

Fees for Commonwealth law matters effective on and from 1 August 2006

Civil Matters – Practitioner Fees

- 1 Local Court and Other Tribunals - Practitioner Fees
- 2 All Courts (except Local and Family Courts) and Nominated Tribunals – Practitioner Fees
- 3 Veterans Matters – Practitioner Fees
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Fee Scales

1. Local Court and Other Tribunals - Practitioner Fees

Scale of fees for work done on or after 1 August 2006 Commonwealth matters.

Local Court and other Tribunals

Other tribunals are all tribunals **except** the Commercial Division of the Consumer, Trader and Tenancy Tribunal, the Administrative Appeals Tribunal, the Equal Opportunity Division of the Administrative Decisions Tribunal, and the Human Rights and Equal Opportunity Commission.

"Legal Practitioners" includes solicitors and counsel whether practising in NSW or interstate.

Legal Practitioners (and their authorised agents) will be paid 80% of the amount assessed under the appropriate rates for professional costs and 100% of allowed disbursements. These rates include an allowance for skill, care and responsibility and no additional allowance will be permitted.

Senior counsel will be allowed 150% (payable at 80%) of the appropriate rate unless otherwise agreed with the Commission prior to the work being undertaken.

The fee rates provide for Hourly Rates and for Itemised Rates (which are derived from the hourly rates).

- When advising a client of the estimated cost of the proceedings under the Legal Profession Act, legal practitioners should have regard to the hourly rates.
- At the conclusion of the matter a legal practitioner may choose to submit an account in accordance with either the hourly rate or itemised rate (which is derived from the hourly rate).

Advice from Counsel

A lump sum amount of \$562.50 payable at 80% (\$450) is paid to counsel for a written advice. Senior counsel is paid at 150% (payable at 80%).

Hourly Rates

There are two rates based on the following hourly rates:

1. **\$180.00 per hour** (or \$200.00 per hour where time is spent in a hearing as an advocate). This rate applies:

- (a) where costs are awarded in favour of the legally assisted person; or
- (b) where there is a component for costs included in the successful settlement.

2. **\$115.00 per hour** (or \$143.00 per hour where time is spent in a hearing as an advocate). This rate applies:

- (a) in a jurisdiction where costs are not awarded;
- (b) where proceedings are discontinued (except where costs are agreed to be paid in favour of the legally assisted person);
- (c) where costs are not awarded in favour of the legally assisted person;
- (d) where the matter is concluded unsuccessfully;
- (e) where there is no component for costs included in the successful settlement;
- (f) where the solicitor's retainer is terminated prior to the conclusion of the proceedings and the solicitor requires payment of costs by the Commission prior to releasing the file;
- (g) where costs are awarded in favour of the legally assisted person but are not able to be recovered from the party ordered to pay those costs; or
- (h) where payment of interim accounts is requested by the practitioner.

Work done by a clerk may be claimed as one-third of the practitioner's rate.

Civil law fee rates - Local Court and other Tribunals
Itemised rates - Work done on or after 1 August 2006

Column A should be used where the hourly rate of \$115.00 per hour is appropriate.
 Column B should be used where the hourly rate of \$180.00 per hour is appropriate.

ITEM Note: 1 folio= 1 00 words	COLUMN A (based on \$115/hr) \$	COLUMN B (based on \$180/hr) \$
1. DRAWING		
(a) Court document (being any document filed in Court), not including standard or pre-printed material	per folio \$14.00	per folio \$20.00
(b) Other documents (including party/party bill of costs) not including standard or pre-printed material	per folio \$11.00	per folio \$18.00
2. TYPING AND CHECKING		
Any document, not including standard or preprinted material	per folio \$3.00	per folio \$6.00
3. LETTERS		
(a) Short letter including a formal acknowledgment, making appointments, forwarding documents without comment	\$14.00	\$20.00
(b) Ordinary letter - including letters between principal and agent	\$21.00	\$32.00
(c) Circular letter - being identical (except for addressee details) with any other letter	\$5.00	\$10.00
(d) Special letter or letter containing opinion and including letters of substance between principal and agent	per folio \$11.00	per folio \$18.00
4. PERUSING AND SCANNING		
(a) Perusing	per folio \$3.00	per folio \$6.00
(b) Scanning where perusing is not necessary but it is necessary to scan a document <i>Note: Costs allowed for perusing and scanning are discretionary where an amount in excess of 10 pages is claimed and may be considered on a time basis</i>	per page \$2.00	per page \$4.00
5. ATTENDANCES		
(a) An attendance by telephone which does not involve the exercise of skill or legal knowledge	\$14.00	\$20.00
(b) Time reasonably spent by a legal practitioner including travelling and waiting time, telephone attendances requiring skill or legal knowledge, attendances in person on client or witnesses, in Court instructing another legal practitioner or attending at a call-over, directions hearing, mention or adjournment	per hour \$115.00	per hour \$180.00
(c) Time reasonably spent by a legal practitioner attending Court as an Advocate on the hearing of any application, motion or trial but not including attendance at any call-over, directions hearing, mention or adjournment	per hour \$143.00	per hour \$200.00
(d) Time reasonably spent by a clerk on work other than work referred to in items 104 and 5(a) above	per hour \$38.00	per hour \$60.00
6. PHOTOCOPYING		

Photocopies, carbon or other copy of a document and facsimile transmissions will be allowed as a disbursement <i>Note: Fees for work done on or after 25 September 1996 *</i>	per page \$0.25*	per page \$1.00
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Fee Scales**2. All Courts (except Local and Family Courts) and Nominated Tribunals - Practitioner Fees**

Scale of fees for work done on or after 1 August 2006 in Commonwealth matters.

All Courts (except Local and Family Court) and Nominated Tribunals

Nominated Tribunals are the Commercial Division of the Consumer, Trader and Tenancy Tribunal, the Equal Opportunity Division of the Administrative Decisions Tribunal and the Human Rights and Equal Opportunity Commission.

"Legal Practitioners" includes solicitors and counsel whether practising in NSW or interstate.

Legal Practitioners (and their authorised agents) will be paid 80% of the amount assessed pursuant to the appropriate rates for professional costs and 100% of allowed disbursements. These rates include an allowance for skill, care and responsibility and no additional allowance will be permitted.

Senior counsel will be allowed 150% (payable at 80%) of the appropriate rate unless otherwise agreed with the Commission prior to the work being undertaken.

The fee rates provide for **HOURLY RATES** and for **ITEMISED RATES** (which are derived from the hourly rates).

- When advising a client of the estimated cost of the proceedings under the Legal Profession Act, legal practitioners should have regard to the hourly rates.
- At the conclusion of the matter a solicitor may choose to submit an account in accordance with either the hourly rate or itemised rate.

Advice from Counsel

A lump sum amount of \$562.50 payable at 80% (\$450) is paid to counsel for a written advice. Senior counsel is paid at 150% (payable at 80%).

Hourly Rates

There are two rates based on the following hourly rates:

1. **\$200.00 per hour** (or \$220.00 per hour where time is spent in a hearing as an advocate). This rate applies -
 - i. where costs are awarded in favour of the legally assisted person; or
 - ii. where there is a component for costs included in the successful settlement.

2. **\$132.00 per hour** (or \$165.00 per hour where time is spent in a hearing as an advocate). This rate applies -
 - i. in a jurisdiction where costs are not awarded;
 - ii. where proceedings are discontinued (except where costs are agreed to be paid in favour of the legally assisted person);
 - iii. where costs are not awarded in favour of the legally assisted person;
 - iv. where the matter is concluded unsuccessfully;
 - v. where there is no component for costs included in the successful settlement;
 - vi. where the solicitor's retainer is terminated prior to the conclusion of the proceedings and the solicitor requires payment of costs by the Commission prior to releasing the file;
 - vii. where costs are awarded in favour of the legally assisted person but are not able to be recovered from the party ordered to pay those costs; or
 - viii. where payment of interim accounts is requested by the practitioner.

Work done by a clerk may be claimed at one-third of the practitioner's rate.

Civil law fee rates - All Courts (except Local and Family Court) and Nominated Tribunals

Itemised rates - Work done on or after 1 August 2006

Column A should be used where the hourly rate of \$132.00 per hour is appropriate.

Column B should be used where the hourly rate of \$200.00 per hour is appropriate.

ITEM Note: 1 folio= 1 00 words	COLUMN A (based on \$132/hr) \$	COLUMN B (based on \$200/hr) \$
1. DRAWING		
(a) Court document (being any document filed in Court), not including standard or pre-printed material	per folio \$16.00	per folio \$25.00
(b) Other documents (including party/party bill of costs) not including standard or pre-printed material	per folio \$13.00	per folio \$20.00
2. TYPING AND CHECKING		
Any document, not including standard or preprinted material	per folio \$4.00	per folio \$7.00
3. LETTERS		
(a) Short letter including a formal acknowledgment, making appointments, forwarding documents without comment	\$16.00	\$22.00
(b) Ordinary letter - including letters between principal and agent	\$24.00	\$36.00
(c) Circular letter - being identical (except for addressee details) with any other letter	\$6.00	\$12.00
(d) Special letter or letter containing opinion and including letters of substance between principal and agent	per folio \$13.00	per folio \$20.00
4. PERUSING AND SCANNING		
(a) Perusing	per folio \$4.00	per folio \$7.00
(b) Scanning where perusing is not necessary but it is necessary to scan a document <i>Note: Costs allowed for perusing and scanning are discretionary where an amount in excess of 10 pages is claimed and may be considered on a time basis</i>	per page \$3.00	per page \$5.00
5. ATTENDANCES		
(a) An attendance by telephone which does not involve the exercise of skill or legal knowledge	\$16.00	\$22.00
(b) Time reasonably spent by a legal practitioner including travelling and waiting time, telephone attendances requiring skill or legal knowledge, attendances in person on client or witnesses, in Court instructing another legal practitioner or attending at a call-over, directions hearing, mention or adjournment	per hour \$132.00	per hour \$200.00
(c) Time reasonably spent by a legal practitioner attending Court as an Advocate on the hearing of any application, motion or trial but not including attendance at any call-over, directions hearing, mention or adjournment	per hour \$165.00	per hour \$220.00
(d) Time reasonably spent by a clerk on work other than work referred to in items 104 and 5(a) above	per hour \$44.00	per hour \$70.00
6. PHOTOCOPYING		
Photocopies, carbon or other copy of a document and facsimile transmissions will be allowed as a disbursement	per page \$0.25	per page \$1.00

Fee Scales**3. Veterans matters - Practitioner Fees****Scale of fees for grants of legal aid made from 1 August 2006****1. Scale of Fees for work in relation to**

(a) appeals from decisions of the Veterans Review Board in respect to war-caused disability pension entitlements or assessment claims under Part II of the *Veterans' Entitlements Act 1986 (Cth)*, and

(b) appeals from decisions of the Veterans' Review Board about claims under the *Military Rehabilitation and Compensation Act 2004 (Cth)* that relate to warlike or non-warlike service, in regard to:

- (i) acceptance of liability**
- (ii) rehabilitation programs**
- (iii) permanent impairment**
- (iv) incapacity payments for former members**
- (v) special rate disability pension, and/or**
- (vi) dependants' benefits.**

Unless the Commission determines the matter to be complex, funding will be granted as follows:

- | | |
|----------------|---|
| Stage 1 | A maximum of 10 hours for work up to and including the second preliminary conference (including all attempts to settle the matter). |
| Stage 2 | A maximum of 12 hours work for the hearing (including all preparation and either the costs of a solicitor or the fees of a barrister for appearing at the hearing). |

"Legal practitioners" includes solicitors and counsel.

Legal practitioners shall be paid at the rate of \$130.00 per hour except where advocacy work is undertaken when the rate shall be \$160.00 per hour.

Legal practitioners may incur disbursements of up to \$2,500.00 including a maximum of two medical reports, and witness expenses on hearing.

Funding at each stage is subject to merit assessment and compliance with the Commonwealth's Checklist for Administration of War Veterans' matters and the Administrative Appeal Tribunal's General Practice Direction.

Where the Commission determines a matter to be complex, appropriate lump sum fees will be negotiated with the legal practitioner.

Work undertaken by clerks will be paid at one - third of the legal practitioner rate.

All claims for disbursements will be assessed by the Commission as to their reasonableness before payment.

Payment of costs and disbursements are subject to funds being available and therefore paid at the discretion of the Commission.

2. Scale of fees for work in relation to appeals from the Administrative Appeals Tribunal to the Federal Court, Federal Magistrates Service or the High Court in War Veterans Matters.

"Legal practitioners" includes solicitors and counsel.

Legal practitioners will be paid the following rates for professional costs:

a) **\$200.00 per hour** or **\$220.00 per hour** where time is spent in hearing as an advocate (payable at 80%).

This rate applies where costs are awarded in favour of the legally assisted person or where there is a component for costs included in the successful settlement.

b) **\$150.00 per hour** or **\$187.50 per hour** where time is spent in hearing as an advocate (payable at 80%).

This rate applies where:

- i) proceedings are discontinued (except where costs are agreed to be paid in favour of the legally assisted person);
- ii) costs are not awarded in favour of the legally assisted person;
- iii) the matter is concluded unsuccessfully;
- iv) there is no component for costs included in the successful settlement;
- v) the legal practitioner's retainer is terminated prior to the conclusion of the proceedings and the legal practitioner requires payment of costs prior to releasing the file;
- vi) costs are awarded in favour of the legally assisted person but are not able to be recovered by the party ordered to pay those costs; or
- vii) payment of interim accounts is requested by the legal practitioner.

Advice from Counsel

A lump sum amount of \$562.50 payable at 80% (\$450) is paid to counsel for a written advice.

Senior Counsel will be paid at 150% (payable at 80%) of the appropriate rate.

Work undertaken by clerks will be paid at one - third of the legal practitioner rate.

All claims for disbursements will be assessed by the Commission as to their reasonableness before payment.

Payment of costs and disbursements are subject to funds being available and therefore paid at the discretion of the Commission.

4. Travel Entitlements

Travel Entitlements in Commonwealth Case and Duty Matters

Travel Allowance

- A travel allowance is paid if the total return distance travelled from the legal practitioner's office to court exceeds 70 kilometres, and the practitioner is travelling to a court located outside the Sydney metropolitan area.
- The Sydney metropolitan area includes all courts within the area bounded by:
 - Hornsby;
 - Penrith;
 - Campbelltown; and
 - Sutherland.
- Unless there are exceptional circumstances, the travel allowance will not be approved where the matter could be assigned to:
 - a practitioner located within 35kms of the court; or
 - a practitioner who is significantly closer to the court; or
 - a practitioner who has other matters at the court on the same day.
- Prior approval to claim the travel allowance must be obtained from the Commission.
- If travel allowance is being claimed, approval should be sought in the original application.
- Travel allowance cannot be claimed more than once per day to the same court, regardless of the number of legal aid applicants being represented at that court.
- A local agent or the duty solicitor – where there is no conflict precluding them from appearing – should be asked to appear for appropriate court attendances, e.g. mentions.
- Where approved, travel expenses will be paid at the correct rate per kilometre, or where appropriate, a return economy airfare (whichever is the cheaper).

Allowance for Commonwealth Defended Local Court and Children's Court criminal law case matters

A lump sum of \$100 for travel time is paid in addition to the travel allowance of \$0.50 per kilometre. The lump sum payment may only be claimed once per day on which travel allowance is payable.

Allowance for Commonwealth Local Court and Children's Court criminal law duty matters

A lump sum of \$100 for travel time is paid in addition to the travel allowance of \$0.60 per kilometre. The lump sum payment may only be claimed once per day on which travel allowance is payable.

Allowance for Commonwealth case matters in

- **criminal law - Local Court (committal matters) District Court and Supreme Court,**
- **family law and**
- **civil law matters**

A travel allowance is paid at \$0.35 per kilometre.

Accommodation

Where approved, accommodation expenses (including sustenance) will be paid as incurred to the maximum rates determined by the Public Employment Office of the NSW government.

Frequently Asked Questions

Is travel allowance available for appeals?

Yes, provided the criteria for the travel allowance is met and prior approval is obtained.

If travel allowance is approved for a criminal trial, is an allowance paid for accommodation and meals?

Yes. Actual expenses for meals and accommodation may be payable for each 24 hour period at rates determined by the Public Employment Office of the NSW government. If an accommodation and sustenance allowance is approved, the applicable rate will be provided to you at the time of the grant. All receipts must be provided and actual expenses only may be recovered. Claims for amounts above the rate will not be paid.

My client has asked me to appear for him at a court that is more than 35kms from my office. My client insists that I appear and is unwilling to accept another solicitor. Is the travel allowance available?

Generally a travel allowance will not be approved where a practitioner located within 35 km of the court is available to appear for the client. In exceptional circumstances travel may be approved, eg. where the client is a child, or has a disability, and the Commission agrees that continuity of representation is in the interests of the client.

Is travel allowance payable for views?

Yes, however, prior approval for the view must be obtained from the Commission and will be limited to views conducted outside the Sydney metropolitan area. Where the distance travelled exceeds a round trip of 70km, the travel allowance for a view may be approved or an appropriate fee negotiated.

Should I engage an agent for mentions?

Yes, in appropriate cases, e.g. mentions, a practitioner located close to the Court can be engaged as an agent. This could include the duty solicitor where there is no conflict.

How do I calculate the driving/road distance between destinations?

The website <http://www.travelmate.com.au> may assist in calculating distance between destinations.