

JOINT COSTS ADVISORY COMMITTEE - TERMS OF REFERENCE

A. General

The Joint Costs Advisory Committee (the Committee) has been established to advise:

- the Justices of the High Court of Australia
- the Judges of the Federal Court of Australia
- the Judges of the Family Court of Australia, and
- the Federal Magistrates of the Federal Magistrates Court

annually on variations in the quantum of costs for legal practitioners (including expenses and fees for witnesses) which may be fixed in the rules for which they are respectively responsible.

B. Composition of the Committee

The Committee is to comprise one member from each of the federal courts and, if the courts consider it appropriate, one other person with relevant expertise nominated (with the person's consent) by the courts.

The judicial head of each federal court will nominate the member from that court (who may be a judicial officer or a court officer).

At least one member of the committee from the federal courts shall be a judicial officer.

The members of the Committee will decide on the chair of the Committee.

Members may be accompanied by advisers.

C. Functions of the Committee

The Committee's functions will be:

- (a) to review and recommend variations in the quantum of costs contained in the rules made by the federal courts, and
- (b) advise on such other matters relating to those costs as may be referred to it by a federal court.

D. Procedures

In undertaking its functions, the Committee must inform itself by having regard to:

- (a) previous decisions of the Federal Costs Advisory Committee (FCAC);
- (b) the FCAC formula as an indicative mechanism to be adjusted according to the available data (including but not exclusive to statistics provided by the Australian Bureau of Statistics);
- (c) written submissions from the Law Council of Australia or any other interested party regarding any circumstances to be taken into account by the Committee in consideration of the application of the FCAC formula;

- (d) reasonable expenses incurred by solicitors in the conduct of their practices;
and
- (e) any other relevant factors.

The Committee may confer with, or seek assistance from, any person or body.

The Committee may meet face to face or may meet using such technological means as it considers appropriate (for example, via telephone conference or videoconference).

E. Reports

The Committee will make its recommendations to the courts annually by 30 September.

F. Secretariat

The Committee will be provided with such secretarial support as is agreed by the courts.

G. Terminology

The *FCAC formula* means the recommended percentage increase to the scales of costs calculated according to the formula $Ax + By + Cz$ where:

- A = wages and salaries – adjust by increase in *appropriate ABS wages statistic* since last determination
- B = other overheads – adjust by increase in the *consumer price index* since last determination
- C = partners' salaries and profits – adjust by increase in *appropriate ABS wages statistic* since last determination

Presently, the *appropriate ABS wages statistic* for both wages and salaries and partners' salaries and profits is the wage price index,¹ published by the Australian Bureau of Statistics quarterly as part of the Labour Price Index Series (catalogue no. 6345.0).

The *consumer price index* means the consumer price index published by the Australian Bureau of Statistics quarterly (catalogue no. 6401.0).²

- x = weighting to wages & salaries shown by most recent ABS publication on costs of solicitors' practices
- y = weighting to other overheads shown by most recent ABS publication on costs of solicitors' practices
- z = weighting given to partners' salaries and profits shown by most recent ABS publication on costs of solicitors' practices

¹ Previously called the wage cost index, the wage price index measures changes in the price of wage costs, and is comprised of changes in total hourly rates of pay excluding bonuses (but including overtime earnings). It does not include additional labour costs such as annual leave, superannuation, payroll tax or workers' compensation, which are measured by the labour price index. See ABS publication *Labour Price Index: Concepts, Sources and Methods*.

² For detailed information on the consumer price index, see ABS publication *Australian Consumer Price Index: Concepts, Sources and Methods, 2005*

Presently, the most recent ABS publication on costs of solicitors' practices is the *2001-2002 Legal Practices, Australia* (catalogue no. 8667.0). This series is published on an irregular basis. The relevant weightings from that publication were:

- wages and salaries – 38%
- other overheads – 32%
- partners' salaries and profits – 30%