

# Commonwealth Legal Financial Assistance Schemes

## Assessment of Costs

### July 2012

#### 1. *Introduction*

- 1.1 This document applies to the assessment of costs relating to all Commonwealth Legal Financial Assistance grants, with the exception of:
- legal and associated expenses incurred outside of Australia;
  - reimbursement of cost certificates issued by a Court under the *Federal Proceedings (Costs) Act 1981*; and
  - grants of funding made pursuant to section 213A of the *Native Title Act 1993*, before 1 January 2013.
- 1.2 This document is used to determine whether costs claimed under grants of financial assistance are reasonable. Regard is also given to the terms and conditions that apply to each individual grant of assistance, and the provisions of the applicable guidelines.

#### 2. *Solicitor fees*

- 2.1 Solicitor fees are payable at an hourly rate of \$290, inclusive of GST, to be billed in six minute units.
- 2.2 The solicitor hourly attendance rate of \$290 is inclusive of the following:
- 2.2.1 attendances that require the skill of a lawyer (including attendances in conference, by telephone, on counsel, appearing in court and instructing in court);
- 2.2.2 reading documents whether in printed form or otherwise (including letters, emails, text messages and instant messaging); and
- 2.2.3 preparation of documents, which includes letters, emails, text messages and instant messaging. The solicitor charge for preparing a document is inclusive of typing, printing, posting, faxing and emailing, and any other administrative task relating to the preparation or transmission of that document.
- 2.2.4 Assistance for an attendance for preparation of a file note, memoranda or report may only be claimed where the document is forwarded by way of a report to a client.
- 2.3 No uplift for care, skill and responsibility is payable.

#### 3. *Counsel fees*

- 3.1 Counsel fees are payable in accordance with the rates specified for payment of junior and senior counsel.
- 3.2 Junior counsel fees are payable at an hourly rate of \$330, inclusive of GST, or \$2,640, inclusive of GST, per day.
- 3.3 Senior counsel fees are payable at an hourly rate of \$450, inclusive of GST, or \$3,600, inclusive of GST, per day.

#### **4. *Paralegals and Articled Clerks***

- 4.1 Paralegals and articled clerks are payable at an hourly rate of \$66, inclusive of GST, to be billed in six minute units.

#### **5. *Daily Cap and Combined Daily Cap***

- 5.1 A daily cap of eight hours applies to all professional fees. The daily cap also applies where solicitors or counsel apportion costs across multiple matters funded by the Attorney-General's Department.
- 5.2 A combined daily cap of 12 hours applies to travel time and professional fees payable. The combined daily cap is subject to the daily cap of eight hours for professional fees.

#### **6. *Attendances without charge***

- 6.1 Attendances upon the Financial Assistance Section of the Department are not payable.
- 6.2 Attendances to receive, print and file documents (letters, emails, text messages or instant messaging) are not payable.
- 6.3 Attendances to leave telephone messages are not payable.

#### **7. *One solicitor per matter***

- 7.1 In general, one solicitor is to have primary carriage of a matter, unless otherwise specified in the terms and conditions of the grant.

#### **8. *Internal conferencing***

- 8.1 In general, charges for an internal conference or supervision between solicitors or officers within the same firm are not payable, unless otherwise specified in the terms and conditions of the grant.

#### **9. *Reading documents***

- 9.1 When charging for reading documents, the number of pages and a description of the content must be provided.

#### **10. *Research***

- 10.1 Charges for legal research will generally not be payable, unless specified in the terms and conditions of the grant.
- 10.2 Some allowances may be payable for research if it is demonstrated that the research is reasonable and necessary to determine a legal question of some complexity that is not procedural in nature.

#### **11. *Administrative Attendances***

- 11.1 An attendance by a solicitor to undertake a task that is purely 'administrative' in nature (does not require legal skill or knowledge) is payable at the administrative rate of \$27.50, inclusive of GST, per hour to be billed in six minute units.

11.2 The Department, having regard to all the circumstances of a particular case, can determine that a particular attendance could reasonably have been undertaken by an administrative officer, a paralegal or articulated clerk and is to be paid at such rates as provided for in this document.

## **12. Administrative Work**

12.1 Administrative work, or work undertaken by administrative staff is payable at an hourly rate of \$27.50, inclusive of GST.

12.2 Administrative work includes :

- typing
- collation, pagination and indexing
- posting
- sending circular letters
- filing court documents, and
- service of any document.

12.3 General administrative work, including file maintenance/management, attendances to organise meetings or travel, and maintaining databases, will not be payable without the prior written approval from the Department.

12.4 Administrative staff, or a paralegal or an articulated clerk, cannot separately charge for administrative work in relation to solicitor costs in preparing a document, as a charge for preparing a document is inclusive of all administrative tasks (e.g. typing, printing, posting, faxing and emailing) relating to that document.

## **13. Travel**

13.1 Payment for time spent travelling by a solicitor is payable at an hourly rate of \$165, inclusive of GST.

13.2 Payment for travel time and travel costs are not available for travel not exceeding 50kms from the place of business where the solicitor or counsel is based.

13.3 The Department will pay for travel costs involving travel exceeding 50km from the solicitor or counsel's place of business, if it determines that the costs are reasonable and necessary.

13.4 Receipts must be provided in order to obtain reimbursement for any travel costs payable under a grant of financial assistance, including (but not limited to):

- taxi fares;
- car hire;
- parking, and
- airfares.

### *Incidentals*

13.5 Incidentals incurred in the course of travel are not payable by the Department. These costs are considered to be general business expenses.

## **14. Disbursements**

### *Photocopying*

- 14.1 The cost of photocopying is payable as a disbursement at a rate of \$0.275, inclusive of GST, per page, to a maximum of \$250, inclusive of GST, for a six month grant.

### *Printing*

- 14.2 Internal printing costs are not payable as a disbursement in any circumstances.
- 14.3 External printing costs may be payable where these costs are considered reasonable and necessary.

### *Telephone Calls*

- 14.4 Telephone calls are payable at cost and where considered reasonably incurred.

### *Fax and postage*

- 14.5 Fax and postage are payable at cost and where considered reasonably incurred.

### *Other disbursements*

- 14.6 Expert reports and expert witness reports are generally payable to a maximum of \$2,500, per report, inclusive of GST.
- 14.7 A psychiatric report is payable to a maximum of \$3,500, inclusive of GST.
- 14.8 A psychologist report is payable to a maximum of \$2,000, inclusive of GST.
- 14.9 In some instances, a counsel opinion on the merits of a matter may be approved, and if approved is payable to a maximum of \$4,000, inclusive of GST.
- 14.10 Other disbursements, such as fees for service, title and document searches and Freedom of Information requests are payable at cost.
- 14.11 Receipts are required for all disbursements exceeding \$100.

## **15. Travel Disbursements**

### *Airfares*

- 15.1 Only economy flights are payable. Airfares are to be booked at the lowest economical fare.
- 15.2 Receipts and boarding passes are required for payment.

### *Vehicle Mileage*

- 15.3 Vehicle mileage is payable at the rates specified by the Australian Tax Office. Current rates are contained in Schedule 1 of the *Income Tax Assessment Regulations 1997* (Cth).

### *Meals and Accommodation*

- 15.4 An allowance for meals and accommodation is payable in accordance with **Attachment A**.

15.5 To obtain payment, the Department must be provided with times and dates of travel.

15.6 Receipts for accommodation expenses are required for payment.

15.7 Receipts for meal expenses are not required for payment.

**16. Disbursement exemptions**

16.1 The cost of items such as general office overheads (including office equipment), office maintenance, and account keeping fees are not disbursements payable under a grant of financial assistance.

16.2 Court filing fees are not disbursements payable under a grant of financial assistance.

16.3 Anthropological reports are not disbursements payable under a grant of financial assistance.

**17. GST**

17.1 Any accounts rendered to the Department must be in the form of, or accompanied by, a tax invoice to the 'Attorney General's Department' that clearly identifies the GST component of the invoice.

17.2 GST components for each disbursement item and third party invoices must be indicated on the invoice. Where GST has not been incurred on a disbursement or an invoice from a third party (for example for title searches or a transcript) the invoice should set out the disbursement cost plus 10% GST. GST should be remitted to the Australian Taxation Office in the usual way.

**MAXIMUM TRAVEL ALLOWANCE RATES PER DAY****NSW/ACT**

<b>Location</b>	<b>Accommodation</b>	<b>Meals</b>
Canberra	\$165	\$98.40
Sydney	\$172	\$98.40
Newcastle	\$142.50	\$98.40
Wollongong	\$136	\$98.40
Maitland	\$127	\$89.60
Bathurst	\$106	\$89.60
Gosford	\$106	\$89.60
Mudgee	\$127	\$89.60
Tumut	\$106	\$89.60
Wagga Wagga	\$133.50	\$98.40
Other NSW Regional	\$106	\$89.60

**VIC**

<b>Location</b>	<b>Accommodation</b>	<b>Meals</b>
Melbourne	\$171	\$98.40
Ballarat	\$127	\$89.60
Geelong	\$135.50	\$98.40
Castlemaine	\$132.50	\$98.40
Other VIC Regional	\$106	\$89.60

**SA**

<b>Location</b>	<b>Accommodation</b>	<b>Meals</b>
Adelaide	\$140	\$98.40
Port Pirie	\$140	\$98.40
Wilpena-Pound	\$167	\$98.40
Naracoorte	\$106	\$89.60
Other SA Regional	\$106	\$89.60

## QLD

Location	Accommodation	Meals
Brisbane	\$174	\$98.40
Cairns	\$140	\$98.40
Dalby	\$127	\$89.60
Gladstone	\$187	\$98.40
Gold Coast	\$148	\$98.40
Mackay	\$140.50	\$98.40
Mount Isa	\$160	\$98.40
Townsville	\$127	\$89.60
Emerald	\$140.50	\$98.40
Roma	\$106	\$89.60
Other QLD Regional	\$106	\$89.60

## WA

Location	Accommodation	Meals
Perth	\$179	\$98.40
Broome	\$209.50	\$98.40
Bunbury	\$154.50	\$98.40
Carnarvon	\$106	\$89.60
Exmouth	\$255	\$98.40
Geraldton	\$134.50	\$98.40
Halls Creek	\$165	\$98.40
Kalgoorlie	\$158.50	\$98.40
Newman	\$106	\$89.60
Albany	\$106	\$89.60
Esperance	\$106	\$89.60
Other WA Regional	\$106	\$89.60

## NT

Location	Accommodation	Meals
Darwin	Low Season: \$171 High Season: \$198	\$98.40
Yulara	\$243.50	\$98.40
Alice Springs	\$150	\$98.40
Katherine	\$133.50	\$98.40
Tenant Creek	\$106	\$89.60
Other NT Regional	\$106	\$89.60

## TAS

Location	Accommodation	Meals
Hobart	\$132	\$98.40
Launceston	\$127	\$89.60
Other TAS Regional	\$106	\$89.60

## Other

Location	Accommodation	Meals
Norfolk Island	\$106	\$89.60
Other	\$106	\$89.60