

Company number: 04608905

Costs Lawyer Standards Board Ltd
Tuesday 12 April 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: Kathryn King OBE (Chief Legal Ombudsman)
Nick Hawkins (LeO CEO)

1. Quorum, apologies, declarations of interest & guests

- 1.1 The Chair declared the meeting quorate.
- 1.2 There were no declarations of interest.
- 1.3 The board welcomed new Chief Legal Ombudsman Kathryn King OBE and new LeO CEO Nick Hawkins to the meeting. The role of LeO, historical issues experienced at LeO and our respective visions for the future were discussed. Kathryn & Nick left the meeting at 11.00am.

2. Minutes

- 2.1 Minutes dated 13 January 2016 were approved as being a true record for signing, there were no matters arising.
- 2.2 The board noted the minutes of the Remuneration Committee dated 8 February 2016.
- 2.3 The board was advised the LSB expected CLSB minutes to be fuller in content going forward. A discussion was had on what was a minute and what a meeting note. The CEO advised that she would try to achieve a balance between the two.

3. Finance

- 3.1 The board noted the position at the end of Q1.
- 3.2 Draft accounts (full and abbreviated) for 2015 were discussed and approved for signing and filing.
- 3.3 The board noted the one off cost of compliance with the new pension regulation requirements, and that our provider had agreed to waive their subsequent monthly management fee on the basis no one at CLSB wanted to partake in the scheme. The board was advised a request had been made to bring forward our staging date. The board noted that even those earning less than £5,722 a year were entitled to join the CLSB pension scheme. It was agreed that any future letters of engagement for panel members and board members (excluding the lay Chair) should state that the role is non pensionable.

- 3.4 The board discussed executive management of the two CLSB bank accounts (main and reserve) and accepted there would always be an element of risk associated with financial management of such accounts. The board however always had comfort in that it had sight of a full breakdown of internal book keeping income/expenditure at each meeting for full scrutiny, and that book keeping entries cross checked via the quarterly finance report to the amount as shown in printed bank statements. Any discrepancy would be highlighted as a result of this process.

Action: LP: File signed 2015 accounts with Companies House

4. Risk management

- 4.1 Existing risks recorded on the register were reviewed and new risks were considered. The board noted the likely impact of fixed fees, which could be on cases of a value up to £250k and the potential impact on the future sustainability of the profession.

5. Education (ACLT)

- 5.1 The board considered a paper received from ACLT. It firstly requested we consider a change to current Training & CPD rules to reflect the new qualification. The board was advised it was always intended this would be captured under a complete review of training and CPD to be undertaken during 2016. We were also asked to consider exemptions for those with a legal qualification. Exemptions currently exist, current rules state *“exemptions may be considered by the ACL for individual subjects within the course modules for Trainee Costs Lawyers who have successfully attained, within the previous seven years, the following qualifications:*

- *A Law Degree.*
- *Certificate of completion of the Law Society Legal Practice Course.*
- *The Bar Vocational Course.*
- *ILEX qualifications.”*

The paper did not however set out full details of proposed exemptions and the rationale behind them. Further, it did not set out proposed frequency of examinations to accommodate a shorter qualification timeframe for those with a legal qualification.

Action: SW: Advise Education Committee chair of outcome by way of sending this part of the minutes

6. Regulatory matters

- 6.1 The board noted the outcome of the legal services market study, no actions were identified as a result.
- 6.2 The stakeholder feedback on self-assessment was considered. The board was disappointed to note that the ACLs continued negative attitude towards the CLSB. The board was concerned third parties appeared to be adopting LSB issues e.g. both LSCP and ACL allegedly raised the fact the CLSB had dropped its question on first- tier complaints, when the CLSB had dropped the question back in 2012 and neither party had raised this with the CLSB in the years since.
- 6.3 The board was pleased to note a 5.4% increase in regulated Costs Lawyers at 1 April 2016 compared to 1 April 2015, in contrast to the ACL who had lost 10% of its

membership for 2016. The board was of the view this evidenced a vote of confidence in the CLSB by practitioners.

- 6.4 The board discussed at length just how it could engage with consumers of Costs Lawyer services, and whether any such engagement should be confined to lay consumers, which make up less than 10% of Costs Lawyer instructions. The board also discussed the issues of client confidentiality and data protection, and agreed it should not take any action that would breach either duty. The board noted that since it put a client feedback form on the CLSB website a year ago, not one consumer had used the facility. The board also noted the very low response rate the LSB achieved when it also sought to engage with Costs Lawyer consumers when it undertook its own consumer satisfaction survey in 2015. The board also considered proportionality versus the professions low risk profile. The board was of the view that any feedback should be across all consumers, including the informed client (solicitors). It was agreed that a consumer questionnaire would be sent to all Costs Lawyers asking them to send the questionnaire to all clients over a 12 month period.

Action: LP: Draft proposed questionnaire and communication to Costs Lawyers for board consideration

- 6.5 As the CLSB imposed no restrictions on its 9 in-house Costs Lawyers, no action was considered necessary following the LSB policy statement dated 8 February 2016.
- 6.6 The board was advised the 2016 diversity survey had now been conducted and that an analysis of the outcome would be presented to the July board. Following consideration of the approach of other ARs on the frequency of conducting the survey, it was agreed the next one would take place in three years (2019).
- 6.7 The draft guidance note on Costs Lawyers working outside England & Wales was discussed, it was agreed it would be submitted to the ACL for comment.
- 6.8 A review had been undertaken on how long other ARs left the outcome of a disciplinary matter in the public domain, and a draft policy was presented to the board for consideration as a result. The board approved the policy.
- 6.9 The board discussed a review paper on current CPD requirements and considered two options (i) whether to leave the current system of 12 CPD points as is, as it is straightforward and works; or (ii) consult on a change that would require a Costs Lawyer to achieve a minimum of 6 CPD points from a defined set of development outcomes, with a requirement that they then identify additional development needs and achieve at least a further 3 points to meet those needs. After much consideration, the board agreed to put option (ii) out to consultation.

Action: LP: Draft revised CPD rules and consultation paper.

7. Legal Services Board (LSB)

- 7.1 It was noted the LSB had issued its draft business plan 2016/17.
- 7.2 It was noted that on the S.51 consultation the rhetoric of the LSB in its covering public statement (it alleged the consultation was to reduce regulatory burden) did not match the reality (the paper made no mention of reducing regulatory burden, and rightly so as the proposal therein was in fact an increase in regulatory burden by requiring additional budgeting and financial forecasting).
- 7.3 The board noted that the LSB had consulted on “minor changes” to first-tier complaints procedure expectations, but that the changes in italics formed 2 additional pages of expectations. The board was of the view a response was not required.

7.4 The board was pleased that a review by the LSB of the cost of regulation had identified that over four years of regulation by the CLSB, the cost of regulation had gone down by 0.63%.

8. Legal Services Consumer Panel (LSCP)

8.1 The report and recommendations on opening up data was discussed, the board identified no additional actions.

9. Legal Ombudsman (LeO)

9.1 It was noted that one complaint had been closed and another received by LeO since the last report to the board. There had still however only been 4 service complaints to LeO since 31 October 2011. One had been resolved informally and the other two concluded with £100 compensation to each complainant, which indicated the low level of seriousness of the complaint as found by LeO.

9.2 It was noted that a consultation paper had been issued on the proposed strategy of LeO for 2016/17.

10. Association of Costs Lawyers (ACL)

10.1 The Chair advised the board of the outcome of the meeting he and LP attended with Sue Nash (Chair), Iain Stark (Chair elect) & Maurice Cheng (CEO) of the ACL on 4 March 2016, which had seemed positive at the time and had resulted in agreed action points. The board was advised that Iain was looking to make a proposal to ACL that ACLT become a standalone body free of ACL involvement and that he shared our concern the annual fee for a trainee had been increased from £1,500 to £2,000 for no other reason than other ARs charged similar amounts for their qualifications. The CLSB raised that this increased fee was now a barrier to access, and the lower the fee the greater the likelihood of converting the estimated 4,000 Costs Draftsmen to being Costs Lawyers.

10.2 The board discussed events a few days after that meeting when it had been brought to our attention by another AR that Maurice Cheng had contacted them with a view to them taking over the regulatory function of the Costs Lawyer profession. A second AR then brought it to our attention that he had likewise approached them and that they had refused to have an "off the record" discussion with him. The CLSB had raised this with Maurice Cheng, and he had replied that he had acted with the full knowledge of the ACL Council. He cited two reasons for his actions (i) alleged "*difficulties in proposing change and development to the CLSB*" which troubles the CLSB as we are independent bodies; and (ii) the future of the smaller regulators was at risk, which was news to the CLSB. The board was advised SW had contacted the LSB and that we had it in writing the LSB or MoJ had not mooted any such plans. The CLSB believes these actions were taken without any member consultation. The board was advised that Sue Nash, the ACL Chair had since made a verbal apology for the actions of the ACL.

10.3 It was noted that Iain Stark proposed to convene an ACL Council meeting on 24 May 2016. It was agreed to extend an invitation to Iain to attend the July meeting of the CLSB board.

11. Any other business

11.1 National pro-bono week was noted.

- 11.2 The board noted that the register of 2016 authorised and regulated Costs Lawyers had been posted to 24 regional Costs Judges and 34 SCCO Costs Judges.
- 11.3 The possible future landscape of legal regulation was discussed, it was agreed however that until government intentions were clearer little could be done to prepare for the future.
- 11.4 SW advised of the outcome of a meeting with the new Chair of ILEX and their CEO. He advised the board he had been clear that there was no scope for any merger between CLSB and ILEX, a discussion that may have been brought about by ILEX as a result of Maurice Cheng at the ACL having contacted them. It was however agreed that if ever there was a piece of work where costs could be shared e.g. a legal advice, it would be considered. Following that meeting however, CLSB had contacted ILEX to see if they wished to share the cost of PR following the outcome of the annual self-assessment, and ILEX had declined.

12. Date & time of next meeting

Date & time: Tuesday 12 July 2016 @ 10.30am

Location: Elliot House, 151 Deansgate, Manchester, M3 3WD

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

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Chairman