
- (b) Given the inquiries made by the Committee as set out in Clause 3 of the Report, the Committee determined that it was appropriate to include a general increase.
- (c) In making its decision, the Committee is particularly cognisant of the increased costs to law practices occasioned by inflationary pressures, subscriptions for legal resources, investment in technology and cyber security, investments made by law practices in staff skills and initiatives, and increasing costs of regulatory and compliance systems, including integrity obligations affecting sectors of legal services from 1 July 2026.
- (d) The increases in the rates in this Determination are not uniform but have been calculated generally in the range of 14% to 16%, with rounding so that each amount is divisible by 11 in accordance with the long-standing policy of the Committee.

16 Counsel fees

- (a) Fees charged by practitioners who practise solely as barristers in accordance with Supreme Court Practice Direction 10.5 are only to be charged at the rates provided for Counsel or Senior Counsel, as applicable, in Table A.
- (b) Recovery of daily fees for Counsel on the taxation or assessment of a bill of costs is intended to apply only when a full day has been worked, either in Court or in Court and in preparation for a subsequent hearing day.
- (c) The maximum hourly rate for Counsel, other than Senior Counsel, is aligned with the maximum hourly rate for a Senior Practitioner. The applicable rates are set out in Table A.
- (d) Nothing in this clause prevents the Court or taxing officer from disallowing, reducing or otherwise adjusting Counsel fees that are not reasonable in the circumstances.

17 Maximum hourly and daily rates

- (a) The hourly and daily rates set out in Table A are the maximum hourly and daily rates, inclusive of GST, which the Legal Costs Committee determines shall be used to calculate the dollar amounts in the scale of costs set out in Table B. Each item in the scale of costs specifies a dollar amount with reference to the practitioner or fee earner.
- (b) The rates referred to in paragraph (a) were ascertained in the manner set out in clause 5 of the *Legal Profession (Supreme and District Courts) (Contentious Business) Report 2026*.
- (c) The daily rates set out in Table A are intended to cover all work done on a hearing or trial day, whether in or out of Court, including preparation of written submissions, and are not intended to be supplemented by additional hourly charges given that the maximum number of hours allowed for the daily rate is 10 hours per day.

Table A

Fee earner	Rate type	Maximum allowable hourly and daily rates
Senior Practitioner (permitted to practise on his or her own account for 5 years or more) (SP) ¹	hourly rate	\$660
Junior Practitioner (permitted to practise on his or her own account for less than 5 years) (JP) ¹	hourly rate	\$484
Restricted Practitioner (RP) ^{1, 2}	hourly rate	\$407
Clerk/Paralegal (C/PL) ³	hourly rate	\$308
Counsel fees charged as a disbursement to practitioners or charged by in-house Counsel:		
Counsel (C) ⁴	hourly rate	\$660
	daily rate	\$6,600

Fee earner	Rate type	Maximum allowable hourly and daily rates
Senior Counsel (SC) ⁵	hourly rate	\$902
	daily rate	\$9,020

Notes—

1. The reference to Restricted Practitioner, Junior Practitioner or Senior Practitioner in this Determination includes all legal practitioners even if the services were rendered in another State or Territory. Where a local practitioner has held an interstate practising certificate, the length of unrestricted legal practice in that other jurisdiction is to be counted in assessing that practitioner's years of practice for the purposes of this Determination.
2. The reference to Restricted Practitioner in this Determination includes practitioners undertaking restricted legal practice for the purposes of obtaining the required experience set out in the Act and does not include a reference to an Australian legal practitioner who has a condition placed on their practising certificate by the Legal Practice Board, State Administrative Tribunal or otherwise, requiring them to practise under supervision for disciplinary, medical, or other reasons.
3. The reference to Clerk/Paralegal in this Determination includes a law graduate prior to their admission to practise as an Australian lawyer.
4. The reference to Counsel in this Determination means a practitioner acting as a barrister other than a Senior Counsel, including, for the purposes of items 10, 11, 17, 22, 25 and 26, a practitioner appearing in court who does not practise in accordance with Supreme Court Practice Direction 10.5.
5. The reference to Senior Counsel in this Determination means a person within the meaning of item 5 or item 6 of rule 9 of the *Legal Profession Uniform General Rules 2015 (WA)*.

18 Costs

- (a) Subject to the provisions of the Act permitting a law practice to make a written agreement as to costs with a client, the costs of or in relation to a party to an action or other proceeding, inclusive of GST and Counsel fees, but exclusive of other disbursements—
 - (1) recoverable by one party from another party; or
 - (2) payable by a party to that party's own law practice,
 shall not exceed the amounts set out in Table B, except as otherwise provided in item 38 of Table B.
- (b) Allowances made under item 38 of Table B are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis, unless the Court otherwise orders.
- (c) Allowances made under item 37(c) of Table B are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis, unless the Court otherwise orders.

19 Fixed amounts

Based upon the Legal Costs Committee's inquiries, it has determined that items 1(b), 3(a), 7(a), 16(c), 16(f), 25(a), 26(i), 29(b), 32(a) and 34 in Table B should be fixed amounts.

Table B
Supreme Court and District Court Scale of Costs 2026

Item	Description	Time	Fee earner	\$
1.	Writ			
	(a) Writ of summons, whether specially or generally endorsed, including instructions, but excluding Statement of Claim	1.5 hours	SP	990
	(b) For each additional defendant named in the Writ			99
	(c) Statement of Claim	20 hours	SP	13,200
	(d) For each additional defendant against whom a separate case is pleaded and relief claimed in the Statement of Claim	6 hours	SP	3,960
2.	Next friend or guardian ad litem			
	Allowance	6 hours	SP	3,960

Item	Description	Time	Fee earner	\$
3.	Defence			
	(a) Memorandum of appearance			121
	(b) Defence	20 hours	SP	13,200
	(c) Counterclaim	20 hours	SP	13,200
4.	Reply and other pleadings			
	Reply (if necessary), defence to counterclaim, or any other pleading	12 hours	SP	7,920
5.	Third party proceedings			
	(a) Third party notice	4 hours	SP	2,640
	(b) Pleadings in third party proceedings	12 hours	SP	7,920
6.	Particulars			
	(a) Requesting particulars of a pleading (where and to the extent necessary)	10 hours	SP	6,600
	(b) Giving particulars of a pleading	12 hours	SP	7,920
7.	Discovery			
	(a) Notice requiring discovery			88
	(b) Giving discovery of documents		SP / JP / RP / / C/PL	An amount which is reasonable in the circumstances
8.	Inspection			
	Inspection and giving inspection of discovered documents whether by personal attendance or otherwise		SP / JP / RP / / C/PL	An amount which is reasonable in the circumstances
9.	Interrogatories			
	(a) Delivery of interrogatories	15 hours	SP	9,900
	(b) Answers to interrogatories	20 hours	SP	13,200
10.	Chambers			
	(a) Proceedings in Chambers other than proceedings to which item 11 applies, including preparation and any determination on the papers			
	(a)(1) if Senior Counsel is briefed without second counsel	2 days preparation; 1 day hearing	SC	27,060
	(a)(2) if Senior Counsel is briefed with second counsel	2 days preparation; 1 day hearing	SC and C/SP	46,860
	(a)(3) if Counsel alone is briefed	2 days preparation; 1 day hearing	C/SP	19,800

Item	Description	Time	Fee earner	\$
	(b) Attending on a reserved judgment in Chambers, including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders	per hour	SP	At applicable Table A rate
	(c) Consent Orders including conferral but excluding extraction	1.5 hours	JP	726
11.	Motions and originating process			
	(a) Originating motion, originating summons or originating application and applications for Judicial Review under Order 56, including preparation and any determination on the papers			
	(a)(1) if Senior Counsel is briefed without second counsel	2 days preparation; 1 day hearing	SC	27,060
	(a)(2) if Senior Counsel is briefed with second counsel	2 days preparation; 1 day hearing	SC and C/SP	46,860
	(a)(3) if Counsel alone is briefed	2 days preparation; 1 day hearing	C/SP	19,800
	(b)(1) For the second and each successive day of hearing (Senior Counsel)	per day	SC	9,020
	(b)(2) For the second and each successive day of hearing (Counsel)	per day	C/SP	6,600
	(c) Attendance at hearing by instructing legal practitioner	per hour	SP/JP	At applicable Table A rate
	(d) Preparation of case for hearing	up to 50 hours	SP	33,000
	(e) Preparation for, and attendance at directions hearings, strategic conferences, status conferences or other case management hearings where required by order of the Court, by the Rules of the Supreme Court or by practice direction	per hour	SP/JP	At applicable Table A rate
	(f) Attending on a reserved decision, including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders	per hour	SP/JP	At applicable Table A rate

Note: An allowance under item 11(a)(2) should only be made where, in the opinion of the Court, it was reasonable to brief two counsel.

12.	Proceedings under the <i>Family Provision Act 1972</i>			
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Note: Refer to clause 7 of the Determination above.

	(a) All work done by legal practitioners prior to mediation including— - originating summons and supporting affidavit, provided it complies with any relevant practice directions; - attendance at directions hearings; - compliance with Order 75 rule 3; and - advising on merits of the application.			
	(a)(1) plaintiff			9,801

Item	Description	Time	Fee earner	\$
	(a)(2) executor or personal representative			2,970
	(a)(3) beneficiary defendants			6,094
	(b) Preparation for, and attendance at mediation and informal conferences where necessary and reasonably held prior to or after the commencement of proceedings			
	(b)(1) plaintiff	per hour	SC/C/SP	At applicable Table A rate
	(b)(2) executor or personal representative	per hour	SC/C/SP	At applicable Table A rate
	(b)(3) beneficiary defendants	per hour	SC/C/SP	At applicable Table A rate
	(c) All work done following mediation, up to and including judgment, and which is not included in items 12(a) and (b)			An amount calculated in accordance with item 11(a)-(f), save that item 11(d) is modified so that the reference to 50 hours is to be read as 40 hours

PROVIDED THAT: Unless the Court otherwise orders, the amount of the costs awarded to a successful claimant shall not exceed an amount equal to the award that the claimant receives.

13.	Proceedings in Court not otherwise provided for, including appeals from a Registrar			
	Allowance	2 days preparation; 1/2 day hearing	C/SP	16,500
14.	Listing Conference			
	Attending at a Listing Conference convened pursuant to Order 4A rule 20 of the Rules of the Supreme Court or rule 43 of the District Court Rules, and all necessary preparation	per hour	SP/JP	At applicable Table A rate
15.	Entry of judgment without trial			
	Allowance	per hour	RP	At applicable Table A rate
16.	Offers of compromise, notices, practice directions, etc			
	(a) Payment into or out of Court	2 hours	JP	968
	(b) Offer of compromise under O.24A or by Calderbank letter	6 hours	SP	3,960
	(c) Acknowledgment of offer under O.24A			99
	(d) Acceptance of offer of compromise under O.24A or by Calderbank letter	6 hours	SP	3,960
	(e) Notice of offer to consent to judgment	2 hours	SP	1,320

Item	Description	Time	Fee earner	\$
	(f) Other notices and certificates referred to or required by the Rules or procedures of the court, including practice directions			110

“Calderbank” is used in accordance with the principles of Calderbank v Calderbank [1975] 3 All ER 333.

17.	Application for compromise under O.70			
	(a) Application for compromise including chamber summons, affidavit in support and all necessary preparation	per hour	SP/JP	At applicable Table A rate
	(b) If Counsel’s opinion is required, preparation of the brief to Counsel, if not otherwise briefed as Counsel in the proceedings	10 hours	SP	6,600
	(c) Counsel’s opinion		SC/C	An amount which is reasonable in the circumstances
	(d) Counsel fee on hearing, including preparation and submissions, if any	per hour	SC/C/SP	At applicable Table A rate
	(e) Attendance at hearing by instructing legal practitioner	per hour	SP/JP	At applicable Table A rate

Note: An allowance under item 17(c) for Senior Counsel should only be made where, in the opinion of the Court, it was reasonable to brief Senior Counsel to provide the opinion.

18.	Entry for trial/Entry for hearing			
	(a) Advising on, and preparing, documents required to be filed by the Rules of the Supreme Court or the Rules of the District Court	2 hours	SP	1,320
	(b) Preparation of Schedules (if any) required by District Court Rules 45C and 45D	12 hours	SP	7,920
	(c) Advice on evidence	per hour	SC/C	At applicable Table A rate

Note: In relation to particulars of damages under District Court Rule 45C, if the claim is one declared by the Court to be a catastrophic personal injury claim, the time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner, on Schedules required by District Court Rules 45C and 45D shall not be limited to 12 hours but shall be an amount which is reasonable in the circumstances.

Note: In relation to particulars of damages under District Court Rule 45C, if the claim is for damages as a result of an allegation of historical child sexual abuse brought under the amendments to Part 2A of the Civil Liability Act which came into effect on 1 July 2018, the time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner, on Schedules required by District Court Rules 45C and 45D shall not be limited to 12 hours but shall be an amount which is reasonable in the circumstances.

Item	Description	Time	Fee earner	\$
19.	Preparation of case			
	Preparation of case for trial, including work reasonably and necessarily undertaken prior to commencement of proceedings	130 hours	SP	85,800

Note: If the claim is one declared by the Court to be a catastrophic personal injury claim, the time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner, in preparation of case for trial shall not be limited to 130 hours but shall be an amount which is reasonable in the circumstances.

Note: If the claim is for damages as a result of an allegation of historical child sexual abuse brought under the amendments to Part 2A of the Civil Liability Act which came into effect on 1 July 2018, the time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner, in preparation of case for trial shall not be limited to 130 hours but shall be an amount which is reasonable in the circumstances.

20.	Examination of witness before trial, pursuant to an order			
	Allowance			An allowance in accordance with item 22(c) or (d)
21.	Application for and striking jury			
	Allowance	1 hour	JP	484
22.	Trial			
	(a) Fee on brief, i.e. first day of trial and preparation	3.5 days preparation; 1st day of trial	C	29,700
	(b) Fee on brief for Senior Counsel, i.e. first day of trial and preparation	3.5 days preparation; 1st day of trial	SC	40,590
	(c) Counsel fee for the second and each successive day of hearing	per day	C	6,600
	(d) Counsel fee for Senior Counsel for the second and each successive day of hearing	per day	SC	9,020
	(e) Cancellation fees, where ordered or allowed by the Court upon application supported by affidavit evidence		SC/C	An amount which is reasonable in the circumstances
	(f) Instructing legal practitioner attending trial	per hour	SP	At applicable Table A rate
	(g) Clerk or Restricted Practitioner attending trial	per hour	RP C/PL	At applicable Table A rate
	(h) Refresher fee for Counsel— (1) where a matter is part heard, with 20 business days or more between the conclusion of one part of the hearing and the commencement of a subsequent part; and (2) the Court is of the view that a refresher fee is reasonable in all the circumstances.	per hour	SC/C	An amount which is reasonable in the circumstances

Note: A refresher fee is not payable in circumstances where an allowance is made for written closing submissions.

Item	Description	Time	Fee earner	\$
	(i) Attending on reserved judgment, including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders	per hour	SP	At applicable Table A rate
	(j) For each five hearing days after the first five, an additional fee on brief	1 day	SC/C	At applicable daily Table A rate

Note: If the claim is one declared by the Court to be a catastrophic personal injury claim, the time reasonably spent by Counsel or Senior Counsel in preparation of case for trial shall not be limited to 3.5 days but shall be an amount which is reasonable in the circumstances.

Note: If the claim is for damages as a result of an allegation of historical child sexual abuse brought under the amendments to Part 2A of the Civil Liability Act which came into effect on 1 July 2018, the time reasonably spent by Counsel or Senior Counsel in preparation of case for trial shall not be limited to 3.5 days but shall be an amount which is reasonable in the circumstances.

23.	Re-trial or Re-hearing			
	(a) Preparation of case for re-trial or re-hearing			An amount which is reasonable in the circumstances
	(b) Re-trial or re-hearing			An amount which is reasonable in the circumstances
24.	Special case, case stated (otherwise than by way of appeal) or trial of an issue			
	(a) Special case, case stated (otherwise than by way of appeal) or trial of an issue			An amount which is reasonable in the circumstances
	(b) For the second and each successive day of the trial or hearing			An amount which is reasonable in the circumstances
25.	Appeals to the Court of Appeal including applications for leave to appeal			
	(a) Appeal Notice, Service Certificate, Notice of Respondent's Intention			660
	(b) Appellant's Case, Respondent's Answer including relevant forms and all annexures	40 hours	SC	36,080
	(c) Appellant's Reply to Notice of Contention, when required	10 hours	SC	9,020
	(d) Settling appeal book indexes, including drafting and settling appeal book index	8 hours	SP	5,280
	(e) An application in an appeal, an interlocutory or directions hearing before a single Judge or Registrar	10 hours	C	6,600
	(f) Preparation of appeal for hearing	15 hours	SP	9,900

Item	Description	Time	Fee earner	\$
	(g) Counsel fee on hearing, including preparation	2 days preparation; 1 day hearing	C	19,800
	(h) Senior Counsel fee on hearing, including preparation	2 days preparation; 1 day hearing	SC	27,060
	(i) Counsel fee for the second and each successive day of hearing	per day	C	6,600
	(j) Senior Counsel fee for the second and each successive day of hearing	per day	SC	9,020
	(k) Instructing legal practitioner attending appeal	per hour	SP/JP	At applicable Table A rate
	(l) Attending on reserved decision, including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders	per hour	SP	At applicable Table A rate
26.	Single Judge Appeals in the Supreme Court and Appeals in the District Court (including leave to appeal)			
	(a) Notice of Appeal or Notice of Contention pursuant to rule 15 of the District Court Rules 2005	1 hour	SP	660
	(b) Notice of Appeal or Notice of Contention in other appeals	5 hours	SP	3,300
	(c) Interlocutory hearings—as required, including preparation	per hour	C	At applicable Table A rate
	(d) Preparation of appeal for hearing, including preparation of appeal documents	10 hours	SP	6,600
	(e)(1) Counsel fee on hearing, including preparation	2 days preparation; 1 day hearing	C	19,800
	(e)(2) Senior Counsel fee on hearing, including preparation	2 days preparation; 1 day hearing	SC	27,060
	(f)(1) Counsel fee for second and each successive day of hearing	per day	C	6,600
	(f)(2) Senior Counsel fee for second and each successive day of hearing	per day	SC	9,020
	(g) Attendance at appeal by instructing legal practitioner	per hour	SP	At applicable Table A rate
	(h) Attending on reserved decision, including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders	per hour	SP	At applicable Table A rate
	(i) Other notices and certificates referred to or required by the Rules or procedures of the Court, including the practice directions			99

Item	Description	Time	Fee earner	\$
27.	Written Submissions			
	Preparation of written submissions	per hour	SC / C / SP / JP / RP / C/PL	An amount which is reasonable in the circumstances
<i>Note: Under clause 10(c), Item 27 does not apply where another item expressly provides a specific allowance for the relevant written submissions.</i>				
28.	Pretrial, mediation, conferrals, or other conferences			
	(a) Where required by order of the Court, by the Rules of the Supreme Court or by practice direction	per hour	SC/C/SP	At applicable Table A rate
	(b) Informal conferences where reasonably held before or after commencement of proceedings	per hour	SC/C/SP	At applicable Table A rate
	(c) Preparation reasonably undertaken for the conferrals and conferences described in paragraphs (a) and (b) of this item	per hour	SC/C/SP	At applicable Table A rate
	(d) Conferences between Counsel and own instructing legal practitioner where reasonably necessary	per hour	SC/C/SP	At applicable Table A rate
29.	Orders			
	(a) Settling and extracting judgment or order—with appointment	2 hours	RP	814
	(b) Settling and extracting judgment or order—without appointment			407
30.	Arbitration			
	Proceedings where costs are to be assessed under section 33B(5) of the <i>Commercial Arbitration Act 2012</i> (WA)			The same costs as in an action
31.	Resumption proceeding—property			
	Proceedings, whether by action or otherwise, for the recovery of compensation for the taking or resumption of land or any other property by the Crown in right of the State or of the Commonwealth or by any other person, body or instrumentality pursuant to any statutory power			An amount which is reasonable in the circumstances
32.	Process			
	(a) Execution			484
	(b) If against land, an additional allowance	3 hours	RP	1,221
33.	Taxing including drawing			
	(a) Drawing bill of costs and service; and (b) Taxation of costs, including the time spent in preparing for the taxation and time required to be spent attending any mediation or conference convened by the Court or attending to any matter required by the Rules or a practice direction		SP	An amount which is reasonable in the circumstances

Item	Description	Time	Fee earner	\$
34.	Copying			
	Copies where reasonably necessary, including of documents for which allowance is otherwise made in this Determination. This item covers all forms of electronic reproduction and copying.	per page		0.22
35.	Accounts and inquiries			
	Taking accounts and inquiries		SP	An amount which is reasonable in the circumstances
36.	Disbursements			
	In addition to the fees and charges allowed under this Determination— (a) As between a law practice and client, a law practice may charge and be allowed disbursements incurred by the law practice except insofar as they are of an unreasonable amount or have been unreasonably incurred, so that subject to the above exceptions, the law practice is fully reimbursed for its disbursements; and (b) As between party and party, a party may be allowed disbursements that are necessarily or reasonably incurred by that party, so that that party is fully reimbursed for its disbursements.			
37.	Travel			
	(a) As between party and party, minor travel as defined in the Legal Profession (Supreme Court) (Contentious Business) Determination 2016 is to be allowed as part of the costs awarded for an attendance at chambers or court within the existing item, without further order. (b) As between party and party, time spent travelling by a law practice which is not minor travel and which is required by reason of an order of the Court requiring the parties to attend at a location other than the location at which the proceedings are case managed is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day, without further order. (c) As between a law practice and its own client, time spent travelling by a law practice, other than minor travel, is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day. Note: Allowances under item 37(c) are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis, unless the Court otherwise orders.			

Item	Description	Time	Fee earner	\$
38.	Other work			
	(a) Time reasonably spent by a legal practitioner on work requiring the skill of a legal practitioner (of the standing indicated) but not covered by any other item	per hour	SC / C / SP / JP / RP	At applicable Table A rate
	(b) Time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner, on work not covered by any other item or by paragraph (a)	per hour	SC / C / SP / JP / RP / C/PL	At applicable Table A rate

Note: Allowances under item 38 are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis, unless the Court otherwise orders.

Made by the Legal Costs Committee on 31 August 2026.

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022**LEGAL PROFESSION (SUPREME AND DISTRICT COURTS) (CRIMINAL) REPORT 2026**

Made by the Legal Costs Committee under Division 1 of Part 6 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

PART 1—PRELIMINARY**1 Citation**

- (a) This Report may be cited as the *Legal Profession (Supreme and District Courts) (Criminal) Report 2026*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Supreme and District Courts) (Criminal) Determination 2026*.

PART 2—NOTICE AND INQUIRIES**2 Notice under section 139 of the Act**

The Legal Costs Committee has complied with the notice provisions of section 139 of the Act.

3 Inquiries and submissions under section 138 of the Act

Before making the *Legal Profession (Supreme and District Courts) (Criminal) Determination 2026*, the Legal Costs Committee—

- (a) reviewed submissions received as a result of the notice given under section 139 of the Act, including submissions made by The Law Society of Western Australia (Inc), the Australian Lawyers Alliance, the Bar Association of Western Australia, private practitioners and costs consultants;
- (b) considered the comments and suggestions made at a Law Society seminar with members of the legal profession and other attendees held on 24 March 2026;
- (c) considered the impact of changes in relevant Australian Bureau of Statistics data for the period, specifically consumer price index and wage price index data for the period since 1 July 2024;
- (d) considered the potential impact of the amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, which now imposes a regulatory framework on sectors of legal services, with the aim of protecting the integrity of the Australian financial system;
- (e) undertook a review of cost regimes in other Australian jurisdictions;
- (f) met with Registrars of the District Court and Supreme Court of Western Australia, and considered observations concerning taxation practice and the practical operation of the scale of costs;
- (g) met with a representative of the Bar Association of Western Australia;
- (h) met with Parliamentary Draftspersons and a representative of the Department of Justice responsible for legislative services concerning the proposed drafting and structure of the Determination;
- (i) held meetings on eleven separate occasions since the commencement of the *Legal Profession (Supreme and District Courts) (Criminal) Determination 2024* on 1 July 2024; and
- (j) noted the following changes in the membership and offices of the Committee since the publication of the *Legal Profession (Supreme and District Courts) (Criminal) Determination 2024*—
 - (1) Mr Craig McKie ceased acting as Chair of the Committee and was succeeded as Chair by Mr David Bayly SC from 15 July 2024;
 - (2) Mr Craig McKie continued as Deputy Chair; and
 - (3) Dr Anne Peachey was appointed as a member of the Committee from 1 January 2025 to fill a vacant member position.

PART 3—REPORT OF LEGAL COSTS COMMITTEE'S CONCLUSIONS**4 Maximum hourly and daily rates changed**

- (a) The information gained as a result of the inquiries and submissions described in clause 3 satisfied the Legal Costs Committee that it remained appropriate to adopt hourly and daily rates charged by law practices as the basis for most of the rates used in this Determination.
- (b) The Committee noted the increasing divergence between the maximum rates recoverable under the Determination and the rates commonly charged by law practices. The Committee considers that the Determination should continue to provide a meaningful basis for the calculation of costs as between a law practice and client.
- (c) The Committee was conscious of the impact that increases in the maximum rates may have on clients, while recognising the need for those rates to reflect the costs of providing legal services.

- (d) The Committee considers it appropriate that the maximum hourly and daily rates be varied from the rates used in the *Legal Profession (Supreme and District Courts) (Criminal) Determination 2024*. The revised rates are set out in Table A of the 2026 Determination.
- (e) In calculating the revised rates, the Committee has taken into account the incidental administrative implications of the calculation of the Goods and Services Tax and has adopted the Committee's established rounding methodology.

5 Alignment of Counsel (other than Senior Counsel) and Senior Practitioner rates

- (a) The Committee considered the distinction between the maximum hourly rate applicable to Counsel and the maximum hourly rate applicable to a Senior Practitioner.
- (b) Contemporary litigation practice requires Counsel to undertake work of substantial complexity and responsibility.
- (c) The Committee considers it appropriate that the maximum hourly rate for Counsel be aligned with the maximum hourly rate for a Senior Practitioner, with a corresponding adjustment to the applicable daily rate for Counsel.
- (d) The Committee considered that the alignment of those rates would simplify the operation of the Determination and more accurately reflect contemporary litigation practice.

DAVID BAYLY SC	Chair of the Committee
CRAIG MCKIE	Deputy Chair
GREG RICKIE	Member
ANNETTE MORGAN	Member
CAROLYN MEIGHAN	Member
ANNE PEACHEY	Member

Schedule

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022

LEGAL PROFESSION (SUPREME AND DISTRICT COURTS) (CRIMINAL) DETERMINATION 2026

Made by the Legal Costs Committee under section 133 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

1 Citation

This Determination may be cited as the *Legal Profession (Supreme and District Courts) (Criminal) Determination 2026*.

2 Commencement

This Determination comes into operation on 21 September 2026.

3 Application

This Determination applies to the remuneration of fee earners in respect of advice given by legal practitioners in or for the purposes of criminal proceedings or potential criminal proceedings which are ultimately dealt with in the Supreme Court of Western Australia or the District Court of Western Australia.

4 No minimum charge

In no respect is this Determination to be seen as providing a minimum charge for any work.

5 Restricted Practitioner category

The amendments brought in by the *Legal Profession (Supreme Court and District Court) (Criminal) Determination 2016* remain in effect, other than clause 5(e) of that Determination.

6 Increase generally

- (a) The Committee is of the view that increases in the cost of practice over the past several years have justified an increase in the rates in Table A.
- (b) Given the inquiries made by the Committee as set out in clause 3 of the Report, the Committee determined that it was appropriate to include a general increase.
- (c) In making its decision, the Committee is particularly cognisant of the increased costs to law practices occasioned by inflationary pressures, subscriptions for legal resources, investment in technology and cyber security, investments made by law practices in staff skills and initiatives, and increasing costs of regulatory and compliance systems, including integrity obligations affecting sectors of legal services from 1 July 2026.

- (d) The increases in the rates in this Determination are not uniform but have been calculated generally in the range of 14% to 16%, with rounding so that each amount is divisible by 11 in accordance with the long-standing policy of the Committee.

7 Counsel fees

- (a) Fees charged by practitioners who practise solely as barristers in accordance with Supreme Court Practice Direction 10.5 are only to be charged at the rates provided for Counsel or Senior Counsel, as applicable, in Table A.
- (b) Recovery of daily fees for Counsel on the taxation or assessment of a bill of costs is intended to apply only when a full day has been worked, either in Court or in Court and in preparation for a subsequent hearing day.
- (c) The maximum hourly rate for Counsel, other than Senior Counsel, is aligned with the maximum hourly rate for a Senior Practitioner. The applicable rates are set out in Table A.
- (d) Nothing in this clause prevents the Court or taxing officer from disallowing, reducing or otherwise adjusting Counsel fees that are not reasonable in the circumstances.

8 Maximum hourly and daily rates

- (a) The hourly and daily rates set out in Table A are the maximum hourly and daily rates, inclusive of GST, which the Legal Costs Committee determines shall be used to calculate the dollar amounts chargeable by law practices in providing advice and services to clients in respect of criminal proceedings or potential criminal proceedings which are ultimately dealt with in the Supreme Court of Western Australia or the District Court of Western Australia.
- (b) The rates referred to in paragraph (a) were ascertained in the manner set out in clause 4 of the *Legal Profession (Supreme and District Courts) (Criminal) Report 2026*.
- (c) The daily rates set out in Table A are intended to cover all work done on a hearing or trial day, whether in or out of Court, including preparation of written submissions, and are not intended to be supplemented by additional hourly charges given that the maximum number of hours allowed for the daily rate is 10 hours per day.

Table A

Fee earner	Rate type	Maximum allowable hourly and daily rates
Senior Practitioner (permitted to practise on his or her own account for 5 years or more) (SP) ¹	hourly rate	\$660
Junior Practitioner (permitted to practise on his or her own account for less than 5 years) (JP) ¹	hourly rate	\$484
Restricted Practitioner (RP) ^{1, 2}	hourly rate	\$407
Clerk/Paralegal (C/PL) ³	hourly rate	\$308
Counsel fees charged as a disbursement to practitioners or charged by in-house Counsel:		
Counsel (C) ⁴	hourly rate	\$660
	daily rate	\$6,600
Senior Counsel (SC) ⁵	hourly rate	\$902
	daily rate	\$9,020

Notes—

- The reference to Restricted Practitioner, Junior Practitioner or Senior Practitioner in this Determination includes all legal practitioners even if the services were rendered in another State or Territory. Where a local practitioner has held an interstate practising certificate, the length of unrestricted legal practice in that other jurisdiction is to be counted in assessing that practitioner's years of practice for the purposes of this Determination.
- The reference to Restricted Practitioner in this Determination includes practitioners undertaking restricted legal practice for the purposes of obtaining the required experience set out in the Act and does not include a reference to an Australian legal practitioner who has a condition placed on their practising certificate by the Legal Practice Board, State Administrative Tribunal or otherwise, requiring them to practise under supervision for disciplinary, medical, or other reasons.
- The reference to Clerk/Paralegal in this Determination includes a law graduate prior to their admission to practise as an Australian lawyer.
- The reference to Counsel in this Determination means a practitioner acting as a barrister other than a Senior Counsel.
- The reference to Senior Counsel in this Determination means a person within the meaning of item 5 or item 6 of rule 9 of the *Legal Profession Uniform General Rules 2015 (WA)*.

9 Disbursements

In addition to the fees and charges allowed under this Determination as between a law practice and client, a law practice may charge and be allowed disbursements incurred by the law practice except insofar as they are of an unreasonable amount or have been unreasonably incurred, so that subject to the above exceptions, the law practice is fully reimbursed for its disbursements.

10 Travel

- (a) For the purposes of this Determination, minor travel means incidental travel associated with attendance at court for a hearing where that travel is of a minor duration. Examples of minor travel include, but are not limited to—
 - (1) a practitioner walking from their usual place of business to a court;
 - (2) a practitioner walking from a carpark to a court; or
 - (3) a practitioner walking or taking public transport from one centrally located court to another centrally located court.
- (b) As between a law practice and its own client, time spent travelling by a law practice, other than minor travel, is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day.
- (c) In making its decision in this Determination, the Committee has taken note of the Law Society of Western Australia's Standard Costs Agreement, which contains a provision that a law practice will charge travel at 50% of the agreed hourly rates.
- (d) The Legal Costs Committee has also considered an informal policy of the former Legal Profession Complaints Committee that travel should not ordinarily be charged at a rate of more than 50% of a law practice's normal hourly charge-out rate.
- (e) Whilst the Legal Costs Committee recognises that during a travel period a law practice may not necessarily utilise legal skill and knowledge, there is recognition of a loss of opportunity for the time spent travelling.
- (f) The Legal Costs Committee notes that, having regard to the above—
 - (1) it is the responsibility of a law practice to allocate the cost of time spent on travel fairly and reasonably where the travel is necessary to service more than one client on the day of travel; and
 - (2) whilst nothing contained in this Determination prevents a law practice from charging time spent on a client matter or client matters in the course of travel (air travel by way of example), the law practice is not entitled to charge a client or clients for both the time spent on a client matter (regardless of whether that time relates to the client for whom the travel is being undertaken) and the amount allowed for travel under this Determination.

11 Costs

- (a) Unless a law practice has made a written agreement as to costs with a client under the provisions of section 180 of the *Legal Profession Uniform Law (WA)*, the costs of or in relation to a party to an action or other proceeding (inclusive of GST and Counsel fees but exclusive of other disbursements) in the relevant Court are payable by a party to that party's own law practice and must not exceed an amount calculated at the hourly rates in Table A.
- (b) Item 25 of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2026* will apply to law practice/client costs on appeals to the Supreme Court from any decision of a lower Court or a single Judge exercising the relevant Court's criminal jurisdiction.

Made by the Legal Costs Committee on 31 August 2026.

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022**LEGAL PROFESSION (FAMILY COURT OF WESTERN AUSTRALIA) REPORT 2026**

Made by the Legal Costs Committee under Division 1 of Part 6 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

PART 1—PRELIMINARY**1 Citation**

- (a) This Report may be cited as the *Legal Profession (Family Court of Western Australia) Report 2026*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Family Court of Western Australia) Determination 2026*.

PART 2—NOTICE AND INQUIRIES**2 Notice under section 139 of the Act**

The Legal Costs Committee has complied with the notice provisions of section 139 of the Act.

3 Inquiries and submissions under section 138 of the Act

Before making the *Legal Profession (Family Court of Western Australia) Determination 2026*, the Legal Costs Committee—

- (a) reviewed submissions received as a result of the notice given under section 139 of the Act, including submissions made by The Law Society of Western Australia (Inc), the Family Law Practitioners' Association of Western Australia, the Australian Lawyers Alliance, the Bar Association of Western Australia, private practitioners and costs consultants;
- (b) considered the comments and suggestions made at a Law Society seminar with members of the legal profession and other attendees held on 24 March 2026;
- (c) consulted with the Family Court of Western Australia;
- (d) had regard to the relevant provisions of the *Family Court Rules 2021*;
- (e) considered the impact of changes in relevant Australian Bureau of Statistics data for the period, specifically consumer price index and wage price index data for the period since 1 July 2024;
- (f) considered the potential impact of the amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, which now imposes a regulatory framework on sectors of legal services, with the aim of protecting the integrity of the Australian financial system;
- (g) undertook a review of cost regimes in other Australian jurisdictions;
- (h) met with Registrars of the District Court and Supreme Court of Western Australia, and considered observations concerning taxation practice and the practical operation of the scale of costs;
- (i) met with a representative of the Bar Association of Western Australia;
- (j) met with Parliamentary Draftspersons and a representative of the Department of Justice responsible for legislative services concerning the proposed drafting and structure of the Determination;
- (k) held meetings on eleven separate occasions since the commencement of the *Legal Profession (Family Court of Western Australia) Determination 2024* on 1 July 2024; and
- (l) noted the following changes in the membership and offices of the Committee since the publication of the *Legal Profession (Family Court of Western Australia) Determination 2024*—
 - (1) Mr Craig McKie ceased acting as Chair of the Committee and was succeeded as Chair by Mr David Bayly SC from 15 July 2024;
 - (2) Mr Craig McKie continued as Deputy Chair; and
 - (3) Dr Anne Peachey was appointed as a member of the Committee from 1 January 2025 to fill a vacant member position.
- (m) In the *Legal Practitioners (Family Court of Western Australia) Report 2009* (2009 Report) the Legal Costs Committee noted that—
 - (1) the effect of changes brought about by the *Family Law Amendment Rules 2008* to the *Family Law Rules 2004* is that the Supreme Court of Western Australia is now responsible for the regulation of legal practitioner/client costs in the Family Court;
 - (2) as a consequence of the rule changes in the Family Court of Australia prior to the 2009 Report, the Family Court would no longer be setting a scale for legal practitioner/client costs;
 - (3) the general rule pursuant to section 117 of the *Family Law Act 1975* (Commonwealth) is that each party to proceedings under that Act bears their own costs;
 - (4) most legal practitioners and their clients in the Family Court's jurisdiction enter into costs agreements;

- (5) the *Legal Profession Act 2008* contains substantial cost disclosure obligations; and
- (6) party/party costs are provided for under the Family Court's federal jurisdiction and therefore it is only legal practitioner/client costs that the Legal Costs Committee is concerned with.

The Legal Costs Committee considers the above matters continue to be relevant.

PART 3—REPORT OF LEGAL COSTS COMMITTEE'S CONCLUSIONS

4 Maximum hourly and daily rates changed

- (a) Having regard to the information gained as a result of the inquiries and submissions described in clause 3, the Legal Costs Committee has determined that—
 - (1) it is unnecessary as at the date of this Report to provide for a scale of fees in the Family Court in respect of party/party costs; but
 - (2) it is appropriate to determine a scale of fees applicable to the work of legal practitioners, clerks and paralegals in, and in connection with the Family Court on a legal practitioner/client basis; and
 - (3) it is appropriate to continue to adopt the same hourly and daily rates (inclusive of GST) set out in Table A of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2026* to be published on or about the same date as this Report and Determination as the hourly and daily rates applicable to law practices for work done in the Family Court of Western Australia jurisdiction, as set out in Table A in the *Legal Profession (Family Court of Western Australia) Determination 2026*.

5 Alignment of Counsel (other than Senior Counsel) and Senior Practitioner rates

- (a) The Committee considered the distinction between the maximum hourly rate applicable to Counsel and the maximum hourly rate applicable to a Senior Practitioner.
- (b) Contemporary litigation practice requires Counsel to undertake work of substantial complexity and responsibility.
- (c) The Committee considers it appropriate that the maximum hourly rate for Counsel be aligned with the maximum hourly rate for a Senior Practitioner, with a corresponding adjustment to the applicable daily rate for Counsel.
- (d) The Committee considered that the alignment of those rates would simplify the operation of the Determination and more accurately reflect contemporary litigation practice.

DAVID BAYLY SC	Chair of the Committee
CRAIG MCKIE	Deputy Chair
GREG RICKIE	Member
ANNETTE MORGAN	Member
CAROLYN MEIGHAN	Member
ANNE PEACHEY	Member

Schedule

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022

LEGAL PROFESSION (FAMILY COURT OF WESTERN AUSTRALIA) DETERMINATION 2026

Made by the Legal Costs Committee under section 133 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

1 Citation

This Determination may be cited as the *Legal Profession (Family Court of Western Australia) Determination 2026*.

2 Commencement

This Determination comes into operation on 21 September 2026.

3 Application

This Determination applies to the remuneration of fee earners in respect of advice given by legal practitioners in or for the purposes of proceedings or potential proceedings before the Family Court of Western Australia (Family Court).

4 No minimum charge

In no respect is this Determination to be seen as providing a minimum charge for any work.

5 Restricted Practitioner category

The amendments brought in by the *Legal Profession (Family Court of Western Australia) Determination 2016* remain in effect, other than clause 5(e) of that Determination.

6 Increase generally

- (a) The Committee is of the view that increases in the cost of practice over the past several years have justified an increase in the rates in Table A.
- (b) Given the inquiries made by the Committee as set out in clause 3 of the Report, the Committee determined that it was appropriate to include a general increase.
- (c) In making its decision, the Committee is particularly cognisant of the increased costs to law practices occasioned by inflationary pressures, subscriptions for legal resources, investment in technology and cyber security, investments made by law practices in staff skills and initiatives, and increasing costs of regulatory and compliance systems, including integrity obligations affecting sectors of legal services from 1 July 2026.
- (d) The increases in the rates in this Determination are not uniform but have been calculated generally in the range of 14% to 16%, with rounding so that each amount is divisible by 11 in accordance with the long-standing policy of the Committee.

7 Counsel fees

- (a) Fees charged by practitioners who practise solely as barristers in accordance with Supreme Court Practice Direction 10.5 are only to be charged at the rates provided for Counsel or Senior Counsel, as applicable, in Table A.
- (b) Recovery of daily fees for Counsel on the taxation or assessment of a bill of costs is intended to apply only when a full day has been worked, either in Court or in Court and in preparation for a subsequent hearing day.
- (c) The maximum hourly rate for Counsel, other than Senior Counsel, is aligned with the maximum hourly rate for a Senior Practitioner. The applicable rates are set out in Table A.
- (d) Nothing in this clause prevents the Court or taxing officer from disallowing, reducing or otherwise adjusting Counsel fees that are not reasonable in the circumstances.

8 Maximum hourly and daily rates

- (a) The hourly and daily rates set out in Table A are the maximum hourly and daily rates, inclusive of GST, which the Legal Costs Committee determines shall be used to calculate the dollar amounts chargeable by law practices for work undertaken by fee earners in providing advice and services to clients in respect of proceedings and potential proceedings before the Family Court.
- (b) The rates referred to in paragraph (a) were ascertained in the manner set out in clause 4 of the *Legal Profession (Family Court of Western Australia) Report 2026*.
- (c) The daily rates set out in Table A are intended to cover all work done on a hearing or trial day, whether in or out of Court, including preparation of written submissions, and are not intended to be supplemented by additional hourly charges given that the maximum number of hours allowed for the daily rate is 10 hours per day.

Table A

Fee earner	Rate type	Maximum allowable hourly and daily rates
Senior Practitioner (permitted to practise on his or her own account for 5 years or more) (SP) ¹	hourly rate	\$660
Junior Practitioner (permitted to practise on his or her own account for less than 5 years) (JP) ¹	hourly rate	\$484
Restricted Practitioner (RP) ^{1, 2}	hourly rate	\$407
Clerk/Paralegal (C/PL) ³	hourly rate	\$308
Counsel fees charged as a disbursement to practitioners or charged by in-house Counsel:		
Counsel (C) ⁴	hourly rate	\$660
	daily rate	\$6,600
Senior Counsel (SC) ⁵	hourly rate	\$902
	daily rate	\$9,020

Notes—

1. The reference to Restricted Practitioner, Junior Practitioner or Senior Practitioner in this Determination includes all legal practitioners even if the services were rendered in another State or Territory. Where a local practitioner has held an interstate practising certificate, the length of unrestricted legal practice in that other jurisdiction is to be counted in assessing that practitioner's years of practice for the purposes of this Determination.
2. The reference to Restricted Practitioner in this Determination includes practitioners undertaking restricted legal practice for the purposes of obtaining the required experience set out in the Act and does not include a reference to an Australian legal practitioner who has a condition placed on their practising certificate by the Legal Practice Board, State Administrative Tribunal or otherwise, requiring them to practise under supervision for disciplinary, medical, or other reasons.
3. The reference to Clerk/Paralegal in this Determination includes a law graduate prior to their admission to practise as an Australian lawyer.
4. The reference to Counsel in this Determination means a practitioner acting as a barrister other than a Senior Counsel.
5. The reference to Senior Counsel in this Determination means a person within the meaning of item 5 or item 6 of rule 9 of the *Legal Profession Uniform General Rules 2015 (WA)*.

9 Disbursements

In addition to the fees and charges allowed under this Determination as between a law practice and client, a law practice may charge and be allowed disbursements incurred except insofar as they are of an unreasonable amount or have been unreasonably incurred, so that subject to the above exceptions, the law practice is fully reimbursed for its disbursements.

10 Travel

- (a) For the purposes of this Determination, minor travel means incidental travel associated with attendance at court for a hearing where that travel is of a minor duration. Examples of minor travel include, but are not limited to—
 - (1) a practitioner walking from their usual place of business to a court;
 - (2) a practitioner walking from a carpark to a court; or
 - (3) a practitioner walking or taking public transport from one centrally located court to another centrally located court.
- (b) As between a law practice and its own client, time spent travelling by a law practice, other than minor travel, is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day.
- (c) In making its decision in this Determination, the Committee has taken note of the Law Society of Western Australia's Standard Costs Agreement, which contains a provision that a law practice will charge travel at 50% of the agreed hourly rates.
- (d) The Legal Costs Committee has also considered an informal policy of the former Legal Profession Complaints Committee that travel should not ordinarily be charged at a rate of more than 50% of a law practice's normal hourly charge-out rate.
- (e) Whilst the Legal Costs Committee recognises that during a travel period a law practice may not necessarily utilise legal skill and knowledge, there is recognition of a loss of opportunity for the time spent travelling.
- (f) The Legal Costs Committee notes that, having regard to the above—
 - (1) it is the responsibility of a law practice to allocate the cost of time spent on travel fairly and reasonably where the travel is necessary to service more than one client on the day of travel; and
 - (2) whilst nothing contained in this Determination prevents a law practice from charging time spent on a client matter or client matters in the course of travel (air travel by way of example), the law practice is not entitled to charge a client or clients for both the time spent on a client matter (regardless of whether that time relates to the client for whom the travel is being undertaken) and the amount allowed for travel under this Determination.

11 Costs

Unless a law practice has made a written agreement as to costs with a client under the provisions of section 180 of the *Legal Profession Uniform Law (WA)*, the costs of or in relation to a party to an action or other proceeding (inclusive of GST and Counsel fees but exclusive of other disbursements) in the Family Court are payable by a party to that party's own law practice and must not exceed an amount calculated at the hourly rates in Table A.

Made by the Legal Costs Committee on 31 August 2026.

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022**LEGAL PROFESSION (MAGISTRATES COURT) (FAMILY LAW) REPORT 2026**

Made by the Legal Costs Committee under Division 1 of Part 6 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

PART 1—PRELIMINARY**1 Citation**

- (a) This Report may be cited as the *Legal Profession (Magistrates Court) (Family Law) Report 2026*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Magistrates Court) (Family Law) Determination 2026*.

PART 2—NOTICE AND INQUIRIES**2 Notice under section 139 of the Act**

The Legal Costs Committee has complied with the notice provisions of section 139 of the Act.

3 Inquiries and submissions under section 138 of the Act

Before making the *Legal Profession (Magistrates Court) (Family Law) Determination 2026*, the Legal Costs Committee—

- (a) reviewed submissions received as a result of the notice given under section 139 of the Act, including submissions made by The Law Society of Western Australia (Inc), the Family Law Practitioners' Association of Western Australia, the Australian Lawyers Alliance, the Bar Association of Western Australia, private practitioners and costs consultants;
- (b) considered the comments and suggestions made at a Law Society seminar with members of the legal profession and other attendees held on 24 March 2026;
- (c) consulted with the Family Court of Western Australia;
- (d) reviewed the *Legal Profession (Magistrates Court) (Family Law) Determination 2024*;
- (e) had regard to the relevant provisions of the *Family Court Rules 2021*;
- (f) considered the impact of changes in relevant Australian Bureau of Statistics data for the period, specifically consumer price index and wage price index data for the period since 1 July 2024;
- (g) considered the potential impact of the amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, which now imposes a regulatory framework on sectors of legal services, with the aim of protecting the integrity of the Australian financial system;
- (h) undertook a review of cost regimes in other Australian jurisdictions;
- (i) met with Registrars of the District Court and Supreme Court of Western Australia, and considered observations concerning taxation practice and the practical operation of the scale of costs;
- (j) met with a representative of the Bar Association of Western Australia;
- (k) met with Parliamentary Draftspersons and a representative of the Department of Justice responsible for legislative services concerning the proposed drafting and structure of the Determination;
- (l) held meetings on eleven separate occasions since the commencement of the *Legal Profession (Magistrates Court) (Family Law) Determination 2024* on 1 July 2024; and
- (m) noted the following changes in the membership and offices of the Committee since the publication of the *Legal Profession (Magistrates Court) (Family Law) Determination 2024*—
 - (1) Mr Craig McKie ceased acting as Chair of the Committee and was succeeded as Chair by Mr David Bayly SC from 15 July 2024;
 - (2) Mr Craig McKie continued as Deputy Chair; and
 - (3) Dr Anne Peachey was appointed as a member of the Committee from 1 January 2025 to fill a vacant member position.

PART 3—REPORT OF LEGAL COSTS COMMITTEE'S CONCLUSIONS**4 Maximum hourly and daily rates changed**

- (a) Having regard to the information gained as a result of the inquiries and submissions described in clause 3, the Legal Costs Committee has determined that—
 - (1) it is unnecessary as at the date of this Report to provide for a scale of fees for family law work done in the Magistrates Court of Western Australia in respect of party/party costs; but
 - (2) it is appropriate to determine a scale of fees applicable to the work of legal practitioners, clerks and paralegals for family law work done in the Magistrates Court of Western Australia on a legal practitioner/client basis; and

- (3) it is appropriate to continue to adopt the same hourly and daily rates (inclusive of GST) set out in Table A of the *Legal Profession (Family Court of Western Australia) Determination 2026* to be published on or about the same date as this Report and Determination as the hourly and daily rates applicable to law practices for family law work done in the Magistrates Court of Western Australia, as set out in Table A in the *Legal Profession (Magistrates Court) (Family Law) Determination 2026*.

5 Alignment of Counsel (other than Senior Counsel) and Senior Practitioner rates

- (a) The Committee considered the distinction between the maximum hourly rate applicable to Counsel and the maximum hourly rate applicable to a Senior Practitioner.
- (b) Contemporary litigation practice requires Counsel to undertake work of substantial complexity and responsibility.
- (c) The Committee considers it appropriate that the maximum hourly rate for Counsel be aligned with the maximum hourly rate for a Senior Practitioner, with a corresponding adjustment to the applicable daily rate for Counsel.
- (d) The Committee considered that the alignment of those rates would simplify the operation of the Determination and more accurately reflect contemporary litigation practice.

DAVID BAYLY SC	Chair of the Committee
CRAIG MCKIE	Deputy Chair
GREG RICKIE	Member
ANNETTE MORGAN	Member
CAROLYN MEIGHAN	Member
ANNE PEACHEY	Member

Schedule

LEGAL PROFESSION UNIFORM LAW APPLICATION ACT 2022

LEGAL PROFESSION (MAGISTRATES COURT) (FAMILY LAW) DETERMINATION 2026

Made by the Legal Costs Committee under section 133 of the *Legal Profession Uniform Law Application Act 2022* (the Act).

1 Citation

This Determination may be cited as the *Legal Profession (Magistrates Court) (Family Law) Determination 2026*.

2 Commencement

This Determination comes into operation on 21 September 2026.

3 Application

This Determination applies to the remuneration of fee earners in respect of advice given by legal practitioners in or for the purposes of family law proceedings before a Magistrate in Western Australia, whether in the Magistrates Court at 150 Terrace Road, Perth or in the Magistrates Court of Western Australia sitting anywhere within the State of Western Australia.

4 No minimum charge

In no respect is this Determination to be seen as providing a minimum charge for any work.

5 Restricted Practitioner category

Clause 5 of the *Legal Profession (Family Court of Western Australia) Determination 2026* applies to this Determination.

6 Increase generally

- (a) The Committee is of the view that increases in the cost of practice over the past several years have justified an increase in the rates in Table A.
- (b) Given the inquiries made by the Committee as set out in clause 3 of the Report, the Committee determined that it was appropriate to include a general increase.
- (c) In making its decision, the Committee is particularly cognisant of the increased costs to law practices occasioned by inflationary pressures, subscriptions for legal resources, investment in technology and cyber security, investments made by law practices in staff skills and initiatives, and increasing costs of regulatory and compliance systems, including integrity obligations affecting sectors of legal services from 1 July 2026.
- (d) The increases in the rates in this Determination are not uniform but have been calculated generally in the range of 14% to 16%, with rounding so that each amount is divisible by 11 in accordance with the long-standing policy of the Committee.

7 Counsel fees

- (a) Fees charged by practitioners who practise solely as barristers in accordance with Supreme Court Practice Direction 10.5 are only to be charged at the rates provided for Counsel or Senior Counsel, as applicable, in Table A.
- (b) Recovery of daily fees for Counsel on the taxation or assessment of a bill of costs is intended to apply only when a full day has been worked, either in Court or in Court and in preparation for a subsequent hearing day.
- (c) The maximum hourly rate for Counsel, other than Senior Counsel, is aligned with the maximum hourly rate for a Senior Practitioner. The applicable rates are set out in Table A.
- (d) Nothing in this clause prevents the Court or taxing officer from disallowing, reducing or otherwise adjusting Counsel fees that are not reasonable in the circumstances.

8 Maximum hourly and daily rates

- (a) The hourly and daily rates set out in Table A are the maximum hourly and daily rates, inclusive of GST, which the Legal Costs Committee determines shall be used to calculate the dollar amounts chargeable by law practices for work undertaken by fee earners in providing advice and services to clients in respect of family law proceedings and potential proceedings before a Magistrate in Western Australia, whether in the Magistrates Court at 150 Terrace Road, Perth or in the Magistrates Court of Western Australia sitting anywhere within the State of Western Australia.
- (b) The rates referred to in paragraph (a) were ascertained in the manner set out in clause 4 of the *Legal Profession (Magistrates Court) (Family Law) Report 2026*.
- (c) The daily rates set out in Table A are intended to cover all work done on a hearing or trial day, whether in or out of Court, including preparation of written submissions, and are not intended to be supplemented by additional hourly charges given that the maximum number of hours allowed for the daily rate is 10 hours per day.

Table A

Fee earner	Rate type	Maximum allowable hourly and daily rates
Senior Practitioner (permitted to practise on his or her own account for 5 years or more) (SP) ¹	hourly rate	\$660
Junior Practitioner (permitted to practise on his or her own account for less than 5 years) (JP) ¹	hourly rate	\$484
Restricted Practitioner (RP) ^{1, 2}	hourly rate	\$407
Clerk/Paralegal (C/PL) ³	hourly rate	\$308
Counsel fees charged as a disbursement to practitioners or charged by in-house Counsel:		
Counsel (C) ⁴	hourly rate	\$660
	daily rate	\$6,600
Senior Counsel (SC) ⁵	hourly rate	\$902
	daily rate	\$9,020

Notes—

1. The reference to Restricted Practitioner, Junior Practitioner or Senior Practitioner in this Determination includes all legal practitioners even if the services were rendered in another State or Territory. Where a local practitioner has held an interstate practising certificate, the length of unrestricted legal practice in that other jurisdiction is to be counted in assessing that practitioner's years of practice for the purposes of this Determination.
2. The reference to Restricted Practitioner in this Determination includes practitioners undertaking restricted legal practice for the purposes of obtaining the required experience set out in the Act and does not include a reference to an Australian legal practitioner who has a condition placed on their practising certificate by the Legal Practice Board, State Administrative Tribunal or otherwise, requiring them to practise under supervision for disciplinary, medical, or other reasons.
3. The reference to Clerk/Paralegal in this Determination includes a law graduate prior to their admission to practise as an Australian lawyer.
4. The reference to Counsel in this Determination means a practitioner acting as a barrister other than a Senior Counsel.
5. The reference to Senior Counsel in this Determination means a person within the meaning of item 5 or item 6 of rule 9 of the *Legal Profession Uniform General Rules 2015 (WA)*.

9 Disbursements

In addition to the fees and charges allowed under this Determination as between a law practice and client, a law practice may charge and be allowed disbursements incurred except insofar as they are of an unreasonable amount or have been unreasonably incurred, so that subject to the above exceptions, the law practice is fully reimbursed for its disbursements.

10 Travel

- (a) For the purposes of this Determination, minor travel means incidental travel associated with attendance at court for a hearing where that travel is of a minor duration. Examples of minor travel include, but are not limited to—
 - (1) a practitioner walking from their usual place of business to a court;
 - (2) a practitioner walking from a carpark to a court; or
 - (3) a practitioner walking or taking public transport from one centrally located court to another centrally located court.
- (b) As between a law practice and its own client, time spent travelling by a law practice, other than minor travel, is to be charged at no more than one half of the rates set out in Table A, with a maximum of 8 hours in any one day.
- (c) In making its decision in this Determination, the Committee has taken note of the Law Society of Western Australia's Standard Costs Agreement, which contains a provision that a law practice will charge travel at 50% of the agreed hourly rates.
- (d) The Legal Costs Committee has also considered an informal policy of the former Legal Profession Complaints Committee that travel should not ordinarily be charged at a rate of more than 50% of a law practice's normal hourly charge-out rate.
- (e) Whilst the Legal Costs Committee recognises that during a travel period a law practice may not necessarily utilise legal skill and knowledge, there is recognition of a loss of opportunity for the time spent travelling.
- (f) The Legal Costs Committee notes that, having regard to the above—
 - (1) it is the responsibility of a law practice to allocate the cost of time spent on travel fairly and reasonably where the travel is necessary to service more than one client on the day of travel; and
 - (2) whilst nothing contained in this Determination prevents a law practice from charging time spent on a client matter or client matters in the course of travel (air travel by way of example), the law practice is not entitled to charge a client or clients for both the time spent on a client matter (regardless of whether that time relates to the client for whom the travel is being undertaken) and the amount allowed for travel under this Determination.

11 Costs

Unless a law practice has made a written agreement as to costs with a client under the provisions of section 180 of the *Legal Profession Uniform Law (WA)*, the costs of or in relation to a party to a family law proceeding (inclusive of GST and Counsel fees but exclusive of other disbursements) in the Magistrates Court of Western Australia, whether in the Magistrates Court at 150 Terrace Road, Perth or sitting anywhere within the State of Western Australia, are payable by a party to that party's own law practice and must not exceed an amount calculated at the hourly rates in Table A.

Made by the Legal Costs Committee on 31 August 2026.
