

9 December 2021

Megan Pitt
Chief Executive Officer
Legal Services Council
Commissioner for Uniform Legal Services Regulation
Level 3, 19 O'Connell Street
SYDNEY NSW 2000

By email: lsc@legalservicescouncil.org.au

Dear Ms Pitt

CONDITIONAL COSTS AGREEMENTS

Thank you for your letter dated 10 November 2021.

The Law Society of Western Australia supports the proposal of the Attorney-General of Western Australia for a new Uniform Rule to be made under Section 181 of the Legal Profession Uniform Law, to extend the prohibitions on cost agreements to those matters currently excluded under Section 283(2) of the *Legal Profession Act 2008* (WA).

This proposal will preserve the status quo regarding conditional cost agreements in Western Australia, and it also draws attention to the classes of prohibitions which should apply in other jurisdictions, on the basis that such agreements should not apply to proceedings which characteristically impact upon vulnerable clients and do not provide commercially beneficial remedies.

It is the view of the Law Society that a new Uniform Rule is the best approach to address the proposal, rather than a local regulation here in Western Australia, in order to ensure consistency in the Uniform Law jurisdictions. Without the consistency of a regulation that applies across all Uniform Law jurisdictions, WA practitioners will be prohibited from agreeing conditional costs agreements in these circumstances whereas practitioners from other states will be permitted to offer such an agreement. The result would be these vulnerable applicants may be encouraged to engage practitioners from out of the state and that may increase their vulnerability.

If you have any queries please contact Mary Woodford, General Manager Advocacy and Professional Development on (08) 9324 8646 or mwoodford@lawsocietywa.asn.au

Yours sincerely



David Price
Chief Executive Officer

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