

Company number: 04608905

**Costs Lawyer Standards Board Ltd**  
**Tuesday 12 July 2016 at 10.30 am**  
**Elliott House, Deansgate, Manchester**

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

**In attendance:** Lynn Plumbley (Chief Executive)  
**By invite:** Iain Stark (Chair of ACL)

**1. Quorum, apologies, declarations of interest & guests**

1.1 The Chair declared the meeting quorate, there were no apologies or declarations of interest.

**2. Minutes**

2.1 The board noted all actions from the minutes of 12 April 2016 had been undertaken and that 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: LP: Post minutes on CLSB website**

**3. Board matters**

3.1 The board noted that following a review by the Chair and CEO, NED remuneration was to be increased to £320.00 per board meeting with immediate effect.

**4. Finance**

4.1 Q2

The board noted the position at the end of Q2, there were no concerns raised.

4.2 2016 budget review

The 2016 budget was reviewed. Following Q2 adjustments the projected budget required adjustment by £3,600 to cover 6 months to 30 June 2016.

4.3 2017 budget

The proposed 2017 budget was considered, the board requested the annual levies payable to LSB & LeO be separated out from the services section. The budget was then approved.

4.4 2017 business plan

The 2017 business plan was discussed and approved subject to minor changes to the forward section.

**Action: LP: Post 2017 business plan on CLSB website**

## 5. **Regulatory matters**

### 5.1 **2017 practising certificate fee (PCF)**

The board considered the proposed 2017 PCF. It was recommended to the board that the fee stay the same at £250 and be adjusted if required for the following practising year once the CLSB was clearer on the impact of factors such as the recent LSB assessment, automated bills of costs and fixed costs. The board noted a significant reduction in the number applying to study for the qualification in 2016, which would impact regulated numbers in practising year 2019. The board agreed therefore to keep the fee at £250 for 2017 and agreed the consultation paper.

**Action: LP: Initiate s.51 process**

### 5.2 **LSB assessment of CLSB (October 2014 to October 2015)**

The board noted the outcome of the LSB assessment and thematic report. It discussed a draft schedule of actions put together by a working party (SW, GM, DG & LP). SW advised he and LP had then attended a meeting with the LSB to discuss the draft and sought their assurance that if the CLSB undertook all the actions listed, and incurred additional spend associated with them (to be bourn ultimately by consumers) the LSB assessment of the CLSB would improve, the LSB would not give that assurance. The LSB did however recognise the effort already allocated by the CLSB and were already in a position to report significant progress. The board noted the LSB had requested a review of actions in December 2016. There was discussion around what was required in terms of deliverability on certain actions, as a result a few minor changes were made.

**Action: LP: File revised action plan with LSB and bring an update on progress against actions to the October board**

### 5.3 **Diversity survey 2016**

The board noted that inclusion of a stamped addressed envelope rather than just an addressed envelope had not provided the increased response rate hoped for on the 2016 diversity survey. 74% of second class stamps issued (579) had not been used. Using historical averages, use of stamped addressed envelopes resulted in a 3.84% response increase from Costs Lawyers and an 8% increase from Trainee Costs Lawyers. The board agreed that for the 2019 diversity survey, only addressed envelopes would be used.

On this occasion, the CLSB had included a blank sheet for respondents to advise in their own words, rather than a tick box exercise, if they had ever been subject to discrimination. The CLSB was surprised at the high number who had used the form to write no, they had not been discriminated against, rather than not use the form at all. Out of 618 Costs Lawyers, 14 completed the form. 3 respondents were male, 11 female. There was no continuity across allegations which ranged from age, pay, sexism, part-time, child care and some did not provide any detail to support the allegation. Out of 290 Trainee Costs Lawyers, 4 responded and they were all female (1 x pay, 1 x sexism, 1 x ethnicity, 1 x gender & age). There was therefore no risk or action identified as a result of this exercise.

**Action: LP: Post survey outcome on website**

5.4 How may we better serve you?

The board noted feedback provided by Costs Lawyers in answer to this question on their 2016 practising certificate application form. 13 responses were received, positive comments included *“current regulation appears appropriate and adequate ..... keep the good work up, it is going in the right direction ..... I am happy with the way the CLSB regulated the profession ..... I don’t feel at present there are any improvements to be made within the CLSB, the profession is sufficiently regulated.”* No actions were identified as a result of this exercise.

5.5 Geographical location

The board noted the outcome and that 23.1% of the profession was based in Greater London. Whilst it is not necessary in the instruction of a Costs Lawyer to see them face to face, there was Costs Lawyer representation across all regional areas of England & Wales so this exercise did not evidence any risk or need for action.

5.6 Part-time working

The board noted the outcome of this new analysis, and that approx. 1 in 10 Costs Lawyers worked a 4 day or less working week. No risk or actions were identified as a result of this exercise.

5.7 Analysis of the profession

The board noted that since stats began in 2012 there had been a 12.8% overall move from Costs Lawyer practice, with a 7.2% increase in Costs Lawyers working for solicitors firms. There had only been a marginal drop of 0.3% in sole practitioners. No risks or actions were identified as a result of this exercise.

5.8 Other work undertaken by Costs Lawyers

This was a new question asked for 2016 only, to establish just what other work Costs Lawyers undertake. The result evidenced only 8 Costs Lawyers undertook other work, 7 out of 8 advised this work made up of less than 10% of their work (ADR, expert witness, mediation, training). One respondent advised they undertook 85% arbitration work. No risks or actions were identified as a result of this exercise.

5.9 Legal aid analysis

Since stats began in 2013, there has been an 11% increase in Costs Lawyers who no longer undertake 100% legal aid work, likely as a result of legal aid cuts. No risks or actions were identified as a result of this exercise.

5.10 Analysis on insurance

Since stats began in 2014, there has been a rise in higher value insurance policies, with a 9.16% increase in policies of a value of £2m. This is likely to tie in with the slow move by Costs Lawyers to SRA regulated firms.

5.11 Client instruction analysis

The outcome of this analysis was noted, no risks or actions were identified as a result of this exercise.

#### 5.12 Supervision of complaints

The board noted this new schedule, and agreed a review of supervision process would take place at the October board meeting.

### 6. **Risk management**

#### 6.1 Revised risk approach (risk framework)

The board considered a report presented on the approach of each ARs to risk management, and as a result was asked to consider a new risk framework. The board agreed to contract a risk specialist to undertake a review of that document and proposed process. Rather than form a risk sub-committee, it was agreed the first hour of each board meeting would be dedicated to risk management, with the risk specialist in attendance as deemed appropriate.

**Action: LP: Tender process for risk specialist**

#### 6.2 Business continuity & disaster recovery plan

The board reviewed this document and made no changes.

#### 6.3 Risk register

Due to the intended revised approach on risk management and time restraints, the register was not considered by the board.

### 7. **Legal Services Board (LSB)**

#### 7.1 Reports

The board considered the outcome of the following LSB reports on:

- (i) lowering barriers to entry; and
- (ii) prices of individual consumer legal services; and
- (iii) diversity progress; and
- (iv) unregulated legal practitioners and the outcome of the consumer survey (LSB & Law Society).

In respect of report (iv) the board noted the LSB outcome on the unregulated community was *"this new research suggests that the unregulated sector is neither as big nor as problematic as some have suggested."* The board was of the view this finding, coupled with the findings in the CMA interim report, brought the benefits of regulation into question.

#### 7.2 Revised PCF rules

The board noted revised rule 10 and 11.

### 8. **Legal Services Consumer Panel (LSCP)**

#### 8.1 Work programme 2016-17

The board noted this work programme.

#### 8.2 Priority areas of work

The board noted the three priority work areas identified by the LSCP.

## **9 Legal Ombudsman (LeO)**

### **9.1 Service complaints**

It was noted no complaints had been received since the April board meeting, and that there were no active 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 Iain Stark, ACL Chair**

The board welcomed new ACL Chair Iain Stark to the meeting (he attended for a one hour duration) to discuss the future and issues likely to impact on the profession over the next few years e.g. automated bills of costs (voluntary October 2016, mandatory October 2017 and fixed costs (currently being proposed)).

Both Iain and the board had previously been made aware of the outcome of the CLSB 2016 survey under which 68% of Costs Lawyers had estimated they would lose 50% or more of their work when automated bills of costs became mandatory, 69.5% estimated they would lose 50% or more of their work in the event fixed costs were to be implemented in all civil litigation cases (excluding medical negligence) up to £250k, which dropped to 61% at £150k and 45% at £50k.

Iain advised his personal view of the future was that ACLT should be a standalone company free of ACL involvement but that this was a matter for the ACL membership to consider in due course.

Iain advised he had met with the LSB Chair & CEO the day before and referred to a "health warning" against the CLSB. SW put the ACL on notice that despite the extent of the CLSB action plan, the LSB would not give an assurance that if all those actions were all undertaken this would result in a more favourable assessment in 2017.

As Chair of the body who delegated its approved regulator status to the CLSB, Iain requested the CLSB deliver objective and proportionate regulation. SW advised that they were due to file an update report with the LSB in December 2016.

The recent CMA report was also discussed under which the value of regulation had effectively brought into question. This report found the same as a recent LSB report on un-regulated providers of divorce, IP and will and probate work, and concluded that there was no apparent consumer detriment between those providing regulated legal services and non-regulated legal services. LP reiterated that in the view of the CLSB, those legal professionals/practices which chose to handle client monies should be regulated or regulated to a higher standard than those who do not. SW thanked Iain for his time in attending the meeting.

**11. Education (ACL)**

**11.1 Exemptions**

The board agreed to contract an education specialist to advise on exemptions/one year fast track qualifications for those with a legal qualification. It was agreed this would not be a role for our education auditor.

**12. Any other business**

12.1 The ACL questionnaire handed out at the May national conference was noted.

12.2 The board was advised that the LSB had asked all ARs to publish a breakdown of their annual costs, some ARs had reasons for not doing this e.g. interlinked with representative body. As CLSB does not have these issues, we have published that information under a section headed "cost of regulation." This includes a history of:

- (i) practising certificate fees;
- (ii) LSB levy;
- (iii) LeO levy; and
- (iv) CLSB operating costs since 2013.

12.3 Board meeting dates for 2017 were agreed as being  
Tuesday 24 January  
Tuesday 25 April  
Tuesday 25 July  
Tuesday 24 October

**13. Date & time of next meeting**

13.1 Date & time: Tuesday 11 October 2016 @ 10.30am  
Location: The Studio, 7 Cannon Street, Birmingham

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

.....  
Chairman