

Company number: 04608905

**Costs Lawyer Standards Board Ltd**  
**Tuesday 24 January 2017 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)

**1. QUORUM, APOLOGIES, DECLARATIONS OF INTEREST & GUESTS**

1.1 The Chair declared the meeting quorate, there were no apologies. The two lay NEDs and non-lay NEDs declared an interest in agenda item 3.2.

**2. MINUTES**

2.1 The board noted all actions from the minutes dated 5 December 2016 had been undertaken. 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: LDP: Post minutes on CLSB website**

**3. BOARD MATTERS**

**3.1 Capacity & capability**

David presented the outcome of the board evaluation process, it was noted the outcome was positive. It was agreed the senior independent director role would be undertaken by the Vice Chair. It was agreed professional development needs would continue to be monitored via the annual appraisal process. It was agreed this board evaluation process would be undertaken again in three years once the CLSB had been able to evaluate the impact of anticipated changes in the profession. It was agreed the CLSB board provided appropriate level of "check and balance" based on size and risk profile.

**Action: LDP: Add succession planning to April board meeting agenda**

**3.2 Policy: Additional board remuneration**

The board was of the view the Chair & CEO agree and implement an appropriate policy, views on the proposal were however sought.

**Action: LDP & SW: Discuss and agree policy**

**4. FINANCE**

**4.1 Q4**

The board noted the position at the end of Q4 and that the 2016 budget had been exceeded by £15k due to a backdated benchmark exercise on remuneration and

increased travel costs. There had however, still been adequate income to cover 2016 operating costs.

#### 4.2 Review of expense policies

The board was advised these policies had not been reviewed since 2011. It was agreed mileage would remain at 45p per mile but that the level at which hotel costs and taxis are reimbursed would be reviewed with greater discretion being afforded the CEO.

**Action: LDP: Revise policy and discuss with Chair**

### 5. **RISK MANAGEMENT**

#### 5.1 Risk framework & risk register: Regulatory risk

Changes agreed at the board meeting in December 2016 having been made the board approved the framework and revised risk register for immediate implementation. The board then considered all regulatory risks that had appeared on the previous risk register and whether, following the revised approach, they should continue to be monitored at board level. Actions and risk scores were also re-considered on those risks carried forward.

#### 5.2 Risk framework & risk register: Business risk

It was agreed reference to business risk be changed to operational risk. Changes agreed at the board meeting in December 2016 having been made the board approved the framework and risk register for immediate implementation. The board then considered all operational risks that had appeared on the previous risk register and whether following a revised approach, they should continue to be monitored at board level. Actions and risk scores were also re-considered on those risks carried forward.

#### 5.3 Supervision policy

It was noted changes agreed at the December 2016 board meeting had been made. Discussion then took place around pro-active and re-active actions and a new section on actions the CLSB could take in certain circumstances was agreed upon.

### 6. **REGULATORY MATTERS**

#### 6.1 Consumer focus

The board was of the view it had considered this when considering actions under the revised supervision policy.

#### 6.2 Guidance note: Client care letters

Following the outcome of the regulator funded consumer research undertaken in 2016, the board approved this revised guidance note which adopted the research recommendations.

**Action: LDP: Post revised guidance note on CLSB website**

#### 6.3 Guidance note: Costs Lawyer complaints procedure

Following the LSB having issued revised s.112 requirements, this guidance note was re-drafted to comply. The board considered and approved the revised guidance.

**Action: LDP: Post revised guidance note on CLSB website**

#### 6.4 Guidance for conduct committee on decision making and penalties

Following a review of best practice on conduct committee guidance by other legal regulators, and having considered best practice by regulators outside legal services, the guidance note had been revised. The board considered and approved the revised guidance. It was noted that in the event a conduct committee was convened, the committee members were issued with a pack of current documents and information, which would include this guidance.

#### 6.5 Insurance Act 2015

The board was advised an evaluation of this Act had been completed, and that it inferred more onerous obligations on insurers. No change to the CLSB issued guidance on professional indemnity insurance had been identified as a result of this legislation.

#### 6.6 CMA report

The board was already aware this report had been issued in December 2016, and noted the summary of its outcome. It was advised a meeting between the CEOs of the approved regulators and the CMA and LSB had taken place on 19 January 2017. It had been agreed to establish a programme board which would be chaired by a CEO of one of the approved regulators.

The board was advised the CLSB had addressed the two matters raised by the CMA in their presentation and as a result had applied to them for a dispensation. The outcome of that application is awaited.

(i) Does the CLSB/Costs Lawyer profession fall within the scope of these recommendations?

Factors raised in support of the CLSB submission it did not were:

- The CLSB regulates individuals via a practising certificate issued to a Costs Lawyer.
- The CLSB does not regulate entities.
- The CLSB does not licence Alternative Business Structures (ABS).
- The profession is small, the regulated number at the end of year 2016 was 651. This number is expected to be less for year 2017, in region of 630.
- The profession is facing difficult times ahead with the implementation of automated bills of costs and increased fixed costs levels.
- Limited income.

(ii) The CMA recommended outcome is aimed at individuals and small business.

Based on end of year 2016 numbers (651 Costs Lawyers) the CMA recommendations are applicable to only 388 Costs Lawyers:

- 250 Costs Lawyers worked for an SRA regulated firm therefore CMA compliance will be the responsibility of that firm.
- 13 Costs Lawyers worked in-house e.g. insurance company, IT company and did not offer services direct to individuals or small business.

- Out of 388 remaining Costs Lawyers, an analysis of the profession has identified in excess of 92% of instructions were from a professional informed client i.e. Solicitor, seeking to recover their costs, and not an individual or small business.

#### 6.7 Client survey

The board noted the final version of the client survey had been sent to all Costs Lawyers by email and that a hard copy had again been sent to them with their packs for a 2017 practising certificate. The board was advised that 19 replies had been received through the post and no replies had been received via the CLSB website.

#### 6.8 Progress on CLSB actions following LSB assessment

The board was advised that Steve and Lynn had met with the LSB in December 2016 for a progress meeting. At that meeting the LSB had been taken through actions to date and had been handed all documentation referred to in the action plan. Following that meeting, a written LSB report of progress had been received. The board considered this and noted Steve and Lynn would work through it in detail and would action/respond to the LSB where considered appropriate.

**Action: LP & SW: Consider LSB summary of progress against action plan**

#### 6.9 Consultation: New route to entry

Following the December 2016 board meeting request that the draft consultation paper include more history, the paper has been revised. It was agreed that the consultation be further used as an opportunity to consult on much needed changes to Training & CPD Rules. The consultation paper had therefore been divided into three parts:

Part 1: Updated Training & CPD rules in relation to Trainee Costs Lawyers

Part 2: Changes to CPD for Costs Lawyers

Part 3: New route to qualification as a Costs Lawyer

The board approved the consultation paper.

**Action: LDP: Issue consultation paper**

### 7. **LEGAL SERVICES BOARD (LSB)**

#### 7.1 Consultation: Diversity guidance

The board noted the CLSB reply to the LSB dated 11 November 2016 under which various concerns were raised, these included that the LSB proposal did not differentiate clearly or indeed at all on the expectations of those approved regulators of individuals as opposed to entities. The CLSB also stated that the document “*masquerades as guidance (information and advice) yet it defined a set of expectations.*”

#### 7.2 Consultation: Business plan

The board noted this consultation process.

### 8. **LEGAL SERVICES CONSUMER PANEL (LSCP)**

#### 8.1 2016 Tracker Survey: Black & minority ethnic groups (BME)

The board noted the outcome of this survey which was not Costs Lawyer specific. No actions were identified.

## 8.2 New chair

The board noted the appointment of a new Chair, the CEO advised that to date they had not made any contact with the CLSB.

## 9 **LEGAL OMBUDSMAN (LeO)**

### 9.1 Service complaints

The board was advised there had been no new service complaints to LeO since the last board report and that there were no outstanding service complaints being considered by LeO.

### 9.2 New chair

The board noted an advertisement had been placed for a new Legal Ombudsman Chair, effective March 2017. The board was advised that immediately following its board meeting Lynn was attending a meeting with the Chief Legal Ombudsman to discuss their business plan and future strategy.

## 10. **REPRESENTATION (ACL)**

10.1 The board noted there was nothing to report other than for 2017, the one day ACL National Conference in Manchester would be in May and the two day National Conference in London would be in October.

## 11. **EDUCATION (ACLT)**

### 11.1 Current trainee numbers

The board was advised that at the end of 2016 only 9 Trainee Costs Lawyers qualified and that the regulated number was therefore likely to decrease for 2017 as more had left the profession than qualified. This small number of new qualifiers was as a result of the qualification having been closed off to new entrants for a year whilst it was rewritten following review in 2013. The board noted the following number currently on the course:

Year 1: 31

Year 2: 79

Year 3: 102

The spike in year 3 numbers was as a result of those who had wanted to commence study in 2013, but being deferred until 2014 whilst the course was re-written. The decreased number from 2015 (year 2) to 2016 (year 3) which was likely as a result of anticipated changes within the profession e.g. fixed costs.

### 11.2 Education representative

The board was advised the new education representative from the ACL Council was Steven Davies and that he had met Lynn on 20 January 2017. During that meeting the planned consultation had been discussed. CLSB had also advised that in the event a new route to entry was approved and implemented, the service provider would be put to tender and it would be at ACLT discretion as to whether they wished to be considered. The difficult working relationship CLSB had experienced with ACLT was discussed. It was agreed that a monthly meeting would take place between Steven and Lynn going forward in the hope that working relationship could be improved.

12. **ANY OTHER BUSINESS**

12.1 The board noted that as at the date of its meeting, 14 Costs Lawyers had indicated they did not intend to renew their practising certificate and that 33 Costs Lawyer were still yet to apply.

13. **DATE & TIME OF NEXT MEETING**

13.1 Date & time of next meeting: Tuesday 25 April 2017 @ 10.30am

Location: The Studio, 7 Cannon Street, Birmingham

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

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Chairman

**Board Document Disclosure**

The following documents were not considered confidential, sensitive or subject to prevailing data protection laws and have therefore been published in the location stated.

<b>Paper</b>	<b>Publication</b>
Minutes 5 December 2016	Minute section on the CLSB website
CMA report	Issued and accessible through CMA
Guidance: Complaints Procedure	Under Costs Lawyer Handbook section of CLSB website
Guidance: Client Care Letter	Under Costs Lawyer Handbook section of CLSB website
Client survey	Accessible on the home page of CLSB website
CLSB letter to LSB (11 November 2011)	LSB website
Insurance Act 2015	Available via internet search
Supervision Policy	Accessible through "more about the CLSB" section of CLSB website