



FOGLIANI LAWYERS

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Liability limited by a scheme approved under Professional Standards Legislation

11 August 2022

Lee Waller
Secretary
Ambulance Employees Association of Western
Australia
PO Box 1007
Joondalup 6919

Sent via: info@aeawa.com.au
Enc.: Offer to enter costs agreement

COSTS DISCLOSURE

Disclaimer: This document is not an offer to enter a lawyer/client relationship.

1. The proposed course of action

The Ambulance Employees Association of Western Australia wishes to apply for registration as a registered organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth).

Our job is to assist you with the registration process. This includes:

- Drafting the rules of the new organisation.
- Providing legal advice about the rules of the new organisation.
- Completing the application form for registration.
- Preparation and advocacy at a hearing in relation to the application for registration and rebutting any objections from other registered organisations (if any).

The scope of the retainer does not include providing advice about tax or financial advice.

2. How legal costs are calculated

Professional Fees

Fogliani Lawyers will charge you for the time spent by our lawyers and employees in providing you legal services, and for any expenses (commonly called disbursements) we incur in doing so.

Our charge out rates are as follows:

Position	\$ per 6 minutes	\$ per hour
Principal	\$39.60	\$396
Senior Associate	\$36.30	\$363
Associate	\$33.00	\$330
Restricted Practitioner	\$30.80	\$308
Law Graduate / Paralegal	\$24.20	\$242

We measure our time in 6-minute increments. For every 6 minutes (or part thereof) that our lawyers and employees are working for you, Fogliani Lawyers will charge you the applicable rate from the above table. For example, the time charged for an attendance of up to 6 minutes will be one 6-minute increment and the time charged for an attendance between 6 and 12 minutes will be two 6-minute increments.

The normal types of work that we will charge you for include but are not limited to drafting, reviewing and completing documents, correspondence, advices, conferences, reading materials, research, telephone calls, and appearances including waiting time. Fogliani Lawyers will charge these rates for all time spent working on your matter, regardless of the skill required or complexity of the task.

Travel time

If Fogliani Lawyers' staff are required to travel somewhere (including within the metropolitan area) to perform work for you, we will charge you for the time spent traveling at half (50%) of the rates set out in the above table.

Disbursements

Disbursements are out-of-pocket expenses that the practice incurs while acting as your lawyer. Examples of common disbursements include barrister fees, filing fees, parking fees, flights and accommodation (if remote travel is required), process server fees, postage fees, and printing costs.

Fogliani Lawyers will charge you for any disbursements that it reasonably incurs while acting as your lawyer. You will need to compensate the practice for these out-of-pocket expenses.

If we engage a barrister on your behalf, we will forward you their invoices for payment. You are required to pay those fees to the barrister as and when they become due.

In relation to printing costs, Fogliani Lawyers will charge you at 15 cents per page for all printing and copying costs that it incurs in relation to your matter.

Costs determination

In Western Australia, there is a statutory body called the Legal Costs Committee. The Legal Costs Committee can make costs determinations that regulate lawyers' costs in certain matters.

If you do not enter a costs agreement with Fogliani Lawyers and a costs determination applies to the scope of the work, then Fogliani Lawyers is obliged to charge you by reference to a statutory costs determination in relation to that work.

If a costs determination applies to the work and you enter a costs agreement with us, that will enable us to charge you based on what is contained in our costs agreement

rather than what is in the costs determination. Your legal costs might end up more under a costs agreement than they would under the costs determination. That is because:

- (a) the statutory costs determination:
 - i. limits the number of hours and amounts that can be charged by a law practice for some services;
 - ii. may not permit some work or disbursements to be chargeable at all;
 - iii. applies different hourly rates; and
 - iv. applies different hourly rates and amounts for different services.
- (b) Relevantly, if you accept Fogliani Lawyers' offer then you are agreeing that Fogliani Lawyers can charge:
 - i. at a rate greater than provided for in the costs determination;
 - ii. for the services it provides no matter how long the work takes to complete;
 - iii. for routine work undertaken by a more senior practitioner irrespective of the fact that the work undertaken is complex or not.

It is expected that this will be a non-contentious matter (unless there is some sort of objection). As such, the *Legal Profession (Solicitors Costs) Determination 2021* is relevant to the retainer. A copy can be found here:

<https://www.wa.gov.au/system/files/2022-05/LCC-determination-solicitors-costs-2021.pdf>

3. Estimate of legal costs

On our present instructions, we estimate the cost of the work, inclusive of GST, to be:

Item	Estimate
Professional Fees	\$16,500
Disbursements	\$110
Barrister's Fees	\$0
Total:	\$16,610

Please note that this is an estimate only and not a fixed quote. The total costs may exceed the estimate. While the estimate is based on present information and instructions and our current understanding from you as to what services are required, our costs may exceed the estimate if further information becomes available or circumstances change which affect these matters. In this event we will provide you with a revised estimate as soon as practicable. Where there is a significant change in your matter then as far as possible we will advise the impact of the change on the legal costs.

Some of the variables which may affect and change the costs estimate include:

- (a) the number and duration of telephone calls or other communications;
- (b) your prompt and efficient response to requests for information or instructions;
- (c) whether your instructions are varied;
- (d) whether documents have to be revised in light of varied instructions;
- (e) the lawyer or other persons with whom we deal and the level of co-operation of the lawyer's clients and other persons involved;
- (f) changes in the law; and
- (g) the complexity or uncertainty concerning legal issues affecting your matter.

Our rates are reviewed on a regular basis and may change during the course of a matter. In relation to lengthy matters this may impact upon our cost estimates (which may be revised accordingly). You will be given 30 days' notice in writing of any changes to our charge out rates.

How our estimate compares to the costs determination

Our estimate above is based on the terms of our standard costs agreement. The difference between our estimate under the proposed costs agreement and the costs determination is as follows:

Item	Costs Agreement Estimate	Costs Determination Estimate
Professional Fees	\$16,500	\$16,500
Disbursements	\$110	\$110
Barrister's Fees	\$0	\$0
Total:	\$16,610	\$16,610

If you enter a costs agreement with us, it will have the consequence that we will be able to charge you more than we could under the costs determination.

4. How often you will be billed

Our usual policy is to issue a tax invoice on a monthly basis but we may issue tax invoices on a more frequent basis depending on the nature of the work. All tax invoices are due and payable 30 days from the date of the tax invoice. You consent to us sending our tax invoices to you electronically at your usual email address or mobile phone number as specified by you.

5. Interest on unpaid bills

We do not charge interest on unpaid bills. However, if we need to bring debt recovery proceedings against you in relation to an unpaid bill, the practice reserves its right to ask the court to make an order for prejudgment interest.

6. Estimate of legal costs you could recover if successful

Even if someone objects to your application for registration, there is no prospect of you recovering any of your legal fees through a costs order.

7. Estimate of legal costs you could be liable for if unsuccessful

At this stage, there is no prospect of the Fair Work Commission making an adverse costs order against you.

8. Your rights

It is your right to:

- (a) negotiate a costs agreement with us;
- (b) negotiate the method of billing (e.g. task based or time based);
- (c) receive a bill and to request and receive an itemised bill within 30 days after a lump sum bill or partially itemised bill is payable;
- (d) seek the assistance of the designated local regulatory authority in the event of a dispute about legal costs;
- (e) be notified as soon as is reasonably practicable of any significant change to any matter affecting costs;
- (f) accept or reject any offer we make for an interstate costs law to apply to your matter; and
- (g) notify us that you require an interstate costs law to apply to your matter.

If you request an itemised bill and the total amount of the legal costs specified in it exceeds the amount previously specified in the lump sum bill for the same matter, the additional costs may be recovered by us only if:

- (i) when the lump sum bill is given, we inform you in writing that the total amount of the legal costs specified in any itemised bill may be higher than the amount specified in the lump sum bill, and

- (ii) the costs are determined to be payable after a costs assessment or after a binding determination under section 292 of the Uniform Law.

Nothing in these terms affects your rights under the Australian Consumer Law.

9. Costs agreement and the consequences of making one

A costs agreement is a formal contract between Fogliani Lawyers and you in relation to your legal matter. We will not agree to act for you in this matter until we have entered a written costs agreement.

Before you enter into a costs agreement with me, it is important that you understand that:

- (a) by entering into a costs agreement, your legal fees may be higher than what they would be if we do not enter into a costs agreement;
- (b) if you shop around, there may be other lawyers who would be willing to work for you at a lower cost;
- (c) our hourly rates are not calculated by reference to experience or seniority;
- (d) our hourly rates will not vary according to the task performed, or the level of skill called for (except for travel time);
- (e) a costs agreement will allow me to charge for all time spent on your affairs; and
- (f) if you enter a costs agreement with us, you can apply to the Supreme Court to attempt to have it set aside in certain circumstances.

We cannot give you legal advice about our offer to enter into a costs agreement with you. Fogliani Lawyers recommends that you seek independent legal advice about the terms of any proposed costs agreement before you agree to it.

10. Who you can speak to about legal costs

We understand that legal costs can be an uncomfortable topic to discuss. However, for our lawyer/client relationship to work properly, it is important that you feel empowered to talk to us about your legal costs.

If at any point in time you have a question or concern about legal costs, we encourage you to speak to the principal lawyer about it. You can contact Cory Fogliani directly by phone on 0403 718 713 or email at cory@fogliani.lawyer.

If there is a dispute about legal costs, you have the following avenues of redress:

- (a) In the first instance we encourage you to discuss your concerns with us so that any issue can be identified and we can have the opportunity of resolving the matter promptly and without it adversely impacting on our business relationship.
- (b) You are entitled to contact the designated local regulatory authority and ask for their assistance in resolving the costs dispute.
- (c) You are also entitled to apply to the Supreme Court of Western Australia for an assessment of our costs. This application must be made within 12 months after the bill was provided or request for payment made or after the costs were paid.

11. Law that will govern legal costs

If we enter a lawyer/client relationship, then the law of Western Australia will apply to legal costs in relation to your matter.

12. Confirmation of receipt and understanding

By signing this document, you agree that:

- (a) You have had an opportunity to read through this cost disclosure.

- (b) You have had an opportunity to ask us any questions about our cost disclosure – including to clarify any matters which you do not understand.
- (c) Having read and understood the content of this costs disclosure, you still want to engage Fogliani Lawyers to act for you in this matter.
- (d) You consent to the proposed course of action set out in clause 1 of this costs disclosure.

Date: _____

Full Name: _____

Physical Address: _____

Email Address: _____

Signature: _____