



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: LLP:PWeh:1263795

10 April 2017

The Hon. Mark Speakman, SC MP
Attorney General
GPO Box 5341
Sydney NSW 2000

Dear Attorney ^{Mark} General,

Hearing allocation fees and hearing fees – Civil Procedure Regulation 2012

I am writing to you in relation to hearing allocation fees and hearing fees in the NSW Supreme and District Courts.

Under Schedule 1 of the *Civil Procedure Regulation 2012* (NSW) (“the Regulation”) solicitors are currently jointly and severally liable with their clients for the payment of hearing allocation fees and hearing fees. This is different to other fees in that Schedule, which are payable solely by the party to the proceeding and not their legal representative.

The Law Society has previously raised concerns about the personal liability of solicitors for these costs, which apply in both the District and Supreme Courts. Hearing allocation fees and hearing fees are now significant sums and these provisions place a significant burden on practitioners. They present practical difficulties in terms of securing funds for litigation and weaken the ability of solicitors, especially from small firms, to take on work because of security of costs issues. Certainly, this is the view expressed by many of our members, both from city areas and throughout NSW.

Ultimately, these provisions have the effect of restricting access to justice and run counter to the objective of the NSW civil justice system, being that ‘just, quick and cheap’ dispute resolution should be available for all.

The Law Society recommends that the liability of solicitors for these fees should be removed from the Regulation.

We look forward to hearing from you about this proposal. Please do not hesitate to contact me on (02) 9926 0216 or the Chief Executive Officer, Michael Tidball, on (02) 9926 0215 if you would like to discuss this matter further.

Yours sincerely,

Pauline Wright
President

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