



This information sheet provides guidance about how parties are expected to communicate with each other, with costs assessors and with the costs assessment section.

### Communicating with the Manager and Assessors

Parties communicating with the Manager, Costs Assessment and with Costs Assessors must do so in a professional and courteous manner. Unprofessional and discourteous correspondence is not acceptable.

When a Costs Assessor has completed the determination and issued a certificate, the Assessor’s role is completed, and there should be no further correspondence by parties to the Assessor.

The Manager, Costs Assessment and Costs Assessor are impartial and independent, and it is not their role to provide advice. They cannot and will not provide parties with legal advice. Parties who require legal assistance can contact LawAccess NSW on 1300 888 529, who may be able to assist them.

### Submissions to Costs Assessors

Costs Assessors to whom matters are assigned undertake a preliminary review of the available material and may request parties to provide specified additional material. Costs Assessors will usually communicate with the parties by email, but may request that hard copies of voluminous documents in paper form be provided.

Parties must only provide relevant material, and their submissions must focus on the issues in dispute. Unrequested correspondence, particularly if frequently sent, can unnecessarily and substantially increase the time required by the costs assessor to make their determination, and the cost of the process. Costs Assessors may decline to acknowledge, or consider, such correspondence.

### Schedule

To facilitate the assessment process, a Costs Assessor may request either party to prepare an itemised schedule of the charges claimed in the bill/invoices to be assessed. This will usually be in a spreadsheet format, and will provide for the objections, responses and determination to be inserted. The objecting party can refer to the list of “Common Objections” on the Supreme Court Website.

A typical format for such a Schedule is set out below:

Item No	Description of work	Amount charged	Nature of objection	Amount objected to	Response to objection	Amount allowed	Assessor’s reasons

## **Transparency**

The costs assessment process is private, but must be transparent to the parties.

Parties to a matter who communicate about it with the Manager, Costs Assessment and/or the assigned Costs Assessor, **must** include the other party in all such communications. Correspondence sent in response to a request of the Costs Assessor must confirm that a copy of the response has also been sent to the other party. This is a fundamental aspect of procedural fairness, and also enables all parties to have simultaneous access to the submissions made by the other.

Parties should not attempt to contact the costs assessor by telephone.

## **Certification**

The application forms require the applicant to certify there are no reasonable prospects of settlement of the matter by mediation. It is expected that parties will make a genuine attempt to resolve the costs dispute before they lodge a costs assessment application. This is particularly important for disputes under \$10,000, so as to avoid the costs of the assessment which can be disproportionate to the amount in dispute.

If the costs dispute is between a lawyer or law practice and their client, the NSW Legal Services Commissioner (OLSC) may be able to assist the parties in attempting to resolve the dispute by informal means. If attempted resolution is unsuccessful, the Commissioner has power, in appropriate cases, to make a determination about costs, including a binding determination specifying the amount payable, up to \$10,000. OLSC can be contacted by calling 02 9377 1800 or freecall 1800 242 958 (Australia only).

Date of issue: 17 May 2019