

Taking control of your legal costs

A Best Wilson Buckley Guide

YOUR LEGAL COSTS: A Best Wilson Buckley Guide

At Best Wilson Buckley Family Law we pride ourselves on assisting our clients to make informed decisions, and particularly so in relation to minimising legal fees.

Controlling your legal costs

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Important Notice

This publication contains general legal information only and is not a complete statement of the law. You should obtain specific advice about your own circumstances and not rely upon this publication until you have done so. Each family law matter is determined and decided on its own specific facts and circumstances.

Best Wilson Buckley Family Law Pty Ltd will not accept any liability or responsibility for loss occurring (including negligence) as a result of any person or entity acting or refraining from acting in reliance on any material contained in this publication.

If you have a legal issue you should always consult your lawyer for advice which is based on your particular situation.

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Taking control of your Legal Costs

It is imperative that we provide you with the highest quality legal representation and advice. As you would appreciate, this takes time and commitment to your matter. That said, there are ways in which you can assist to control the costs that you incur. These include by assisting to complete various tasks, but also in your general approach to your matter and your communication with your solicitor. Specifically, we recommend that:

- » you take time to consider our advices, and think seriously about disregarding our advice and recommendations before doing so. If it would assist for your solicitor to reduce our advices to writing, to enable you to spend time considering same, we would welcome the opportunity to do so. Your legal costs may be increased by repeated discussions with your solicitor in relation to the same advice or issues.
- » you contact our skilled and attentive support staff should you have a query which they are capable of responding to. Obviously, as your solicitors, we pride ourselves on being available to you as and when required, but it will cost less to resolve a query with one of our support staff than with a member of our professional staff. Our paralegals and support staff will escalate your enquiry to your solicitor should it be appropriate to do so.

Our Team approach

Each of our Partners works closely with a team of highly capable solicitors. Each of our solicitors specialises in family law, and charge in accordance with their seniority and experience.

With your authority, and where appropriate, work can be delegated to one of our more junior professional staff members in order to minimise your fees. All work remains supervised by a Partner of Best Wilson Buckley Family Law, but our aim is to ensure that you receive the most value for your money.

Providing us with initial information

We have developed specific questionnaires that are directed to allowing you to provide us with your own instructions in relation to the preparation of affidavits and binding financial agreements.

We will raise with you the prospect of you completing these documents to provide us with sufficient information to prepare your matter. If you are able to complete these documents online or in Microsoft Word format and email these documents to us, we will be able to utilise them.

Using Email

Where appropriate, we encourage you to use email. It is an efficient means of communication, and our solicitors have access to your email correspondence whilst in Court and otherwise working out of office. Your instructions can be clearly set out in email correspondence, and this can reduce the expense of communications.



Discussing your costs issues

It is our view that your interests, and our own, are best ensured by open and honest communication in relation to your legal fees and your capacity to pay for the services that we provide.

There is no charge for any discussion in relation to legal fees. We do require you to read and consider the content of our client relationships and costs agreement carefully and raise any concerns about any costs issues as soon as possible.

Should you encounter difficulty in making payment within trading terms (14 days from date of invoice), then we encourage you to contact either your solicitor or our Accounts Team without delay.

Please note that other than in exceptional circumstances, we are required to cease work in relation to your matter should your account fall into arrears.

Billing and payment terms

We think it is important that you are aware of how much your legal fees are at any given point in time and for that reason we issue regular invoices, generally monthly.

These accounts will be sent to you by way of email if you have agreed to receiving correspondence by email in your initial contact with our office and in your client relationship and costs agreement.

Our payment terms are 14 days from the date of invoice.

Payment options

There are a number of options available to you in paying your regular invoices:

1. Application of funds held in trust on your behalf, deposited as a retainer and/or by way of regular top-up requests, this is our preference;
2. Positive Pay Program, involving regular deposits to our trust account to develop a positive trust balance that can be applied to future professional fees, costs and outlays;
3. Deposit to our account by way of EFT or direct deposit;
4. Cash, EFTPOS and credit card payments in our offices, noting that credit card payments incur a small fee of 0.4%;
5. Credit card payments through our online facility, available here: <https://bwbfamilylaw.com.au/pay-your-fees/>;
6. Cheque payments sent by way of post to our offices; and
7. Entering into our deferred fee payment program.



Disbursements and other expenses

While we can be quite flexible with regard to your fees with our firm we do require that you pay in advance for any disbursements required in your matter such as Court filing fees, and fees for other experts such as mediators, barristers and valuers. These funds will be held in our trust account and disbursed to third parties with your authority.

What are my options in funding my legal costs?

There are a number of sources that you might wish to consider in terms of funding your legal costs. These might including:

1. Obtaining a personal loan through a financial institution;
2. Borrowing funds from friends or family members;
3. Obtaining a family law funding arrangement through a litigation lender; or
4. Making an arrangement with us to defer the payment of your legal costs under our Deferred Fee Payment Program.

Legal Costs

Obviously, the sources mentioned above are only suggestions. We advise you that you should obtain independent financial advice about your ability to use various types of credit facilities. We are not able to give you financial advice and suggest that you obtain advice from your accountant or a licensed financial planner.

Family Law Funding through litigation lenders

Credit providers known as "litigation lenders" offer family Law Funding Arrangements. These arrangements generally provide for you to obtain an advance to cover the payment of legal fees and to repay that advance when your family law matter is resolved.

Generally, a litigation lender will require details about your assets, liabilities and predicted property settlement entitlements to assess whether you may qualify for a family law funding arrangement. You will be required to provide details of your financial circumstances and most litigation lenders will require you to provide some type of security for the repayment of the loan.

As litigation funding is generally considered to be "mezzanine lending", interest rates tend to be higher than what you might be able to obtain from a bank or other financial institution. However, most litigation funders do not require you to make monthly interest repayments. The interest rate can vary but in our experience is generally around 18.5%. There are fees and charges that you will also incur in making the application.

We can assist you in making an application to obtain litigation funding. However, we do not recommend or endorse any particular litigation lenders. Again you should obtain your own independent financial advice about such products before making a decision to apply.

Deferred Fee Payment Program

Best Wilson Buckley Family Law can in some limited circumstances offer the ability to defer the payment of legal fees in respect of property settlement matters.

We do not offer to defer the payment of legal fees in parenting matters.

The Deferred Fee Payment Program recognises that some clients may have difficulties in meeting the costs associated with negotiating or litigation of a property settlement matter, particularly if one party has control of or the ability to restrict access to matrimonial property or funds.

The Deferred Fee Payment Program is offered at the sole discretion of the Partners of the firm and to approved clients.

How does the Deferred Fee Payment Program work?

You should speak to the Partner responsible for your file about whether they are willing to enter into a payment plan or deferred fee program with you.

Generally speaking, if approved by the Partners, you will not be required to pay the costs of our involvement until finalisation of your matter. However, there are some legal costs that you may need to fund during your matter including:

- » Disbursements of more than \$250;
- » Filing fees;
- » Barrister's fees; or
- » Certain Court fees when a matter is allocated a final hearing.

An uplift fee is applied to the normal charge out rates under our costs agreement of 15%.

On a monthly basis, you will be provided with an account, payable at the conclusion of your matter to keep you up to date in terms of the legal costs that are being incurred.

At any time during the conduct of your matter, you may elect to pay out the value of your account and convert your matter to a standard payment arrangement.

If you choose to terminate your instructions and seek to obtain other legal representation, you will continue to be liable for those fees and we will have the right to exercise a lien over your file, documents and any funds that may be held in our Law Practice Trust Account until arrangements have been made pay the outstanding liability (including the uplift fee applied).

We may also ask you to provide security for the payment of our fees and we can discuss with you what maybe considered as appropriate security or guarantees.

Generally speaking, we will require any property settlement entitlements that you may receive either by way of a Court Order or a negotiated settlement to be paid to our Law Practice Trust Account in the first instance. We will retain an amount in our Law Practice Trust Account equivalent to your account value prior to disbursing any funds to you.

We will also require you to affirm that component of our signed agreement relevant to the deferral of fee. You will have any opportunity to obtain independent legal and financial advice about this arrangement including a "cooling off period" of 5 clear business days from the date of acknowledging the terms of the Deferred Fee Payment program by signing and returning our letter of offer to you.

Our priority is an optimal outcome for you, therefore we are happy to discuss tailoring our fee structure your needs and circumstances.

Building a Positive Trust Balance

We understand that it can be difficult to make a lump sum payment to our trust account towards anticipated costs and disbursements. To assist with this we invite you to enter into our Positive Pay program to build a positive trust balance through smaller regular deposits. These amounts can then be used to offset your regular accounts with our firm.

This can be established as either a recurring deposit from your account to our Trust Account or by way of a direct debit from your account that is administered by us. The frequency of the payments is entirely up to you to fit with your pay cycle and other commitments, we only suggest that the monthly total is suitable in comparison to the amount of work being undertaken in your matter at the time.

Ask your Solicitor or Accounts Team about this option and if it is right for you.

Terms used in our accounts

We seek to use everyday language in our accounts wherever possible. This glossary of terms is an indication of common words and phrases used in the legal sector for the purpose of translating those terms we use that you may not be familiar with.

Attendance

Any time spent engaged with someone or in some location whether physically, via electronic means or on the telephone.

Drawing

The intellectual process of drafting a document, letter, clause or other written communication. It may involve drafting and redrafting until the finished written product is suitable for publication to the intended recipient.

Engrossing

The process of physically producing text which can be published to its intended recipient whether by email, letter or in the form of court documents.

Instructing

Where we, on your behalf, engage a third party expert, counsel or other person to provide services to us on your behalf and in relation to your matter we are said to instruct those third parties to provide those services and provide them with instructions so as to be able to provide those services.

Perusal

As opposed to scanning or skimming perusal refers to close, careful, detailed and considered reading of a document or correspondence. As a general proposition all text which is sent to us is perused on the first occasion it is read.

Producing

This term captures all the activities encompassed by both drawing and engrossing and should be read to mean a combination of the two activities.

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