

# **Barrister Regulation & Uniform Law update**

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# What you will take away today

## A better understanding of:

- Uniform Law in practice
- Costs disclosure
- Interpreting the Civil Procedure Act – recent case

# Uniform Law - workings

- Uniform Bodies (Commissioner & Legal Services Council)
  - Policy and standard setting responsibilities
- Objectives: promoting interjurisdictional consistency (ss 3, 394, 398, 407-410); but
  - Designated local regulatory authorities responsible in operational domain

# Uniform Law – change of rules

- Co-operation between NSW & Victoria
- No power for Bar to grant dispensation from operation of the conduct rules

# Costs - Uniform Law

- VLSC Dispute Resolution
  - Flexible DR framework for consumer matters (self-resolution, informal, mediation, investigation, determination)
- Costs must be:
  - Fair and reasonable
  - Measured against skill, complexity, urgency, quality and instructions
  - Proportionate and reasonably incurred
  - Proportionate and reasonable in amount

# Costs – Uniform Law

- Costs Disclosure
  - Must disclose basis on which legal costs will be calculated and an estimate of total legal costs
  - Must update as soon as practicable if any significant change
  - Must take all reasonable steps to satisfy yourself that client has understood and given consent to proposed course of action and proposed costs.

# Costs – Uniform Law

- Consultation on Uniform Guidelines/Rules
  - Costs disclosure consultation re guideline on requirement to provide an estimate – timing
  - Proposed anti-voiding rule where non-compliance if reasonable steps to comply and rectify

# Example: Slater + Gordon's disclosure document - Full agreement lists:

- Scope of work
- Basis of charge
- Disbursement funding
- Costs payable on successful outcome
- Other party's legal costs payable by you if claim fails
- Costs payable on termination
- Info about your estimate of legal costs
- Rights created under this agreement
- Acceptance clause and signature space
- Legal costs ...with table of stages

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# Example based on Slater + Gordon's disclosure document:

Stage 4: successful resolution after mediation including one day of hearing (inclusive of stages 1,2 and 3)

Sup Court Scale:	36 - 48
➤ Plus Uplift success fee at 25% of fees chargeable:	9 -12
➤ Plus disbursements:	6 -15
TOTAL legal costs for resolution at this stage:	51 - 75
<b>Uniform Law <u>estimate of total legal costs</u> if case resolves at this stage:</b>	<b>75</b>
Less estimated contribution to fees by other party:	20 - 40
Estimated Out of Pocket amount payable by you:	31 – 35

\*NOTE: Not actual S+G fee ranges

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# CPD activities – Uniform Law

- Legal Profession Uniform CPD (Barristers) Rules 2015
- Categories: Ethics; Practice management and Business skills; Substantive law; Barristers' skill
- Activities must be: intellectual or practical; primarily related to practice of law; conducted by qualified persons; relevant

# Actrol Parts v Coppi

Actrol Parts v. Coppi (no.3) – [2015] VSC 7

Bell J:

- I must draw this to the attention of all parties
- Let not the course of this proceeding ever be repeated
- The court is prepared to exercise its enhanced and new powers, especially where the overarching obligation is contravened

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