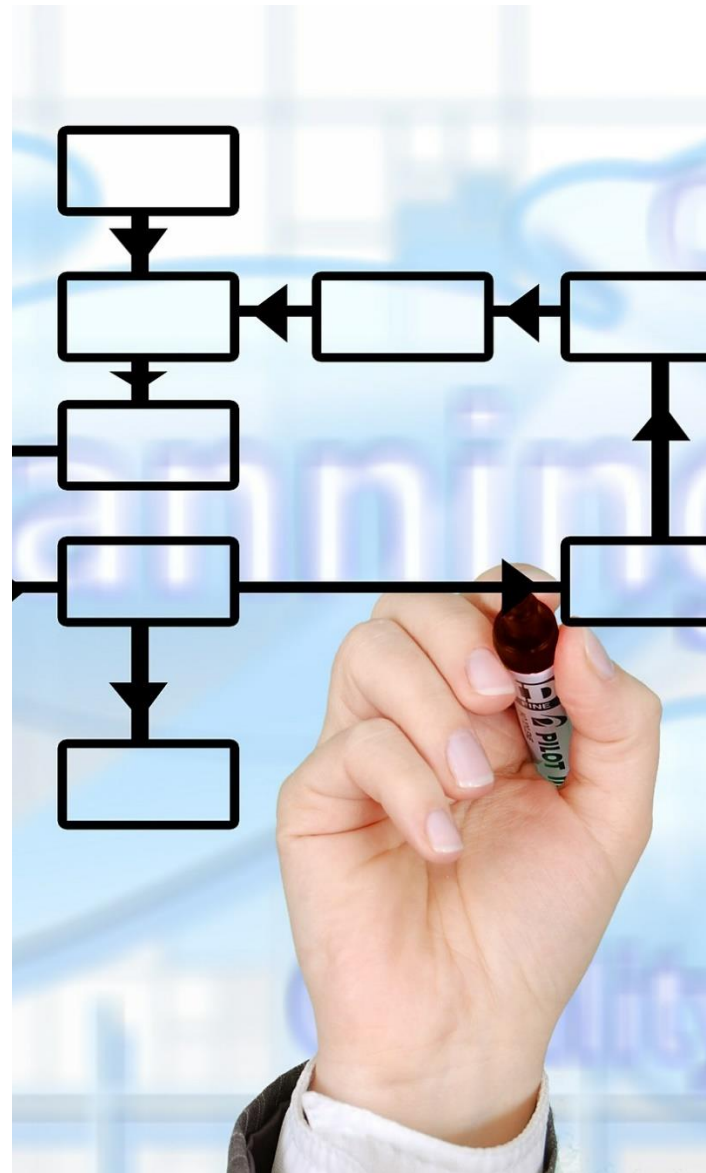


Consultation

2023 practising fee: Summary of activity funded by the 2021 practising fee



21 July 2022

Costs Lawyer Standards Board

CLSB
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Purpose

This document is intended to help Costs Lawyers better understand the programme of activity that was funded through their practising fees in 2021, as well as the benefits of that activity, in line with the Legal Services Board's [Guidance on its Practising Fee Rules](#).

In particular, this document:

- describes the annual priorities in the CLSB's 2021 Business Plan;
- explains whether, when and how they were achieved;
- summarises their intended benefits, by reference to our strategic goals and the regulatory objectives in the Legal Services Act 2007; and
- provides examples of indicators that we believe demonstrate they had the benefits we anticipated.

You might like to consider this document alongside the CLSB's [consultation](#) on the proposed Costs Lawyer practising fee for 2023, which closes on 5 September 2022.

Regulatory objectives

Below are the regulatory objectives established by the Legal Services Act 2007, which the legal regulators (including the CLSB) must promote through their work. Each regulatory objective is assigned a number, 1 through 8. These numbers are used in the remainder of this document to demonstrate how our annual priorities for 2021 were intended to promote the regulatory objectives.

1. *Protecting and promoting the public interest.*
2. *Supporting the constitutional principle of the rule of law.*
3. *Improving access to justice.*
4. *Protecting and promoting the interests of consumers.*
5. *Promoting competition in the provision of legal services.*
6. *Encouraging an independent, strong, diverse and effective legal profession.*
7. *Increasing public understanding of the citizen's legal rights and duties.*
8. *Promoting and maintaining adherence to the professional principles.*

Strategic objectives

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 document to demonstrate how our annual priorities for 2021 were intended to help us achieve 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.*

Annual priorities

Improving our regulatory arrangements

	Initiative	Status (by end of 2021)	Intended benefits	Example indicators of the benefits achieved
1.	Work with ACL Training to consider whether improvements are required to the Training Rules, informed by learnings from the first year of the refreshed Costs Lawyer Qualification.	<p>Achieved (Q4)</p> <p><i>A detailed programme of research and engagement was carried out to develop a new competency statement, providing evidence to underpin changes to our Training Rules. A consultation on the competency statement closed in October. The outcome report and final version of the statement were put to the board for approval and then published.</i></p> <p><i>Work also began on a new regulatory structure for the qualification, with the first draft of a new provider accreditation scheme being put to the board for input. Translation of the competency statement into assessment outcomes will be a priority in 2022.</i></p> <p><i>This Business Plan priority became a core workstream for us in 2021; the pace and scope of our progress accelerated far beyond what we envisaged when the Business Plan was developed.</i></p>	<p>Strategic objectives: A, B, E</p> <p>Regulatory objectives: 6, 8</p>	<ul style="list-style-type: none"> • The detailed research behind the competency statement has provided a robust evidence base for building a new framework for the Costs Lawyer Qualification from first principles. • Widespread engagement with the competency statement project allowed us to gather input and evidence from a diverse range of stakeholders. • A collaborative approach with ACL Training allowed us to align timings for our respective work programmes, benefitting current and future students.
2.	Update the Guidance Notes in the Costs Lawyer Handbook that were not subject to review following the 2019 Handbook Audit.	<p>Achieved (Q3)</p> <p><i>Three updated guidance notes were approved by the board in April, another was approved between meetings in Q2 and two more in October. Implementation of the final guidance notes in Q4 completed this priority.</i></p>	<p>Strategic objectives: B</p> <p>Regulatory objectives: 1, 4, 6, 8</p>	<ul style="list-style-type: none"> • Practitioners and the public can now be confident that all CLSB guidance is relevant and based on the latest evidence, with each publication having been either developed or reviewed in the last two years.

				<ul style="list-style-type: none"> We have been able to draw upon our up-to-date guidance in developing other regulatory processes, such as a new complaints procedure audit (see priority 8).
3.	<p>Develop new guidance that draws together themes identified across various aspects of our work, such as:</p> <ul style="list-style-type: none"> guidance for unregulated employers of Costs Lawyers; guidance on closing down a practice. 	<p>Achieved (Q2)</p> <p><i>Themes for the guidance were developed in Q1 and two new guidance notes were approved by the board in July.</i></p>	<p>Strategic objectives: B, D</p> <p>Regulatory objectives: 1, 4, 6, 8</p>	<ul style="list-style-type: none"> Having clear guidance on closing down a practice allowed us to respond quickly to the risk of firm insolvency posed by covid-19. We have been able to point junior practitioners to our guidance for unregulated employers to facilitate open conversations about regulation with their line managers, in response to queries raised.
4.	<p>Carry out an initial evaluation of our revised approach to Continuing Professional Development (CPD) – informed by feedback and enquiries from the profession and other stakeholders – and produce targeted additional support materials where a need is identified.</p>	<p>Achieved (Q1)</p> <p><i>We captured learnings from the launch of our new CPD regime by tracking email enquiries, feedback and questions raised at our Virtual Q&A session held in February. Those learnings allowed us to supplement our CPD supporting materials (particularly our website FAQs) and informed our approach to developing the new supervision framework for the regime (see priority 8).</i></p>	<p>Strategic objectives: B, E</p> <p>Regulatory objectives: 4, 6, 8</p>	<ul style="list-style-type: none"> Our 2022 CPD audit showed a high degree of engagement with the new regime and positive feedback about the impact of the changes, suggesting that the support provided through this priority was valuable for practitioners and helped to promote the objectives of the regime.
5.	<p>Review the regime for accrediting Costs Lawyers to provide CPD training, to</p>	<p>Achieved (Q2)</p> <p><i>We implemented new Accredited Costs Lawyer Rules, reviewed the accreditation criteria and updated the</i></p>	<p>Strategic objectives:</p>	<ul style="list-style-type: none"> The new forms have allowed us to seek more targeted information and evidence from

	<p>assess whether the accreditation criteria and the approach to implementation remain fit for purpose.</p>	<p><i>information we seek from applicants (both when they first apply for accreditation and upon renewal). We developed a new supervision framework for the scheme, as an adjunct to our planned supervision project (see priority 8). New webforms implementing the changes to the application process went live in Q2. We sought feedback from those Costs Lawyers choosing not to renew their accreditation during the year and the follow-up work from that exercise has been completed.</i></p>	<p>B, E Regulatory objectives: 4, 5, 6</p>	<p>applicants, helping to identify issues early on and work with applicants to make improvements.</p> <ul style="list-style-type: none"> The robust requirements for reaccreditation caused some practitioners not to renew where they could not meet the criteria. This has raised standards overall, promoting the value and credibility of accredited status.
<p>6.</p>	<p>Consider our diversity and inclusion initiatives against the Legal Services Board's characteristics of a well-performing regulator to identify and address any gaps in our approach.</p>	<p>Achieved (Q4) <i>Work on this priority was ongoing throughout the year. We launched a new diversity survey alongside the 2021 PC renewal application. We analysed and published data from that survey, including in a comparative report, and made further improvements to align our data with the sector's. We stepped up engagement with the regulators' EDI forum and liaison with the LSB and SRA on diversity. We also compiled a set of actions aimed at further improving our data and exploring particular characteristics. We assessed the merits of different regulatory interventions aimed at promoting EDI and a paper on this was considered by the board in July. We conducted an outreach project with the profession to understand how they feel about the collection of diversity data, to identify the collection method most likely to improve survey response rates, and built a targeted survey on the pay gap between men and women. We reported a summary of our progress to the LSB in November 2021.</i></p>	<p>Strategic objectives: B, E Regulatory objectives: 6</p>	<ul style="list-style-type: none"> Improvements to the data we hold on the profession has enabled us to better assess the impact of our decisions on certain groups, for example by preparing an Equality Impact Assessment for the practising fee. We were able to make use of existing evidence (held by regulators and others) to assess what mechanisms are likely to have the greatest impact in the Costs Lawyer market, allowing us to save resource and be targeted in our approach to promoting diversity and inclusion.

Protecting the interests of consumers and promoting professional standards

	Initiative	Progress status	Intended benefits	Example indicators of the benefits achieved
7.	Deliver the first year of priority activities in our Consumer Engagement Strategy.	<p>Achieved (Q2)</p> <p><i>We delivered a number of initiatives under the first year of the strategy, such as improving our web content, securing improvements to the costs questions in the LSCP tracker survey, and reviewing our regulatory return questions relating to client profiles. We refreshed our client survey and asked Costs Lawyers who reported having lay clients to send the survey directly to those clients, and we carried out a research project with Community Research and Panelbase. A paper on recommendations for year 2 of the strategy was considered by the board in July and the strategy has been extended accordingly.</i></p>	<p>Strategic objectives: C</p> <p>Regulatory objectives: 1, 3, 4</p>	<ul style="list-style-type: none"> • Actions from year 1 of the consumer engagement strategy improved our consumer evidence base, enabling us to make a commitment to focusing on consumer outcomes in all our work going forward.
8.	Develop our approach to supervision by: (i) planning an updated CPD audit programme under the new CPD Rules; (ii) implementing a structured audit of complaint procedures; (iii) formalising our “point of complaint” targeted supervision activities; (iv) updating our Supervision Policy to capture the above.	<p>Achieved (Q3)</p> <p><i>We developed new supervision frameworks, using a consistent approach and format, for supervising compliance with the Accredited Costs Lawyer Rules, our guidance on complaints procedures, and the CPD Rules. These were approved by the board in April and are now operational. An audit of complaints procedures was carried out under the framework in Q2. A framework for point-of-complaint supervision and a new Supervision Policy describing our approach were approved by the board in October and the full suite of documents is now available on the supervision page of our website.</i></p>	<p>Strategic objectives: B, D, E</p> <p>Regulatory objectives: 4, 6, 8</p>	<ul style="list-style-type: none"> • Implementation of the supervision framework for complaints procedures allowed us to secure substantial improvements to 20 procedures (covering numerous Costs Lawyers) in the first year alone, for the benefit of clients. • Our supervision processes are now consistent and transparent, allowing practitioners and the public to understand and scrutinise our approach.

9.	<p>Take an in-depth look at three key areas in which we have identified risks of poor consumer outcomes, namely:</p> <ul style="list-style-type: none"> • under-insurance; • handling of client money; and • communication of complaint procedures. 	<p>Achieved (Q4)</p> <p><i>We completed our review in relation to Costs Lawyers handling client money early in the year and updated our guidance note accordingly, with the decision-making process being recorded in a published Board Decision Note. We looked at how complaints procedures are developed and communicated through the lens of our new audit framework and reported to the board in July. We built a webpage communicating learnings from that audit to mitigate risk across the regulated community. In Q4 we reviewed evidence of risks relating to under-insurance. Recommendations for future work to address discrete issues were adopted by the board.</i></p>	<p>Strategic objectives: C, D</p> <p>Regulatory objectives: 4, 8</p>	<ul style="list-style-type: none"> • This work has allowed us to tailor our regulatory risk register to focus on specific risks to consumer outcomes, rather than general risks of non-compliance. • Our detailed review of client money issues allowed us to contextualise and address feedback about client money that we received during the research phase of our Regulators’ Pioneer Fund project (see priority 10).
10.	<p>Consider how we can improve consumer information in relation to the regulatory status of the organisations in which Costs Lawyers practise.</p>	<p>Achieved (Q1 2022)</p> <p><i>We wrapped this priority into our successful bid for grant funding from the Regulators’ Pioneer Fund, which meant that it was delivered in 2022 rather than 2021. Work on the research programme concluded in March 2022 and a final project report was published in June on our website. We have begun developments to the Register of Costs Lawyers to display the regulatory status of firms, which will go live later in 2022.</i></p>	<p>Strategic objectives: C, D</p> <p>Regulatory objectives: 1, 4, 5</p>	<ul style="list-style-type: none"> • Understanding the questions we wanted to ask in this area allowed us to integrate the research into a wider project, and then implement our findings alongside other reforms to the Register, helping us use resources efficiently and take a holistic approach.
11.	<p>Test the efficacy of the new interim suspension order (ISO) powers in our Disciplinary Rules and Procedures, based on our early experience of disciplinary proceedings in which the imposition of an ISO was considered.</p>	<p>Deprioritised / delayed</p> <p><i>No opportunities arose during 2021 to test the ISO power in practice. We will carry out this work when a suitable disciplinary case presents itself in future years. To ensure this workstream is not forgotten, we have embedded consideration of ISOs into a new triage process for handling inbound complaints about Costs Lawyers’ conduct.</i></p>	<p>Strategic objectives: B, D</p> <p>Regulatory objectives: 1, 8</p>	<p>Not applicable</p>

Modernising our organisation

	Initiative	Progress status	Intended benefits	Example indicators of the benefits achieved
12.	<p>Measure the success of the electronic practising certificate (PC) renewal process implemented in 2020 against five key metrics (cost; resource implications; user feedback; data security; and data quality) and identify any adjustments needed for the 2021 renewal period.</p>	<p>Achieved (Q1)</p> <p><i>We carried out a comprehensive review of the new electronic PC renewal process against the five metrics. A report was considered by the board in January. A number of improvements to the PC application form and database were identified through that process and a workplan was put in place to deliver those improvements before PC renewals began again in November.</i></p>	<p>Strategic objectives: B, E</p> <p>Regulatory objectives: Facilitates all</p>	<ul style="list-style-type: none"> Measuring success against objective metrics allowed us to demonstrate the significant benefits arising from this work, including long term cost savings for practitioners. The review process helped us make informed choices about which further improvements to prioritise for the greatest impact, taking user feedback into account.
13.	<p>Deliver the second phase of our digital workplan, including:</p> <ul style="list-style-type: none"> reviewing how we use IT for financial management; creating e-forms for processes other than annual practising certificate renewals; building add-on functionality for the Costs Lawyer database, informed by learnings from the 2020 practising certificate renewal process. 	<p>Achieved (Q3)</p> <p><i>The first version of our new financial management system was built early in the year and has since been used for financial recording and reporting. Development of new online application forms was completed in Q2 – all forms are now available as updated e-forms via the website – and a new client survey e-form was successfully launched. A major upgrade of the Costs Lawyer database, with enhancements informed by learnings from the 2020 PC renewal process, was completed and tested.</i></p>	<p>Strategic objectives: Facilitates all</p> <p>Regulatory objectives: Facilitates all</p>	<ul style="list-style-type: none"> The new financial management system has significantly improved efficiency and reduced the risk of human error in reporting management information to the board each quarter. The development of consistent, comprehensive e-forms for all applications has improved the quality and security of the data we hold about the regulated community.

14.	Review our governance arrangements, including our suite of governance documents, to ensure they provide a robust framework for oversight and accountability and continue to meet the standards of the Corporate Governance Code 2018.	<p>Achieved (Q4)</p> <p><i>Work on this priority began in Q3 with a governance strategy session at the July board meeting. We appointed an independent consultancy to ensure the outcome of the review reflected current best practice standards. The outcome of the review – a proposed new suite of governance documents and arrangements – was approved by the board at the end of the year and implemented thereafter.</i></p>	<p>Strategic objectives:</p> <p>Facilitates all</p> <p>Regulatory objectives:</p> <p>Facilitates all</p>	<ul style="list-style-type: none"> • This work gave us a mechanism for responding nimbly to recommendations from the LSB’s review of the governance arrangements of two other regulators, and allowed us to provide assurance to the oversight regulator that our governance processes were up-to-date and robust.
15.	Revisit the effectiveness of our new operating structure to identify whether and where further improvements can be made.	<p>Achieved (Q4)</p> <p><i>Ongoing review of the effectiveness of our operating structure led to the recruitment of additional policy and education resource in early 2021. Our Business Continuity and Disaster Recovery Plan was reviewed to take account of the changes. The constitution and remit of the board were considered as part of the governance review (see priority 14).</i></p>	<p>Strategic objectives:</p> <p>Facilitates all</p> <p>Regulatory objectives:</p> <p>Facilitates all</p>	<ul style="list-style-type: none"> • This process allowed us to think creatively about how to access desirable skills and expertise within our limited resources, for example by appointing an education expert on an ‘on call’ basis to advise the board on key strategic decisions.