

BOARD DECISION NOTE
Costs Lawyer Standards Board
Date of decision: 10 October 2019 (by email)
Issue: Reopening of the Costs Lawyer Qualification

Board constitution: Steve Winfield (Chair): Lay NED
Gillian Milburn (Vice-Chair): Lay NED
Stephanie McIntosh: Lay NED
Tracyanne Ayliffe: Non-Lay NED
Paul McCarthy: Non-Lay NED

1. Background information and summary of the issue

Background

ACL Training (ACLT) is the only accredited provider of the Costs Lawyer Qualification. In 2017, the CLSB suspended ACLT's approval to accept new students onto the course due to concerns around financial viability.

ACLT is a subsidiary of the Association of Costs Lawyers (ACL). In June 2019, the recently appointed ACL Chair informed the CLSB that ACL was undertaking a viability study to ascertain whether it was financially viable for the course to reopen. ACLT would only be able to take on new students if the suspension of its approval was lifted by the CLSB.

Correspondence

On 11 July 2019, the ACL Chair wrote to the CLSB, formally advising of the ongoing viability study and posing several questions about options for the future of the course. Her letter, along with the initial response from the CLSB's executive, was provided to the CLSB board in advance of its scheduled meeting on 23 July (Annex 1).

To assist the board in considering ACL's questions, board members were also provided with a table of exemptions from the course requirements, which had been developed by the CLSB in 2017 (as required under the 2017 version of the Training Rules) but never published due to suspension of the course (Annex 2). The CLSB CEO requested that the board provide early feedback – by way of discussion at its scheduled board meeting on 23 July – on the questions posed by ACL and the prospect, in principle, of lifting the suspension.

July 2019 board meeting

The ACL Chair attended the CLSB's board meeting on 23 July for a meet-and-greet session. She explained that ACL and ACLT were still in the process of carrying out the viability study and she had not yet been able to convene an ACL Council meeting to discuss the issue further.

The Chair of the CLSB board set out the level of comfort that the CLSB would require before reinstatement of the course would be possible, with a focus on ensuring that all students could be confident the course would run through to completion. The ACL Chair

emphasised that ACL takes its commitments to current students very seriously and would not take on a new cohort without certainty that students could finish the course. She noted that ACL's reserves could be relied upon if that became necessary. A discussion then followed around the level of uptake needed to make the course viable.

The board returned to the issue at the end of its meeting, in the absence of the ACL Chair. The board agreed that, if the CLSB could gain sufficient assurance that adequate safeguards were in place and that any students commencing the course would be able to see it through to completion, the board was in principle open to lifting the suspension. Approval would be on a rolling (i.e. intake-by-intake) basis depending on factors like volume of interest, continued financial viability and the usual course audit. The board also considered the issue of course exemptions, based on the table of exemptions they had received.

The board agreed that it was crucial for the CLSB to engage closely with ACL, with the overriding objective of gaining the requisite level of confidence that the course is financially sustainable. The board concluded that a roundtable, attended by ACL, ACLT, CLSB board members and the CLSB CEO would be the most efficient means of agreeing a way forward.

Full minutes of the July board meeting are at Annex 3. Following the meeting, the CEO circulated the existing course documentation (Annex 4), as requested by the board, along with the most recent audit of the course for the board's information.

Roundtable

A roundtable was held on 15 August 2019. All CLSB board members attended, either in person or by phone (with the CLSB Vice Chair attending for the second half only due to a conflicting commitment). Proposed discussion topics were circulated to all attendees in advance (Annex 5). The CLSB's table of exemptions (Annex 2) was also provided to facilitate discussions.

The CLSB and ACL agreed that they shared the aim of reopening the route of entry to the profession. The CLSB explained that its key consideration in approving the course for a new intake (alongside the usual audit criteria) was that all students who started the course would have an opportunity to finish it.

ACL agreed that this was imperative and that, if the course was reinstated, it would ringfence sufficient funds to ensure all enrolling students could see the course through to completion. In order for ACL to make this financial commitment, it needed assurance that it would have an opportunity – year on year – to assess numbers for the course (and thus financial viability) without the risk of its regulatory approval being suspended prematurely. This was an issue of timing, which could be resolved by ACLT and the CLSB agreeing in advance the sequence of steps that each organisation would take to assess viability for the coming year.

Full minutes of the roundtable, including the list of attendees, a note of the discussion and outcomes / next steps, are at Annex 6. It was agreed that the CLSB CEO would

collaborate with ACLT to facilitate the viability study and to produce the requisite documents for consideration by the ACL Council and CLSB board.

Request for decision

On 26 September, the CLSB CEO was informed by ACLT that the ACL Council had considered the viability study and, subject to regulatory approval, had agreed to support ACLT in reopening the course for an intake in January 2020. In parallel, the CLSB CEO had been working with ACLT to attain provisional agreement on the following:

- the module running order;
- exemptions based on that module running order, to fulfil the requirements of the 2017 Training Rules (Annex 7);
- a draft Protocol, governing the timeline for providing (or suspending / withdrawing) ACLT's regulatory approval year-on-year (Annex 8); and
- a viability report, summarising the assumptions and models used, and conclusions reached, in ACL's viability study (Annex 9 – redacted – commercially sensitive information provided on a confidential basis).

The above documents were provided to the CLSB board by the CEO on 7 October 2019 for comment, with a request for the board to decide whether to lift the suspension and approve an intake of students by ACLT in January 2020.

2. Evidence considered by the Board

- Correspondence with ACL about reopening the qualification (Annex 1).
- Table of exemptions pursuant to the 2017 Training Rules (Annex 2).
- Information provided by the ACL Chair at the CLSB board meeting on 23 July 2019 (Annex 3).
- Course documentation from 2017 (Annex 4) and the most recent audit report for the course (redacted – commercially sensitive and confidential).
- Information provided by ACL and ACLT during roundtable discussions on 15 August 2019 (Annex 6).
- Exemptions based on amended module running order (Annex 7).
- Draft operating Protocol between CLSB and ACLT (Annex 8).
- Viability report (Annex 9 – redacted).

3. Recommendation(s) of the executive and/or Chair

The CLSB CEO recommended that the board approve a January 2020 intake of students on the basis of the viability report provided by ACLT and the draft documents prepared for the board.

4. Summary of deliberations

In relation to exemptions, the board considered the amended module running order to be a positive development, improving progression through the course and potentially making it more attractive to learners and their employers (note that this does not impact module content or syllabus). It was agreed that the exemptions document would benefit from a clearer explanation of how the exemptions were linked to the module running order and the CEO was asked to add wording for this purpose. The board discussed whether learners who benefitted from exemptions from early modules would be able to commence their studies straight away or would have to wait for other students to “catch up”; the CEO explained that, from discussions with ACLT, it was understood that students could commence their studies straight away.

In relation to the viability report, questions were raised as to whether the modelling used by ACLT – and consequently the financial projections considered by the ACL Council – adequately took account of the financial impact of exemptions. The board considered the data and concluded that it did. Comments were made that the financial information could have been more clearly presented, but that the report was nonetheless sufficient for a decision to be made.

In relation to the draft Protocol, two board members provided comments by way of mark-up, and these were discussed by the board and largely agreed. The deliberations covered issues such as ensuring:

- (i) it was clear where the Protocol was intended to refer to ACLT specifically as opposed to Accredited Study Providers more generally;
- (ii) ACLT would have a sufficient opportunity to make representations on CLSB decisions about regulatory approval, including clarifying the appeal process;
- (iii) ACLT takes account of evidence and feedback from a variety of stakeholders;
- (iv) that nothing in the Protocol could be read as fettering the CLSB’s ability to promote the regulatory objectives and act in the public interest at all times.

The board also considered adding indicative timescales to the table of interventions in the Protocol, but agreed that this was likely to be impractical and there was a need for flexibility to respond to unforeseen issues.

The board agreed that, through a combination of the financial projections, the level of ACL’s reserves, and ACL’s commitment (in the Protocol) to see all students through to completion of the course, ACL and ACLT had given the board sufficient comfort to approve opening recruitment for a January 2020 intake.

The board noted that the Protocol was a positive step in establishing the framework for a collaborative relationship with ACLT going forward.

5. Other factors considered by the Board

Standing items for consideration are the impact of the decision on:

- | | |
|--|---------------------------------|
| - the CLSB’s independence | - the CLSB’s financial position |
| - furtherance of the regulatory objectives | - equality and diversity |

- consumers, including vulnerable consumers
- data privacy

Factors not already addressed in 1, 2 or 4 above are:

- CLSB independence: The Protocol supports CLSB independence by providing a clear framework for how the CLSB will exercise its oversight function in relation to education, agreed at arms-length and in advance of any future intervention.
- CLSB's financial position: There will be annual costs incurred by the CLSB when the course is reopened to new students, particularly in relation to the annual audit process. This will be offset by increased PCF income from new entrants into the regulated community as students qualify.
- Equality and diversity: As there has been no route of entry into the profession since 2017, the CLSB's E&D scope been limited to later career stages (recruitment, promotion, management, workplace inclusivity). A new intake of students will enable the CLSB to encourage E&D at the point of entry.
- Data privacy: The CLSB has been collating expressions of interest from prospective students since the course was closed to new entrants in 2017. The CLSB will contact those individuals directly and refer them to ACLT, rather than sharing any personal data with ACLT.

6. Risk assessment

The key risk in lifting the suspension of ACLT's approval to take on new students is that insufficient uptake could mean the course is not profitable and ACLT therefore cannot fully deliver the course to enrolled students. This involves risk to individual students, their employers, the reputation of the profession and the reputation of the CLSB. It also poses potential financial risks to the CLSB, should any impacted parties seek to pursue the oversight body for compensation. The board made clear to ACL, from the outset of discussions, that it would only be in a position to approve a new intake of students if these risks were appropriately mitigated.

Mitigation has primarily been achieved via the commitments made under the terms of the Protocol (particularly at paragraphs 5 and 9) that sufficient resource will be provided to see all students through to completion of the course. The viability report establishes that ACL has sufficient capital to meet those commitments, if necessary, based on projections for the course. The board considers those projections to be realistic based on the information provided.

Any risks relating to quality of course delivery will be addressed by the audit in the usual way.

7. Decision taken, including reasons for the decision (if not apparent from the above)

The board agreed to approve a January 2020 intake of students onto the Costs Lawyer Qualification by ACLT, based on the information provided.

The board approved the Protocol and exemptions, subject to agreed amendments. The finalised course documentation, setting out the module running order and exemptions, can be found on the CLSB's website [here](#). The final version of the Protocol is at Annex 10.

8. Dissenting Board members (if any), including reasons for their dissent (if not apparent from the above)

There were no dissenting board members.

9. Provision of the Legal Services Act 2007, or other legislation, under which the decision was made

Sections 28 and 51(4)(a) of the LSA.

Board Decision Note approved by the Board on: 23 October 2019

Annex 1

11 July 2019

Kate Wellington, CEO and Steve Winfield, Chairman
CLSB
Centurion House
129 Deansgate
Manchester
M3 3WR

Dear Kate and Steve

Re: Entry into the profession and training course

As you are aware from our recent conversations, ACL Council are at present undertaking a viability study as to whether we, as an organisation, can ask you to lift the suspension currently in place in relation to the three year modular training course.

The matter came up for discussion this week at the ACL Council meeting, and I have been tasked with writing to ask for some information, which we believe will impact on the viability issue.

In essence we have three questions:-

1. Please can you provide us with the table of exemptions referred to in the CLSB training rules.
2. Please can you confirm whether the modular running order can be changed.
3. Please can you confirm if there is scope for more than a one year intake.

We would be pleased to hear from you at your earliest opportunity in relation to these questions so that we, in turn, may finalise our study and revert with our conclusions in a timely manner.

Kind regards



Claire Green
Costs Lawyer, Accredited Mediator and Trainer
ACL Chairman

From: ceokw@clsb.info
Sent: 16 July 2019 15:57
To: enquiries@costslawyer.co.uk
Cc: stevewinfield@btinternet.com
Subject: RE: Letter from ACL

Hi Diane

Many thanks for your email and the attached letter from Claire. We are pleased to hear that you are undertaking a detailed viability study in relation to the three year modular training course – we will gladly provide any assistance that we can.

In relation to the questions raised in the letter:

1. The new Training Rules to which Claire refers came into force in 2017. The CLSB was in the process of making consequential changes under those rules, including preparing the list of exemptions, when the three year training course was suspended. It was felt inappropriate to devote resources to drafting rules and guidance in the context of a training course that may not be run again. To the extent that your study is suggesting the course may be tenable – or indeed if you need a full understanding of the exemptions before you can conclude your study – we would be happy to re-prioritise finalise of the exemptions list. This would require board approval and our next board meeting is in October. If this timing will cause issues for you, I would be happy to discuss further with Steve what might be done.
2. In relation to the modular running order, it is difficult to answer this question in isolation without some understanding of what changes you propose. There will no doubt be dependencies between modules that will need to be considered. I would be very happy to discuss this further so we can provide an accurate steer.
3. We very much hope that, if the course is re-opened, it will be financially viable for more than a one year intake. The key for us, from a public interest perspective, is to ensure that any students who commence the course in year 1 are able to continue through years 2 and 3. If delivery of the course in years 2 and 3 is viable only on the assumption that new starters will join (i.e. there will be a second intake), this is likely to give rise to concerns. If you find that it is financially viable to run one intake through years 1 to 3, regardless of whether you get the numbers for a second intake, then there is certainly scope for more than a one year intake. But we would all need to be comfortable that the course could support students through to completion regardless of uptake in future years.

I hope that assists. I suspect these are questions that warrant further discussion. I see that Claire has sent me a separate email about speaking after our board meeting next week – I will follow up with her to try and make a suitable arrangement. If there is anything else we can do to help with your study in the meantime, please do not hesitate to let me know.

Many thanks
Kate

From: Diane Pattenden <enquiries@costslawyer.co.uk>
Sent: 11 July 2019 10:49
To: ceokw@clsb.info; stevewinfield@btinternet.com
Subject: Letter from ACL

Dear Kate and Steve

Please find attached a letter from Claire Green, for your attention.

Kind regards
Diane

Diane Pattenden
Head of Operations



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Annex 2

Exemptions map

CLQ content	Credits	LPC	BPTC	CILEX (L6)	QLD
Unit 1:					
ELS	10	Y – QLD	Y – QLD	Y	Y
Ethics*	10				
Costs pleadings*	10				
Advocacy and negotiation	10	Y – LPC	Y – BPTC		
Civil procedure	10	Y – LPC	Y – BPTC		
Professional development planning	10	Y – QLD and LPC	Y – QLD and BPTC	Y	Y
Unit 2:					
Contract and costs	10	Y – QLD	Y – QLD	Y	Y
Tort and costs	15	Y – QLD	Y – QLD	Y	Y
Solicitor and client costs	10				
Costs in special courts	5				
Legal accounts	5	Y – LPC			
Funding inc LA	15				
Unit 3:					
Civ procedure	15				
Business management	10				
Prof dev planning	5	Y – WBL and PQD	Y – Pupillage and PQD	Y	Y
PI/Clin Neg (optional)	10	Not necessary	Not necessary	Not necessary	Not necessary
Crim Law (optional)	10	Y – QLD	Y - QLD	Y - QLD	Y
Land Law (optional)	10	Y – QLD	Y - QLD	Y - QLD	Y
Company and commercial (optional)	10	Y – LPC	Not necessary	Not necessary	Not necessary
Family (optional)	10	Not necessary	Not necessary	Not necessary	Not necessary
		105 credits	100 credits	80 credits	80 credits

Annex 3

Company number: 04608905

MINUTES
Costs Lawyer Standards Board Ltd
Wednesday 24 July 2019 at 10.30 am
GMCC, Manchester

Present: Steve Winfield (Chairman/Chair): Lay NED
Gillian Milburn (Vice-Chair): Lay NED
Tracyanne Ayliffe: Non-Lay NED
Stephanie McIntosh: Lay NED
Paul McCarthy: Non-Lay NED

In attendance: Kate Wellington (Company Secretary and CEO)
Claire Green (ACL Chair) for Item 1 only

1. QUORUM, APOLOGIES, DECLARATIONS OF INTEREST & GUESTS

1.1 The Chair declared the meeting quorate. There were no apologies.

1.2 There were no declarations of interest on any agenda item.

1.3 Roundtable with Claire Green

Steve congratulated Claire on her recent appointment as Chair of the Association of Costs Lawyers (ACL) and thanked her for attending the meeting. Steve explained the purpose of the discussion, namely to introduce Claire to the wider board, for Claire to update the CLSB on the ACL's priorities, and to discuss options for the future of the Costs Lawyer qualification.

Claire indicated that her priorities as ACL Chair included reinstating the qualification, growing ACL's membership and implementing the LSB's new Internal Governance Rules (IGR). It was acknowledged that it would be necessary and beneficial for the ACL and CLSB to collaborate in these areas.

In relation to the Costs Lawyer qualification, Claire explained that ACLT was still in the process of carrying out a viability study around potential reinstatement of the three-year course. Claire had not yet been able to convene a Council meeting to discuss the issue further. Steve set out the level of comfort that the CLSB would require before reinstatement would be possible, with a focus on ensuring that students could be confident the course would run through to completion. Claire emphasised that the ACL took its commitments to current students very seriously and would not take on a new cohort without certainty that students could finish the course. She noted that ACL's reserves could be relied upon if that became necessary.

Claire explained that ACL had registered interest in the course from 72 prospective students. The board discussed with Claire the level of uptake needed to make the course viable; Claire indicated that an intake of over 50 each year should make the

course comfortably sustainable for those cohorts over a three year period. Options for boosting numbers were discussed, such as opening the course to new students only once every two years or doing more to recognise practical experience, including by way of exemptions. Claire indicated that there would be a greater focus on marketing the course and updating its content in order to attract new entrants in future years.

In relation to ACL membership numbers, the current membership stands at around 500 Costs Lawyers. It was acknowledged that there is a link between the ACL's objective of growing its membership and the CLSB's objective of raising standards and improving consumer outcomes by bringing more unregulated costs advisers into the regulated community. Achieving these objectives relies, in turn, on there being a viable route of entry into the profession. Claire noted that she is considering affiliate ACL membership for non-regulated costs advisers, one benefit of which might be an increased understanding of the benefits of regulation and thus increased interest in becoming a Costs Lawyer.

In relation to IGR, the board was informed that the LSB's new rules had been published earlier that day (24 July 2019). It was acknowledged that the ACL and CLSB would need to work together to ensure their arrangements were compliant by the end of the 12-month transitional period.

The board thanked Claire for joining the meeting and looked forward to maintaining an open and collaborative dialogue with the ACL on all matters going forward.

2. MINUTES

2.1 Minutes dated 26 April 2019

The board considered the minutes of its last scheduled quarterly meeting on 26 April 2019. Paul noted an inaccuracy at item 7.1 and an amendment was proposed. Subject to that amendment, the minutes were agreed as being a true record for signing. There were no matters arising that had not been scheduled as agenda items or otherwise dealt with.

Action: Post minutes on the CLSB website

2.2 Minutes dated 7 June 2019

The board considered the minutes of its ad hoc board meeting on 7 June 2019 and agreed the minutes as being a true record for signing.

Action: Post minutes on the CLSB website

3. STRATEGY

3.1 Meetings with LSB Chair, CEO and policy team

Steve updated the board on a series of meetings with representatives of the LSB, including the LSB's Chair, CEO and policy team.

Steve explained that, over the course of those meetings, it had become clear that the CLSB was labouring under a misapprehension in relation to the LSB's position, including what was being sought from the CLSB under the LSB's transitional regulatory assessment. A collaborative relationship was therefore in the best interests of all parties, as this would foster greater understanding going forward.

The board endorsed this approach, reiterating the key importance for the CLSB of building strong relationships with stakeholders.

3.2 Revised LSB action plan

Kate introduced the item. She explained that, during the recent meetings with the LSB, it had also become clear that the CLSB's existing action plan (setting out the steps the CLSB was taking to meet the LSB's performance standards) had not achieved its intended purpose. A revised action plan was therefore submitted to the LSB on 25 June 2019. The new action plan was submitted on the basis that it was supported by Steve and Kate, but had not yet been considered by the wider board. Kate reported that the LSB's initial feedback (pending CLSB board approval of the plan) was positive.

The board discussed the revised action plan, including the level of resourcing required for its delivery. The board agreed that it was a positive shift and conveyed their support in particular for its constructive tone and proactive approach.

The board thanked Kate for her work on the new action plan and approved it for formal adoption and implementation.

Action: Confirm board adoption of the action plan to LSB

3.3 Strategy for 2020 to 2023

Steve introduced the draft strategy for 2020 to 2023. The board's attention was drawn to the commitment made in the revised action plan to publish a medium-term strategy document, providing context for the CLSB's annual priorities as set out in the business plan. The aim of the strategy is to clearly and concisely convey the CLSB's vision, strategic goals, and path to achievement.

The board discussed the draft strategy and welcomed the approach of articulating the organisation's medium-term objectives in a succinct strategy document. Board members felt that the strategy provided a clear reference point against which to measure success and to scrutinise progress made by the executive.

The board noted that collaborative working relationships would be vital to the success of the strategy, and looked forward to welcoming guests from the LSB to the October board meeting.

The board approved the strategy and agreed that it should be published on the website to help the CLSB clearly communicate its vision to the regulated community and other stakeholders.

Action: Share approved strategy with LSB; Publish on CLSB website

4. BOARD MATTERS

4.1 KPI monitoring

Board members received data against the CLSB's existing KPIs dating back to 2017. Steve encouraged the board to consider the KPIs from the perspective of external stakeholders, to assess whether they provided valuable information that enabled the public to form a view of how the CLSB was performing.

The board felt that the KPIs may not have been pitched at the right level, given that the historic data showed they had been consistently achieved over time. It was agreed that both the approach to KPIs, and the content of the KPIs themselves, should be aligned to the new strategy (including the indicators of success in the strategy document).

The board discussed how best to achieve this, including how to add more qualitative measures to the existing KPIs, which are currently based on quantitative data only. Steve noted that the original purpose of publishing KPIs was to facilitate a public assessment of the ARs' performance. The CLSB therefore needed to be mindful of its audience and ensure that any new KPIs are accessible to lay individuals.

The board agreed that a hybrid approach was likely to be most appropriate; namely retaining (and updating) the existing KPIs for public reference, while adding further categories of KPIs aimed at monitoring progress against the CLSB's forward-looking ambitions. These new categories would be beneficial for internal use and may be of interest to more sophisticated external stakeholders. This would also help to demonstrate improvement over time, in addition to showing that the CLSB has consistently met its operational targets.

The board asked Kate to give this issue further consideration and put forward a proposal for discussion at the October board meeting.

Action: Prepare new KPIs for board consideration in October

4.2 Board recruitment planning

The board noted that both Gill and Tracyanne were due to retire from the board in March 2020 and Steve was due to retire in March 2021. The board discussed the need to ensure that these retirements do not impact business continuity.

In terms of timing for the transitions, it was agreed that the ability to have a "handover" board meeting – at which both the outgoing and incoming board members were present – had been valuable for Stephanie and Paul. It was therefore agreed that both Gill and her replacement should attend the January 2020 board meeting and both Tracyanne and her replacement should attend the April 2020 board meeting if possible. The board also agreed that new board members may be appointed for terms of differing lengths (to the extent permissible under the CLSB's internal policies) to better stagger retirements going forward.

The board considered a capabilities matrix, which had been prepared to assist the board in identifying skills that should be prioritised when recruiting new NEDs. Board members provided feedback on existing capabilities and agreed focus areas for recruitment, particularly digital / IT capabilities (which would help the CLSB to continually modernise its ways of working) and data analytics (which would help the CLSB achieve its strategic objectives around evidence capture and use).

It was agreed that recruitment for Gill and Tracyanne's replacements should take place at the same time to ensure the right mix of skills is achieved.

Action: Update capabilities matrix based on feedback; Produce NED job specs based on priorities identified; Undertake recruitment in line with agreed timings

4.3 Transparent Decisions Policy

Steve introduced this item. He explained that, during meetings with the LSB, it had become apparent that external stakeholders lacked insight into how the CLSB makes decisions. To address this, it was proposed that a new Transparent Decisions Policy be adopted under which significant board-level decisions would be explained and recorded in a Board Decision Note. This process would also be useful internally, providing an audit trail for how decisions have been made so that they can more readily be reviewed when new information or evidence comes to light.

The board welcomed the proposed approach. The board considered when and how Board Decisions Notes should be published and felt that transparency should be paramount. It was therefore agreed that the draft Policy be amended to state that all Board Decision Notes would be published on the CLSB website once approved, as a matter of course.

The board discussed how best to define the parameters of the Policy, particularly how to identify when a Board Decision Note should be used. It was agreed that trying to define, in the abstract, those decisions that did (or did not) warrant a Board Decision Note was an inappropriate approach, leading to either over- or under-inclusion. Given the wide range of decisions taken by the board, the most appropriate course was for the board to make a case-by-case assessment of whether a Board Decision Note should be created.

The board also agreed that the template Board Decision Note be amended to include a record of the legislative provision under which the relevant decision was made.

The Policy was approved subject to the noted amendments.

Action: Finalise Transparent Decisions Policy in line with board amendments; Adopt into Operations Manual; Implement from October 2019 board meeting

5. FINANCE

5.1 Q2 2019 report

The board noted the financial position at the end of Q2; there were no issues arising. Given the move to electronic board packs, the board asked for the quarterly financial position to be more clearly displayed against the budget projection going forward.

Action: Change layout of data for October board meeting

5.2 LSB levy 2019/20

At its April meeting, the board had been advised that the annual levy payable by the CLSB to the LSB had increased for 2018/19 to £20.21 from £18.87 the previous year. The board was updated on exchanges with the LSB as to the rationale for the increase in the levy. The board noted the position.

5.3 2018 accounts

The board approved the accounts for signing.

5.4 2020 budget; and
5.5 2020 PCF consultation

The board considered the draft budget for 2020. Steve expressed concern that there was no proposed provision for contingency and no contribution to reserves. Given that there is currently no route of entry into the profession, but there is natural attrition out of the profession, the size of the regulated community will inevitably fall over the coming years. In that context, Steve felt the CLSB should be cautious about running a budget with no contingency to account for regulated numbers being lower than expected.

The board discussed the various circumstances under which the CLSB might need to draw on reserves and the likely level of depletion in those circumstances. The board reaffirmed its strategy of building its reserves over time to a level that would cover at least one year's operating costs.

The board noted that this issue was linked to Item 5.5 (the 2020 Practising Certificate Fee or PCF). The proposed budget envisaged an increase in the PCF of £10. The board discussed whether it was financially prudent to increase the PCF by more than this and, if so, the level of increase that would be needed to ensure an appropriate contingency and reserves contribution.

The board concluded that an increase in the PCF of £25, to £275, was most appropriate. Given that the PCF had not been increased since the CLSB's inception, this increase was still well below the rate of inflation when considered over the longer term. The board also noted that around 10% of the PCF went to supporting other organisations (such as the LSB, Legal Ombudsman and the Legal Choices website) and these costs had risen significantly.

The board agreed that it did not, at this stage, intend to increase the PCF further in 2021 or 2022 other than in line with inflation. This position would need to be assessed again in 2020, when the budget was being set for 2021, taking into account the size of the regulated community at that time.

The 2020 PCF consultation document was approved subject to adjustment for a proposed PCF of £275.

Action: Revise budget to account for contingency and reserves; Issue PCF consultation on the basis of agreed level

6. RISK MANAGEMENT
6.1 Operational risk; and
6.2 Regulatory risk

The risk registers were considered. The board noted and agreed the revised approach to recording risk, which seeks to simplify the information in the registers while expanding the scope of the risks and mitigating actions included.

The risk score against each risk was considered and updates were agreed where circumstances had changed. The board agreed to hold the risk score of OP6 (risk of breakdown in communication with ACL) at level 20. The board noted that the dialogue with Claire Green earlier in the board meeting had been constructive and, assuming relations continued in that manner, the risk score against OP6 might be decreased in the future. As for all the risk scores, this would be kept under review.

The board agreed that a new risk – R4 – should be added to the regulatory risk register, reflecting recent issues with the Legal Choices upgrade project and ongoing difficulties in capturing meaningful consumer data.

The board discussed whether a new risk item should appear, on either the operational or regulatory risk register, relating to a possible failure to meet the standards set by the LSB under the regulatory assessment regime. Given the LSB's positive response to the CLSB's revised action plan, it was agreed that this did not represent a live risk unless factors emerged to suggest that the CLSB would be unable to deliver against the action plan. The board agreed to keep this under review.

The board agreed to expand the "impact" measures in the risk registers to a five-tier rather than three-tier metric, to allow for more meaningful gradation of risk scores. Impact ratings would be reassessed over time to make use of the new tiers.

Actions: Post the July 2019 versions of operational and regulatory risk registers on the website; Update risk registers and the Risk Framework to reflect expanded "impact" measure

7. REGULATORY MATTERS

7.1 2018 CPD Audit

Steve explained the CPD audit process for the benefit of the newer board members. The board noted the outcome of the 2019 audit, which related to the 2018 CPD year. Two issues were identified during the audit. One appeared to be a misunderstanding about the number of points that could be claimed for a certain CPD activity due to a recent change in policy. The other related to a Costs Lawyer who had not cooperated with the audit.

In the latter case, disciplinary proceedings had been commenced under the CLSB's Disciplinary Rules and Procedures. Kate updated the board on the outcomes of the disciplinary investigation, noting the opportunities that the Costs Lawyer had been given to comply with the rules. Separate to that investigation, the failure of the Costs Lawyer to provide evidence of CPD meant that he/she did not meet the criteria for holding a practising certificate. The board agreed that it was in the public interest to revoke the Costs Lawyer's practising certificate, to ensure that the Costs Lawyer did not hold him/herself out to consumers as meeting the regulatory requirements. Kate

noted that the Costs Lawyer had been notified of this proposed course of action and was given an opportunity to comment, but had not done so.

7.2 Diversity survey evaluation 2019

The board discussed the evaluation of the 2019 diversity survey. The data would be further considered when looking at evidence sources more broadly under the CLSB's action plan (under RA4).

7.3 UK and Ireland MoU

The board received and noted a communication from BEIS relating to a new MoU between the UK and Ireland governing mutual recognition of professional qualifications following Brexit. The board agreed that no changes to the risk score for item OP7 on the operational risk register (relating to a no deal Brexit) were required based on the information provided.

7.4 Response to MoJ proposals on FRC

The board received a copy of the CLSB's response to the MoJ's proposals on fixed recoverable costs. Steve explained that the response mirrored the feedback the CLSB received via its survey of Costs Lawyers on the issue. The matter was noted.

7.5 Revised Disciplinary Rules and Procedures

The board considered proposed revisions to the CLSB's Disciplinary Rules and Procedures (DRP), aided by a report produced by the Head of Operations (HoO).

The board discussed whether it was necessary or appropriate to retain a formal Panel of individuals who could serve on a Conduct Committee or Conduct Appeal Committee under the DRP. Given the small number of Conduct Committees convened by the CLSB, the board accepted that it was impractical to have a large number of Panel members, yet the HoO's report noted that this was causing availability issues for hearings. An ad hoc Panel arrangement – whereby a Conduct Committee could comprise of any suitable individuals – would allow the CLSB to draw from a wider pool of expertise and ensure urgent matters could be dealt with quickly (particularly under the proposed interim orders procedure). Gill and Stephanie noted other contexts in which decision-making panels were successfully convened in this manner. It was also noted that no existing Panel members had such specialist skills that their availability needed to be protected via a permanent Panel appointment.

It was agreed that the concept of a Panel should be retained in the DRP, but that membership of the Panel should be liberated so that a Panel member could be any suitable individual who met the requirements on a case-by-case basis. The board asked Kate to draft the relevant rule change and to include an explanation in the consultation document as to why the change was necessary.

There was also a discussion around the level of financial penalties that could be imposed under the DRP and whether it should be possible for a financial penalty to be increased at level 3. It was agreed that no change to the proposed DRP was required in this regard.

The board approved the revised DRP for consultation, subject to the amendment noted.

Action: Make agreed amendment to the revised DRP; Proceed with next steps for consultation

7.6 Continued funding of Legal Choices website

Steve introduced this item and explained that the BSB had recently withdrawn its funding for the third and final year of the planned Legal Choices upgrade project. Kate updated the board on the Legal Choices work program and strategy, including recent discussions at the Legal Choices Governance Board about how the budget gap created by the BSB's withdrawal would be addressed.

The board discussed the risks to the project generated by the BSB's withdrawal. The board expressed concerns around the ability to drive traffic to the site without significant investment, particularly because of the level of investment in SEO that was continually being undertaken by commercial legal services providers. The board considered the greatest organisational risk to be that the CLSB's investment in the project did not yield the evidence that was envisaged (namely insights into how consumers find Costs Lawyers and make purchasing decisions).

The board agreed that the CLSB would meet its funding commitment to Legal Choices for 2020, given that a plan was in place for addressing the funding shortfall. The board agreed to revisit this position if any other ARs withdrew, as this would necessitate a fresh assessment of whether the project remained viable. Any future funding of the project (past 2020) would be considered in due course.

7.7 Consistency audit of the Costs Lawyer Handbook

Steve introduced this item. The board received the audit report, noted the outcomes and approved the proposed timings for the substantive review of Handbook content.

8. LEGAL SERVICES BOARD (LSB)

8.1 Relationship management

Kate updated the board on the relationship management arrangements used by the LSB, including feedback from recent, constructive discussions with the CLSB's relationship manager.

The board noted that the Chair and new CEO of the LSB would be attending the CLSB's October board meeting for a meet-and-greet session and the board looked forward to welcoming them.

8.2 Forward work plan

The board was provided with a forward work plan that had been shared by the LSB. The board asked to be notified of any significant relevant developments to that document.

8.3 Revised Internal Governance Rules (IGR)

The board was updated on progress of the LSB's IGR review. The board noted that the final IGR had been published earlier on the day of the board meeting, so had not yet been assessed by the CLSB. The board discussed the possible impact of the IGR and noted that the MOU and OP with ACL would require updating to ensure compliance.

Action: Kate to liaise with ACL on amendments to documented governance arrangements

9. LEGAL SERVICES CONSUMER PANEL (LSCP)

9.1 Meeting update

Kate updated the board on a recent meeting with the Chair of the LSCP and one of the LSCP's policy advisers. The discussions had helped to improve the LSCP's understanding of what Costs Lawyers do and the unique characteristics of the market. Kate reported that the nature of the meeting had been open and productive and the board hoped that relations with the LSCP would be positive going forward.

10. LEGAL OMBUDSMAN (LeO)

10.1 Service complaints

In April 2019, LeO began reporting whether there had been any service complaints against Costs Lawyers. The board was informed that there had been no such complaints during the last six months.

11. REPRESENTATION (ACL)

11.1 Minutes of Council meeting – 11 February 2019; and

11.2 Minutes of Council meeting – 29 March 2019

The board considered the minutes of the ACL Council meetings on 11 February 2019 and 29 March 2019. It was noted that these meetings took place prior to Claire Green taking over the Chairmanship, such that the ACL's priorities may have changed from those reflected in the minutes.

12. EDUCATION

12.1 Update on CLCA application

Steve updated the board on this issue, including discussions with the LSB relating to withdrawal of the CLCA application. He felt that there remains scope for a competency-based assessment to be introduced in the medium term. The board agreed that this would be the most effective way to bring unregulated but experienced costs advisers into the regulated community, in order to raise standards across the board and better protect the public interest.

In this context, the board discussed how the Costs Lawyer profession is perceived, the risks to that perception from improper conduct of unregulated costs advisers, and the CLSB's role in raising public awareness. The board revisited the division of responsibilities between the ACL and CLSB in terms of promoting entry into the profession. It was recognised that, while the CLSB's role is not to market any course or qualification, the CLSB does have a clear role in raising awareness of the benefits of regulation, both to promote consumer understanding and to encourage unregulated costs advisers to choose regulation (thus raising standards).

12.2 Update on three-year qualification

Steve introduced this item. He updated the board on ACL's recent contention that it might be financially viable for ACLT to accept a new intake onto the three-year Costs Lawyer qualification. The board considered the correspondence from ACL and the CLSB's initial response on this issue. The board discussed the need for a robust business plan for the course, as well as the need to update the content given that approval had been suspended for several years.

The board agreed that, if the CLSB could gain sufficient assurance that adequate safeguards were in place and that any students commencing the course would be able to see it through to completion, the board was in principle open to reinstating the three-year qualification. The board emphasised the importance of having an adequate route of entry into the profession, despite a competency-based assessment remaining the preferred route as a matter of policy.

The board agreed that any approval of the course would be for an initial intake (i.e. one cohort that would complete the course over three years). The board would have no objection in principle to approving the course for a further intake, but the CLSB would have to assess whether a second intake was viable based on all the circumstances at the relevant time. Approval would be on a rolling (i.e. intake-by-intake) basis depending on factors like volume of interest, continued financial viability and the usual course audit.

The board considered the issue of course exemptions, including the work that had previously been undertaken by the CLSB (prior to suspension of the course) in reviewing its policy approach to exemptions. The board discussed the types of students that had taken or were likely to take the course, including their likely professional experience and level of prior education. Structural options for the course were considered as a way to streamline exemptions (such as a foundation year or discretely assessed modules) and the board discussed learnings from other professions with modular training arrangements.

The board agreed that it was crucial for the CLSB to engage closely with the ACL, with the overriding objective of gaining the requisite level of confidence that the course is financially sustainable. The board concluded that a roundtable, attended by the ACL, the ACLT, CLSB board members and the CLSB CEO would be the most efficient means of agreeing a way forward.

The board asked that descriptions of the course modules be circulated for reference.

Action: Liaise with ACL to convene roundtable; Circulate course documents

13. NEXT SCHEDULED QUARTERLY MEETING

Date: Wednesday 23 October 2019 @ 10.30am

Location: The Studio, Cannon Street, Birmingham

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

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Chairman

Related documents

Item	Document	Publication location (CLSB website)
2.1	CLSB minutes - 26 April 2019	Internal governance ⇔ Board minutes
2.2	CLSB minutes - 7 June 2019	Internal governance ⇔ Board minutes
3.3	CLSB Strategy for 2020 to 2023	Internal governance ⇔ Strategy
6.1	Risk register (operational risk)	Policy outcomes ⇔ Risk management
6.2	Risk register (regulatory risk)	Policy outcomes ⇔ Risk management
4.1	KPI monitoring	Internal governance ⇔ Management
5.3	Accounts	Internal governance ⇔ Annual accounts
5.4	Budget	Internal governance ⇔ Management
5.5	PCF consultation	Policy outcomes ⇔ CLSB consultations
7.4	Response to MoJ proposals on FRC	News
7.5	DRP consultation	Policy outcomes ⇔ CLSB consultations

Annex 4



**Costs Lawyer Qualification
Aims and Outcomes
Effective date: 9 December 2013**

Definitions herein:

The Course	The 3 year Costs Lawyer qualification as set out in the overview
Supervised Practice	3 year's work based experience in costs law & practice
Trainee	A Trainee Costs Lawyer

1 Introduction

To become a qualified Costs Lawyer a Trainee must successfully complete both the Course and Supervised Practice. This document sets out the aims and outcomes for both requirements.

The Course provides a coherent programme of study for a Trainee. Supervised Practice allows a Trainee to apply that learned during the Course as well as developing and implementing additional key practical skills. Both the Course and Supervised Practice provides a framework which integrates legal knowledge and analysis, practical skills, professional skills and attitudes which are expected of Costs Lawyers.

On successful completion of the Course and Supervised Practice a Trainee will have met the education and training requirements for a Costs Lawyer. The Trainee will then be able to apply to the CLSB for a Costs Lawyer practising certificate, under which they will be afforded the rights to conduct the following Reserved Legal Activities under the Legal Services Act 2007:

- The exercise of a right of audience
- The conduct of litigation
- The administration of oaths

2 Aims of the Course

The aim of the Course is to prepare Trainees during their work-based qualifying experience to provide a general foundation for practice as a Costs Lawyer. Aims and objectives are set out in the Training & CPD Rules as follows:

- (a) Obtain general knowledge of each area of law studied.
- (b) Achieve detailed knowledge of the law and procedures relating to the costs subject studied.
- (c) Develop skills of legal analysis particularly in relation to costs law and practice.
- (d) Reach the level of competency and performance required of a Costs Lawyer.
- (e) Learn valuable transferable skills.

3 Outcomes of the Course

On successful completion of the Course a Trainee should be competent to undertake all the following:

- Research, explain and apply knowledge of the law and costs law practice accurately and effectively.
- Perform the tasks necessary to practice as a competent Costs Lawyer.
- Understand the key ethical requirements contained in the Costs Lawyer Code of Conduct, know where these may impact and be able to apply them in context.
- Demonstrate their knowledge, understanding and skills in the areas of law set out in the compulsory sections of the Course.
- Demonstrate their knowledge, understanding and skills in three areas of specialism in the options section of Unit 3 of the Course.
- Reflect on their learning, identify their further and future learning needs and plan for their development as a costs law practitioner.

4 The Three Units of the Course

The Course is as set out in the overview and comprises of three units of a year each (“Unit”). Each Unit is then broken down into modules (“Module”) with minimum syllabus, aims and objectives set out. All Modules in Unit 1 & 2 are compulsory. Unit 3 is divided into compulsory/specialist option Modules. The Course may not be completed in less than 3 years.

5 Course Structure and Credit Values

The Course adopts the credit tariff recognised by the Qualifications and Credit Framework (‘QCF’). Each of the Modules in a Unit has a credit value. The total credit value for the Course is 180 credits, made up of 60 credits for each Unit.

The credit value provides an indication of the estimated length of time required for successful completion of each Module in a Unit. One credit equates to 10 hours. This is merely an

indication of hours and the actual time spent will vary according to the Trainee's experience or prior knowledge and will include time spent preparing for any formal sessions, private study, engaging in relevant work-based learning and preparation for formative assessments.

6 Course Assessment and Levels

Each Unit must be assessed by way of an unseen examination/s or some other form of supervised assessment which must assess knowledge, application, skills and professional conduct outcomes ('Unit Examination'). The provider of the Course must produce an assessment strategy which demonstrates overall coverage of the course and meets the requirements for Unit Examination.

The pass mark for all Unit Examinations is 50%:

49% (inclusive) and below:	Fail
50% (inclusive) to 59% (inclusive):	Pass
60% (inclusive) to 69% (inclusive):	Pass with merit
70% (inclusive) and over:	Pass with distinction

7. Aims of Supervised Practice

The aim of Supervised Practice is to ensure a Trainee reaches an expected level of competency and performance. During Supervised Practice a Trainee will:

- Apply knowledge acquired by them under the Course.
- Learn and apply key practical skills of a Costs Lawyer.
- Learn and apply the professional standard of a Costs Lawyer.

8. Outcomes of Supervised Practice

During Supervised Practice a Trainee should have acquired, developed, applied and evidenced skills and knowledge of the following to ensure competency of performance:

- (i) The practical application of costs law expertise (including legal research, drafting, advocacy and negotiation)
- (ii) Professional conduct
- (iii) Communication
- (iv) Client relations
- (v) Workload management
- (vi) Business awareness
- (vii) Self-awareness and development
- (viii) Working with others

9. Assessment of Supervised Practice

The employer of the Trainee at the time the Trainee applies for their Costs Lawyer qualification having successfully completed the Course, will be required to sign to the fact that the Trainee has:

- completed the required 3 year's work based experience in costs law & practice; and
- that the Trainee has achieved the eight Supervised Practice outcomes set out above to a satisfactory standard i.e. that expected of a Costs Lawyer.

Continuation documents attached

- Overview of Course
- Unit 1
- Unit 2
- Unit 3

Overview

The three Units of the Course

Unit 1 (all compulsory)

English Legal System, Legal
Method & Legal Skills
(10 credits)

Professional Ethics
(10 credits)

Costs Pleadings & Other
Process Documentation
(10 credits)

Advocacy & Negotiation
Skills
(10 credits)

Civil Procedure (Foundation)
(10 credits)

Professional Development
Planning (Foundation)
(10 credits)

Unit 2 (all compulsory)

Law of Contract & Costs
(10 credits)

Law of Torts & Costs
(15 credits)

Solicitor & Client Costs
(10 credits)

Costs in Special Courts
(5 credits)

Legal Accounts
(5 credits)

Funding (Legal Aid & Other)
(15 credits)

Unit 3 (compulsory/options)

Compulsory

Civil Procedure (Advanced)
(15 credits)

Business Management
(10 credits)

Professional Development
Planning (Advanced)
(5 credits)

Options (3 of the following specialist options)

Personal Injury/Clinical
Negligence & Costs
(10 credits)

Land Law & Costs
(10 credits)

Family Law & Costs
(10 credits)

Criminal Law & Costs
(10 credits)

Company and Commercial
Law & Costs
(10 credits)

UNIT 1: All Compulsory

The syllabus lists what the Course must cover as a minimum, it is not set out in any order of importance, weight or otherwise. The course must always remain current, relevant and proportionate to the profession of the Costs Lawyer.

Module 1(a) ENGLISH LEGAL SYSTEM, LEGAL METHOD & LEGAL SKILLS 10 Credits	
<p>Minimum syllabus:</p> <ul style="list-style-type: none"> Legislation Legislative interpretation Legislative bodies The legal profession Rules of construction Precedent Court hierarchy The judiciary and the magistracy Trial by jury Tribunals Criminal litigation/trial process Civil litigation process Legal research 	<p>Aim: To enable Trainees to develop knowledge, understanding and critical awareness of the English legal system and introduce them to a range of legal resources available electronically and paper based to encourage and support their legal research and understanding.</p> <p>Outcome: Upon completion of this Module a Trainee should be able to:</p> <ul style="list-style-type: none"> • Explain different forms of legislation and legislative bodies in England & Wales. • Explain the key characteristics that define the legal professions of England & Wales. • Independently research topics concerning the English legal system.
Module 1(b) PROFESSIONAL ETHICS 10 Credits	
<p>Minimum Syllabus:</p> <ul style="list-style-type: none"> Professional ethics Professional standards The practice of a Costs Lawyer Reserved legal activities Statement of rights Costs Lawyer complaints procedure Role of the regulator (CLSB) Role of the representative body (ACL) Role of the Legal Services Board (LSB) Role of the Legal Ombudsman (LeO) The Legal Services Act 2007 	<p>Aim: To enable Trainees to develop knowledge, understanding and critical awareness of the expected professional standards and ethics of a Costs Lawyer and other regulated legal professionals.</p> <p>Outcome: Upon completion of this Module a Trainee should be able to:</p> <ul style="list-style-type: none"> • Explain the requirements imposed on a Costs Lawyer by the Code of Conduct and other regulatory documents.

<p>Regulatory documents & guidance notes Other legal regulators Accredited Costs Lawyers Advocacy</p>	<ul style="list-style-type: none"> • Apply that knowledge to a number of problem based scenarios to demonstrate an ability to act in accordance with the core duties of professional conduct & ethics. • Present their answers logically and coherently.
<p>Module 1(c) COSTS PLEADINGS & OTHER PROCESS DOCUMENTATION 10 Credits</p>	
<p>Minimum Syllabus: Costs pleadings in legal aid Pleadings under prevailing CPR rules Bill of costs Points of dispute Points of reply Written submissions Skeleton arguments Witness statements Requests for further information Further information Costs budgets/statements of costs Applications Interim & final certificates Orders Appellant notices Respondents notices Filing methods Filing timescales</p>	<p>Aim: To enable Trainees to develop knowledge, understanding and critical awareness of what costs are and the pleadings and other process documentation required at each stage of the costs recovery process (legal aid and non-legal aid).</p> <p>Outcome: Upon completion of this Module a Trainee should be able to:</p> <ul style="list-style-type: none"> • Explain the process, required pleadings/documentation and content at all stages in costs matters. • Apply their knowledge to produce accurately drafted costs pleadings & other process documentation. • Present their answers logically and coherently.
<p>Module 1(d) ADVOCACY & NEGOTIATION 10 Credits</p>	
<p>Minimum syllabus: <u>Advocacy</u> Oral advocacy in court Advocacy on detailed assessment Court etiquette Preparation, strategy & objectives Applying law to the facts Never mislead the court Questioning/ leading questions When to challenge/ cross examination Witness handling Submissions Summation</p>	<p>Aim: To enable Trainees to know and apply the skills and etiquette requirements of competent advocates and negotiators to ensure best outcome for a client in practice.</p> <p>Outcome: Upon completion of this Module a Trainee should be able to:</p> <ul style="list-style-type: none"> • Demonstrate understanding of competency expectations in court etiquette. • Demonstrate understanding of competency in basic negotiation skills.

<p>Contempt of court Alternative dispute resolution (ADR) <u>Negotiations</u> Oral advocacy in negotiation Preparation, objectives & strategy Agenda Location & method (meeting/phone) Collaborative/ adversarial Apply law to the facts Open & position effectively Questioning & listening Bargaining using rational Persuasive argument When to concede</p>	<ul style="list-style-type: none"> • Present their answers logically and coherently.
<p>Module 1(e) CIVIL PROCEDURE (FOUNDATION) 10 Credits</p>	
<p>Minimum syllabus: Overview of Civil Procedure Rules (CPR) Pre-action considerations Parties Commencing procedures Pleadings Service Case management Allocation of tracks Ending claims without trial Interim applications and payments Part 36 offers Disclosure Disclosure at detailed assessment Evidence Trials and hearings Pro bono representation Judgements & orders Enforcement Fixed costs Summary assessment of costs Detailed assessment of costs Detailed assessment procedure Appeals</p>	<p>Aim: To enable Trainees to develop foundation level knowledge, understanding and critical awareness of the civil procedure to ensure best outcome for a client in practice.</p> <p>Outcome: Upon completion of this Module a Trainee should be able to demonstrate knowledge and understanding of the following and present their answers logically and coherently.</p> <ul style="list-style-type: none"> • Civil Procedure Rules. • Conduct of a civil court action from start to finish. • Risks and milestones during a civil court action. • Key costs issues.
<p>Module 1(f) PROFESSIONAL DEVELOPMENT PLANNING (Foundation) 10 Credits</p>	

Minimum Syllabus:

Learning styles & preferences
Keeping a progress file or learning log
Understanding & responding to feedback
Time management
Career planning
CV writing

Aim: To provide a structured and supported process to enable a Trainee to reflect upon their own learning, performance and/or achievement and to plan for their personal, educational and career development.

Outcome:

On successful completion of this Module a Trainee should be able to:

- Recognise, value and evidence their own learning in academic and work-based contexts.
- Evaluate and recognise their own strengths and weaknesses and identify ways in which perceived weaknesses might be improved and make best use of strengths.
- Learn from things that did not go according to plan and respond to feedback.
- Utilise personal records and evidence of learning to demonstrate to others what they know and can do.
- Manage time/competing demands to achieve desired objectives and meet deadlines.
- Monitor and review progress towards the achievement of goals.

Written Assessment

- (1) 50%: A critical reflection of a Trainees learning in Unit 1 including how this shaped or informed work practices of careers plans.
- (2) 50%: A learning log/diary.

UNIT 2: All Compulsory

The syllabus lists what the Course must cover as a minimum, it is not set out in any order of importance, weight or otherwise. The course must always remain current, relevant and proportionate to the profession of the Costs Lawyer.

Module 2(a) LAW OF CONTRACT & COSTS 10 Credits	
<p>Minimum syllabus: Nature of contracts Formation of contracts Privity of contracts Requirements re: form Express & implied terms Exemption clauses & limitation of liability Restraint of trade The Unfair Terms in Consumer Contract Regulation 1999 Mistake Misrepresentation Duress & undue influence Frustration Termination Discharge of contract Costs</p>	<p>Aim: To enable Trainees to develop knowledge, understanding and critical awareness of contract law to enable a Trainee to apply this law accurately. Further, to introduce Trainees to the process of research, legal reasoning and analysis of the law of contracts.</p> <p>Outcome: Upon completion of this Module a Trainee should be able to:</p> <ul style="list-style-type: none"> • Explain the fundamental principles of contract law. • Apply the relevant law accurately to a range of realistic scenarios. • Present their answers logically and coherently.
Module 2(b) LAW OF TORTS & COSTS 15 Credits	
<p>Minimum Syllabus: General principles Joint & several tortfeasors Common law torts Statutory torts Negligence Nuisance Trespass to person Trespass to land Land & premises Goods/interference with goods Defamation The Consumer Protection Act 1987 Vicarious liability</p>	<p>Aim: To enable Trainees to develop knowledge, understanding and critical awareness of the law of torts to enable a Trainee to apply this accurately law accurately. To introduce Trainees to the process of research, legal reasoning and analysis of the law of torts.</p> <p>Outcome: Upon completion of this Module a Trainee should be able to:</p> <ul style="list-style-type: none"> • Explain the fundamental principles of the law of torts. • Apply the relevant law accurately to a range of realistic scenarios.

<p>Defences Contributory negligence Limitation periods Exclusion clauses Remedies Costs</p>	<ul style="list-style-type: none"> • Present their answers logically and coherently.
<p>Module 2(c) SOLICITOR & CLIENT COSTS 10 Credits</p>	
<p>Minimum Syllabus: Solicitors Act 1974 Reserved legal activities Duties and responsibilities of Solicitors Work done by unqualified persons inc. costs practitioners Offences Regulatory framework Different types of costs Non-contentious/contentious business agreement Indemnity basis assessment Solicitor/client assessment One fifth rule Estimates Interim on account bills/statute bills Assessment of costs Formalities Liens Charging orders Interest VAT</p>	<p>Aim: To enable Trainees to develop knowledge, understanding and critical awareness of the law and practice in relation to Solicitor & client costs.</p> <p>Outcome: Upon completion of this Module a Trainee should be able to:</p> <ul style="list-style-type: none"> • Explain the legal and regulatory framework which applies to Solicitor and client costs. • Apply their knowledge in a range of problem based scenarios. • Present their answer logically and coherently.
<p>Module 2(d) COSTS IN SPECIAL COURTS 5 Credits</p>	
<p>Minimum Syllabus: Prevailing law, process, appeals process, enforcement and costs in the following:</p> <ul style="list-style-type: none"> • Arbitration • Tribunal • Court of Protection • Supreme Court • Office of the Public Guardian • Privy Council • European Court of Justice 	<p>Aim: To enable Trainees to develop knowledge, understanding and critical awareness of the law, process, appeals and enforcement process in relation to costs matters in each of the special courts stated.</p> <p>Outcome: Upon completion of this Module a Trainee should be able to:</p> <ul style="list-style-type: none"> • Explain the law, process and appeals process relating to costs in each special court listed.

	<ul style="list-style-type: none"> • Apply their knowledge in a range of problem based scenarios • Present their answers logically and coherently.
Module 2(e) LEGAL ACCOUNTS 5 Credits	
Minimum Syllabus: Principles of accounts Solicitors Account Rules Book keeping principles VAT Money laundering Financial services rules Principle 3.6	Aim: To enable Trainees to develop knowledge and understanding of the law and practice relating to accounting/Solicitor accounts rules. Outcome: Upon completion of this Module a Trainee should be able to: <ul style="list-style-type: none"> • Explain basic principles on accounting/Solicitors Accounts. • Present their answers logically and coherently.
Module 2(f) FUNDING (LEGAL AID & OTHER) 15 Credits	
Minimum Syllabus: Criminal legal aid Civil legal aid Inquests Process Recoupment The Legal Aid Agency (role & powers) Timeframes Appeals Private funding Legal expense insurance Trade union funding Professional body funding Other third party funding Pro bono representation Contingency fees Conditional fee arrangement (CFA) After the event insurance (ATE) Damage based agreements (DBA) Referral fee, fee arrangements & fee sharing Qualified one way costs shifting	Aim: To enable Trainees to develop knowledge, understanding and critical awareness of all forms of funding arrangements and in respect of legal aid to understand the different process of presenting a Bill of Costs. Outcome: Upon completion of this Module a Trainee should be able to: <ul style="list-style-type: none"> • Explain the law and practice relating to legal aid funding arrangements. • Explain non-legally aided options for funding legal advice and assistance and the respective implications for the client of these. • Apply their knowledge to a range of client funding scenarios. • Present their answers logically and coherently.

UNIT 3: Compulsory/Options (3 out of 5)

The syllabus lists what the Course must cover as a minimum, it is not set out in any order of importance, weight or otherwise. The course must always remain current, relevant and proportionate to the profession of the Costs Lawyer.

COMPULSORY

Module 3(a) CIVIL PROCEDURE (ADVANCED) 15 Credits	
<p>Minimum syllabus: Professional negligence Clinical negligence Personal injury Foreign claims & jurisdiction issues European Communities (Recognition of Professional Qualifications) Regulations 2007 Injunctions</p>	<p>Aim: To provide Trainees with an insight into aspects of civil procedure required for some specialised claims and specific applications.</p> <p>Outcome: Upon completion of this Module a Trainee will be able to:</p> <ul style="list-style-type: none"> • Explain and apply the appropriate civil procedures and protocols to professional negligence and clinical negligence claims. • Explain the law and procedure relating to injunctions in litigation claims. • Identify claims where jurisdiction issues arise. • Present their answers logically and coherently.
Module 3(b) BUSINESS MANAGEMENT 10 Credits	
<p>Minimum Syllabus: Annual business plans & objectives Range of business models Functional areas:</p> <ul style="list-style-type: none"> • Human resource management • Finance • Marketing • Communication • Production 	<p>Aim: To provide Trainees with an understanding of the key elements and functional areas of the organisation of a business.</p> <p>Outcome: Upon completion of this Module a Trainee should be able to:</p> <ul style="list-style-type: none"> • Explain & compare different business models.

<p>Key external elements of the business environment:</p> <ul style="list-style-type: none"> • Political • Economic • Social • Technological • Cultural <p>Employee:</p> <ul style="list-style-type: none"> • Supervision & training • Health & safety • Data Protection • Whistleblowing • Equality • Professional development • Appraisals 	<ul style="list-style-type: none"> • Explain the main functional areas of business management. • Explain and evaluate impact of external elements of the business environment on the business. • Explain legal expectations of an employee. • Present their answers logically and coherently.
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Module 3(c)
PROFESSIONAL DEVELOPMENT PLANNING (ADVANCED)
5 Credits

<p>Minimum Syllabus: Understanding & developing professional attributes Identifying training & CPD needs Career planning & development</p>	<p>Aim: To enable Trainees to build on professional development planning studied in Unit 1 to ensure conscious and conscientious approach to professional learning is maintained and to enable a Trainee to reflect on their progress in developing their careers, confidence and competence across a number of practice areas.</p> <p>Outcome: Upon completion of this Module a Trainee will have:</p> <ul style="list-style-type: none"> • A deep understanding of the professional attributes expected of a Costs Lawyer. • Insight into a range and level of skills that they have acquired through their work and study. • Understanding of their skills and attributes which require further development and will be able to devise and implement a plan to achieve that. • A greater appreciation of their own career development aspirations. <p>Written assessment:</p>
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	<p>(1) 50%: Professional conduct problem.</p> <p>(2) 50%: Detailed written skills analysis & development strategy by Trainee.</p>
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OPTIONS: (3 out of 5)

<p>Module 3(d) PERSONAL INJURY/CLINICAL NEGLIGENCE & COSTS 10 Credits</p>	
<p>Minimum syllabus:</p> <p><u>Personal Injury</u> Types of Claim Causation Quantum of damages Evidence Personal injury protocol Pleading a case Defences Interim hearings and trial Settlement & final orders Appeals Limitation Act 1980 Costs</p> <p><u>Clinical Negligence</u> Types of claim Negligence & breach of duty The Bolam test Causation Quantum of damages Evidence Clinical negligence protocol Pleading a case Defences Interim hearings & trial Settlement & final orders Appeals Limitation Act 1980 Costs</p>	<p>Aim: To enable Trainees to develop knowledge, understanding and critical awareness of the law in relation to personal injury and medical negligence and costs in such proceedings to encourage and support their continued legal research and understanding of the subject matter.</p> <p>Outcome: Upon completion of this Module a Trainee will be able to:</p> <ul style="list-style-type: none"> • Explain personal injury law & procedure and medical negligence law & procedure. • Apply the law and practice to presenting legal arguments on costs matters in personal injury and clinical negligence claims. • Present their answers logically and coherently.
<p>Module 3(d) LAND LAW & COSTS 10 Credits</p>	
<p>Minimum Syllabus: Freehold estates</p>	<p>Aim: To enable Trainees to develop knowledge, understanding and critical</p>

Registered/unregistered land Leasehold estates Unlawful eviction & harassment Legal & equitable rights Protection of third party rights Co-ownership Rights, obligations & interests in land Mortgages Sale Costs	awareness of the basic principles of land law to enable the Trainee to understand any such issues that may arise in relation to land law costs disputes and costs in such proceedings and to encourage and support their practice and continued research and understanding of the subject matter. Outcome: Upon completion of this Module a Trainee will be able to: <ul style="list-style-type: none"> • Explain the key principle of land law. • Apply their knowledge to a range of non-complex and complex problem based scenarios. • Apply their knowledge of costs law to a range of realistic problem based scenarios. • Present their answers logically and coherently.
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Module 3(f)
FAMILY LAW & COSTS
10 Credits

Minimum Syllabus: Scope of current family law Courts & legal personnel Sources of family law Marriage Cohabitation Civil partnership Divorce Finance & property Children Domestic violence Costs	Aim: To enable Trainees to develop knowledge, understanding and critical awareness of family law and costs in such proceedings. Outcome: Upon completion of this Module a Trainee will be required to: <ul style="list-style-type: none"> • Demonstrate a critical awareness of principles and rules of family law and to illustrate the nature of marital relationships and of those adults in a close relationship. • Apply the law to a range of fact-based scenarios. • Explain and apply principles of costs law in relation to family law disputes. • Present their answers logically and coherently.
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Module 3(g)
CRIMINAL LAW & COSTS

10 Credits

Minimum Syllabus:

Criminal liability
Court hierarchy
Overview of Criminal Procedure Rules
Detection of crime & arrest
Actus Reus (guilty conduct)
Mens Rea (guilty mind)
Strict liability
Criminal damage
Murder
Voluntary/involuntary/gross negligence/unlawful act manslaughter
Other homicide offences
Theft
Defences
Costs

Aim: To enable Trainees to develop knowledge, understanding and critical awareness of criminal law and costs in such proceedings and to encourage and support their continued legal research and understanding of the subject matter.

Outcome: Upon completion of this Module a Trainee should be able to:

- Explain the fundamental principles of criminal law.
- Apply the relevant law accurately to a range of act based scenarios.
- Present their answers logically and coherently.

Module 3(h)

COMPANY AND COMMERCIAL LAW & COSTS

10 Credits

Minimum Syllabus:

Types of companies
Partnerships
Limited liability partnerships (LLP)
Formalities
Memorandum of association
Articles of association
Share capital
Members
Directors & officers
Directors duties
Minority protection
Winding up
Insolvency
Business agreements
Competition law
Costs

Aim: To enable a Trainee to develop knowledge, understanding and critical awareness of company & commercial law and to encourage and support their continued legal research and understanding of the subject matter.

Outcome: Upon completion of this Module a Trainee should be able to:

- Explain the key rules and characteristics of registered companies, partnerships and LLP's.
- Explain the internal structure of a company, its management and control, legal restrictions and requirements placed on the board or partners.
- Explain the protection offered in law to minority shareholders.
- Explain the process by which a company may be wound up.
- Identify key features of the various types of business agreements (franchise, agency & distribution).
- Explain the domestic and European anti-competition legal framework.

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| | <ul style="list-style-type: none">• Present their answers logically and coherently. |
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Annex 5

ACL / CLSB Education Roundtable

Date: Thursday 15 August 2019, 14:30 to 16:00

Venue: Simmons & Simmons LLP

Address: Citypoint, One Ropemaker Street, London EC2Y 9SS

Conference dial-in: 0207 098 5533 / pin 37067

Attendees:

Claire Green (ACL Chair)

Kirsty Allison (ACLT)

Francis Kendall (ACL)

Kate Wellington (CLSB CEO)

Stephanie McIntosh (CLSB board)

Steve Winfield (CLSB Chair – by phone)

Paul McCarthy (CLSB board – by phone)

Tracyanne Ayliffe (CLSB board – by phone)

Derek Boyd (ACL – possible attendee)

Discussion points:

- ACL's proposals for a new intake
- Student numbers / expressions of interest
- Exemptions
- Course structure
- Plan for updating course content
- Timing of course reinstatement
- Contingency planning for attrition
- CLSB's approach to accreditation
- Vision for the future of the course

Annex 6

ACL / CLSB Education Roundtable

Date: Thursday 15 August 2019, 14:30 to 16:00

Venue: Simmons & Simmons LLP

Address: Citypoint, One Ropemaker Street, London EC2Y 9SS

Attendees:

Claire Green (ACL Chair)

Kirsty Allison (ACLT)

Francis Kendall (ACL Vice Chair)

Derek Boyd (ACL Council education liaison)

Kate Wellington (CLSB CEO)

Stephanie McIntosh (CLSB board)

Steve Winfield (CLSB Chair – by phone)

Paul McCarthy (CLSB board – by phone)

Tracyanne Ayliffe (CLSB board – by phone)

Note of discussion and outcomes

Overview

- Claire explained that ACL's primary objective is to reopen a route of entry into the profession. In the short term, this will involve reinstating the three year course run by ACLT, ideally for a January 2020 intake.
- ACL's viability study for the course is ongoing, but information is needed from the CLSB before the study can proceed further, particularly around module order and course exemptions.
- The CLSB shares ACL's aim of reopening the route of entry and will do all it can to facilitate the viability study.
- The CLSB's key consideration in approving the course for a new intake (alongside the usual audit criteria) is that all students who start the course will have an opportunity to finish it. ACL agrees that this is imperative. If the course is reinstated, ACL will ringfence sufficient funds to ensure all enrolling students can see the course through to completion. ACL decided to do this when the course was closed to new entrants in 2017 and this remains its policy position.
- In order for ACL to make this financial commitment, it needs assurance that it will have an opportunity – year on year – to assess numbers for the course (and thus financial viability) without the risk of its regulatory approval being suspended prematurely. This is an issue of timing, which should be resolvable by ACL and the CLSB agreeing in advance the sequence of steps that each organisation will take to assess viability for the coming year.

Module order

- The course is divided into three units, each of which takes one year to complete. The units are made up of modules, each worth an allocated number of credits.

- ACL is seeking to reorder the modules within the three units. This would allow for a more logical progression through the course material. It would also make giving exemptions for recognised qualifications more straightforward, thereby reducing admin time in considering exemption applications and improving consistency.
- The modules would be rearranged such that core law modules (i.e. modules that would appear on an LLB course) are taken in the first year, practical legal modules (like those appearing in the LPC or BPTC syllabus) are taken in the second year and costs-specific content is contained in the third year. This would allow law graduates to seek an exemption from the whole first year and LPC (or equivalent) graduates to seek an exemption from both the first and second years.
- Kirsty reported that around 50% of students in a usual intake benefit from some kind of exemption, with around 25% holding an LLB and 25% having done the LPC, BPTC or equivalent.
- Kirsty explained that changing the module order would not create any content dependency issues (rather, it would reduce the likelihood of modules being completed in an illogical order). The change would also accommodate students who had a period of non-study, for example due to maternity leave, thereby promoting equality and diversity.
- It was agreed that the proposal to change the module order seemed to offer considerable benefits to prospective students. The CLSB supported a move that would make the exemptions framework clearer and fairer, assuming this did not inadvertently detriment students without a recognised qualification.
- It was agreed that changing the module order should be possible within the existing framework of the CLSB's Training Rules.

Exemptions

- Prior to the meeting, the CLSB circulated a table of possible course exemptions that reflected its policy thinking in 2017 when the course was suspended. ACL reported that the table of exemptions was broadly in line with its own policy, other than in relation to PDP exemptions, and this could be addressed.
- The proposed exemptions would also align with the new module running order, allowing full-unit exemptions to be applied for recognised qualifications (e.g. an exemption from the second year of the course for LPC graduates). The only exception is where a student holds a CILEx qualification, because CILEx adopts a "pick-n-mix" approach to modules, making direct read-across to the second year of the costs lawyer qualification more difficult.
- A question was raised about whether there should be exemptions from the work experience component of the qualification. Kirsty explained that ACL's rules on supervised practice did allow past work experience to be taken into account. Many students have already done three years of supervised practice when they enroll and the vast majority of students are sponsored by employers, so there is rarely a difficulty in students meeting the supervised practice criteria.
- A further question was raised about whether the proposed approach to exemptions aligned with the assessment structure for the course. Kirsty explained that all modules are assessed by assignment and then covered in an annual exam at the end of the unit/year. Where an exemption is available for a module, the content of that module is excluded from the exam and, for non-exempt students, the assignment for the module is more hefty than would otherwise be the case.

- It was discussed whether current students or recent graduates might feel aggrieved by a forward-looking change to the exemption structure. Kirsty noted that, under any scenario, the pricing structure for the course would need to change. Some past students may in fact be better off. And all had received the training and qualification they paid for.

Financial viability

- Finances for the course were discussed. Kirsty explained that it was difficult to calculate the precise number of students needed to make the course financially viable, because each student's fees would be impacted by the number of exemptions they could claim.
- In 2017, a new provision was introduced in the CLSB Training Rules stating that a fee reduction of 15% must be applied for all exempted modules. This is problematic for the ACLT fee structure because:
 - ACLT's fees include non-module-specific services like exams and revision days.
 - Modules have different credits associated with them (there are 180 credits needed in total, with 60 per annual unit, but not every module within a unit carries the same credit). The blanket fee remission of 15% does not take this into account.
- There was a discussion around whether the policy behind the fee remission rule should be reviewed. Kirsty's view was that ACLT should be able to amend its fee structure to comply with the rule, depending on what could be agreed around exemptions, module running order and credit values. It was agreed that changing the module running order so that students could be more readily exempt from whole years based on recognised qualifications would make the pricing structure clearer for students and more manageable for ACLT.
- In terms of attrition and its impact on financial viability, Kirsty explained that ACLT builds into its financial modelling an attrition rate of 25% over the three years course, being 5% for loss of students throughout the year, 5% for loss of students between years and 15% for failure on exams. Attrition rates had been lower than this since the exemptions available to LLB graduates were clarified post-2014.

Framework for approval

- There was a discussion around the timing of regulatory approval for the course. The CLSB needs assurance on an annual basis that the course remained viable for the next intake of students. ACL understands this, but needs time following the end-of-year assessment and audit process to take stock of course viability and decide whether numbers are sufficient for a further intake. ACL is seeking assurance that it will have the chance to do this before a decision is taken by the CLSB each year on whether or not to approve the course.
- This assurance will help the ACL Council get comfortable with ringfencing funds to support the course during any future "run-off" period (i.e. a period during which the course must be provided to existing students but there are no new entrants, meaning that fixed costs per student continually rise). Given the course was suspended in 2017, ACL has a good indication of the level of funds needed during a run-off period. Francis confirmed that ACL's reserves are sufficient to cover a run-off period should the need ever arise again.
- It was agreed that the best way for both ACL and the CLSB to get their required level of comfort is to set out a timeline for the annual approval process in some kind of protocol or framework document.
- The protocol should reflect that the ACL Council will, at the start of each year, assess whether an intake for that year is viable. Following that assessment, viability (or otherwise) will be communicated to the CLSB at which point approval will be considered. Only then will

ACLT enrol students and collect their fees. At that point, ACLT is contractually committed to providing the course and seeing those students through to completion, regardless of what happens in future years.

- The need for student certainty was discussed; if it was looking like the course would not run in a given year, ACLT would need to ensure it informed students as early as possible so they could pursue alternative options.
- ACL also noted the importance of being informed early on about any future CLSB proposals to change the nature of the qualification – such as introduction of a competency assessment – as this could result in a run-off period with the associated financial implications. Steve stated that, if a new iteration of the three year course was successful and addressed the barriers to entry that the CLCA was designed to address, then the need to introduce a competency assessment may fall away. The CLSB will continue to monitor changes in the wider market (e.g. introduction of the SQE), but is not wedded to a competency assessment if there is an alternative solution that has the same outcome.

Future options

- Other aspects of the course were discussed, such as possible future marketing avenues, target audience, entry prerequisites and options for improving flexibility (e.g. using national assessment centres for exams). While these issues cannot be addressed for January 2020, ACLT will keep them in mind going forward.
- It was also recognised that the proposed changes to the course (module order, exemptions, credits) were unlikely to generate increased interest from costs draftsman who have considerable practical experience but no formal legal qualifications. In the future, something more will be needed to realise the CLSB's and ACL's joint aspiration to raise standards by bringing unregulated costs advisers into the regulatory sphere. Kirsty noted that CILEx is looking to implement a competence framework rather than following the SQE route, which might be an option to consider in the future.

Next steps and actions

- The next step for ACLT is to complete its viability study. Kirsty will then present recommendations to the ACL Council as to whether and how the course should run.
- Kirsty will send Kate a summary of any points-of-difference on exemptions, based on the exemptions table that Kate circulated before the meeting. The CLSB and ACLT will then work together to finalise an exemptions list that is both fair and workable in practice.
- Kirsty will send Kate ACLT's proposed module running order for consideration by the CLSB.
- Kirsty will produce a first draft of the protocol for regulatory approval, which the CLSB will feed into.

Annex 7

Exemptions

Rule 9 of the CLSB's Training Rules governs exemptions from modules of the Costs Lawyer Qualification. An applicant may apply to an Accredited Study Provider (ASP) for one or more exemptions based on the applicant's prior learning.

Exemptions policy

ASPs should publish a policy for determining applications for exemptions. An ASP's exemptions policy should provide clear information about:

- (i) the types of prior learning that may give rise to an exemption;
- (ii) the process and criteria that the ASP will apply in determining applications for exemptions;
- (iii) any requirements as to the form of an application for an exemption, including any evidence that the applicant must provide;
- (iv) how an applicant can appeal a decision relating to exemptions; and
- (v) any other matters that could be expected to assist applicants in considering whether and how to apply for an exemption.

An ASP should regularly review its exemptions policy to ensure that it leads to fair and consistent outcomes for applicants and fosters a diverse and inclusive profession.

Types of exemptions

There are two types of exemptions available; exemptions for Listed Qualifications and exemptions for Other Prior Learning.

Exemptions for Listed Qualifications

The table below lists a number of qualifications that involve content and outcomes which are similar to certain modules in the Costs Lawyer Qualification. These are the Listed Qualifications.

Where an applicant can show that they have successfully completed one or more Listed Qualifications, they are entitled to claim exemptions from modules as set out in the table below. In some cases, this will mean that an applicant is exempt from all the modules in a unit. Where this is the case, the ASP should grant the applicant an exemption from the unit as a whole.

Qualification	Module exemptions	Unit exemptions
Qualifying Law Degree Graduate Diploma in Law OR Common Professional Examination	Exempt from: <ul style="list-style-type: none"> • English Legal System, Legal Method & Legal Skills • Law of Contract • Law of Torts • Land Law • Criminal Law • Foundation Professional Development Planning 	Exempt from: Unit 1
Law Society Legal Practice Course	Exempt from: <ul style="list-style-type: none"> • Civil Procedure (Foundation) • Personal Injury and Clinical Negligence • Advocacy and Negotiation • Legal Accounts • Professional Ethics • Advanced Professional Development Planning 	Exempt from: Unit 2
Bar Professional Training Qualification	Exempt from: <ul style="list-style-type: none"> • Civil Procedure (Foundation) • Personal Injury and Clinical Negligence • Advocacy and Negotiation • Professional Ethics • Advanced Professional Development Planning 	Exempt from: Unit 2, other than Legal Accounts
CILEx Level 6 Higher Professional Diploma in Law and Practice*	Exempt from: <ul style="list-style-type: none"> • English Legal System, Legal Method & Legal Skills • Foundation Professional Development Planning • Advanced Professional Development Planning 	
Level 6 Diploma in Conveyancing Law and Practice	Exempt from: <ul style="list-style-type: none"> • English Legal System, Legal Method & Legal Skills • Land Law 	

	<ul style="list-style-type: none"> • Legal Accounts 	
Level 6 Diploma in Probate Law and Practice	Exempt from: <ul style="list-style-type: none"> • English Legal System, Legal Method & Legal Skills • Legal Accounts 	

An ASP's exemptions policy should clearly set out what evidence an applicant must provide to show they have attained a Listed Qualification. Where an applicant provides that evidence, the associated module or unit exemptions should be granted accordingly.

Further exemptions may be available to applicants who hold a Listed Qualification – in addition to those set out in the table above – for example where an applicant has completed an optional module with similar content and outcomes to a module under the Costs Lawyer Qualification. An ASP should make clear in its exemptions policy that applicants may be entitled to such further exemptions, and set out the process and criteria for applying.

Exemptions for Other Prior Learning

Where an applicant does not hold a Listed Qualification, but has successfully completed prior learning that involves content and outcomes similar to a module under the Costs Lawyer Qualification, the applicant may apply for an exemption for Other Prior Learning. The ASP should assess such applications on a case-by-case basis, using the process and criteria set out in the ASP's exemptions policy.

An applicant may apply for an exemption from a single module, group of modules or whole unit on the basis of their Other Prior Learning.

An ASP should provide applicants with assistance and information relevant to their personal circumstances when an applicant is considering applying for, or has applied for, an exemption for Other Prior Learning.

Annex 8

Protocol for the Implementation of Oversight Arrangements relating to the Costs Lawyer Qualification

agreed by the Costs Lawyer Standards Board (CLSB) and ACL Training (ACLT)

on [x] October 2019

1. Introduction

1.1 Education and training are key to the effective preparation of competent lawyers. The CLSB oversees the education, qualification and practice standards of Costs Lawyers. The CLSB has a duty to promote the regulatory objectives set out in the Legal Services Act 2007, including encouraging an independent, strong, diverse and effective Costs Lawyer profession as well as protecting and promoting the public interest. To support a diverse talent stream entering the profession while protecting the interests of consumers, the CLSB aims to ensure standards in delivery and flexibility in qualification routes.

1.2 The CLSB takes a risk-based approach to the monitoring of education provision. As a result of continual review, there may be occasions when it is necessary for the CLSB to temporarily suspend an ASP's recruitment of students, to withdraw accreditation of an ASP to deliver a course, or to review the route to qualification. This protocol sets out how such decisions will be taken and communicated in practice, as agreed between the CLSB and ACLT.

1.3 A key aspect of the decision making process is ensuring that applicants, students and ACLT have appropriate notice of the intended suspension or withdrawal of a course or qualification pathway. This protocol is designed to ensure that, where practicable, parties are consulted on the implications and provided with adequate support in terms of considering options, and that current students are provided with the opportunity to successfully complete their route to qualification. Both parties recognise that an open dialogue, continuous collaborative working and early notification of issues are essential.

1.4 Nothing in this protocol is intended to fetter the CLSB's ability to comply with its obligations under the Legal Services Act 2007 or any other law. To the extent that there is any inconsistency between the terms of this protocol and the CLSB's regulatory arrangements as published from time to time (such as the prevailing Training Rules), the regulatory arrangements will prevail. The CLSB will consult with ACLT on any changes to regulatory arrangements that impact education or training.

2. Risk monitoring

2.1 The CLSB's approach to the risk monitoring of Accredited Study Providers (ASPs) aims to identify good practice and practice that could undermine an ASP's ability to promote the CLSB's aims.

2.2 Where an increased level of risk is identified by the CLSB – whether in the course of routine monitoring, annual audit, notification by the ASP or otherwise – the CLSB will review the situation and decide on the actions to be taken. All actions taken on the part of the CLSB in response to risk will be proportionate and in keeping with the nature of the risk identified. Depending on the nature of the issues identified, steps may be taken by the CLSB to define, manage, monitor and address the risks presented. The CLSB will work with the ASP in taking these steps wherever possible.

3. Informing risk profiles

3.1 All ASPs are subject to ongoing monitoring and reporting. The CLSB carries out annual audit activities to inform its risk profile of ASPs. The following qualitative information may be used to inform an ASP's risk profile:

- ASP's Annual Course Reports.
- External audit reports.
- Complaints received.
- Progress towards conditions and recommendations.

3.2 Unless otherwise agreed in advance, the CLSB and ACLT will work to the following timetable.

Timing	Action
One calendar month after the end of each academic year	ACLT will facilitate the CLSB's risk management activities by submitting an annual report for the previous academic year.
Three calendar months after the receipt of ACLT's annual report	The CLSB will notify ACLT of the outcome of the annual audit, to include details of any recommendations and the accreditation for the following year.
Three calendar months before the start of an academic year	ACLT application window to close
Three weeks after ACLT's application window closes	ACLT to notify the CLSB of the outcome of ACL's viability audit for the forthcoming academic year
Three weeks after notification of ACL's viability audit	CLSB to notify ACLT if any issue arises in relation to the viability audit that may give rise to an intervention (as set out in part 6 of the Protocol)

3.3 The CLSB records issues, incidents and complaints relating to ASPs on an on-going basis. In doing so, the CLSB can assess whether there are issues which could pose a risk to the effective delivery of a qualification or assessment, the interests of current or prospective students (Learners) and/or the profession's reputation. The CLSB will allow ACLT, where appropriate, an opportunity to resolve issues that arise.

4. Risk management

4.1 An ASP should take all reasonable steps to identify and manage risks which could compromise the integrity of the qualification of Costs Lawyers, compromise compliance with regulations, or compromise the reputation of the profession.

4.2 Where such a risk is identified by ACLT, it will take all reasonable steps to:

- a) minimise the likelihood of the incident occurring;
- b) prevent any adverse effect that the incident could have, were it to occur or, where it cannot be prevented, mitigate that adverse effect as far as possible.

4.3 ACLT will ensure that all aspects of the delivery of a qualification are subject to regular self-evaluation and review and will enhance, where necessary, its practices to ensure that its conduct remains at all times appropriate and in accordance with applicable CLSB rules, policies and procedures.

4.4 ACLT will have due regard to all information, comments and complaints received from Learners and shall take appropriate measures to address concerns raised.

4.5 Where a risk has materialised, ACLT will promptly review and revise its practices as appropriate. The ASP will also notify the CLSB where there is a material adverse effect of any kind (including financial, practical and reputational effects).

5. Learner enrolments

5.1 ACLT will ensure adequate assessments of Learners' existing skills, knowledge and understanding are made prior to enrolment on to a qualification in order that only Learners who meet the CLSB eligibility criteria are enrolled. ACLT will take reasonable steps to inform Learners about any applicable eligibility criteria and the CLSB requirements at the point when they are considering whether to apply (for example, in an appropriate location on the website).

5.2 Before accepting enrolments for a new academic year ACLT shall:

- a) have adequate systems and resources in place, including sufficient managerial resources, finances, equipment, materials, hardware and software, to enable it efficiently and effectively to undertake the delivery of a qualification from inception until completion for the cohort of Learners it is enrolling;
- b) ensure all equipment and premises used for the purpose of delivery of a qualification comply with the requirements of the relevant health and safety laws and regulations and any relevant CLSB policies and procedures;
- c) have appropriate arrangements and agreements in place with any third parties or suppliers who provide goods or services which contribute (other than nominally) to the delivery of a qualification to ensure that adherence to all relevant CLSB policies and procedures; and
- d) engage appropriately qualified staff to deliver a qualification.

In relation to (a) above, ACLT will retain those systems and resources until all Learners in the cohort have completed the qualification and will apply those systems and resources for the purpose of delivering the qualification.

6. Interventions

6.1 The CLSB may make one or more interventions where:

- 1. an ASP has failed to comply with CLSB policies, procedures, regulations or requirements; and/or
- 2. where issues are identified in relation to the ASP's delivery of a qualification or assessment, including incidents which may prejudice Learners, threaten the reputation of the profession, compromise the integrity of a qualification or have a material adverse effect.

6.2 The CLSB Board has oversight of the nature and extent of risk-related interventions. The nature of interventions will depend on the issues that have been identified and will be determined on a case by case basis. Where an issue is identified in relation to ACLT, the CLSB will discuss the issue with ACLT before making any intervention, unless it would be inappropriate or unlawful to do so.

6.3 Decisions in relation to interventions will be informed by the scale set out below. The left column gives an indication of interventions that may be appropriate, escalating in seriousness. The right column gives an indication of issues that may lead to an intervention, again escalating in seriousness. This is intended as a guide only (it is neither prescriptive nor exhaustive) to help set expectations; the CLSB has a duty to act in the public interest at all times.

Intervention	Issues that may warrant intervention
Additional monitoring	Breach of CLSB policies, procedures, regulations or requirements which does not threaten the integrity of assessments or qualifications.
Action plan (agreed, implemented and monitored)	Breach of CLSB policies, procedures, regulations or requirements which could have resulted in a threat to the integrity of the qualification if left unchecked.
Void Learner assessment (including examination) results	<p>Poor management of an examination or assessment (including inadequate examination invigilation).</p> <p>Failings in record keeping.</p> <p>Integrity of an assessment/examination has been compromised.</p> <p>Security breach of confidential assessment materials (including but not limited to examinations).</p> <p>Loss of integrity of assessment decisions.</p> <p>Improper assistance to candidates in the production of work for assessments.</p>
Suspension of enrolment for the qualification	<p>Failure to comply with the CLSB qualification requirements.</p> <p>Failure to address action points identified in an action plan within agreed timeframe.</p> <p>Serious threat to the interests of Learners.</p> <p>Failure to provide access to requested records, information, Learners and staff.</p> <p>Serious breakdown in management and/or quality assurance of the qualification.</p> <p>Serious failure to maintain security of confidential assessment materials or personal data.</p>

Withdrawal of accreditation to deliver the qualification	Non-compliance with action plan leading to loss of integrity regarding ability to deliver the qualification. Significant malpractice or maladministration, or failure to comply with CLSB malpractice or maladministration investigation. Mishandling of fees or other financial irregularities.
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7. CLSB withdraws ASP accreditation, a qualification or an assessment

7.1 Withdrawal, in this context, means the complete cessation of ASP accreditation to provide a qualification, or the withdrawal of a qualification or assessment. It is distinct from 'suspension' of delivery which, in this context, refers to the temporary cessation of certain aspects of an ASP's delivery of a qualification or assessment, for example the enrolment of students.

7.2 Withdrawal of ASP accreditation or suspension of delivery will only take place after careful consideration by the CLSB of the specific circumstances and where no other intervention or action is likely to be sufficient to protect from or mitigate the risk presented.

7.3 If the CLSB decides to withdraw ACLT's accreditation then the CLSB will inform ACLT in writing of its decision. The CLSB will inform ACLT of its reasons for the decision and will state the date by which ASP status will be removed or the qualification or assessment will be withdrawn. The CLSB will give ACLT as much notice as is possible in the circumstances to allow ACLT time to prepare.

7.4 If the CLSB considers withdrawing a qualification or an assessment, or consulting upon alternative qualifications or assessments, then the CLSB will inform ACLT in writing of its decision at the earliest opportunity and will include its reasons and any likely timescales. The CLSB will give ACLT as much notice as is possible in the circumstances.

7.5 Should withdrawal be necessary, ACLT will withdraw appropriately. ACLT will acknowledge receipt of the CLSB's decision immediately in writing (email or letter). The email/letter will confirm that ACLT will comply with the required date of withdrawal or, where appropriate, provide brief details as to why the CLSB should consider an alternative date for withdrawal of accreditation. The email/letter will be followed by a period of consultation between ACLT and the CLSB on any issues relating to the withdrawal that need addressing prior to the date of withdrawal. At least three months will be allowed for this consultation period, other than in exceptional circumstances where time is of the essence in protecting Learners or the public.

7.6 During this period, plans and proposals will be agreed for any transitional arrangements and for the wording and timing of communications or official statements to be made to relevant parties. Provision will be made to safeguard the interests of current Learners, which may involve the CLSB continuing to accredit successful graduates for a run-off period. ACLT will cooperate with the CLSB in facilitating the transfer of Learners to another ASP if necessary, including by providing data to allow the CLSB to have discussions with other ASPs about taking on Learners.

8. Appeals against CLSB decision to withdraw accreditation

8.1 If a decision is made to withdraw ACLT's accreditation for any reason, ACLT may request that the matter be reconsidered by the CLSB board. ACLT may make written submissions which will be put, in their totality, to all CLSB board members and the matter will be discussed by the board either at its next scheduled board meeting or, where time is of the essence, on an ad hoc basis. Board deliberations will be minuted and the minutes will be provided to ACLT and published on the CLSB website.

9. ACLT decides to withdraw from delivering the Costs Lawyer qualification

9.1 In advance of making a decision to withdraw from the delivery of a qualification, ACLT will notify the CLSB of its possible intentions. The CLSB is keen to understand and support ACLT in relation to qualification delivery, and prior notification of this kind may enable the CLSB to identify and offer solutions to issues, preventing an unnecessary withdrawal. ACLT will give due consideration to protecting the interests of Learners in any deliberations about withdrawal.

9.2 Where a final decision is made that ACLT will withdraw from delivery of the qualification, then ACLT will notify the CLSB in writing (email or letter) immediately. The email/letter will address the following:

- reason for withdrawal – to assist the CLSB in understanding ACLT's decision; and
- ACLT's withdrawal plan.

9.3 The withdrawal plan will address the following:

- a) **date of withdrawal** - the date of withdrawal must take into account the best interests of the Learners already studying towards the qualification and give sufficient notice for completion of the qualification;
- b) **how Learners' interests will be safeguarded** – what ACLT intends to do to ensure that Learners affected and mid-way through the qualification will be supported. This will include details as to any funds ringfenced in order to allow for those students to complete the qualification. Learners must have at least one opportunity to re-submit

any outstanding previously submitted but failed assessments. This includes providing appropriate support/guidance and marking of the assessments.

9.4 ACLT will cooperate with the CLSB in facilitating the transfer of Learners to another ASP, including by providing data to allow the CLSB to have discussions with other ASPs about taking on Learners.

10. Failure to act in accordance with this protocol

10.1 In the event that ACLT fails to act in accordance with this protocol (irrespective of whether a withdrawal was voluntary or an intervention was made by the CLSB) and that failure cannot be remedied through discussion between ACLT and the CLSB, the CLSB will take action accordingly to safeguard the interests of Learners, ensure compliance with the CLSB Training Rules and protect the reputation of the profession and the CLSB.

10.2 The CLSB will consider each scenario on its merits before deciding the appropriate course of action. Actions which the CLSB might consider include but are not limited to:

- a) contacting ACLT's Learners to facilitate their ongoing qualification;
- b) posting information on the CLSB website that ACLT is no longer accredited, including details of any issues which have been identified; and
- c) initiating legal proceedings.

11. Review of the protocol

11.1 This protocol will be reviewed on a needs be basis to ensure it remains current and fit for purpose. Any review may be initiated at the request of either the CLSB or ACLT.

11.2 Should CLSB accredit an ASP other than ACLT, the CLSB will consider whether it is helpful and appropriate to negotiate a similar protocol with that ASP. The CLSB will ensure that the terms of any such protocol are not prejudicial to ACLT or put ACLT at any kind of competitive disadvantage.

Annex 9

Confidential

Viability Report: Costs Law Qualification 2020

[Redacted – commercially sensitive information provided on a confidential basis]

30 September 2019

Annex 10

Protocol for the Implementation of Oversight Arrangements relating to the Costs Lawyer Qualification

agreed by the Costs Lawyer Standards Board (CLSB) and ACL Training (ACLT)

on 10 October 2019

1. Introduction

1.1 Education and training are key to the effective preparation of competent Costs Lawyers. The CLSB oversees the education, qualification and practice standards of Costs Lawyers. The CLSB has a duty to promote the regulatory objectives set out in the Legal Services Act 2007, including encouraging an independent, strong, diverse and effective Costs Lawyer profession as well as protecting and promoting the public interest and the interests of consumers. To support a diverse talent stream entering the profession while protecting the interests of consumers, the CLSB aims to ensure standards in delivery and flexibility in qualification routes.

1.2 The CLSB takes a risk-based approach to the monitoring of education provision. As a result of continual review, there may be occasions when it is necessary for the CLSB to temporarily suspend an Accredited Study Provider's (ASP's) recruitment of students, to withdraw accreditation of an ASP to deliver a course, or to review the route to qualification. At the time of agreeing this protocol, the only ASP is ACLT. This protocol therefore sets out how such decisions will be taken and communicated in practice in relation to ACLT, as agreed between the CLSB and ACLT.

1.3 A key aspect of the decision making process is ensuring that applicants, students and ACLT have appropriate notice of the intended suspension or withdrawal of a course or qualification pathway. This protocol is designed to ensure that, where practicable, parties are consulted on the implications and provided with adequate support in terms of considering options, and that current students are provided with the opportunity to successfully complete their route to qualification. Both parties recognise that an open dialogue, continuous collaborative working and early notification of issues are essential.

1.4 Nothing in this protocol is intended to fetter the CLSB's ability to comply with its obligations under the Legal Services Act 2007 or any other law. To the extent that there is any inconsistency between the terms of this protocol and the CLSB's regulatory arrangements as published from time to time (such as the prevailing Training Rules), or regulatory requirements that apply to the CLSB, those regulatory arrangements and requirements will prevail. The CLSB will consult with ACLT on any changes to regulatory arrangements that impact education or training.

2. Risk monitoring

2.1 The CLSB's approach to the risk monitoring of ASPs aims to identify good practice and practice that could undermine an ASP's ability to promote the CLSB's aims.

2.2 Where an increased level of risk is identified by the CLSB in relation to ACLT – whether in the course of routine monitoring, annual audit, notification by ACLT or otherwise – the CLSB will review the situation and decide on the actions to be taken. All actions taken on the part of the CLSB in response to risk will be proportionate and in keeping with the nature of the risk identified (subject to overriding regulatory requirements). Depending on the nature of the issues identified, steps may be taken by the CLSB to define, manage, monitor and address the risks presented. The CLSB will work with ACLT in taking these steps wherever possible.

3. Informing risk profiles

3.1 ASPs are subject to ongoing monitoring and reporting. The CLSB carries out annual audit activities to inform its risk profile of ASPs. The following qualitative information may be used to inform ACLT's risk profile:

- ACLT's Annual Course Reports.
- External audit reports.
- Complaints received.
- Progress towards conditions and recommendations.

3.2 Unless otherwise agreed in advance, the CLSB and ACLT will work to the following timetable.

Timing	Action
One calendar month after the end of each academic year	ACLT will facilitate the CLSB's risk management activities by submitting an annual report for the previous academic year
Three calendar months after the receipt of ACLT's annual report	The CLSB will notify ACLT of the outcome of the annual audit, to include details of any recommendations and the accreditation for the following year
Three calendar months before the start of an academic year	ACLT application window to close
Three weeks after ACLT's application window closes	ACLT to notify the CLSB of the outcome of ACL's viability audit for the forthcoming academic year (and for the subsequent two years, insofar as this affects the forthcoming intake of Learners)

Three weeks after notification of ACL's viability audit	CLSB to notify ACLT if any issue arises in relation to the viability audit that may give rise to an intervention (as set out in part 6 of the Protocol)
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3.3 The CLSB records issues, incidents and complaints relating to ACLT on an on-going basis. In doing so, the CLSB can assess whether there are issues which could pose a risk to the effective delivery of a qualification or assessment, the interests of current or prospective students (Learners) and/or the profession's reputation. The CLSB will allow ACLT, where appropriate, an opportunity to resolve issues that arise.

4. Risk management

4.1 An ASP should take all reasonable steps to identify and manage risks which could compromise the integrity of the qualification of Costs Lawyers, compromise compliance with regulations, or compromise the reputation of the profession.

4.2 Where such a risk is identified by ACLT, it will take all reasonable steps to:

- a) minimise the likelihood of the incident occurring;
- b) prevent any adverse effect that the incident could have, were it to occur or, where it cannot be prevented, mitigate that adverse effect as far as possible.

4.3 ACLT will ensure that all aspects of the delivery of a qualification are subject to regular self-evaluation and review and will enhance, where necessary, its practices to ensure that its conduct remains at all times appropriate and in accordance with applicable CLSB rules, policies and procedures.

4.4 ACLT will have due regard to all information, comments and complaints received from Learners, as well as feedback from other stakeholders, and shall take appropriate measures to address concerns raised.

4.5 Where a risk has materialised, ACLT will promptly review and revise its practices as appropriate. ACLT will also notify the CLSB where there is a material adverse effect of any kind (including financial, practical and reputational effects).

5. Learner enrolments

5.1 ACLT will ensure adequate assessments of Learners' existing skills, knowledge and understanding are made prior to enrolment on to a qualification in order that only Learners who meet the CLSB eligibility criteria are enrolled. ACLT will take reasonable steps to inform Learners about any

applicable eligibility criteria and the CLSB requirements at the point when they are considering whether to apply (for example, in an appropriate location on the website).

5.2 Before accepting enrolments for a new academic year ACLT shall:

- a) have adequate systems and resources in place, including sufficient managerial resources, finances, equipment, materials, hardware and software, to enable it efficiently and effectively to undertake the delivery of a qualification from inception until completion for the cohort of Learners it is enrolling;
- b) ensure all equipment and premises used for the purpose of delivery of a qualification comply with the requirements of the relevant health and safety laws and regulations and any relevant CLSB policies and procedures;
- c) have appropriate arrangements and agreements in place with any third parties or suppliers who provide goods or services which contribute (other than nominally) to the delivery of a qualification to ensure that adherence to all relevant CLSB policies and procedures; and
- d) engage appropriately qualified staff to deliver a qualification.

In relation to (a) above, ACLT will retain any such systems and resources as needed until all Learners in the cohort have completed the qualification and will apply those systems and resources for the purpose of delivering the qualification.

6. Interventions

6.1 The CLSB may make one or more interventions where:

1. ACLT has failed to comply with CLSB policies, procedures, regulations or requirements; and/or
2. where issues are identified in relation to ACLT's delivery of a qualification or assessment, including incidents which may prejudice Learners, threaten the reputation of the profession, compromise the integrity of a qualification or have a material adverse effect.

6.2 The CLSB Board has oversight of the nature and extent of risk-related interventions. The nature of interventions will depend on the issues that have been identified and will be determined on a case by case basis. Where an issue is identified in relation to ACLT, the CLSB will discuss the issue with ACLT before making any intervention, unless it would be inappropriate or unlawful to do so.

6.3 Decisions in relation to interventions will be informed by the scale set out below. The right column gives an indication of interventions that may be

appropriate, escalating in seriousness. The left column gives an indication of issues that may lead to an intervention, again escalating in seriousness. This is intended as a guide only (it is neither prescriptive nor exhaustive) to help set expectations; the CLSB has a duty to act in the public interest at all times.

Issues that may warrant intervention	Intervention
Breach of CLSB policies, procedures, regulations or requirements which does not threaten the integrity of assessments or qualifications.	Additional monitoring
Breach of CLSB policies, procedures, regulations or requirements which could have resulted in a threat to the integrity of the qualification if left unchecked.	Action plan (agreed, implemented and monitored)
<p>Poor management of an examination or assessment (including inadequate examination invigilation).</p> <p>Failings in record keeping.</p> <p>Integrity of an assessment/examination has been compromised.</p> <p>Security breach of confidential assessment materials (including but not limited to examinations).</p> <p>Loss of integrity of assessment decisions.</p> <p>Improper assistance to candidates in the production of work for assessments.</p>	Void Learner assessment (including examination) results
<p>Failure to comply with the CLSB qualification requirements.</p> <p>Failure to address action points identified in an action plan within agreed timeframe.</p> <p>Serious threat to the interests of Learners.</p> <p>Failure to provide access to requested records, information, Learners and staff.</p>	Suspension of enrolment for the qualification

<p>Serious breakdown in management and/or quality assurance of the qualification. Serious failure to maintain security of confidential assessment materials or personal data.</p> <p>Non-compliance with action plan leading to loss of integrity regarding ability to deliver the qualification. Significant malpractice or maladministration, or failure to comply with CLSB malpractice or maladministration investigation. Mishandling of fees or other financial irregularities.</p>	<p>Withdrawal of accreditation to deliver the qualification</p>
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7. CLSB withdraws ASP accreditation, a qualification or an assessment

7.1 Withdrawal, in this context, means the complete cessation of ASP accreditation to provide a qualification, or the withdrawal of a qualification or assessment. It is distinct from 'suspension' of delivery which, in this context, refers to the temporary cessation of certain aspects of an ASP's delivery of a qualification or assessment, for example the enrolment of students.

7.2 Withdrawal of ASP accreditation or suspension of delivery will only take place after careful consideration by the CLSB of the specific circumstances and where no other intervention or action is likely to be sufficient to protect from or mitigate the risk presented.

7.3 If the CLSB decides to withdraw ACLT's accreditation then the CLSB will inform ACLT in writing of its decision. The CLSB will inform ACLT of its reasons for the decision and will state the date by which ASP status will be removed. The CLSB will give ACLT as much notice as is possible in the circumstances to allow ACLT time to prepare.

7.4 If the CLSB considers withdrawing a qualification or an assessment, or consulting upon alternative qualifications or assessments, then the CLSB will inform ACLT of this at the earliest opportunity and will convey its reasons and any likely timescales. If, following such consideration, the CLSB does decide to withdraw a qualification or assessment, it will inform ACLT in writing. The CLSB will give ACLT as much notice as is possible in the circumstances.

7.5 Should withdrawal be necessary pursuant to either paragraph 7.3 (withdrawal of ACLT's accreditation) or paragraph 7.4 (withdrawal of a qualification or assessment), ACLT will withdraw appropriately. ACLT will acknowledge receipt of the CLSB's decision immediately in writing by email

or letter (the Acknowledgement). Where a decision is made under paragraph 7.3, ACLT may make written representations in relation to any aspect of the CLSB's decision. ACLT will notify the CLSB in the Acknowledgement if it intends to make representations and will make those representations in writing as soon as practicable thereafter. The CLSB will consider whether it should revise its decision in light of ACLT's representations, other than in exceptional circumstances where time is of the essence in protecting Learners or the public (or in compliance with regulatory requirements). Where a decision is made under paragraph 7.4, the Acknowledgement will confirm that ACLT will comply with the required date of withdrawal or, where appropriate, provide brief details as to why the CLSB should consider an alternative date for withdrawal of accreditation. In either case, the Acknowledgement will be followed by a period of consultation between ACLT and the CLSB on any issues relating to the withdrawal that need addressing prior to the date of withdrawal. At least three months will be allowed for this consultation period, other than in exceptional circumstances where time is of the essence in protecting Learners or the public.

7.6 During this period, plans and proposals will be agreed for any transitional arrangements and for the wording and timing of communications or official statements to be made to relevant parties. Provision will be made to safeguard the interests of current Learners, which may involve the CLSB continuing to accredit successful graduates for a run-off period. ACLT will cooperate with the CLSB in facilitating the transfer of Learners to another ASP if necessary, including by providing data to allow the CLSB to have discussions with other ASPs about taking on Learners.

8. Appeals against CLSB decision to withdraw accreditation

8.1 If a decision is made to withdraw ACLT's accreditation for any reason, ACLT may request that the matter be reconsidered by the CLSB board. ACLT may make written submissions setting out the grounds for appeal. The full representations will be put, in their totality, to all CLSB board members and the matter will be discussed by the board either at its next scheduled board meeting or, where time is of the essence, on an ad hoc basis. Board deliberations will be recorded and the minutes will be provided to ACLT and published on the CLSB website.

9. ACLT decides to withdraw from delivering the Costs Lawyer qualification

9.1 In advance of making a decision to withdraw from the delivery of a qualification, ACLT will notify the CLSB of its possible intentions and likely timescales, including how ACLT intends to protect Learners who have been contracted with for provision of the course. The CLSB is keen to understand and support ACLT in relation to qualification delivery, and prior notification of this kind may enable the CLSB to identify and offer solutions to issues,

preventing an unnecessary withdrawal. ACLT will give due consideration to protecting the interests of Learners in any deliberations about withdrawal.

9.2 Where a final decision is made that ACLT will withdraw from delivery of the qualification, then ACLT will notify the CLSB in writing (email or letter) immediately. The email/letter will address the following:

- reason for withdrawal – to assist the CLSB in understanding ACLT's decision; and
- ACLT's withdrawal plan.

9.3 The withdrawal plan will address the following:

- a) **date of withdrawal** - the date of withdrawal must take into account the best interests of the Learners already studying towards the qualification and give sufficient notice for completion of the qualification;
- b) **how Learners' interests will be safeguarded** – what ACLT intends to do to ensure that Learners affected and mid-way through the qualification will be supported. This will include details as to any funds ringfenced in order to allow for those students to complete the qualification. Learners must have at least one opportunity to re-submit any outstanding previously submitted but failed assessments. This includes providing appropriate support/guidance and marking of the assessments.

9.4 ACLT will cooperate with the CLSB in facilitating the transfer of Learners to another ASP, including by providing data to allow the CLSB to have discussions with other ASPs about taking on Learners.

10. Failure to act in accordance with this protocol

10.1 In the event that ACLT fails to act in accordance with this protocol (irrespective of whether a withdrawal was voluntary or an intervention was made by the CLSB) and that failure cannot be remedied through discussion between ACLT and the CLSB, the CLSB will take action accordingly to safeguard the interests of Learners, ensure compliance with the CLSB Training Rules and protect the reputation of the profession and the CLSB (and may seek independent intervention in this regard where appropriate).

10.2 The CLSB will consider each scenario on its merits before deciding the appropriate course of action. Actions which the CLSB might consider include but are not limited to:

- a) contacting ACLT's Learners to facilitate their ongoing qualification;
- b) posting information on the CLSB website that ACLT is no longer accredited, including details of any issues which have been identified; and

c) initiating legal proceedings.

11. Review of the protocol

11.1 This protocol will be reviewed on a needs be basis to ensure it remains current and fit for purpose. Any review may be initiated at the request of either the CLSB or ACLT or as a result of changes to regulatory requirements.

11.2 Should CLSB accredit an ASP other than ACLT, the CLSB will consider whether it is helpful and appropriate to negotiate a similar protocol with that ASP.

Signed by:

Kirsty Allison
on behalf of ACLT
Date:

Kate Wellington
on behalf of CLSB
Date: