

Company number: 04608905

MINUTES
Costs Lawyer Standards Board Ltd
Tuesday 30 January 2024 at 10:30 am
Remotely via Teams

Board:	Rt Hon David Heath CBE	Lay NED (Chair)
	Stephanie McIntosh	Lay NED (Vice-Chair)
	Andrew Harvey	Lay NED
	Andrew McAulay	Non-Lay NED
	Paul McCarthy	Non-Lay NED
In attendance:	Kate Wellington	CEO
	Jacqui Connelly	Director of Operations
	Lori Frecker	Director of Policy (Item 7)

1. OPENING MATTERS

- 1.1 The Chair declared the meeting quorate. There were no apologies.
- 1.2 There were no declarations of interest on any agenda item.

2. MINUTES

2.1 Minutes dated 23 October 2023

The board considered the minutes of its last scheduled quarterly meeting on 23 October 2023. The board agreed the minutes as being a true record for signing.

Board members revisited the discussion noted on page 3 of the minutes (item 5.1) about trends in complaints. Kate explained that the executive intended to put a report to the board in April providing an annual snapshot of complaints, including their nature and outcome. The board agreed this would be a helpful annual activity for governance and oversight purposes.

Actions: Publish approved minutes on CLSB website; Bring complaints snapshot to April meeting.

2.2 Matters arising

The board considered the matters arising from the minutes of its meeting on 23 October 2023. There were no matters arising that had not been scheduled as agenda items or otherwise dealt with.

3. STRATEGY

3.1 Progress against Business Plan: Q4 2023

The board was provided with a progress update against the 2023 Business Plan to year end. All priorities had been completed other than priority 5, which was rolled into the project plan under priority 9 for delivery in 2024.

The board discussed the importance of communicating to stakeholders the scope of what the CLSB achieved each year and the opportunity to build trust by demonstrating that the organisation delivered on its promises. Board members considered the pros and cons of producing an informal annual report in an electronic format, based around existing materials/reporting, to help with this. Kate agreed to consider the option further, including how existing content could be repurposed and what resources would be required.

The board considered and approved the executive's proposed strategic priorities for Q1 of 2024. Board members discussed the competing demands for resources across ongoing projects, new projects, external pressures, the new strategy and core regulatory activities. The board agreed that the executive – in consultation with the board – should continue to actively prioritise amongst these various demands to ensure the CLSB focuses on what is most important at any given time.

Action: Consider options for an informal annual report.

3.2 Annual report against performance indicators

The board was presented with a report summarising the organisation's performance against its KPIs in 2023. Kate noted that comparative statistics had been provided within the regulatory metrics for the first time, showing that reinstatements were considerably up on previous years. She also highlighted the data showing that, during the practising certificate renewal window in Q4, 69% of certificates were sent out on the same day as an application was received and 99% were sent out by the end of the following working day, compared to 89% last year. Kate thanked Jacqui and James for their hard work in achieving this service standard.

The board was also provided with the results of the NED satisfaction survey for 2023 and David thanked board members for their responses to the survey. The board discussed how the survey could be adapted in future years, potentially combining it with the appraisal process to allow for a more informed annual discussion. The board also discussed how the words used to describe the organisation's culture had evolved over time, tracking the organisation's maturity and dynamism. It was suggested that any example words be removed from future surveys to ensure there was no bias either toward or away from those words.

Action: Link annual NED survey and appraisal process going forward.

3.3 Communications strategy: stage 1

Kate and Andrew H introduced this item, which related to delivery of priority 3 in the 2024 Business Plan. Kate explained that work on this priority began in late 2023 and three project stages had been identified. The board was presented with a paper articulating the intended purpose of the CLSB's communications plan, in line with the first project stage.

The board discussed which aspects of the project should be delivered internally and which would require external resource and expertise. The proposals in the stage 1 paper were agreed, subject to clarifying that the aspects relating to brand identity did not extend to a full brand review, but would instead focus on articulating how the CLSB wants to be perceived and how it will build its brand reputation.

The board also discussed the need to establish its risk appetite in relation to the organisation's communications, addressing the balance between factors such as accuracy, transparency, timeliness, confidentiality, coverage, governance/sign-off and so on. It was agreed that this was key to building and maintaining our desired reputation and should be included in the plan.

Action: Take board feedback into account in delivering stage 2 of the project plan.

3.4 Costs Lawyer Apprenticeship update

The board was provided with an update on development of the Costs Lawyer Apprenticeship, including in relation to:

- the CLSB's work with the Trailblazer Group, IfATE and ACL Training;
- the draft Occupational Standard and correspondence from the Route Panel approving the proposals at the first gateway;
- the forms and documents that needed to be prepared going forward;
- the likely timing for launch of the initiative

The board agreed that it was not necessary for the board to review and approve the remaining forms prior to submission as they were largely descriptive, setting out existing regulatory arrangements and how these linked to the proposed apprenticeship.

4. BOARD MATTERS

There were no board matters for consideration at this meeting. Kate explained that the Remuneration Committee was due to meet on 14 February and minutes of that meeting would be provided to the full board in April.

5. FINANCE

5.1 Quarterly report: Q4 2023

Jacqui introduced the quarterly finance report. The board noted the financial position at the end of 2023, namely a balanced budget following a positive contribution to reserves. Jacqui also noted that projected income for 2024 had been achieved due to the number of new qualifiers coming through in Q4.

David reminded the board that, at its October meeting, the board had agreed to reduce the 2023 contribution to reserves to avoid a budget deficit at year end (see item 5.1 of the October minutes). He noted that, in December, he had discussed the proposed 2023 reserve contribution with the executive and was confident that the proposal fell within the mandate given by the board in October. Further board approval had therefore not been sought before the contribution was made. The board agreed with this position.

Board members asked about progress on moving some of the CLSB's reserves to accounts offering higher interest rates. Jacqui explained that, due to practising certificate renewals in Q4, this would be given attention in Q1 2024.

Action: Prioritise moving funds to higher interest bearing accounts in Q1.

6. RISK MANAGEMENT

6.1 Review of risk register

The board carried out its quarterly review of the risk register and discussed whether any amendments were required. It was agreed that the controls in section C should be updated to reflect the 2024 Business Plan and other priority workstreams scheduled for the new year.

Kate noted that she would commission Hook Tangaza to carry out a fresh horizon scanning exercise to form the basis of the 2024 Annual Risk Outlook, and this would give the board additional material against which to analyse the risk register at its next meeting in April. Board members agreed that compiling the Risk Outlook remained a worthwhile exercise and linked in with the CLSB's communications planning and new mid-term strategy.

The board discussed whether there were any implications for Costs Lawyers of the Post Office scandal, particularly in light of the investigations being carried out by the SRA and BSB. Kate agreed to consider whether there were any touchpoints with Costs Lawyers' work and/or whether pre-emptive communication with Costs was warranted.

The board also discussed the likelihood of further market consolidation of costs law practices in the near future. It was agreed that the risks from this were already included adequately in the risk register, but the position should be closely monitored.

Actions: Update risk register as agreed; Consider implications of Post Office scandal for Costs Lawyer market and take any action as necessary.

7. REGULATORY MATTERS

7.1 Ongoing competency framework

The board was presented with a final draft of the new ongoing competency framework for consideration and approval. Kate conveyed the feedback from the working party that had reviewed the framework in November and explained how this had been incorporated into the final version.

The board approved the framework and commented on how it could be used by different types of practitioners to serve their needs. David asked board members to send Kate any final non-substantive comments/typographical amendments by email following the meeting.

Action: Publish ongoing competency framework and supporting material, subject to any final comments sent by email.

7.2 Project proposal for future of regulation

The board was presented with a project proposal relating to 2023 Business Plan priority 9. Kate explained how the proposal had been developed, the phasing of the workstreams and the associated timelines.

The board agreed that the proposal represented a good way of incorporating emerging sector priorities into the CLSB's own workstreams and felt the project plan would be a valuable tool for ensuring accountability and alignment. The board approved the plan, subject to one typographical error on the first page relating to the stated number of workstreams.

Action: Adopt project plan and begin implementation in Q1.

7.3 Code of Conduct rule change application

The board was provided with a progress update on the CLSB's application to amend its Code of Conduct, including in relation to:

- submission of the application in Q4;
- the LSB's decision to extend the statutory decision period due to the holidays;
- requests for further information from the LSB and the CLSB's responses.

The board noted the executive's plans for implementation as soon as the LSB's decision on the application was issued.

7.4 New economic crime regulatory objective

The board was provided with an update on implementation of the new regulatory objective in the Legal Services Act 2007 relating to the detection and prevention of economic crime. Kate outlined the work that the CLSB had done to date on economic crime, plans to expand that work in the coming months, and how those plans fit with the expectations and timing of the LSB's work in this area.

The board discussed whether it was necessary to make the requirement to report knowledge or reasonable suspicion of an economic crime within a firm more explicit in the CLSB's regulatory arrangements. The board agreed that it was important to make clear that such requirement could be used as a shield as well as a sword, particularly to protect junior lawyers from organisational pressure. Kate agreed to ensure this was made clear – over and above just a statement of legal obligation – in the guidance under development.

Action: Ensure reporting requirements are clear in expanded version of economic crime guidance.

7.5 Judicial appointments update

Lori introduced this item, providing an overview of the results of a survey carried out in Q4 about interest in judicial appointments amongst the profession, and explaining next steps.

Board members discussed the survey data. They considered why respondents might have indicated a preference for court appointments over Tribunal appointments, particularly given that judicial officers often start out with Tribunal appointments. The

non-lay NEDs provided insights into how this preference may be affected by the relative number of Tribunal instructions in the current market. The board agreed that communicating with the profession about the opportunities available, and how Costs Lawyers' transferable skills could be applied to different roles, would be critical to building confidence if eligibility was granted. The board also identified an opportunity to link the skills needed for judicial appointment to the new ongoing competency framework.

Board members noted that it would likely be some time before the outcome of this work was known, and thus there was a need to keep the regulated community updated on progress. Kate agreed to issue a communication, probably through the newsletter, at the point of submitting the CLSB's evidence package to the MoJ.

Action: Build evidence package for submission and communicate this to the profession.

7.6 Costs Lawyer profession in 2023 report

The board was provided with a report collating data about the profession from the annual regulatory return. Jacqui highlighted key statistics for consideration.

The board noted that, in 2020, the percentage of Costs Lawyers that undertook no legal aid worked jumped from around 50% to around 70%, and that jump was sustained over the last four years, including in 2023. Kate explained that the MoJ had recently issued a call for evidence to support a review of civil legal aid, and one of the issues for consideration was the sustainability of practitioners who are willing to work in that area. It was agreed that the CLSB should put in a short response highlighting its data and supporting the concerns of solicitors and barristers, as well as ACL.

The board also asked about links to the Women in Costs group, following a recent seminar. Kate explained how the CLSB had reached out to the group and hoped to work with them further by way of follow up to the gender pay gap research carried out in 2022.

Action: Respond to the MoJ call for evidence on civil legal aid.

8. LEGAL SERVICES BOARD (LSB)

8.1 Work updates

The board received updates from David and Kate in relation to:

- the resignation of Matthew Hill as CEO of the LSB, plans for his replacement and interim management arrangements;
- the CLSB's response to the LSB's consultation on first tier complaints;
- feedback from a recent stakeholder event on the LSB's proposed budget and business plan; and
- progress on the LSB's PERL (professional ethics and rule of law) workstreams.

The board discussed the potential implications of Matthew leaving the LSB in terms of relationship management and stakeholder education. The board also discussed how the CLSB's PERL work would be progressed in 2024. Kate noted that she, David and Lori were scheduled to meet in Q1 to agree next steps.

8.2 2023 regulatory performance assessment

The board was provided with a draft version of the LSB's 2023 regulatory performance assessment for the CLSB. The board was pleased to see that the CLSB had again provided the LSB with sufficient assurance across all relevant standards and congratulated the executive on this achievement. The board noted the areas in which the LSB would be following up in 2024 and was also aware that additional areas might be revealed when the assessment for the whole sector was published in Q1.

9 STAKEHOLDER UPDATES

9.1 ACL Council meeting minutes

The board noted the minutes of ACL Council meetings held in August, September and October 2023.

9.2 Work updates

The board received updates in relation to:

- the CLSB's response to a Law Society green paper on proposals for a 21st century justice system;
- the Legal Ombudsman's consultation on its 2024-27 strategy and 2024-25 budget and business plan.

10 OPERATIONS

10.1 Practising certificate renewals data

The board was provided with a report summarising data from the 2024 practising certificate renewals round. Jacqui highlighted key statistics, provided feedback on the efficiency of the process and explained the proposed IT developments for the following year.

Kate noted the feedback from Costs Lawyers as to the CLSB's effectiveness and the board was provided with verbatim comments from respondents. One comment related to being able to claim part-points for part-hours spent on CPD activities. The board agreed that part-hours should count toward the minimum requirement and discussed how this should be conveyed to practitioners and whether a de minimis threshold was appropriate.

Action: Clarify guidance on website re part-hour CPD eligibility.

11 PUBLICATION

11.1 Confirmation that papers can be published

The board agreed that all board papers for the meeting should be published, other than those noted on the agenda for the reasons stated.

Action: Publish board papers on website in accordance with agenda notations.

12 AOB

There was no other business.

13 NEXT SCHEDULED QUARTERLY MEETING

The next meeting was scheduled for 23 April 2024, remotely by Teams.

There being no further business, the Chair declared the meeting closed at 12:23.

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Chair

Related documents

Item	Document	Publication location (CLSB website)
2.1	Board minutes	About ⇒ Our board
3.1	2023 Business Plan	About ⇒ Strategy and governance
3.2	Performance Indicators	About ⇒ Strategy and governance
6.1	Risk register	About ⇒ Strategy and governance
8.1	CLSB response to LSB consultation on first tier complaints	Regulatory ⇒ Consultations
9.2	CLSB response to Law Society green paper	Regulatory ⇒ Consultations
11.1	Board papers	About ⇒ Our board
Item	Document	Publication location (other)
7.3	Code of Conduct rule change application	LSB website here
8.1	LSB consultation on first tier complaints	LSB website here
8.2	2023 regulatory performance assessment	LSB website here
9.2	Legal Ombudsman consultation on strategy, budget and business plan	Legal Ombudsman website here