

Faculti Summary

<https://faculti.net/the-assessment-of-disputes-about-legal-costs/>

This video video discusses the complexities of cost assessment in litigation within the adversarial legal systems of Australia and England. It begins with an overview of how courts order parties to pay costs, particularly when one party wins a case. The author elaborates on the principle of fairness and reasonableness in cost assessments, differentiating between "party-party" costs and "solicitor-client" costs.

In Australia, particularly Western Australia, the system of cost assessment is traditionally adversarial, while New South Wales has transitioned to a more arbitral model where other lawyers assess costs. The speaker conducted a comparative analysis of the two systems to evaluate their effectiveness and sought to determine whether the reforms in New South Wales achieved their intended goals of making litigation cheaper.

This video video underscores that cost disputes can be lengthy and detailed, with courts focusing on reasonableness rather than strict truth. The author observes that the New South Wales system performs more rigorously in controlling lawyers' costs than the Western Australian system, despite some critiques of both systems.

The argument also touches on the funding and transparency of the legal process, noting that public accountability is vital for cost assessments, especially as these systems are taxpayer-funded. The speaker concludes that while reforms could improve the current system, there appears to be little public interest or political will for significant changes, particularly in Western Australia, where cost assessments are not as contentious or prominent an issue.