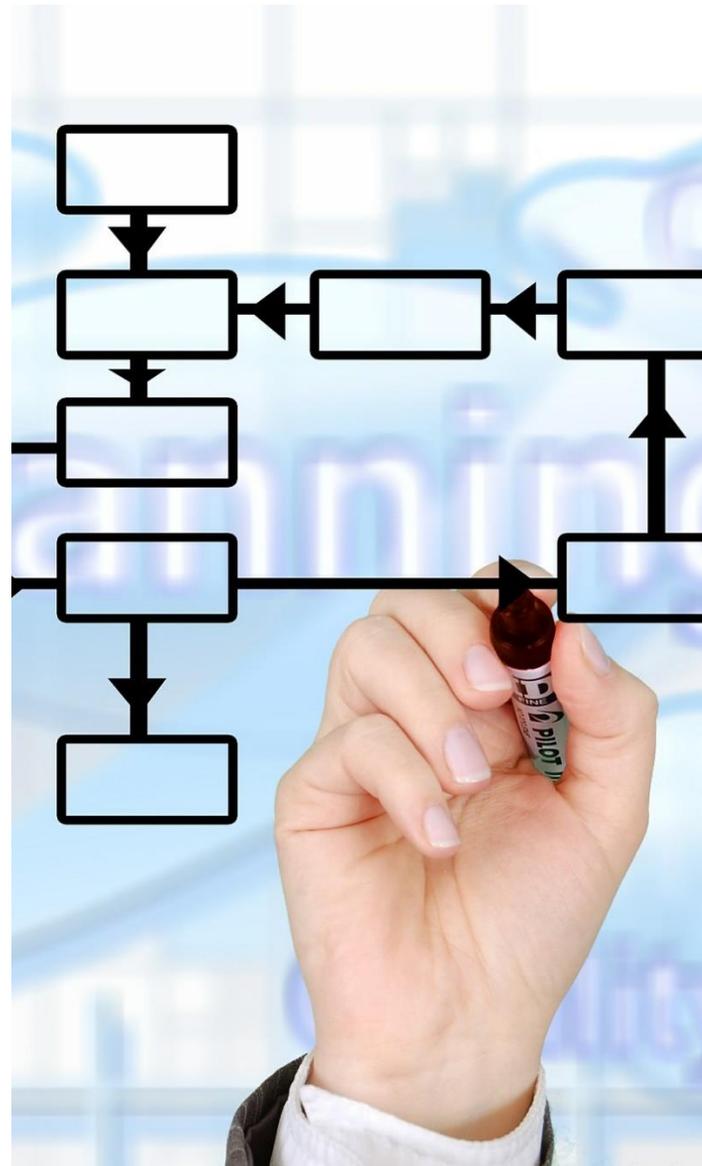


Consultation

2022 practising fee: Proposed 2022 business plan



Proposal for consultation: 21 July 2021

Costs Lawyer Standards Board

CLSB



Foreword

Rt Hon David Heath CBE, Chair

2021 has been a year of unprecedented change. As we emerge from the grip of a global pandemic, it is clear that new ways of working, living and interacting are here to stay. Our [research](#) suggests that Costs Lawyers have not only risen to the challenges of the past year, but have also embraced opportunities to look at their practice with fresh eyes and help more clients navigate the complex landscape of legal costs.

At a personal level, 2021 has also been a year of change and opportunity for me. I hung up my hat as Senior Independent Director of the Solicitors Regulation Authority and began a new chapter as Chair of the CLSB. I arrived here at an exciting and pivotal moment in the organisation's history. In mid-2019, a fresh [vision](#) for the CLSB was set out by the incoming CEO, supported by a forward-thinking and passionate board. I see that vision coming to fruition in many ways; from our collaborative relationships to our careful use of evidence and data, from our creative application of limited resources to our tailored regulatory interventions. This provides a springboard from which the CLSB can grow, innovate and make meaningful change for years to come.

We now find ourselves better placed than ever before to tackle a number of structural barriers to effective consumer protection in the costs law market. One such barrier is the fact that unauthorised costs advisers are able to use the title of "Costs Lawyer", making it difficult for consumers to recognise who is regulated and who is not, and thus make informed choices. In 2022, we will deepen our understanding of the unregulated part of the market for costs law services, examining whether clients experience different outcomes depending on the regulatory status of their adviser, and asking what this means for the way we regulate.

Together with my board, and with the CLSB's outstanding executive team, I look forward to answering these important questions and helping to secure the public's justified trust in the Costs Lawyer profession into the future.

Introduction

Kate Wellington, CEO

I always enjoy the process of developing a Business Plan for the upcoming year. It is a moment to examine our culture, to check that we are listening and responding, and to imagine what the future might look like. It is also a moment to check-in with Costs Lawyers and the wider community, encouraging an ongoing conversation about the purpose of regulation, what benefits it should bring, and how much it should cost.

Our last two Business Plans – for 2020 and 2021 – were designed to lay the groundwork for achieving the vision and objectives in our [mid-term strategy](#). They ignited a period of genuinely transformational change for our organisation, during which we modernised almost every aspect of what we do. To pick out a few examples, in 2021 we delivered the second year of our digital work program, moving exclusively to web-based forms and developing a bespoke financial management system. We expanded our team, adding resource in the areas of consumer policy and education, to provide deeper expertise and fresh perspectives. We launched a flagship project to map the competencies we expect of newly qualified practitioners. And we enhanced our regulatory approach, through the development of new guidance, a new supervision methodology, and a new consumer outcomes framework that will underpin all our regulatory interventions going forward.

I am buoyed by the positive feedback we have received about these changes and the enthusiasm shown for our initiatives. This feedback comes in many guises, be it statistical (such as a 97% effectiveness rating from our regulated community), anecdotal (like messages of thanks from people using our services) or more formal (such as our oversight regulator’s complimentary assessment of our performance).

Our current mid-term strategy takes us through to 2023, which means that by the end of 2022 we want to be “nearly there”. Our 2022 Business Plan is therefore designed to help us consolidate our successes so far while also launching new projects that are relevant and impactful. With particular focus on education, consumer outcomes and core standards, we will concentrate our resources on the things that matter most.

Strategic objectives

Pursuing our strategy

Below are the CLSB's strategic objectives for 2020 to 2023, as set out in our [mid-term strategy](#). Each objective is assigned a letter, A through E. These letters are used in the remainder of this Business Plan to demonstrate how our annual priorities for 2022 are linked to achievement of our wider strategic goals.

- A. *We will have collaborative working relationships with key stakeholders in the costs law market and across the wider legal services landscape, including the Association of Costs Lawyers, the Legal Services Board and other Approved Regulators. Through these relationships, we will identify best practice, harness evidence and data, and draw from the learnings of others, to deliver a rigorous approach at proportionate cost.*
- B. *We will consider and act upon evidence in a consistent, structured and documented way, furthering our ability to implement highly tailored regulatory arrangements.*
- C. *We will have an advanced understanding of the consumer dimension of the market we regulate, and we will regularly revisit and update our perception of the risks posed by the profession to the public.*
- D. *We will have a deep comprehension of the risk framework within which we operate, and our stakeholders will be confident that we are delivering robust risk-based regulation that is bespoke to Costs Lawyers.*
- E. *Costs Lawyers will view the CLSB as facilitating a trusted and evolving profession, responding proactively to new challenges and needs.*

Promoting consumer outcomes

In line with [our commitment to consider consumer outcomes in all of our regulatory work](#), we have also indicated in this Business Plan how each initiative is linked to the promotion of one or more of the consumer outcomes that we are interest in, namely: price; quality; access; innovation; privacy; fairness; and/or diversity.

Annual priorities

Improving our regulatory arrangements

| | Initiative | Link to strategy | Fit with consumer outcomes |
|----|---|------------------|---|
| 1. | <p>Review the Costs Lawyer Code of Conduct to ensure it aligns with:</p> <ul style="list-style-type: none"> • our consumer outcomes framework; • our research into the competencies expected of a qualifying Costs Lawyer; • learnings from our risk deep-dive exercise carried out in 2021; • the better regulation principles, and in particular that it does not impose unnecessarily broad regulatory burdens; • recent updates to our other regulatory arrangements; • evidence of good practice across the wider professional services sectors. | B, D | Price Quality Innovation Privacy Fairness |
| 2. | <p>Implement changes to the Training Rules and other regulatory arrangements relating to education – informed by evidence from our competencies project in 2021 – to modernise the requirements for becoming a Costs Lawyer and facilitate a wider range of flexible pathways to qualification.</p> | B, E | Quality Access Diversity |
| 3. | <p>Using our new supervision framework, evaluate the extent to which our revised approach to Continuing Professional Development (CPD) has been understood and adopted by Costs Lawyers, and develop communications to address any areas of difficulty or other themes identified.</p> | B, E | Quality Access |

| | | | |
|----|---|---|---------|
| 4. | Evaluate the success of our new Disciplinary Rules and Procedures two years after implementation. | B | Quality |
|----|---|---|---------|

Protecting the interests of consumers and promoting professional standards

| | Initiative | Link to strategy | Fit with consumer outcomes |
|----|---|------------------|--|
| 5. | Update our Consumer Engagement Strategy to capture learnings from the first year, and deliver the updated priority activities for the second year. | C | Evidence collection to promote all outcomes |
| 6. | <p>Embed a culture of considering consumer outcomes in all of our regulatory work, seeking evidence of effectiveness where possible.</p> <p>In line with this culture:</p> <ul style="list-style-type: none"> gather evidence of whether and how consumer outcomes differ when clients use regulated advisers and unregulated advisers, so we can better assess the risks to consumers of under- or over-regulation in the market for costs law services; based on evidence, evaluate how far we can tackle any issues raised in the areas of price; innovation; access; privacy; and fairness. | A, B, C, D, E | Price Quality Access Innovation Privacy Fairness Diversity |
| 7. | Carry out a research project to better understand the pricing structures used by Costs Lawyers and to benchmark prices for different types of costs services. | B, C | Price |
| 8. | Investigate consumers' expectations in relation to privacy – including by reference to learnings from existing research in related markets – and assess | A, B, C, D, E | Privacy |

| | | | |
|-----|--|---------|---|
| | whether there is any evidence that expectations are not being met. | | |
| 9. | <p>Deliver the next phase of our diversity and inclusion work program in the three broad areas identified in our 2021 comparative report, namely:</p> <ul style="list-style-type: none"> • further improving our data collection; • enhancing engagement with our regulated community; • assessing the likely effectiveness of potential regulatory interventions to improve diversity and inclusion. | A, B, E | Diversity |
| 10. | Deliver a project to benchmark the level of innovation in the profession and to explore any regulatory or statutory arrangements that might hinder or assist innovation in the market for Costs Lawyers' services. | B, E | Innovation |
| 11. | <p>Engage with the other legal services regulators to identify and act on opportunities for collaboration that have the potential to deliver:</p> <ul style="list-style-type: none"> • material cost savings; • new evidence or learnings that we could not access on our own; and/or • unique benefits from taking a whole-sector approach. | A | Better regulation to support all outcomes |

Modernising our organisation

| | Initiative | Link to strategy |
|-----|--|------------------|
| 12. | Begin to consider a vision for our organisation beyond the current mid-term strategy that ends in 2023, focused around a board strategy day informed by the views of stakeholders. | Facilitates all |

| | | |
|-----|---|-----------------|
| 13. | Review our methodology for measuring, recording, monitoring and responding to risk in light of changes to our regulatory approach and organisational culture since our existing methodology was introduced. | D |
| 14. | Test the measures in our Business Continuity and Disaster Recovery Plan to ensure they remain fit for purpose following changes to our organisational design. | D |
| 15. | Deliver the next phase of our digital workplan, including: <ul style="list-style-type: none"> • automating the analysis of routinely captured data; • building add-on functionality for the Costs Lawyer database, such as bespoke report generation. | Facilitates all |
| 16. | Review and modernise our internal staff policies to ensure they are fair, relevant and reflect our current ways of working. | E |
| 17. | Consider whether additional or different advisory appointments are necessary to fill any skill gaps at board or executive level. | Facilitates all |

Our budget for 2022, which will facilitate delivery of this Business Plan, can be [found on our website](#).