

## **SUPERVISION POLICY**

### **Costs Lawyer Standards Board**

**Effective date: 24 January 2017**

#### **1. Background**

In writing this policy the CLSB took into consideration the statement by the LSB in its 2016 thematic review following assessment of approved regulators: *“the approach taken to supervision varies across the regulators which is entirely appropriate. This is because supervision systems should be proportionate, aligned with the risks identified and evidence gathered by the regulators, and should take account of the resources of a regulator”*.

#### **2. Informing the regulatory risk framework**

This policy sets out supervision activities undertaken by the Costs Lawyer Standards Board (the “CLSB”) in relation the activities of a Costs Lawyer with a current practising certificate issued by the CLSB (“Costs Lawyer”).

The outcomes from these activities will be reported to the CLSB board to inform future supervision activities and risk to regulatory objectives. Outcomes will provide required evidence of risk under the CLSB regulatory risk framework (identify and record stage) and will enable assessment of potential impact (assess and prioritise stage) to enable the CLSB to define suitable action (respond stage). It will also, over time, assist the CLSB in monitoring (monitor stage) and evaluating impact and adjusting action accordingly (evaluate and adapt stage).

#### **3. Re-active supervision activity**

##### **(i) Complaint handling**

The CLSB will continue to implement its disciplinary process where informal intervention is not considered appropriate or has not proven effective.

This will be achieved by:

- a) On-going monitoring of the Code of Conduct, Practising Rules and Disciplinary Rules to ensure they remain fit for purpose.
- b) Conducting investigations of consumer/third party led complaints.
- c) Conducting investigations of CLSB led complaints.
- d) Taking disciplinary action at CEO level if an investigation outcomes merits it.
- e) Referring a disciplinary matter to a Conduct Committee if an investigation outcome merits it.

##### **(ii) Complaint analysis**

The CLSB will continue to monitor complaints and their outcomes to establish risks.

This will be achieved by: Analysis and reporting to the CLSB board of:

- a) First-tier complaints and their outcome.
- b) Service complaints to the Legal Ombudsman and their outcome.
- c) Conduct complaints to the CLSB and their outcome.

### **(iii) Insurance claim analysis**

It should be noted that due to privity of contract and data protection issues, insurers and their brokers will not provide the names of their insured or the name of the Costs Lawyer working at their insured who caused the claim. CLSB will however continue to monitor thematic insurance claim experience for risks.

This will be achieved by: Annual reporting of claims experience to the CLSB board to establish any risks.

### **(iv) Consumer feedback**

The CLSB will consider consumer feedback and will analyse for any thematic risk.

This will be achieved by:

- (i) A client survey issued by Costs Lawyers and made available on the CLSB website.
- (ii) Link to client survey via Legal Choices website.
- (iii) Link to client survey via ACL website.

### **(v) Feedback from other ARs**

Considering any complaints to the SRA about a Costs Lawyer and will analyse for any thematic risk presented by that Costs Lawyer or the profession.

This will be achieved by: Asking the SRA to report any SRA actioned complaints about a Costs Lawyer working in an SRA regulated firm or licensed alternative business structure.

## **4. Pro-active (monitoring) supervision activities**

### **(i) Declarations (fitness to practice)**

The CLSB will consider information and declarations.

This will be achieved by: Issuing an annual regulatory return required to be completed by a Costs Lawyer when applying for a practising certificate. Information will be as deemed appropriate by the CLSB. Signed declarations will address, inter alia, bankruptcy, insolvency, administration, disqualification from being a company director, indictable offences, capacity under the Mental Health Act 2005, money judgments and orders under the Solicitors Act 1974.

### **(ii) Professional indemnity insurance**

The CLSB will continue to monitor Costs Lawyers practice with professional indemnity insurance at the minimum required by the CLSB.

This will be achieved by: Requiring a Costs Lawyer not working for an SRA regulated entity to file evidence of their professional indemnity insurance provision in place at the time of applying for an annual practising certificate.

### **(iii) Continuing professional development (CPD)**

The CLSB will continue to ensure CPD requirements are being met.

This will be achieved by:

- (i) Training & CPD Rules being monitored to ensure they remain fit for purpose.
- (ii) Costs Lawyers completing and signing an annual CPD record sheet.

- (iii) An annual random CPD audit of 5% of Costs Lawyer.

**(iv) Consumer recourse (complaints procedure)**

The CLSB will continue to monitor that Costs Lawyers have a complaints procedure in place.

This will be achieved by: Requiring a Costs Lawyer not working for an SRA regulated entity to file their complaints procedure with the CLSB at the time of applying for an annual practising certificate.

**(v) Accredited Costs Lawyer scheme (CPD)**

The CLSB will continue to accredit Costs Lawyers for the purposes of their providing CPD to ensure standards are maintained.

This will be achieved by:

- (i) Written application to the CLSB for a three year accreditation.
- (ii) On written application for renewal, the Costs Lawyers is required to state what CPD they have provided in the previous three years.
- (iii) Maintenance of the Accredited Costs Lawyer register on the CLSB website.

**(vi) Costs Lawyer mark of regulation**

The CLSB will continue to manage its mark of regulation, which identifies Costs Lawyers to the consumer as being authorised and regulated.

This will be achieved by:

- (i) The CLSB issuing individual licences upon request, for signing by both parties.
- (ii) Indicating on the regulated Costs Lawyer register whether they are licenced to us the mark of regulation.
- (iii) Taking action in the event of any breach of licence terms.

**(vii) Statistics**

The CLSB will continue to monitor changes in the profession by way of statistical analysis, the outcome of which will be used in considering policy.

This will be achieved by: Undertaking an annual statistical analysis of the profession on a needs basis on the following areas for example, and any other considered appropriate by the CLSB at the time.

- Diversity
- The profession (sole practitioner, working for SRA regulated firm or costs firm etc.)
- Number of instructions from a Solicitor client
- Number of instructions from a non-Solicitor client e.g. lay client, business, charity
- Part-time working
- Legal aid/non legal aid
- Vulnerable clients
- Geographical location
- Insurance
- Diversification e.g. mediation
- First tier complaints

- Complaints to CLSB
- Complaints to LeO

## **5. Options**

Based on the outcome of pro-active and re-active supervision activities set out herein, the CLSB will consider actions open to it e.g. surveys, mystery shopping, feedback from judiciary. In considering such options the CLSB will consider:

- Proportionate to risk profile.
- Cost/benefit.
- Best practice by other approved regulators.

## **6. Review**

The CLSB board will review, on an annual basis, the effectiveness, proportionality and value for money of activities undertaken under this policy. The review will also consider any lessons to be learned from the supervisory activity and improvements to be made.