

Company number: 04608905

Costs Lawyer Standards Board Ltd
Tuesday 11 October 2016 at 10.30 am
The Studio, 7 Cannon Street, Birmingham

Present: Steve Winfield (Chair)
Gillian Milburn (Vice Chair)
Richard Allen
David Gamble
Tracyanne Ayliffe

In attendance: Lynn Plumbley (Chief Executive)

By invite: Pippa Prangley (Head of Regulatory Risk at BSB)

1. QUORUM, APOLOGIES, DECLARATIONS OF INTEREST & GUESTS

- 1.1 The Chair declared the meeting quorate.
- 1.2 There were no apologies.
- 1.3 There were no declarations of interest.
- 1.4 The Chair welcomed Pippa for that part of the meeting which considered risk management and the CLSB approach to supervision.

2. MINUTES

- 2.1 The board noted all actions from the minutes of 12 July 2016 had been undertaken. There were no matters arising that had not been scheduled as an agenda item. The board agreed the minutes as being a true record for signing.
Action: LDP: Post minutes on CLSB website.

3. BOARD MATTERS

3.1 Capacity & capability

The board considered David's paper under which he used his HR experience to suggest a mechanism for measuring the effectiveness of the board. It was noted the board was under no obligation to carry out this assessment under various corporate governance codes, however it was accepted it would be good practice. It agreed an effectiveness review should be carried out every two years, which was considered appropriate and proportionate based on size, resource and complexity. It was also agreed this exercise would be carried out internally as a self-assessment exercise. The process would focus on effectiveness and not personal performance (which is already addressed under an appraisal process) and would consider inter alia, current skills, future skills, does the appraisal process work effectively.

Action: DG: Draft proposed process and present to January board.

3.2 Extra board date

It was agreed that due to increased workload an extra board meeting would be scheduled for December 2016, and that Pippa would be requested to attend.

Action: LDP: Arrange new board date.

4. **FINANCE**

4.1 Q3

The board noted the position at the end of Q3 and that there was adequate financial provision (outside of reserves) to cover Q4.

4.2 2016 budget review

The 2016 budget was reviewed, there were no adjustments at end of Q3.

5. **REGULATORY MATTERS**

5.1 CMA report

The interim report was noted, in particular that the CMA were of the view that legal services regulation did not create significant barriers to entry or distort competition but that it did impose significant costs on providers that in some cases may be excessive relative to the benefits in consumer protection. The board agreed it would consider the report in more detail once the final version had been issued.

5.2 Consumer focus: Where the employer is the client

The board considered whether situations where a Costs Lawyers only client was their employer, fell within the definition of consumer. It was agreed that in respect of consumer focus, it did not.

5.3 Consumer focus: Consumer/potential consumer engagement strategy

Following a review of best practice by other approved regulators, the board noted the strategy had been extended. Further, the board noted the strategy now addressed potential consumers. The board discussed and agreed the new strategy.

Action: LDP: Post revised policy on the CLSB website.

5.4 Progress on action plan

The board noted that significant progress had been made to date on the 62 point action plan. It was agreed the board would re-visit the action points when it held its extra meeting in December.

Action: LDP: List as agenda item for December meeting.

5.5 Joint regulator initiatives following LSB assessment

Following the discussion of joint regulator initiatives at the Regulators Forum in September, the board noted the current position on actions and outcomes. The board was advised that work on these actions would continue at the next Regulators forum in November.

5.6 Statistics analysts

The board considered whether such an appointment was justified based on small numbers involved and what the CLSB considered to be meaningful data. It agreed to defer the consideration of such an appointment to April 2017.

Action: LDP: List as board agenda item for April 2017.

5.7 Publication of board papers

The board was advised a review had been undertaken on the approach of the other approved regulators on the publication of board papers. It was noted that there was a varying degree of publication ranging for nil to all not considered confidential. The board agreed it would list at the end of its minutes, those papers it did not consider confidential, sensitive or subject to prevailing data protection law. The list would also indicate where the paper was published.

Action: LDP: Create new section at end of minutes in relation to published papers.

5.8 CLSB website

Further to the board request at its last meeting that an explanation of what a Costs Lawyer does appears on the CLSB website, the board was presented with a screen shot of that information which appears on the CLSB home page. The board asked for a separate tab to be established in relation to what a Costs Lawyer does with information on the home page being about the CLSB.

Action: LDP: Make change to website.

5.9 Regulatory return

The board noted that the historical application form had been split into two documents (i) application form; and (ii) regulatory return. It discussed the questions being asked on the regulatory return for relevance and value.

5.10 Guidance on decision making by conduct committee

The board was advised that best practice by other approved regulators had been considered. Further, the CLSB had considered guidance issued by RICS which it considered useful. As a result, guidance for conduct committee/conduct appeal committee had been drafted to address decision making and provide penalty guidance. The board was advised a meeting was scheduled for October between the executive and advising solicitor to discuss potential disciplinary situations to ensure the guidance was comprehensive. The proposed guidance will be presented to the January board for consideration.

Action: LDP: Hold meeting with advising solicitor and present proposed guidance note to January board.

5.11 Feedback on CLSB performance by consumer

The board noted that as well as a facility for the consumer of Costs Lawyers to feedback on experience to the CLSB via the CLSB website (introduced April 2015) a new facility had been added in August 2016 under which the same facility was now afforded in relation to feedback on the service of CLSB. To date, no feedback through either facility had been received.

5.12 Random audit of 2015 CPD records

The board was advised that all randomly selected for audit of their 2015 CPD had achieved full compliance. No actions arose as a result of this supervisory exercise.

5.13 Guidance note for client/potential client of a Costs Lawyer

The board discussed and agreed this new guidance note.

Action: LDP: Post new guidance note on CLSB website.

5.14 Revised guidance note: Vulnerable consumer

The board noted the outcome of a review of best practice by other approved regulators and that the approach varied widely. Based on a request by the LSB that best practice by other approved regulators be followed by the CLSB, a revised guidance note was considered and board approved.

Action: LDP: Post new guidance note on CLSB website.

5.15 Guidance note: Conflict of interest

Following a query from a Costs Lawyer on a potential conflict of interest situation, an analysis of approach by other approved regulators to this subject matter was undertaken. As a result, a new guidance note had been drafted. The board discussed and agreed the new guidance note.

Action: LDP: Post new guidance note on CLSB website.

5.16 Guidance note: Working outside England & Wales

This guidance note was presented to the April board meeting, the recommendation was that comments be sought from the ACL. The board was advised the document had been sent to ACL on 14 April, and an email was sent pursuing a response on 2 June. To date no reply has been received. The board was therefore of the view the guidance note be issued without input from the professions representative body.

Action: LDP: Post new guidance note on CLSB website.

6. **RISK MANAGEMENT**

6.1 Risk framework

Pippa presented her report and recommendations, the board thanked Pippa for her work with the CLSB. The board requested the risk framework be revised and presented to the December meeting for consideration.

Action: LDP: Revise proposed new risk framework and list as agenda item for December board meeting.

6.2 Risk register

Following the above report, it was agreed the format of the risk register be reviewed and would be presented to the December meeting for consideration.

Action: LDP: Revise risk register and list as agenda item for December board meeting.

6.3 Supervision policy

It was agreed the supervision policy would be further considered at the next meeting following the revision of approach discussed and agreed.

Action: LDP: List as agenda item for December board meeting.

6.4 Risk sub-committee

It was agreed that due to the small size of the CLSB and as overall responsibility for risk fell to the whole board, this would remain with the full board as opposed to a sub-committee.

7. **LEGAL SERVICES BOARD (LSB)**

7.1 Annual report & accounts 2015/16

The board noted these documents had been issued.

7.2 Report: Changes in legal services market 2006/7 to 2014/15

The board noted the summary on the outcome of this report, no actions were identified.

7.3 Report: Review of restrictions on choice of insurer

The board noted LSB findings following its thematic review including independent advice from the Regulatory Policy Institute. The board was advised that there were only a small number of insurers offering insurance to Costs Lawyers due to its specialisation. This was considered outside the control of the CLSB.

7.4 Vision for legislative reform in legal services

The board had received this report by email from the Chair before this board agenda had been set. The board had no further comments to make.

8. **LEGAL SERVICES CONSUMER PANEL (LSCP)**

8.1 New chair

The board noted the LSCP had advertised in July 2016 for a new Chair but that no official notification had yet been received as to the new post holder.

8.2 2016 Tracker Survey: Consumer choosing

The board noted the outcome of this survey which was not Costs Lawyer specific. No actions were identified.

8.3 2016 Tacker survey: Consumer using

The board noted the outcome of this survey which was not Costs Lawyer specific. No actions were identified.

9 **LEGAL OMBUDSMAN (LeO)**

9.1 Service complaints

It was noted no new complaints had been made to LeO since the April board meeting and further, that there were currently no outstanding complaints with LeO.

9.2 Five principles of service

The board noted the five service principles published by LeO in April 2016.

10. **REPRESENTATION (ACL)**

10.1 Communication

The board noted the CLSB executive was disappointed in the lack of communication from the professions representative body in the last few months.

11. **EDUCATION (ACLT)**

11.1 Communication

The board noted the CLSB executive continued to be concerned by the lack of communication from ACLT, and that this concern was shared by the CLSB appointed

independent auditor and education review project manager. This had resulted in an email being sent to the Chair of ACLT Education Committee on 9 October 2016 which read, inter alia “*We continue to have concerns about the lack of communication by ACLT on its activities as an education provider endorsed by the CLSB We would therefore be grateful if you would consider interim measures/future measures to address this concern.*” The board was advised this email had been copied to the ACL Chair for information.

11.2 Education review project

The board considered the paper of Mandy Gill and agreed there was merit in further exploring a one year fast track qualification for those who were Barrister or Solicitor qualified and a possible competence test for those who had a minimum of 8 years’ experience in costs law and practice.

Action: LDP: Commission further work on this project.

12. **ANY OTHER BUSINESS**

There was no other business.

13. **DATE & TIME OF NEXT MEETING**

13.1 Date of additional meeting: Monday 5 December 2016 at 10.30am

Location: The Studio, 7 Cannon Street, Birmingham

Date & time of next quarterly meeting: Tuesday 24 January 2017 @ 10.30am

Location: The Studio, 7 Cannon Street, Birmingham

There being no further business, the Chair declared the meeting closed.

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Chairman

Board Document Disclosure

The following documents were not considered confidential, sensitive or subject to prevailing data protection laws and have therefore been published in the location stated.

Paper	Publication
Minutes 12 July 2016	Minute section on the CLSB website
Interim CMA report	Issued and accessible through CMA
Consumer/potential consumer engagement strategy	Policy outcome section on the CLSB website

2016 budget	Consultation paper attachment for the 2017 practising certificate fee on the CLSB website
Revised guidance note: Vulnerable consumers	Costs Lawyer Handbook section of the CLSB website
Guidance note: Conflict of interest	Costs Lawyer Handbook section of the CLSB website
Guidance note: Working as a Costs Lawyer outside England & Wales	Costs Lawyer Handbook section of the CLSB website