

31 July 2020

Ms Clare Thompson
Legal Costs Committee
Level 12, International House
26 St Georges Terrace
PERTH WA 6000

By email: LCC@justice.wa.gov.au

Dear Ms Thompson

LEGAL PROFESSION (MAGISTRATES COURT) (CIVIL) REPORT AND DETERMINATION 2020

Thank you for your letter dated 18 June 2020 regarding the above Determination.

The Law Society of Western Australia considers that no amendments to the Determination are required as a result of the *Magistrates Court (Civil Proceedings) Amendment Rules 2020* and the *Magistrates Court (Civil Proceedings) Amendment Rules (No 2) 2020*, which relate to restraining orders and the electronic case management system.

In respect to the substantive changes to civil procedure made as a result of the *Magistrates Court Rules Amendment Rules 2020*, the Law Society recommends the following amendments to the Determination:

a) Reply to statement of defence

Rule 12 of the *Magistrates Court (Civil Proceedings) Rules 2005 (Rules)* now provides for the lodgment of a reply to a statement of defence. The Law Society recommends that an item be added to the Determination allowing 2 hours for a reply:

Item	Time	Fee earner	\$
(a) Reply to statement of defence	2 hours	SP	836

b) Preparation of case

Item 13 of the Determination provides an allowance of 50 hours for the preparation of a case for trial. The Law Society considers that, in an ordinary case before the Magistrates Court, 20 hours is an appropriate amount of time. Reducing the allowance to 20 hours may assist in avoiding disproportionate costs in the Magistrates Court. The Law Society recommends that the allowance in item 13 be reduced to 20 hours. A note could be included in the Determination advising that 20 hours will ordinarily be appropriate but a party may apply for a special costs order if it is not.

c) Further particulars

Rule 38 of the Rules now provides for requests for further particulars of a pleading. The Law Society recommends that an item be added to the Determination allowing 1 hour for requesting and giving further particulars:

Item	Time	Fee earner	\$
(a) Requesting particulars of a pleading	1 hour	SP	418
(b) Giving particulars of a pleading	1 hour	SP	418

d) Assessment of costs

Item 21 of the Determination provides an allowance for the assessment of costs including drawing a bill based on a Junior Practitioner's hourly rate. The Law Society considers that a Senior Practitioner should conduct this work and recommends that the allowance in this item should be based on a Senior Practitioner's hourly rate.

If you have any queries or would like to discuss this further, please contact Mary Woodford, General Manager Advocacy, on 9324 8646 or email mwoodford@lawsocietywa.asn.au.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'N' and 'H' followed by a long horizontal line.

Nicholas van Hattem
President