

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:

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 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.