

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

Item	Description	Time	Fee earner	\$
	(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
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

Item	Description	Time	Fee earner	\$
13.	Preparation of case			
	Preparation for trial, including work reasonably and necessarily undertaken prior to commencement of proceedings	50 hours	SP	28,050
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
	(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

Item	Description	Time	Fee earner	\$
	(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.				
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.			

Item	Description	Time	Fee earner	\$
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.			

Made by the Legal Costs Committee on 31 August 2026.