

# ADMINISTRATION of the COSTS ASSESSMENT SCHEME

**The Costs Assessment Scheme is the mechanism through which clients and practitioners can resolve disputes about costs and also quantify costs orders made by New South Wales courts and tribunals.**

The Chief Justice of New South Wales appoints independent costs assessors to determine applications for costs assessment and review. All costs assessors are legally qualified and must have been a practising Australian lawyer for at least five years to be considered eligible for appointment. A review panel, comprising two senior assessors, considers the material before the assessor and can affirm or vary the original assessment. The Costs Assessment section of the Supreme Court Registry undertakes the day-to-day administration of the Scheme under the guidance of the Manager, Costs Assessment.

The *Legal Profession Uniform Law Application Act 2014* (the Application Act) provides for appeals by leave to the Supreme Court where the amount in dispute is less than \$100,000, or by leave to the District Court where it is less than \$25,000. If a costs order was obtained in a matter which commenced, or where a client first gave instructions before the Application Act commenced on 1 July 2015, then the *Legal Profession Act 2004* (LPA) still applies to assessments. If that is the case, a costs assessment determination can be appealed to the District Court as of right on questions of law and otherwise by leave. The Chief Justice also appoints the Costs Assessment Rules Committee (CARC).

Since 1 July 2015, with the commencement of the *Legal Profession Uniform Law Application Act 2014*, the CARC was reconstituted in the legislation to include a Supreme Court Judge, a District Court Judge, and representatives from the Office of the Legal Services Commissioner, the Law Society of NSW and the NSW Bar Association as well as representatives from the panel of costs assessors. In 2023 Justice Chen became the chair of the CARC.

During 2023, 1020 costs assessment applications were lodged. Of these, 458 ( 45 percent) related to costs between parties to costs orders; 111 ( 11 percent) were brought by clients against practitioners, and 332 ( 32 percent) were brought by practitioners to recover against clients. There were 119 reviews (12 percent).

	2019	2020	2021	2022	2023
Parties to costs orders	580	550	457	423	458
Clients against practitioners	162	190	130	115	111
Practitioners against clients	442	429	258	268	332
Reviews	137	178	129	103	119
<b>Applications lodged</b>	<b>1321</b>	<b>1347</b>	<b>974</b>	<b>809</b>	<b>1020</b>