

**BOARD DECISION NOTE**  
**Costs Lawyer Standards Board**  
**Date of Decision: 19 December 2024**  
**Issue: Treatment of disciplinary decisions by other regulators**

**Board constitution:** Rt Hon David Heath CBE (Chair): Lay NED  
Stephanie McIntosh (Vice-Chair): Lay NED  
Paul McCarthy: Non-Lay NED  
Andrew Harvey: Lay NED  
Andrew McAulay: Non-Lay NED

**1. Background information and summary of the issue**

In March 2024, the CLSB was notified by the Solicitors Regulation Authority (SRA) that it had opened an investigation into the conduct of two Costs Lawyers who held positions of control in a firm regulated by the SRA. The investigation related to potential breaches of the SRA Accounts Rules.

The conduct was admitted by the Costs Lawyers and a final determination was provided to the CLSB by the SRA in December 2024. The Costs Lawyers were found to have breached the SRA's regulatory arrangements and were subject to financial penalties.

The Costs Lawyers did not inform the CLSB of the SRA's regulatory activity either at the outset of the investigation or when applying for a 2025 practising certificate in November 2024, as required under the [Practising Rules](#). One Costs Lawyer did make a separate disclosure, however it was not clear on its face whether it related to the same facts as the SRA's investigation. This gave the CLSB cause to investigate whether that Costs Lawyer had breached his regulatory obligations under the CLSB Code of Conduct by failing to disclose, in addition to the findings of misconduct by the SRA. (The second Costs Lawyer did not renew his practising certificate for 2025.)

This represented the first time that a finding had been made by the SRA against a Costs Lawyer in his or her individual capacity since the CLSB's new [Disciplinary Rules and Procedures](#) (DR&P) were introduced in 2019. There is nothing in the DR&P that dictates how such decisions should be treated by the CLSB. In general, publication of disciplinary decisions made against Costs Lawyers is envisaged under DR&P 3, and that provision is supported by the [policy statement on publication of disciplinary decisions](#).

Notice of the SRA's decision was received shortly before the CLSB's scheduled board meeting on 12 December, however there was insufficient time to include a written recommendation in the board's papers as to how the decision should be treated. The board therefore discussed the issue in principle at its meeting on 12 December, and asked the executive to circulate a recommendation by email based on the board's initial feedback.

The key question for decision was whether the CLSB should publish determinations made by other regulators that contain findings against Costs Lawyers, or whether the CLSB should carry out its own investigation in relation to the same facts and publish the outcome of that

investigation instead (or as well). The board considered that either option was permissible under the existing provisions of the DR&P.

## **2. Evidence considered by the Board**

- Case study of the SRA decision received by the CLSB in December
- Publication requirements in the LSB's policy statement on empowering consumers, including the intended purpose of publication in regulators' registers
- MOU between the legal regulators for the sharing of disciplinary information

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

Based on the board's feedback during its discussion on 12 December, the executive recommended that the following approach be adopted:

- A disciplinary decision about a Costs Lawyer that is made by any regulator – whether a legal services regulator or otherwise – will be treated in the same way as a complaint; that is, the decision will be triaged through to an investigation.
- The investigator will adopt the facts found by the other regulator (following the determination of any appeal or the exhaustion of the time limit to appeal) and will consider whether those facts also constitute a breach of the CLSB's regulatory arrangements.
- If they do, the investigator will consider whether it is appropriate to impose a sanction, taking into account the purpose and impact of any sanctions already imposed by the other regulator in relation to the same conduct, and any other relevant factors in the [policy statement on enforcement and sanctions](#).
- This will generate a CLSB investigation outcome, which (if misconduct is found) will be published on the website. The published outcome will link to the decision of the other regulator, where relevant, by way of publication of the underlying facts.
- Any additional potential misconduct that has not been investigated by the other regulator (such as the non-disclosure in the case study above) will be considered as part of the same investigation.

## **4. Other factors considered by the Board**

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

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|---|---------------------------------|
| - the CLSB's independence                   | - the CLSB's financial position |
| - furtherance of the regulatory objectives  | - equality and diversity        |
| - consumers, including vulnerable consumers | - data privacy                  |

- CLSB independence: This approach will ensure that the CLSB takes an independent assessment of the determined facts against its own regulatory arrangements.
- Furtherance of the regulatory objectives / consumers: Ensuring a robust process is carried out prior to publishing disciplinary decisions involving Costs Lawyers

supports the objectives of: (i) encouraging an independent, strong, diverse and effective legal profession; (ii) supporting the constitutional principle of the rule of law; and (iii) promoting adherence to the professional principles.

- CLSB's financial position: Additional resource will be required to implement this approach, compared with the alternative approach of simply publishing the other regulator's decision. However the volume of such investigations is likely to be low and the additional cost is outweighed by the benefits of the approach.
- Equality and diversity: This decision does not impact on equality and diversity.
- Data privacy: By carrying out its own investigation, the CLSB will ensure that disciplinary data published about individual Costs Lawyers is accurate and in line with the policy statement on publication of disciplinary decisions and its Privacy Policy.

## **5. Risk assessment**

The main risk of this approach relates to delay. That is, there is a risk that a client or potential client suffers detriment in the period between the other regulator making its determination and the outcome of the CLSB's subsequent investigation being published in the Register of Costs Lawyers. Consumers who are making purchasing decisions based on the regulatory information in the Register could be prejudiced by the delay.

This risk can be mitigated by ensuring that the CLSB's investigation is carried out promptly (and always within the timescales in the DR&P). If there is serious risk to the public from a delay in publication, the CLSB may also exercise its interim suspension powers to protect clients in the intervening period. It should be clear from the findings made by the other regulator whether it is necessary to consider the use of interim powers in individual cases.

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

The board considered and approved the executive's recommendation by emails dated 17, 18 and 19 December 2024.

Key factors taken into account in approving the recommendation included:

- that it was important, in the interests of natural justice, to fully document the reasons why sanctions are or are not warranted in individual cases, and to link findings of fact to the CLSB's own regulatory arrangements;
- that the approach was in line with the CLSB's existing rules and policies;
- that the approach would cover the decisions of all regulators consistently.

On the third point above, the board made it clear that the approach would cover the decisions of all other bodies with official duties or functions relating to the conduct of Costs Lawyers. This included decisions made by the legal services regulators in England and

Wales, but also the decisions of disciplinary Tribunals, courts, regulators outside the remit of the Legal Services Act 2007, and bodies in other jurisdictions.

In relation to adopting findings of fact made by the other decision-maker, the board clarified that this would not preclude a CLSB investigator from taking into account additional facts relevant to the CLSB's own investigation and/or not taking into account facts that were irrelevant to the CLSB's regulatory arrangements. This was in line with the investigator's existing powers under the DR&P and the usual processes for a first tier investigation.

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

N/A

**8. 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: 26 March 2025**