

POLICY ON REGULATORS CODE

Costs Lawyer Standards Board

Effective Date: 16 April 2014

Introduction

The Regulators Code came into effect on 6 April 2014. It is acknowledged by the Department for Business Innovation & Skills that the Regulators Code is not a set of rules but an approach to regulation. It provides a flexible principle based framework for regulatory delivery in a manner best suited to business.

Whilst the Costs Lawyer Standards Board (the "CLSB") is not directly captured by the Code under current law, it does however endorse its approach and continues to be committed to providing a regulatory environment that does not interfere with business prosperity.

CLSB sets out herein its policy of compliance with the Regulators Code in undertaking its regulatory activities (the range, options and interventions available to it as a regulator).

Understanding

CLSB believes that informed and proportionate regulation creates conditions of consumer confidence and thus supports business growth.

CLSB follows (where it does not affect the exercise of the regulatory function of the CLSB as required of it under the Legal Services Act 2007) the approach set out in the Regulators Code and the statutory principles of good regulation set out under Part 2 (21) Legislative and Regulatory Reform Act 2006 in that:

- (a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;*
- (b) regulatory activities should be targeted only at cases in which action is needed,*

CODE 1: Regulators should carry out their activities in a way that supports those they regulate to comply and grow

Proportionality of approach

CLSB will continue to avoid adverse impact on business by taking an informed, balanced and proportionate approach to regulation, giving due consideration to the following when determining regulatory activity:

- minimising cost;
- environmental outcomes;
- economic outcomes;
- business size; and
- capacity.

Business impact

CLSB will continue to consider impact on the following when considering regulatory measures:

- quality assurance,
- the consumer,
- the Costs Lawyer profession; and
- businesses.

Competency in support of business needs

CLSB will continue to ensure Costs Lawyers are both:

- qualified; and
- that they undertake Continuing Professional Development annually (CPD).

Understanding of business needs

- CLSB was instrumental in a revised Costs Lawyer qualification, effective 2014, which now includes business management and legal accounts and will continue to support such skill sets at Trainee Costs Lawyer level.
- CLSB will continue to employ those with business acumen and experience at both executive and non-executive (board) level.

Representation at board level

CLSB appoints two non-law person board members (legal professionals) who bring balance to the board in terms of safeguarding the interests of businesses in the profession.

Monitoring

The Costs Lawyer qualification is subject to annual independent audit by CLSB. CPD is subject to annual random audit.

CODE 2: Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

Engaging with those we regulate

CLSB offers a policy of being open to contact via phone, email and letter. CLSB will continue to engage regularly with those they regulate by various methods, including, inter alia:

- The Association of Costs Lawyers (the "ACL") the professions representative body. CLSB will seek views of the ACL where required and CLSB will hear representations made by ACL when submitted to enable an informed decision to be made.
- Consultation, sent direct to Costs Lawyers.
- CLSB website, offering access to a wide range of information and guidance, current news and the means to contact CLSB via email.
- CLSB newsletters.
- Annual practising certificate application forms where feedback and stats is gathered.
- Attendance at the annual two day ACL National Conference.
- Attendance at the annual one day ACL National Conference.
- Regulatory updates in the Costs Lawyer Journal.

- Surveys.
- Statistical evaluation and monitoring of the Costs Lawyer profession.

Communication

CLSB will continue to ensure transparency through its website which provides public access to governance documents, guidance notes, news items, newsletters, minutes etc. CLSB will continue to consult with a wide audience (see Code 5) in the event it seeks to change its regulatory arrangements.

Regulatory process

CLSB will continue to have in place clear and concise, publically accessible codes, rules and procedures which include the following for Costs Lawyers with a Practising Certificate:

- Code of Conduct.
- Practising Rules.
- Disciplinary Rules & Procedures.
- Training & CPD Rules.

Monitoring

CLSB regularly reviews its rules and procedures to ensure they are fit for purposes. Identifying new methods and means of engaging with the Costs Lawyer profession is an ongoing process.

CODE 3: Regulators should base their regulatory activities on risk

Approach to risk identification

CLSB will continue to undertake a dual based approach to the identification, elimination or mitigation of risk:

- pro-actively, identified in advance where possible; and
- re-actively, identified by events.

CLSB consider risk at every stage of their decision making process on the following:

- consumer risk;
- risk to the profession; and
- business risk.

Monitoring

CLSB risk monitoring has evolved since inception and will continue to do so to ensure that it remains current and effective. Risk will continue to be monitored on an ongoing basis with risk management being a standard CLSB board agenda item.

CODE 4: Regulators should share their information about compliance and risk

Oversight by the Legal Services Board (the "LSB")

CLSB is subject to oversight by the LSB in accordance with the Legal Services Act 2007 with whom it shares compliance and risk information.

Subject to prevailing data protection law, CLSB will continue to share information with fellow Approved Regulators under the Legal Services Act 2007 (listed below) by means of the Regulators Forum and under its general spirit of co-operation and support.

- Solicitors Regulatory Authority.
- Bar Standards Board.
- Ilex Professional Standards
- Intellectual Property Regulatory Board
- Council of Licensed Conveyancers.
- Master of Faculties.

Monitoring

CLSB board is responsible for identifying the need for additional shared information about compliance and risk as it deems necessary to enable informed decisions to be made.

CODE 5: Regulators should ensure clear information, guidance and advice is available to help those they regulate meet responsibilities to comply

Guidance & Advice

CLSB governance documentation is and will continue to be written in plain English and a clear and concise format. It will continue to be available via the CLSB website or upon request: This documentation includes:

- Code of Conduct.
- Rules & Procedures.
- Guidance Notes.

Consultation

CLSB consults on any changes to its regulatory arrangements with the following parties to ensure a rounded and informed approach and understanding of impact:

- The Costs Lawyer profession.
- All Approved Regulators defined by the Legal Services Act 2007.
- All legal representative bodies.
- The Legal Ombudsman.
- Costs Judges (via the Senior Courts Costs Office).
- The Legal Services Consumer Panel.
- Citizens Advice.
- The Law Centre Federation.
- The Ministry of Justice.
- The public at large (via the CLSB website).

Monitoring

All CLSB governance document will continue to be subject to ongoing review to ensure that it is current and fit for purpose.

CODE 6: Regulators should ensure that their approach to their regulatory activities is transparent

Service standards

These are ensured by the LSB who oversee the work of the CLSB and publish their assessments.

Fees & charges

CLSB will continue to consult with the profession on its annual fee for a Costs Lawyer practising certificate before seeking LSB approval under s51 of the Legal Services Act 2007. Under that consultation process CLSB provides its accounts for the previous year and a budget for the forthcoming year and a paper explaining how the proposed fee was arrived at.

Disciplinary outcomes

CLSB will continue to publish in the Costs Lawyer Journal, the outcome of any disciplinary proceedings and appeals.

Feedback

CLSB will continue to seek feedback from those they regulate on their performance via their annual application for a practising certificate form.