

Payment of your client's legal costs in a claim against the Fidelity Fund

This fact sheet explains how the Board assesses legal costs for claims against the Fidelity Fund.

INFORMATION FOR LAWYERS

What is the Fidelity Fund?

The Fidelity Fund is a statutory compensation scheme maintained by the Victorian Legal Services Board. Its purpose is to provide compensation to clients who have lost money or property due to the dishonest or fraudulent behaviour of a lawyer, law clerk, approved barrister's clerk or law practice.

Clients who have suffered a loss may make a claim against the Fidelity Fund for compensation. They may engage a lawyer to help them make their claim, and the Board may pay some or all of the legal costs associated with that claim.

For further information about which claims are covered by the Fidelity Fund, see the fact sheet: *Making a claim against the Fidelity Fund*, and refer to Part 3.6 of the *Legal Profession Act 2004*.

Will costs be paid?

If the Board wholly or in part allows a claim against the Fidelity Fund, there is no certainty that the Board will pay legal costs incurred by the client for engaging a lawyer to help them make their claim. This is explained in further detail in section 3.6.16 of the *Legal Profession Act 2004*.

Special circumstances may cause the Board to allow a claim but decide not to pay any legal costs, or to pay only part of the legal costs. Where this occurs the Board will advise the claimant of the reasons for its decision.

The Board can also disallow a claim but decide to pay part of all or part of the claimant's reasonable legal costs, if it considers it appropriate to do so.

If costs are paid, how much will be paid?

If the Board agrees to pay legal costs in part or in full, those costs will be assessed on a solicitor and client basis as if they were incurred through a court hearing for the recovery of a debt. Any payments for legal costs will be made directly to the lawyer.

How does the Board assess legal costs?

Lawyers assisting clients to make a claim against the Fidelity Fund should be familiar with the statutory basis for the Board paying costs.

If the Board determines to pay the claimant's legal costs, then the lawyer may provide a copy of their itemised bill or their file to the Board. Costs will not be paid based on a lump sum bill.

If the file is provided, the Board will have it assessed by the Costing Service Unit of the Law Institute of Victoria. Where an itemised bill is not approved by the Board for payment, the Board will ask for the file to be assessed by the Costing Service Unit, which will provide a costing certificate to the Board. Subject to the Board's approval of that certificate, payment will then be forwarded to the lawyer and the file will be returned.

Further information:

Contact the Assistant Investigator, Fidelity Fund at the Victorian Legal Services Board + Commissioner:

Tel: 1300 796 344 (cost of a local call)

Email: admin@lsbc.vic.gov.au