

POLICY ON EXPECTATIONS OF A COMPLAINANT

Costs Lawyer Standards Board

Effective date: 6 June 2016

Introduction

This policy applies to a Complainant making a complaint against a Costs Lawyer or the Costs Lawyer Standards Board (the "CLSB").

1. Purpose of this policy

- 1.1 This policy has been drafted to:
 - (a) ensure clarity on what is expected of a complainant in terms of evidence and co-operation; and
 - (b) define behaviours that are not acceptable to the CLSB; and
 - (c) ensure the business of the CLSB is not adversely affected; and
 - (d) ensure CLSB staff have a safe working environment and are not exposed to unnecessary stress; and
 - (e) set out the process for any complaint about the CLSB or a specific member of its staff.
- 1.2 On making a complaint to the CLSB about a Costs Lawyer, the CLSB or a member of its staff the complainant agrees to respect prevailing rules of the CLSB and to adhere to this policy.

2. Required evidence of a complaint

- 2.1 It is the responsibility of a complainant to make out their complaint in full.
- 2.2 When submitting documentary evidence, the complainant is required to clearly set out by way of cross referencing where each document supports the allegation(s) being made.
- 2.3 It is not for the CLSB to make a case for a complainant as to do so would be against its impartiality.
- 2.4 On making a complaint to the CLSB, the complainant is required to:
 - (a) Set out the nature of their allegation(s) clearly and concisely.
 - (b) Send only those documents that support their allegation(s) being made.
 - (c) Make cross reference to any documents submitted in support of their allegations.
 - (d) Co-operate fully with the CLSB.
 - (e) Respond to CLSB communication in a reasonable and concise manner, providing only relevant information/documentation.
 - (f) Respond by the date specified by the CLSB.
 - (g) Be wholly truthful in the written and verbal representations they make to the CLSB.
- 2.5 On making a complaint to the CLSB, the complainant should not:
 - (a) Be evasive in answering questions put to them.

- (b) Send to the CLSB documentation that is not relevant to the complaint.
- (c) Misrepresent evidence.
- (d) Interfere with or alter evidence.
- (e) Change the basis of the complaint as the CLSB investigation progresses. Once the CLSB has accepted a complaint, any further alleged conduct issues raised will be dealt with by way of a separate complaint.

3. Consequences of failure to comply with required evidence of a complaint

- 3.1 In the event a complainant does not comply with one or more of the requirements set out in Section 2 above, the CLSB reserves the right to refuse or close the complaint.

4. Equality & diversity

- 4.1 It is the responsibility of the complainant to bring to the attention of the CLSB any particular communication needs e.g. disability, condition or illness.
- 4.2 The CLSB recognises that in some circumstances a complainant may have a disability or condition where it may be difficult for them to express themselves or communicate clearly and/or appropriately. Where unreasonable behaviour is evidenced under these circumstances the CLSB will consider the individual needs and circumstances of the complainant and its staff before deciding on how best to deal with the situation.

5. Expectations of a complainant

- 5.1 The CLSB is committed to providing a fair, efficient and effective service. To do so, the CLSB expects a complainant to behave in a reasonable manner when communicating with the CLSB and its staff and not to act in a way that will impede the handling of the complaint or the CLSB service to others.
- 5.2 Unreasonable behaviour may be one or two isolated incidents, a number of incidents or unreasonable behaviour which persists over a long period.
- 5.3 Unreasonable behaviour by a complainant will not be tolerated by the CLSB. Unreasonable behaviour is behaviour (verbal, written or otherwise) which is considered by the CLSB to be:
- (a) Aggressive
 - (b) Abusive
 - (c) Intimidating: Which includes threatening complaints against CLSB staff to achieve an objective, making staff fearful for their safety and security.
 - (d) Offensive: Which includes making inappropriate personal, sexist, cultural, racial or religious comment.
 - (e) Threatening
 - (f) Bullying
 - (g) Violent: Which includes acts of aggression that may result in physical harm, behaviour or language (verbal or written) that may cause CLSB staff to feel distressed, threatened or abused.

- (h) Rude: Which includes derogatory remarks and statements, defamatory remarks and statements.
- (i) Harassing: Which includes repeated and excessive calls, emails and letters. Repeatedly contacting or insisting on speaking to a particular member of CLSB staff who is not dealing with the matter. Sending duplicate correspondence requiring a response to more than one member of CLSB staff. Making unjustified comments and complaints against CLSB staff.
- (j) Unreasonable: Which includes making inflammatory statements, raising unsubstantiated allegations, refusing to accept an explanation. Adopting a “scatter gun” approach by pursuing parallel complaints on the same issue with various organisations. Making unnecessarily excessive demands for information and CLSB time and resources. Continuing to raise unfounded and new complaints arising from the same set of facts through the CLSB or other bodies e.g. Legal Ombudsman, SRA. Continuing to contact the CLSB without presenting new and relevant information.
- (k) Unreasonably persistent: Which includes making repeated and overly lengthy communications, raising detailed but unimportant questions and insisting they are answered.

6. Consequences of unreasonable behaviour by a complainant

- 6.1 All CLSB staff have the authority to manage unreasonable behaviour.
- 6.2 In the event the CLSB receives large volumes of irrelevant documentation, it will be returned to the complainant.
- 6.3 The CLSB will only restrict contact if unreasonable behaviour continues after the complainant has been informed it is unreasonable, asked to modify their behaviour and advised of the consequence of failure to do so.
- 6.4 The CLSB has a zero-tolerance position on violence and threats against its staff and this behaviour will always be reported to the police.
- 6.5 In the event unreasonable behaviour continues the CLSB reserves the right to implement one or more of the following options. The CLSB will advise in writing what restrictions have been put in place and why.

Option 1: All further contact with a named member of CLSB staff only.

Option 2: Restriction of the issues the CLSB will correspond on.

Option 3: The CLSB will not reply to/block emails from being received if they are considered by the CLSB to be unreasonable e.g. excessive in number and length, persistently raising matters we have already responded to, are abusive or aggressive.

Option 4: The CLSB will terminate/not reply to/block telephone calls from being received if they are considered by the CLSB to be unreasonable behaviour e.g. excessive in number, persistently raising matters we have already responded to, are abusive or aggressive.

Option 5: The CLSB will not respond to letters which are abusive or offensive.

- Option 6:** The CLSB will decline to correspond further when it has already fully explained its reasons for a decision and the complainant has exhausted the procedure to request a review of that decision.
- Option 7:** Reporting unreasonable behaviour of a complainant who is a Lawyer to the appropriate regulator as a potential example of professional misconduct.
- Option 8:** In the event a complainant has made a large number of complaints to approved regulator(s) which prove to be unfounded, the CLSB may ask that in future any further allegations submitted by that complainant are supported by an independent third party such as the Citizens Advice Bureau or a legal representative to ensure that CLSB resources are spent in a proportionate way.
- Option 9:** The CLSB will refer the matter to the police where a criminal offence has been threatened or committed.
- Option 10:** The CLSB will take legal action, such as applying for an injunction or court order to prohibit contact/behaviour.
- Option 11:** The CLSB will terminate all contact with the complainant resulting in the complaint being closed.