



Costs Lawyer Standards Board

AGENDA

Thursday 12 December 2024 @ 10:30am
Remotely via videocall

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
	Craig Westwood	Legal Services Board (item 1)
	Suganya Suriyakumaran	Legal Services Board (item 1)

Note: Agenda items in blue are standing items

	Agenda item	Paper	Publish ¹	Lead
1	Opening matters 1.1 Quorum and apologies 1.2 Declarations of interest on agenda items 1.3 Meet and greet session with Craig Westwood	- - -		DH DH DH
2	Minutes 2.1 Approval of minutes (21 October 2024) 2.2 Matters arising (21 October 2024)	Item 2.1 -	Yes	DH DH
3	Strategy 3.1 Progress against Business Plan: 2024 annual roundup 3.2 Recruitment update	Item 3.1 -	Yes	KW KW

¹ The letters used in this column indicate the reason for any non-publication of papers. They correspond to the reasons set out in our publication policy, which can be found on the [What we Publish](#) page of our website.

4	Board matters 4.1 Board members reappointment 4.2 Remuneration Committee member reappointments 4.3 Remuneration Committee update	- - Item 4.3	Yes	SM DH AH
5	Finance 5.1 Quarterly report: Q4 2024 5.2 2024 contribution to reserves	Item 5.1 -	No (D, E)	JC KW/JC
6	Risk management 6.1 Review of risk register	Item 6.1	Yes	DH
7	Regulatory matters 7.1 ACL Training annual monitoring outcome 7.2 First tier complaints guidance 7.3 Technology and AI workplan 7.4 Disciplinary investigation update 7.5 Client care letters thematic review 7.6 Updated Guidance Note on retention of client files	Item 7.1A+B Item 7.2A+B Item 7.3A+B - Item 7.5 Item 7.6	Not A (D) Yes Yes Yes Yes Yes	KW/AM LF LF KW KW/JC KW
8	Legal Services Board (LSB) 8.1 Work updates 8.2 Regulatory performance assessment submission 8.3 Axiom Ince report	- Item 8.2 Item 8.3A+B	Yes Yes	KW KW KW
9	Stakeholder updates² 9.1 ACL Council meeting minutes 9.2 Work updates	Item 9.1 -	Yes	KW KW
10	Operations 10.1 Practising certificate renewals feedback 10.2 Amendment to supervision framework 10.3 Project scoping: Log-in area for the CLSB website	- Item 10.2 Item 10.3	Yes Yes	JC JC JC
11	Publication 11.1 Confirmation that papers can be published	-		DH
12	AOB	-		DH
13	Next meeting Date: Wednesday 26 March 2024 Venue: Remotely via Teams	-		DH

² This agenda item is used to update the board on significant developments relating to the work of the Legal Services Consumer Panel, Association of Costs Lawyers, ACL Training, Legal Ombudsman (including exception reporting on service complaints) and other relevant stakeholders.

Company number: 04608905

DRAFT APPROVED BY THE CHAIR FOR PUBLICATION
Subject to approval by the full board at its next scheduled meeting

MINUTES
Costs Lawyer Standards Board Ltd
Monday 21 October 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
	Tom Hayhoe	Legal Services Consumer Panel (item 1)
	Lola Bello	Legal Services Consumer Panel (item 1)
	David Bailey-Vella	Association of Costs Lawyers (item 9.1)

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.

1.3 The board hosted Tom Hayhoe and Lola Bello from the Legal Services Consumer Panel for a meet-and-greet session. Tom described the Panel's current priorities and continued work to deliver the recommendations from the CMA's review of its legal services market study. The board discussed with Tom how the smaller regulators could collaborate and gain leverage from the work and research of their larger peers, including how the Panel could work with the regulators to facilitate progress. The importance of legal costs to consumers was also discussed, including the possibility of the CLSB and LSCP creating joint briefings on costs issues.

David thanked Tom and Lola for their time and insights, and both organisations agreed to maintain an open dialogue going forward.

2. MINUTES

2.1 Minutes dated 18 July 2024

The board considered the minutes of its last scheduled quarterly meeting on 18 July 2024. The board agreed the minutes as being a true record for signing.

Actions: Publish approved minutes on CLSB website.

2.2 Matters arising

The board considered the matters arising from the minutes of its meeting on 18 July 2024. 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: Q3 2024

The board was provided with a progress update against the 2024 Business Plan for Q3. Kate explained that Q3 had been an extremely busy quarter and the team had delivered a further eight Business Plan priorities over the period. This left three priorities for completion in Q4. While Q4 would be shorter than usual in 2024, Kate was confident that all Business Plan priorities could be delivered by year end.

Board members expressed their thanks to the executive for the amount that had been delivered and achieved already in 2024, despite the many external pressures that had arisen during the year.

The board considered and approved the executive's proposed strategic priorities for Q4 of 2024.

3.2 Communications strategy

Kate explained that, following the board strategy day in July, she had been working with Consumer Voice to develop a proposed communications strategy for consideration by the board. Kate drew out important aspects of the strategy from the deck, including key messages and priorities for year 1.

The board discussed the strategy deck in detail. Board members felt that Consumer Voice had done an excellent job of capturing input from the strategy day and creating a process that was well-suited to the organisation, its resources and ambitions. The board believed the strategy was achievable if the right energy was devoted to it.

Board members discussed the aspects of the strategy relating to kitemarks. They were keen on developing a kitemark for organisations employing Costs Lawyers, in addition to a kitemark for individuals, and noted that this could facilitate a light-touch form of entity oversight in the future. The board was also keen to develop kitemarks with a more modern look that would help make the CLSB's branding more accessible.

The board discussed the resource implications of the strategy, given the CLSB's size, and felt it was appropriate to interpret the strategy as permissive rather than prescriptive. The board was particularly attracted to the idea of having Costs Lawyers be champions of the key messages in the strategy, including through a marcomms toolkit, to help with resourcing.

The board adopted the strategy for implementation under the 2025 Business Plan.

Action: Implement communications strategy over the coming year.

4. BOARD MATTERS

4.1 Interim update from Remuneration Committee

Andrew H provided an update on a recent decision of the Remuneration Committee, taken by email, to adjust the Director of Operations' salary to better align it with other staff and to reflect the increased responsibilities of the role since its inception. An updated job description had been agreed between the Director of Operations and CEO, and the CEO was confident that the change could be absorbed in the 2025 budget.

Andrew confirmed that the Committee would be meeting later in the year to consider the annual cost of living pay rise and to further discuss succession planning for the executive, as agreed with the board in July.

5. FINANCE

5.1 Quarterly report: Q3 2024

Jacqui introduced the quarterly finance report. The board noted the financial position at the end of Q3, namely a small projected surplus for the year due to higher than anticipated income. Jacqui explained the reasons for variations from budget for certain line items and flagged potential additional expenditure before year end that depended on the timing of invoices. The board noted the financial position.

5.2 Practising fee application outcome

In early September, Kate shared with the board by email the positive response received to the CLSB's practising fee consultation. Board members had unanimously agreed to proceed with applying for approval of a £305 practising fee as planned. The board affirmed that decision for minuting.

Kate explained that the CLSB applied for approval of the fee in September and received approval in October. The board was provided with the LSB's decision notice. The board noted the action/recommendation in the decision notice for next year's application.

6. RISK MANAGEMENT

6.1 Review of risk register

The board carried out its quarterly review of the risk register and agreed that no amendments were required this quarter.

7. REGULATORY MATTERS

7.1 Education and training updates

The board was provided with updates in relation to:

- annual monitoring of ACL Training's delivery of the Costs Lawyer Qualification, which was underway and would be completed by the CLSB's Accreditation Panel in Q4; and
- the CLSB's role as EQAP and EPAO for the new apprenticeship standard, including recent advice from IfATE and liaison with ACL Training.

7.2 Guidance Note for unregulated firms

The board was asked to consider and approve a new Guidance Note for publication in the Costs Lawyer Handbook. Business Plan priority 10 required the CLSB to develop new guidance in two areas, one of which related to expectations on unregulated costs firms.

Kate explained that, in developing content for the guidance, it had become clear that there was overlap/duplication with existing guidance notes on (i) unregulated employers of Costs Lawyers, (ii) setting up a practice, and (iii) closing down a practice. It was therefore decided that a better approach was to repurpose the guidance for unregulated employers of Costs Lawyers to meet the aims of Business Plan priority 10. Kate explained how this had been achieved and the board was provided with a marked-up version of the Guidance Note for approval.

The board considered the amendments to the Guidance Note and approved them for publication.

Action: Publish amended Guidance Note.

7.3 Costs Lawyers, technology and regulation project report

The board was provided with a cover paper and report that had been commissioned from Hook Tangaza on the use of technology and AI in the costs law market. Lori introduced the report and took the board through the key findings and recommendations for the CLSB.

The board discussed the report in detail. The board considered:

- differences in the uptake of technology across different parts of the market;
- the risks and opportunities associated with AI;
- the incentives and disincentives to greater use of technology in costs law;
- barriers to bespoke AI products for legal costs;
- the likely evolution of the Costs Lawyer role in the future; and
- the role of a regulator in relation to technology and AI, including ways in which regulators can keep pace with advances and risks.

The board adopted the recommendations in the report to frame the CLSB's work in this area going forward. Lori agreed to bring an action plan for delivering the recommendations back to the board in December.

Action: Create action plan for delivering recommendations for board to consider at December meeting.

7.4 EDI resources bundle

The board was asked to consider four new topic notes for inclusion in the Ethics Hub (with links to the EDI page of the website). Kate explained the purpose of the notes as follows:

- Addressing pay gaps: This note responded to the CLSB's diversity survey which suggested a significant gender pay gap exists amongst Costs Lawyers. The content

aimed to encourage and assist practitioners to address the issue in their workplace.

- Equality, diversity and inclusion: While the CLSB had a published Equality and Diversity Statement, as well as a report on the Business Case for Diversity, it did not have guidance for the profession on promoting EDI. This topic note would fill that gap.
- Bullying and harassment: This note supported the CLSB's commitment to the regulators' joint statement on counter-inclusive behaviour.
- Whistleblowing: While not strictly an EDI issue, in creating guidance around reporting unethical behaviour and bullying and harassment, this was identified as a gap in the CLSB's existing resources.

The board discussed the topic notes. Board members asked about plans for raising awareness of the content – particularly around addressing pay gaps – to ensure impact. Kate explained that the team would look to leverage relationships with other organisations, such as Women in Costs, to raise awareness.

The board discussed the need for this kind of advice to be easy to find on the website and returned to the possibility of investing part of the CLSB's committed reserves to create a restricted area of the website accessible only to regulated Costs Lawyers via a log-in system. Decisions about what content to restrict would need to take account of the value to Costs Lawyers, the need for transparency, and the public interest in the CLSB stating its position on regulatory and ethical matters. Overall, the board agreed it was an idea that should be explored further.

The board approved the topic notes for publication.

Actions: Publish topic notes in the Ethics Hub; Begin to scope a project to create a log-in area of the website.

7.5 Topic note: Presenting information to the court

To address lessons learned from the Post Office Horizon scandal, the board was asked to consider a new topic note covering ethical issues in relation to presenting information to the court. The board approved the note for publication, subject to an amendment to more clearly distinguish between misleading the court by commission and omission.

Action: Amend topic note as agreed and publish in the Ethics Hub.

7.6 Feedback from Wales roundtable

On 14 October, the CLSB hosted a virtual roundtable in collaboration with the Welsh Government and ACL to discuss the market for costs law services in Wales. Lori and David (who chaired the event) provided feedback to the board. The roundtable was attended by 11 Costs Lawyers from different practice areas and the discussion had been interesting and constructive.

Board members discussed some of the themes from the roundtable as well as the scope of application of the Welsh Language Act.

7.7 Next two year review of the DR&P

The board considered a report on the outcomes of the scheduled two yearly review of the Disciplinary Rules and Procedures. Kate explained that the review had yielded four recommendations that would be taken forward in 2025, although none of those required amendments to the DR&P themselves. The board approved the recommendations for future work.

Action: Deliver recommendations from the review during 2025, as set out in the report.

8. LEGAL SERVICES BOARD (LSB)

8.1 Work updates

The board received updates in relation to:

- meetings with the new LSB CEO, including confirmation that he had been invited to the CLSB's December board meeting to introduce himself;
- the CLSB's recent submission on compliance with the LSB's policy statement on consumer empowerment;
- a joint submission by the CLSB and ACL in response to the LSB's information request on compliance with the Internal Governance Rules 2019.

Board members noted the importance of investing in new relationships at the LSB given the recent turnover of staff and offered support to the executive in building trust and confidence with new colleagues.

8.2 Regulatory performance assessment information request

The board was provided with the LSB's request for information to inform the 2024 regulatory performance assessment. The board noted that the CLSB was required to give a full account of how it meets every characteristic under all three standards in the LSB's framework, as well as answering 11 additional questions about specific workstreams. The board agreed, as for the previous year, that in preparing the response the executive should provide all relevant information the CLSB holds.

9 STAKEHOLDER UPDATES

9.1 Discussion with ACL: New membership categories

The board welcomed David Bailey-Vella, ACL Council member, to discuss proposed changes to ACL's bye-laws aimed at introducing a new membership category of "Costs Paralegal". David B-V provided an overview of the changes, the rationale for them, the membership's response to ACL's consultation on the issue, and proposed next steps.

The board discussed with David B-V how the pathway to qualification would look for Costs Paralegals and what would happen if a Costs Paralegal did not progress to qualification after a period of time as envisaged. They also discussed the profile of the individuals who were likely to take up the new membership opportunity and how those people might be reached.

The board then discussed with David B-V the intended supervision arrangements for Costs Paralegals and the intersection between this type of supervision and the regulatory regime. It was agreed that Costs Paralegals could not be held to the full standard of competency expected of a Costs Lawyer, but it might be appropriate to expect Costs Paralegals to meet aspects of the regulatory framework such as compliance with parts of the Code of Conduct relating to ethical behaviour. There would need to be further consideration of, for example, how those obligations would be supervised and enforced.

The board agreed that the discussion had been very helpful in understanding ACL's intentions and how they fit with the CLSB's activities and objectives, and thanked David B-V for his time. It was agreed that the organisations should keep in close touch as matters progressed, especially in relation to any supervision or compliance aspects of ACL's proposals, and for wider discussions around Costs Lawyer career pathways.

Action: Continue to liaise with ACL where there is regulatory overlap with the proposed new membership category.

9.2 ACL Council meeting minutes

The board noted the minutes of the ACL Council meeting held in July. Jacqui agreed to check whether it was possible to obtain an unredacted version of the minutes going forward, as the redactions made it difficult to understand the full scope of discussions.

Action: Ask for unredacted minutes.

9.3 Feedback from ACL London conference

Jacqui and Lori provided feedback on their attendance at the ACL London conference in October, where Jacqui had also given a presentation on changes to the Code of Conduct and the new Ethics Hub.

The board discussed the importance of interaction with the regulated community through this type of event, and agreed that a CLSB representative should attend at least one conference a year and possibly two if it could add value.

9.4 Work updates

The board received updates about:

- talks with the Ministry of Justice in relation to Costs Lawyers being made eligible for judicial appointment;
- Kate's attendance in October at the International Conference of Legal Regulators;
- the UK-Australia Regulatory Dialogue and opportunities it might present for Costs Lawyers.

Kate also updated the board on the recent business of the Legal Choices Governance Board. This included a request for increased funding in 2024/25 to cover the next phase of developing the Regulatory Information Service (RIS) and to expand the budget for evaluation.

The board carefully considered the exceptional circumstances relating to the request for additional funding in this case. Based on assurance from the Legal Choices delivery

team that this would be a one-off request, the board agreed that the CLSB would contribute to the overspend in the usual proportion. The board made clear, however, that the additional contribution would be the exception not the rule, and that future cash calls made after the annual practising fee budget had been set would not be viewed favourably.

Action: Agree Legal Choices one-off funding contribution on the above basis.

10 OPERATIONS

10.1 Outcome of 2024 audit of complaints procedures

The board received a report summarising the outcome of the 2024 audit of complaints procedures. Jacqui provided further context around how Costs Lawyers had engaged with the process. The board noted the outcome.

10.2 Documenting internal processes

The board received an update on Business Plan priority 14 relating to documenting key internal processes. Kate and Jacqui described the work carried out over the last year on the project, culminating in a new Administration Handbook. The board was provided with the contents pages of the Handbook and invited to review any areas of interest. The board was also provided with an example of the flowcharts that had been produced to document the user journey through the CLSB's online application forms, given that the forms had become more complex over time.

The board joined Kate in thanking Jacqui for her considerable efforts in delivering the project during 2024.

10.3 Data protection review

The board received an update on the data protection review that had been carried out in Q3, which covered a review of the CLSB's:

- Data Protection Manual;
- Privacy Policy; and
- Article 30 record of processing.

The board discussed the general rise in cyber security risks across the economy and sought assurance about how those risks were being addressed.

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 12 December and would be held remotely via videocall.

There being no further business, the Chair declared the meeting closed at 13:11.

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Chair

Related documents

Item	Document	Publication location (CLSB website)
2.1	Board minutes	About ⇒ Our board
3.1	2024 Business Plan	About ⇒ Strategy and governance
6.1	Risk register	About ⇒ Strategy and governance
7.2	Guidance Notes	For Costs Lawyers ⇒ Costs Lawyer Handbook
7.4 + 7.5	Ethics Hub	For Costs Lawyers ⇒ Ethics Hub
7.7	Disciplinary Rules and Procedures	For Costs Lawyers ⇒ Costs Lawyer Handbook
11.1	Board papers	About ⇒ Our board
Item	Document	Publication location (other)
5.2	2025 practising fee application and outcome	LSB website here

Annual priorities

Improving our regulatory arrangements

	Initiative	Progress status / expected completion
1.	<p>In collaboration with ACL Training, oversee the first year of delivery of the new Costs Lawyer Qualification, including by:</p> <ul style="list-style-type: none"> • carrying out the first annual monitoring process under the Accredited Study Provider Scheme Handbook; • developing additional guidance and materials on the regulatory aspects of qualifying, based on student feedback; • communicating the responsibilities and benefits of regulation to new student cohorts. 	<p>Achieved (Q4)</p> <p><i>We have now processed a number of Qualifying Experience applications and responded to enquiries about students' individual circumstances. This has allowed us to augment our guidance around the transitional arrangements and FAQs, and update the form fields.</i></p> <p><i>The CLSB has been integrated into the induction process for students, through a presentation on the mechanics and purpose of regulation. Jacqui delivered our first presentation on ethics and the new Code of Conduct as part of the professional ethics module in Q2.</i></p> <p><i>The annual monitoring process began in Q3 with information being requested from ACL Training. The Accreditation Panel was convened in Q4 and completed the process in November. The Panel's report will be provided to the board at this meeting.</i></p>
2.	<p>Deliver a project to capture anecdotal evidence of poor consumer outcomes in the unregulated part of the costs market and report to stakeholders on themes and trends. Explore avenues that are available under the existing legislative framework to tackle poor practice and promote the regulatory objectives outside the immediate scope of regulation.</p>	<p>Achieved (Q2)</p> <p><i>We carried out a review of our enquiries logs and case studies to consider whether we had sufficient evidence for publication, and liaised with ACL to share information. A report was presented to the board in July, allowing the board to consider whether there is sufficient evidence for publication. The board agreed that proactive publication was not appropriate at this stage, but that we would continue to collate data of the kind set out in the report for use once more evidence was available. See July board minutes for more information.</i></p>
3.	<p>Develop and begin to implement a comprehensive, long-term communications strategy, aimed at supporting each of the five strategic goals in our new mid-term</p>	<p>Achieved (Q3)</p> <p><i>We kicked off this worksteam at the January board meeting, with the board articulating the purpose and scope of the project. In April, the board considered a series of appetite statements relating to communication risks, and final versions of the statements were approved</i></p>

	organisational strategy in a cohesive and systematic way.	<i>in July. We engaged a consultancy in Q2 to assist with the project and they led a session at the July strategy day to agree key messages. Working with the consultancy, and based on the key messages agreed by the board in July, we developed a final strategy document that was approved by the board in October.</i>
4.	Embed the B2C regulatory framework with the group of Costs Lawyers that deliver services directly to consumers.	<p>Achieved (Q3)</p> <p><i>We analysed the data about Costs Lawyers’ clients captured during the 2024 PC renewal round to give us an understanding of which practitioners to target through this workstream. We improved the accessibility of our guidance during Q2 to turn it into web content in time for 2025 PC renewals. We then sent individual communications to the Costs Lawyers involved, highlighting their obligations and inviting a dialogue. We have put evaluation measures in place for use going forward, using proxies where it will be difficult to engage directly with end consumers.</i></p> <p><i>In Q2 we received a letter from the LSB to all approved regulators outlining expectations for compliance with the policy statement on consumer empowerment. We reviewed these expectations against our workplan in Q3 and responded to the LSB’s information request by the end of September.</i></p>
5.	Publish the second annual Risk Outlook for the profession and assess the impact and future direction of this initiative.	<p>Achieved (Q1)</p> <p><i>We commissioned the research underlying the next Annual Risk Outlook in Q1. That research was analysed to produce a publishable version, which was approved by the board in April. The Risk Outlook was published and promoted following approval and is now housed in the Ethics Hub.</i></p>
6.	Implement changes to the Costs Lawyer Code of Conduct, including by reviewing all published regulatory arrangements, guidance, policies and web content to ensure alignment with the new Code.	<p>Achieved (Q1)</p> <p><i>The new Code of Conduct was implemented in Q1, following liaison with the LSB. All published guidance, policy statements and regulatory arrangements were reviewed, and updated versions have been published that correctly cross-refer to the new version of the Code. References to the Code in the Disciplinary Rules and Procedures – which form part of our regulatory arrangements – have been amended by exemption in line with the LSB’s ED181. That completes this priority. Additional support resources for the Code were developed</i></p>

		<i>in Q2 and published in a new Ethics Hub. Work will continue throughout the year on developing additional material for the Hub.</i>
7.	Carry out the next two-year review of changes to the Disciplinary Rules and Procedures, looking at second tier complaints handled during the review period as well as any good practice examples or learnings from our or other regulators' work.	Achieved (Q3) <i>We carried out this review in Q2 and a report of the findings and recommendations was considered by the board in October.</i>
8.	Carry out the first phase of evaluation activities relating to the new framework for qualifying as a Costs Lawyer.	Achieved (Q4) <i>This work was carried out as part of the annual monitoring event in Q4 and a series of recommendations have been made for continuous improvement.</i>
9.	Align our work on ongoing competency – including the expanded Competency Statement – with our existing framework for continuing professional development (CPD) and develop additional resources for practitioners where appropriate.	Achieved (Q1) <i>The new Ongoing Competency Framework was launched in Q1, in line with our commitments to the LSB. Our CPD resources, including our forms and guidance, have been updated to integrate with the new Framework. We have liaised with ACL and ACL Training to identify and create training opportunities aligned to developing the skills in the Framework and this engagement will continue on an ongoing basis.</i>
10.	Develop new guidance to address risks identified in the following areas: <ul style="list-style-type: none"> • setting up a new practice; and • expectations on (unregulated) costs firms. 	Achieved (Q3) <i>We developed guidance for setting up a new practice, which was considered and approved by the board in July. Instead of developing new guidance for costs firms, we decided to repurpose our existing guidance for unregulated employers. The updated guidance was approved by the board in October.</i>
11.	Develop the next phase of our diversity and inclusion workplan by reference to the new mid-term strategy.	Achieved (Q3) <i>We analysed the results of our 2023 diversity survey and a report on the data was published in Q2. Our follow-up work from the gender pay gap survey was completed in Q3 with the production of resources to help Costs Lawyers approach their employers about pay gap issues, which was approved by the board in October as part of a bundle of EDI resources (including guidance on bullying and harassment and updated EDI guidance).</i>

		<i>We have identified our EDI priorities for 2025, which will focus on gathering and publishing lived experience data, and we have developed a diversity survey for 2024 that will provide initial quantitative data to support that project. The survey was launched alongside practising certificate renewals in November.</i>
12.	Investigate whether a new supervision framework for client care letters is warranted based on evidence of client outcomes.	Achieved (Q4) <i>A project plan was developed and requests for sample client care letters were sent to firms in Q2. A progress report and proposed next steps were presented to the board in July. Based on the board’s feedback, we engaged a consultant to carry out a thematic review of client care letters in Q4. A report of the project findings will be put to the board at this meeting, including recommendations as to how we approach client care letters going forward.</i>
13.	Modernise the way we track enquiries from external sources to facilitate reporting and trend analysis.	Achieved (Q1) <i>A new process was implemented in Q1 allowing us to check previous advice to ensure consistency across different practitioners, spot trends and report on particular issues. The tracker has been used in developing materials for the new ethics hub and to provide real-world (anonymised) examples in presentations to students. It has also been supplemented by an additional project to better track our communications with/requests to Costs Lawyers and their areas of regulatory interest.</i>
14.	Systematically document all key internal processes and workflows to promote business continuity as well as compliance with internal policies and external regulatory and legal requirements.	Achieved (Q3) <i>During 2024 we have developed a new Operations Manual to document key processes and capture institutional knowledge. This is a comprehensive account of how we work, which will continue to be a “living” document as processes evolve over time. We have also developed flowcharts to map the different user journeys through our online application forms.</i>
15.	Review our data protection arrangements to ensure they remain robust and fit for purpose following extensive improvements to our digital operations.	Achieved (Q3) <i>We scoped this project in Q2 and determined that we had sufficient expertise and information to complete it in-house. Work on reviewing and updating our contract records, privacy policy, Data Protection Manual and other privacy resources was completed in Q3. A summary of this work was provided to the board in October by way of assurance.</i>

<p>16.</p>	<p>Deliver the next phase of our digital workplan by:</p> <ul style="list-style-type: none"> • Continuing to develop our suite of application forms and their interface with the CLSB database, in line with our principles of ease of use, security of data, utility of reports, consistency of approach. In particular: <ul style="list-style-type: none"> - standardise the wording, content and layout of forms; - begin work on standardising the underlying code to facilitate easier updates; - introduce functionality to automate annual updates. • Developing the CLSB database by: <ul style="list-style-type: none"> - enhancing security to provide unique access keys for each user; - reviewing the read-only version of the database to improve ease of use and utility. 	<p>Achieved (Q3)</p> <p><i>We continued the updates to our suite of online application forms to standardise the wording, content and layout of forms. This was completed in Q3 with the updating of the PC renewal form ready for the annual renewals process in November.</i></p> <p><i>In Q2 our IT consultant completed updates to the underlying code of the online forms system to allow easier annual updates. This will save considerable development and admin testing time. New database functionality provides similar automated annual updates as well as improved database portability for periods of holiday cover. Each user of the database now has a unique access key to improve security.</i></p> <p><i>In Q2 we also undertook a review of the read-only version of the database (used by the CEO and Director of Policy). The review concluded that this was working well in its current form, and it was not necessary to expend resources on changes this at this time.</i></p>
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Company number: 04608905

MINUTES

Costs Lawyer Standards Board Ltd REMUNERATION COMMITTEE

Monday 25 November at 9am
Remotely via Teams

Committee:	Andrew Harvey	Lay NED (Committee Chair)
	Paul McCarthy	Non-Lay NED
In attendance:	Kate Wellington	CEO

1. DECLARATION OF INTERESTS IN ANY AGENDA ITEM

1.1 The Committee acknowledged that attendees were remunerated by the CLSB and would therefore have an interest in the outcomes of the Committee's decisions from time to time; in particular, Andrew and Paul would have an interest in decisions made under agenda item 2. While this created a potential conflict of interest, the matter was addressed in the CLSB's Remuneration Policy and could be appropriately managed.

2. COST OF LIVING STAFF WAGE RISE

2.1 The Committee considered the annual staff wage rise.

2.2 Committee members reminded themselves of the relevant provisions in the Remuneration Policy, particularly paragraph 7 relating to annual reviews. They considered official inflation data and projections collated by the executive, as well as wages growth data across the economy. They noted that the CLSB's 2025 budget allowed for a 3% increase in input costs, including remuneration.

2.3 The Committee agreed that, taking into account the above information, a wage rise of 3% was appropriate. This would be applied to the remuneration of core staff and contractors (the executive directors, the Chair, the NEDs and the CLSB's Panel Members) from 1 March 2025.

3. REALIGNMENT OF DIRECTOR OF OPERATIONS' SALARY

3.1 The Committee affirmed its decision, taken by email in September, to adjust the Director of Operations' salary to (i) bring it into line with the other executive directors and (ii) reflect the increase in scope and responsibility of the role over the last five years. The Committee noted that the salary adjustment had taken effect from 1 October 2024 and the board had been informed of the decision at its scheduled meeting in October.

4. UPDATE ON PUBLICATION OF COMMITTEE MEETING MINUTES

- 4.1** Kate reminded the Committee that, in July, the board had agreed that Committee meeting minutes should be published in order to meet the Legal Services Board’s expectations around transparency. Those expectations were communicated to all the regulators in a letter from Richard Orpin dated 28 May 2024.
- 4.2** Kate informed the Committee that arrangements had now been made to publish the Committee’s minutes going forward, and minutes of meetings from the last two years had been published retrospectively and were now available on the “Our board” page of the CLSB’s website.
- 4.3** Kate confirmed that the LSB had been updated on the CLSB’s compliance with transparency expectations as part of the CLSB’s recent submission for the 2024 regulatory performance assessment.

5. MATTERS FROM MEETING TO REPORT TO BOARD

- 5.1** The Committee agreed to provide the board with a copy of these minutes for reference at its scheduled meeting in December 2024.

6. ANY OTHER BUSINESS

- 6.1** The Committee noted that it had been tasked by the board in July with considering succession planning for members of the executive staff. The Committee agreed it was appropriate to postpone that discussion until the new CEO had been in place for around six months, so the new CEO could make an informed contribution. Kate agreed to ensure the Committee was prompted to revisit this issue in mid-2025.
- 6.2** The Committee also noted that two board members would reach the end of their full appointment term in the next 12 to 18 months, meaning the Committee may need to consider non-executive succession planning also. Andrew agreed to liaise with the Chair of the CLSB board to consider what role the Committee should play in that process and timing for recruitment.

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

Andrew Q Harvey
Chair

25 November 2024



CLSB Risk Register

Last reviewed: 21 October 2024

This risk register was developed in March 2023 following a review of the CLSB’s risk framework. It maps the potential risks that could impact the CLSB’s effectiveness, either directly or indirectly, through their influence on the market that we regulate. Previous versions of our operational and regulatory risk registers are available by [contacting us](#).

This risk register is divided into four sections:

A. Sources of risk for horizon scanning (market risks)	2
B. Risk areas for ongoing monitoring	3
C. Key risk areas for mitigation	6
D. Risk areas for longer-term structural reform	8

A. Sources of risk for horizon scanning (market risks)

These sources have the potential to generate new risks or exacerbate existing ones, and are therefore key targets for horizon scanning. They relate to what is happening in the costs law market, in areas such as:

- client demand and need;
- the supply of services by Costs Lawyers and other market participants;
- the overall legislative and regulatory environment affecting the market; and
- the impact of activity in other parts of the legal sector, including actions of other regulators.

Category of risk	Main sources of risk
Political/legal/regulatory	Changes in public sector spending, court rules or legislation driving costs control/capping.
Political/legal/regulatory	New regulation of ancillary industries, such as third party litigation funding.
Political/legal/regulatory	Changes in the Civil Procedure Rules or common law more broadly.
Economic	Trends in the litigation market and commercial developments in litigation funding options.
Economic	New entrants to the market and new service offerings, as well as consolidation of firms.
Social	Consumer use of online legal services, including the emergence of costs risk.
Social	Demand for different pathways to legal professional qualification.
Technological	Progress in court digitisation and e-billing.
Technological	Law firm take up of technology, including case management and billing systems, as well as the use of AI.
Technological	Adoption of blockchain technology and smart contracts.

B. Risk areas for ongoing monitoring

These are specific risks, identified from horizon scanning across the risk sources described in section A above, that could foreseeably impact the regulatory objectives in section 1 of the Legal Services Act 2007. These risks are subject to ongoing monitoring to determine whether their impact can and should be actively managed by the CLSB (see section C below).

Even though many of these risks are outside of our control, their impact can be mitigated generally by fostering:

- Robustness – building strength and depth in the profession by increasing numbers, improving the quality of both initial and ongoing training and widening the range of expertise and skills the profession is able to offer.
- Resilience – improving the ability of Costs Lawyers to redeploy their skills within a changing market.

Regulatory objective	Costs law market related risk outcome	Relationship to risk sources
Protecting and promoting the public interest	<ul style="list-style-type: none"> – Capping of recoverable costs – Reduction in the size of the NHS litigation budget – Wasting of court time by unqualified costs draftsmen, authorised practitioners lacking in costs competency, or poor practices of Costs Lawyers 	<ul style="list-style-type: none"> – Risks from unqualified suppliers – Risks from ineffective regulation – Risks from public sector budget cuts targeting litigation, or other forms of intervention in the costs market, in ways that prioritise short term budgetary savings over longer term public interest
Supporting the constitutional principle of the rule of law	<ul style="list-style-type: none"> – Shrinking legal aid budget and falling solicitor numbers providing legal aid services – Court promotion of technology and mediation to overcome backlog – Civil procedure review designed to improve the functioning of the courts and introduction of e-billing as standard 	<ul style="list-style-type: none"> – Risks from policy, legislative or rule changes that impact on demand for Costs Lawyer services or viability of providing services to those with legal need
Improving access to justice	<ul style="list-style-type: none"> – Individuals or groups excluded from access to justice by excessive costs or costs uncertainty – Expansion of fixed costs regime, reforms to PI regime, reforms to judicial review 	<ul style="list-style-type: none"> – Risks from inadequate supply of costs information services – Risks from policy reforms designed to reduce availability of contested litigation

Regulatory objective	Costs law market related risk outcome	Relationship to risk sources
	<ul style="list-style-type: none"> – Solicitors unable to claim full legitimate costs from legal aid budget without Costs Lawyers – Third party funders discouraged by inadequate budgeting and uncertainty of rules around contingency arrangements 	<ul style="list-style-type: none"> – Risks from insufficient numbers of legal aid trained Costs Lawyers – Risks from inadequate service from Costs Lawyers or unqualified costs draftsmen
Protecting and promoting the interests of consumers	<ul style="list-style-type: none"> – Consumers unable to access independent advice on costs – Consumers are excluded from civil litigation or are inadequately served due to limitations on funding options (including fixed fees on specialist legal services) – Self-represented litigants incur significant adverse costs risk/liability due to lack of individualised advice – Consumer risk from unregulated no win no fee advisors 	<ul style="list-style-type: none"> – Risks from insufficient supply of Costs Lawyers focused on consumer market – Risks from “capture” of Costs Lawyer services by professional (mainly solicitor) clients – Risks from public sector budget cuts targeting litigation or policy interventions designed to stem legal costs – Risks from gaps in regulation
Promoting competition in the provision of legal services by authorised persons	<ul style="list-style-type: none"> – Law firm mergers hampered by lack of accurate information about WIP; investors discouraged by lack of clarity around value of law firms – New entrants to the legal sector cannot access independent information about value of certain areas of litigation activity – Increased use of technology in law firms substituting for Costs Lawyers – Concerns about market risks disincentivise new qualifiers or encourage qualified Costs Lawyers out of the profession 	<ul style="list-style-type: none"> – Risks from insufficient supply of properly trained Costs Lawyers to provide essential services – Risks from new service areas with potential risks to clients and firms – Risks from the activities of other regulators – Risks from lack of awareness/ability of Costs Lawyers to embrace and adapt to technology

Regulatory objective	Costs law market related risk outcome	Relationship to risk sources
	<ul style="list-style-type: none"> – Costs firms offering new unregulated services alongside reserved legal activities, such as litigation funding options for clients – SRA regulation fails to prevent employer collapse creating problems in the Costs Lawyer market 	
Encouraging an independent, strong, diverse and effective legal profession	<ul style="list-style-type: none"> – Insufficient numbers of Costs Lawyers are available to the market generally – Insufficient supply of independent costs law firms and practitioners in the market – Costs Lawyers’ independence is undermined by an actual or perceived conflict between the interests of their immediate (professional) client and their underlying client – Costs Lawyers are not appropriately trained and up-to-date – Costs Lawyer demographics do not reflect society 	<ul style="list-style-type: none"> – Risks from insufficient supply of properly trained Costs Lawyers – Risks from Costs Lawyers being absorbed into solicitors firms/SRA regulation – Risks from “capture” of Costs Lawyer services by professional clients – Risks from ineffective CLSB regulatory arrangements – Risks from limited diversity of new entrants to the profession
Promoting and maintaining adherence to the professional principles	<ul style="list-style-type: none"> – Disciplinary issues/complaints about Costs Lawyers leading to poor consumer outcomes – Failure of Costs Lawyers to maintain proper standards of work – Costs law firms unwilling or unable to implement sufficient systems and controls 	<ul style="list-style-type: none"> – Risks from ineffective CLSB regulatory arrangements – Risks from lack of entity-level regulation in the costs market

C. Key risk areas for mitigation

These consolidate the key risks identified in section B over which we have some degree of influence or control through our regulatory levers, and which we can therefore work to mitigate over time. The need to proactively manage these risks influences our regulatory activities, including our approach to supervision and the priorities in our annual Business Plans. The table below sets out the priority workstreams that are aimed at mitigating or managing these risks in the current year.

	Regulatory risks	Current priority initiatives for mitigating risks
1.	Poor client outcomes arise from substandard conduct, inadequate service or lack of competence amongst Costs Lawyers.	<ul style="list-style-type: none"> 2024 Business Plan priority 6: <i>Implement changes to the Costs Lawyer Code of Conduct, including by reviewing all published regulatory arrangements, guidance, policies and web content to ensure alignment with the new Code.</i> 2024 Business Plan priority 7: <i>Carry out the next two-year review of changes to the Disciplinary Rules and Procedures, looking at second tier complaints handled during the review period as well as any good practice examples or learnings from our or other regulators' work.</i> 2024 Business Plan priority 8: <i>Carry out the first phase of evaluation activities relating to the new framework for qualifying as a Costs Lawyer.</i> 2024 Business Plan priority 12: <i>Investigate whether a new supervision framework for client care letters is warranted based on evidence of client outcomes.</i> Update and augment supporting materials for CPD and complaints procedures, and publish "lessons learned" for the profession, following supervisory audits (H1 2024).
2.	Costs Lawyers offer new areas of service without adequate consumer protections or assessment of risk to consumers.	<ul style="list-style-type: none"> 2024 Business Plan priority 4: <i>Embed the B2C regulatory framework with the group of Costs Lawyers that deliver services directly to consumers.</i> 2024 Business Plan priority 5: <i>Publish the second annual Risk Outlook for the profession and assess the impact and future direction of this initiative.</i>
3.	Regulatory deterrents or barriers to innovation limit the Costs Lawyer profession.	<ul style="list-style-type: none"> 2024 Business Plan priority 6: See above. 2024 Business Plan priority 13: <i>Modernise the way we track enquiries from external sources to facilitate reporting and trend analysis.</i>

		<ul style="list-style-type: none"> • Future of Regulation project: “Addressing unmet legal need” workstream. • Future of Regulation project: “Technology and AI” workstream.
4.	Independence of the profession is compromised through capture by certain types of clients or practising arrangements.	<ul style="list-style-type: none"> • 2024 Business Plan priority 6: See above. • 2024 Business Plan priority 10: <i>Develop new guidance to address risks identified in the following areas: (i) setting up a new practice; and (ii) expectations on (unregulated) costs firms.</i> • Future of Regulation project: “Reducing legal costs” workstream. • Future of Regulation project: “Detecting and preventing economic crime” workstream.
5.	New Costs Lawyer Qualification fails to attract sufficient student numbers or sufficiently diverse cohorts.	<ul style="list-style-type: none"> • 2024 Business Plan priority 1: <i>In collaboration with ACL Training, oversee the first year of delivery of the new Costs Lawyer Qualification, including by: (i) carrying out the first annual monitoring process under the Accredited Study Provider Scheme Handbook; (ii) developing additional guidance and materials on the regulatory aspects of qualifying, based on student feedback; (iii) communicating the responsibilities and benefits of regulation to new student cohorts.</i> • 2024 Business Plan priority 3: <i>Develop and begin to implement a comprehensive, long-term communications strategy, aimed at supporting each of the five strategic goals in our new mid-term organisational strategy in a cohesive and systematic way.</i> • 2024 Business Plan priority 11: <i>Develop the next phase of our diversity and inclusion workplan by reference to the new mid-term strategy.</i> • Work with stakeholders to develop an apprenticeship route of entry into the profession.
6.	The Costs Lawyer Competency Statement or Costs Lawyer Qualification fails to ensure that newly qualified Costs Lawyers are equipped for modern practice.	<ul style="list-style-type: none"> • 2024 Business Plan priority 9: <i>Align our work on ongoing competency – including the expanded Competency Statement – with our existing framework for continuing professional development (CPD) and develop additional resources for practitioners where appropriate.</i>

D. Risk areas for longer-term structural reform

Our recent research and project work has identified structural risks in relation to the regulation of the costs law market. Mitigating these risks is fundamental to our regulatory approach and informs our longer-term strategic planning.

Risk statement	Source of risk	Strategic question to answer
There is a gap in how the public interest is defined/considered in the context of legal costs.	Costs Lawyers rarely serve consumers directly. There is a significant public interest issue at the heart of the costs market, but this may lie less in the protection of consumers and more in dealing with the market failure in legal costs management generally. Such a market failure appears to exist as there is no actor, outside the courts, that is currently tasked with ensuring the efficient use of resources to achieve appropriate and proportionate resolution of legal problems.	What does promoting the public interest mean in the context of the costs law market?
The authorisation of Costs Lawyers is not aligned with the public interest.	If the CLSB regulates primarily to protect consumers, it risks becoming increasingly less relevant to Costs Lawyers, who can work outside the scope of authorisation. Yet the regulatory agenda driven by the Legal Services Board, in fulfilment of its remit under the Legal Services Act, is focused on consumer-facing work and addressing unmet legal need. This model is misaligned with the public interest problem that needs to be addressed in the costs law market, and thus with impactful regulation of the Costs Lawyer profession.	What should the role of Costs Lawyers be in the legal market (i.e. what are Costs Lawyers for?) and how can that best be differentiated, through the CLSB's regulatory framework, from the role played by unregulated advisers to promote the public interest?



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26 November 2024

Sarah Hutchinson
Chair
ACL Training

Madeleine Jenness
Head of Education
ACL Training

By email to: chair@acltraining.co.uk

education@acltraining.co.uk

Dear Sarah and Madeleine

Annual monitoring of ACL Training's delivery of the Costs Lawyer Professional Qualification (CLPQ) for academic year 2023-2024

Thank you for engaging with the annual monitoring process for delivery of the CLPQ in 2024.

As explained in the Accredited Study Provider Scheme Handbook, the purpose of annual monitoring is for the CLSB to gain assurance that ACL Training continues to meet the Accredited Study Provider Requirements during its period of accreditation, and to identify any risks to the quality of its programme delivery. We have found this year's process to be a useful tool for oversight, assurance and understanding, and we are grateful to ACL Training for the quality of the materials submitted.

The information provided in the annual monitoring and declaration form, dated 31 October 2024, has now been reviewed by the CLSB's Accreditation Panel. This year, the Panel comprised Helen Tinkler (independent chair), Andrew McAulay (board representative) and Kate Wellington (staff representative).

The findings of the Panel's review are set out in the enclosed report. You will see that the findings are summarised under the following broad categories:

- Governance, management and quality assurance
- Management of staffing and professional development
- Programme structure and delivery
- Teaching, learning and assessment

The report includes recommendations for continuous improvement in each of the above areas. The recommendations are intended to be supportive and helpful, and we appreciate that ACL Training might already be considering initiatives in some of these areas.

We also appreciate that ACL Training must allocate its limited resources effectively, to deliver the best outcomes for students. We have therefore suggested, in section 7 of the report, an initial prioritisation of the recommendations. We would expect ACL Training to update us on progress against these priority recommendations during the annual monitoring process in 2025 (as well as any other recommendations that ACL Training might be able to address over the next year).

In general, the Accreditation Panel would like to share the following observations from the annual monitoring process:

- The Panel found ACL Training's approach to delivering the CLPQ to be responsive, self-reflective and transparent. ACL Training's submission was open about the challenges it faces, but also provided assurance as to how those challenges are being proactively addressed.
- The CLPQ appears well-linked to the regulatory competencies; thought has clearly been given to how the qualification maps against the CLSB's regulatory requirements.
- ACL Training appears to take care in creating an inclusive and supportive culture for its students, as evidenced (for example) by the extensive reasonable adjustments made for students in challenging circumstances.
- The Panel is mindful that some of the recommendations in the report relate to raising awareness of the qualification and driving student recruitment. Growth of the profession is a joint objective shared by ACL Training, ACL and the CLSB, and we are highly supportive of ACL Training's efforts in this area. We look forward to working with you on the new apprenticeship in 2025.

We hope this process has been useful for you also. If you have any questions or concerns about the enclosed report or the recommendations made, please do let me know. Equally, if you have any feedback on the annual monitoring process – especially in this first year – we would welcome your views.

Yours sincerely



Kate Wellington
CLSB CEO, on behalf of the Accreditation Panel

Encl: Accreditation Panel final report

What are the requirements for a complaints procedure?

9. Your complaints procedure should:

- Be in writing.
- State the date it became effective or was last updated.
- Be clear and simple with as few steps as possible.
- Identify the person to whom the complaint should be made.
- Be reasonable, fair, proportionate and responsive.
- Make it clear that no fee will be charged for making a complaint.
- Be accessible.
- Encourage complaints to be made as soon as possible, and set out the time limits for raising unresolved complaints with the CLSB or the Legal Ombudsman (see paragraphs 34 and 35 below).
- Set out the steps that will be taken in resolving a complaint, and explain how a complaint will be handled.
- State clearly the timeframe for a complaint to be resolved – this should be within eight weeks of receipt of the complaint.
- Set out potential outcomes to a complaint.
- Advise that if the complainant is not satisfied with the outcome of the complaint under the complaints procedure, or the complaint has not been resolved within eight weeks, then the complainant has the right to refer a service complaint to the Legal Ombudsman, or refer a conduct complaint to the CLSB within the time limits specified.
- Provide contact details for the Legal Ombudsman and the CLSB.
- Advise the complainant of an approved alternative dispute resolution (ADR) body and state whether you agree to use that body's services.

Providing your complaints procedure

Should a complaints procedure be published?

10. Under its 2016 legal services market study, the Competition and Markets Authority recommended that all providers of legal services publish their complaints procedure on their website, where they have one.

When should I provide a client with my complaints procedure?

11. Research conducted by YouGov and the Legal Ombudsman suggests that many clients do not recall being provided with details of the complaints procedure in the relevant client care letter. It is therefore important to ensure that your client care letter is easy to understand and not overly long, and that the complaints procedure is clearly identifiable. It is also important to remind the client of your complaints procedure as their matter progresses.
12. In particular, your complaints procedure should be provided to your client on each of the following occasions:
 - when the client first contracts with you, or the next earliest appropriate opportunity;
 - if an existing client, upon a new instruction at the first appropriate opportunity;
 - at the conclusion of a matter;
 - in the event of a change of contractual terms;
 - in the event of a change to your complaints procedure;
 - once a complaint has been made;
 - at the conclusion of a complaint;
 - when asked for, at any time.

Accessibility

13. Complaints information should be communicated to each client in a format and manner that is tailored to their individual circumstances. For example, it might be

necessary to provide the information in hard copy or large print, or it might be appropriate to read the information out to a client or have it translated. See the notes on Dealing with Consumers and Vulnerable Consumers for additional guidance.

14. Complaints processes should be accessible to all consumers who may need to use them. This can be done by adapting processes so that people with different needs are able to participate fully (for example, consumers who are vulnerable or have disabilities). This might include, for example, enabling complaints to be made in writing or by telephone or video call.
15. Where complaints information is displayed on a website, it should be easy for consumers to find. Complaints information that is provided online should be made available in hard copy and other alternative formats if requested.
- 16. When informing clients and complainants about their right to make a complaint, you can consider signposting them to independent third-party organisations which might be able to give them assistance with making complaints.

Model complaints procedure

~~13.~~17. In the Annex to this guidance note you will find a model complaints procedure for you to adapt for your use. It complies with this guidance and can form the basis of your procedure to be published on your website and be provided to your clients.

~~14.~~18. It is not mandatory to use the model complaints procedure; you may use any procedure that complies with this guidance and the Code of Conduct. If you do choose to use the model complaints procedure, you should augment it with relevant information about your specific organisational processes.

~~15.~~19. The model complaints procedure is drafted for use by organisations within which Costs Lawyers practice. If you are a sole practitioner, or you work in an organisation with other types of advisers (such as solicitors or unregulated law costs draftsmen),

What if a client makes a verbal expression of dissatisfaction?

~~20.~~24. YouGov and Legal Ombudsman research has shown that many verbal complaints go unrecorded. However, 83% of those surveyed expected their legal adviser to act on their expression of dissatisfaction. In fact, it was found that clients who complain verbally (only) are more likely to want a simple explanation or apology rather than to invoke a formal complaints procedure.

21.~~25.~~ You should therefore respond to a verbal expression of dissatisfaction by acknowledging the issue and asking the complainant what they are looking for to resolve their concerns. It will usually be appropriate to respond in writing and include an explanation and apology. You should also remind the complainant of your formal complaints procedure, should they wish to take the matter further.

What action must I take on receiving a complaint?

~~22.~~26. The investigator of a complaint should:

- acknowledge receipt of the complaint in writing;
- provide the complainant with clear and comprehensive information about how the complaint will be handled;
- provide the complainant with a timeline for resolution;
- provide the complainant with information about who they may contact about their complaint;
- assess the complaint competently, diligently and impartially;
- investigate thoroughly and promptly;
- record their management of the complaint and their findings;
- keep their investigation file separate from the main client file;
- advise the Costs Lawyer of the outcome of the investigation;
- resolve the complaint at the earliest opportunity;
- communicate the outcome to the complainant promptly;
- ensure the complainant is advised in writing of the outcome of the investigation within eight weeks of receipt of the complaint;
- ensure any remedial action is followed through.

27. Any decision made in the context of investigating a complaint should be fair, consistent, impartial and based on the evidence, without bias or prejudice.

~~23.~~28. Complainants should be provided with regular updates on the progress of their complaint. They should also be informed promptly if there is delay or if more information is needed before further progress can be made with investigating their complaint.

~~24.~~29. Complainants should always be informed in writing once you feel your first-tier complaints procedure has been exhausted.

What remedies should be considered?

30. If appropriate following an investigation, one or more remedies should be offered to the complainant. There are numerous remedies that could be considered, including an apology, an explanation of what went wrong, financial compensation, repeat provision of the relevant service, and remedial steps to reduce the impact on the complainant. The investigator should consider all appropriate remedies, even if they were not expressly sought by the complainant.

~~25.~~31. If the complainant accepts a remedy that is offered, you should comply with the remedy promptly.

32. An investigation may also identify areas in which service could be improved. If so, ways of working should be revised to avoid further poor outcomes in the future.

~~26.~~

Can I charge for complaint resolution?

33. The Legal Services Board has issued guidance on section 112 of the Legal Services Act 2007 stating that complaint resolution should be free of charge. The CLSB would not expect a Costs Lawyer to charge for complaint resolution in relation to the Costs Lawyer's own service provision.

Implementation and review

34. A complaints procedure should be documented in writing. It should be made available to staff and endorsed by your firm's senior management.

27-35. If you are responsible for managing complaints, you should arrange for the procedure to be periodically reviewed and make any appropriate updates, and ensure it is implemented consistently.

Second-tier complaints

What is the role of the Legal Ombudsman?

28-36. The Legal Ombudsman deals with service complaints about Costs Lawyers in an independent and objective way. The Legal Ombudsman can award a variety of remedies, including financial compensation. A complainant can accept the Legal Ombudsman's determination, in which case it is binding on the Costs Lawyer. However, the complainant does not have to accept the determination and can pursue redress via other means (including the courts).

29-37. Before the Legal Ombudsman will consider a service complaint, the Costs Lawyer must first have tried to resolve the complaint themselves under their first-tier complaints procedure. Should a service complaint be referred to the Legal Ombudsman, they will look not only at the substance of the complaint but also the way in which the complaint was initially dealt with by the Costs Lawyer.

What is the role of the CLSB?

30-38. The CLSB deals with conduct complaints about Costs Lawyers in accordance with its prevailing Disciplinary Rules and Procedures. The Costs Lawyer should first try to resolve the complaint themselves under their first-tier complaints procedure.

How can my complaint data assist me as a Costs Lawyer?

41-49. Analysis of the number of complaints, the nature of complaints and their outcomes will assist you in improving the effectiveness of the service you offer to your clients. Consider taking further steps to better understand your clients' expectations, such as collecting feedback throughout a matter and at its conclusion.

Further guidance

- The pre-engagement chapter of An ombudsman's view of good costs service, published by the Legal Ombudsman, contains advice on price transparency based on common problems and complaints from consumers. It also sets out how LeO will approach consumer complaints that relate to costs.
- The CLSB's guidance note on client care letters in the Costs Lawyer Handbook contains further suggestions for presenting information to clients.

Treating your clients fairly

32. As for all other aspects of your work, you should consider your obligations under the CLSB Code of Conduct when advising your clients about potential remuneration structures for your work. The following provisions of the Code of Conduct are of particular relevance:
- 1.6 You must not enter into any fee arrangements which are unlawful.
 - 1.7 You must not act in any way which is likely to diminish the trust the public places in you or in the profession of Costs Lawyers.
 - 2.1 You must at all times act within the law.
 - 3 You must act in the best interests of your client.
 - 3.4 You must advise new clients in writing when instructions are first received of details of your charging structure.
 - 4.6 You must ensure your client is able to make informed decisions about the work being undertaken on their behalf throughout the lifetime of a matter, including how it will be priced, the costs incurred and the likely overall cost of the matter (including any potential liability for the costs of other parties).
33. In the context of contingency retainers, this means you should:
- not enter into an unlawful CFA or DBA with a client;
 - comply with the legal requirements for entering into a CFA or DBA;
 - advise a client about their options in relation to entering into a CFA or DBA in sufficient detail to allow them to make an informed decision;
 - advise a client to enter into a CFA or DBA only if it is in the client's best interests to do so;
 - be alive to and manage the potential for conflicts between your client's interests and your own interests (or your organisation's interests) when advising a client in relation to a CFA or DBA.
34. You should make sure that, before your client signs a CFA or DBA, they understand when they will be liable to pay you and how your remuneration will be calculated.

If you have any doubt about your client's understanding, you should encourage them to seek independent legal advice.

35. In considering whether a CFA is the right arrangement for your client, you should keep in mind that any success fee element of your remuneration in the event of a "win" will not usually be recoverable by your client from their unsuccessful opponent. This means that your client must bear the full cost of the success fee. You should ensure that your client understands the implications of this prior to entering into the CFA, including any cap that applies to the success fee.-

36. Where your remuneration includes a success fee element, you should explain how this has been calculated to your client at the outset of the matter. This includes clearly explaining whether the success fee is based on risk, and any other elements that have been factored into the calculation alongside risk. If the success fee is not based on risk, you should explain what it is based on to your client. You should make your client aware that other lawyers might not adopt the same approach and that lower success fees might be available elsewhere so that the client can make an informed choice.

35. Where your arrangement includes a price cap or fixed fee, you should ensure that your client understands what this will cover. If the circumstances of the case change, you should tell your client about what has changed, and the reasons for the change in good time, and explain what impact – if any – this has on your initial agreement.

37.

38. It is good practice to provide cost information in writing, and to keep records of the costs information you provide to clients. This will help to ensure that clients understand how they will be charged at the outset, and can help to avoid disputes over what was discussed later on. It can also help you to show that information was provided to enable clients to make an informed decision. If providing information in writing is not suitable (for example, because your client is unable to read), then you should record the information you provided about costs,

including how and when it was provided. It is also good practice to keep records of payments made to, and received from, clients. See the Dealing with Consumers guidance note for more details.

~~36-39.~~ Finally, you should keep up to date with any legal requirements that might be put in place from time to time in relation to prescribed information that lawyers must provide to their clients before entering into a CFA or DBA.

Further guidance

- The pre-engagement chapter of An ombudsman's view of good costs service, published by the Legal Ombudsman, contains advice on price transparency based on common problems and complaints from consumers. It also sets out how LeO will approach consumer complaints that relate to costs.
- The CLSB's guidance note on client care letters in the Costs Lawyer Handbook contains further suggestions for presenting information to clients.

END

as noted above in relation to unfair contract terms, the terms of your client care letter (or equivalent) should not have this effect either.

- Your complaints procedure is clear and simple with as few steps as possible, facilitating the early identification and resolution of complaints.
- You have a written complaints procedure which is easy to find, understand and use, for example:
 - it is clearly signposted (easy to find and access) on your website;
 - it is easy to navigate with the use of clear headings which are intuitive to consumers, for example reflecting the questions they are likely to have; and
 - you avoid the use of legalese and other overly complex language.
- When you receive complaints, you adhere to your complaints procedure such that complaints are dealt with fairly and effectively, and your procedure is applied consistently.
- You ensure that the information you provide consumers about your complaints procedure is accurate, complete, timely and not misleading. This applies throughout your dealings with consumers, whether in writing, in face-to-face discussions or on the telephone, and covers a range of information about the complaints procedure, including for example:
 - the existence of your complaints procedure;
 - how to follow the complaints procedure; and
 - when and how a consumer may escalate a complaint to the CLSB or Legal Ombudsman.
- You ensure that any investigation of a complaint is carried out by someone who is independent of (and not the direct subject of) the concerns raised, to help avoid potential conflicts of interest.

66. Where a client is making a payment to you – or you are making a payment to a client - you should ensure that you keep a proper record of such transactions. This will help you in the event of a client making a complaint about payments made (or alleged to have been made). If such a complaint is referred to the Legal

Ombudsman ('LeO'), they will consider that the onus is on the lawyer concerned to demonstrate that they have properly recorded any such transactions and have kept the appropriate records. For more information, see LeO's guidance on providing good costs service.

67. Finally, it is important to note that under consumer law it will be the firm that is responsible for the actions of anyone acting in the firm's name or on its behalf. Similarly, you may be responsible for anyone acting in your name or on your behalf. As it is crucial that any complaints procedure is followed in practice – it is not enough simply to have one, it is important that all relevant individuals are trained in and have a good understanding of your complaints procedure, how it works, their role and responsibility in reporting and resolving complaints raised with them, and their role in supporting people if they want to make a complaint.

~~66.~~

Further information and guidance

~~67-68.~~ You may find the following general guidance helpful:

- The [business companion](#), which provides general guidance on a variety of matters, such as:
 - (i) pre-contractual information and [on-premises](#), [off-premises](#) and [distance contracts](#);
 - (ii) [consumer vulnerability](#);
 - (iii) [contracts for the provision of services](#); and
 - (iv) rules on [consumer protection from unfair trading](#).
- The [CMA's general guidance](#) on unfair contract terms.

Information on price

8. Your first duty is to ensure that information you provide is not misleading or inaccurate when you publicise your business or yourself as a Costs Lawyer (Code of Conduct principle 1.4).
9. Whilst transparency in relation to price and services generally will help your business and reduce complaints, the recommendations in this guidance relate to the services you offer to individual consumers and those small businesses that will not have any specialist knowledge in this area.
10. When you promote services for individuals and small businesses, whether on your website or otherwise, you should include price information about those services as follows:
 - State the total cost of the service, where known (for example, if you charge a fixed fee).
 - Where you cannot give a total cost, you can give an indicative cost. This could be a range of likely total costs. You might also choose to provide a typical or average cost for the type of service, particularly if the range is quite large.
 - If the price is not fixed, give the basis for charges, including hourly rates (by grade of staff where applicable). If feasible, provide an indicative number of hours or a range of hours needed for different services.
 - If the price is by stage, then provide details on that basis. If it would not be obvious to a consumer what a stage of the service is, provide a short explanation.
 - If there will a consultation fee for an initial meeting, this should be made clear to the consumer before the appointment for the initial meeting is made.
 - If you offer a free initial consultation, you should make clear what length this will be, if time over and above this is chargeable, and if so, what the charge would be.
 - Be clear about any VAT chargeable.

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- Indicate the amount of any disbursements that are likely to be incurred (such as court fees) and when they are likely to be incurred. Again, you might need to give a range.
 - Where possible, you should give a breakdown of disbursements. This does not mean that you need to itemise every single disbursement, but that they should be set out in a way that will be meaningful to your client. An estimate that simply says 'disbursements' with an overall cost against it is unlikely to be considered sufficient by the Legal Ombudsman in the event of a complaint.
 - All possible third-party costs that will be incurred during the case, for example, insurance premiums, barrister fees, surveyor costs and searches, and where practicable, a rough estimate of the costs of these.
 - Any factors that mean the price may exceed your fixed fee, or the range or estimate of fees that you have given. This could include, for example, the need to complete the work with urgency or factors such as complexity or an exceptionally high volume of material. While consumers understandably want certainty on price, we appreciate that it might not be possible to give this certainty in many situations. Being as clear as you can as to the circumstances in which extra costs are likely to be incurred will help prevent your pricing information from being unintentionally misleading. It will also reduce complaints later on.
 - If you offer conditional fee agreements (CFAs), then set out the circumstances in which clients might have to make any payments themselves, such as disbursements. If there is a cost to the client of the assessment for suitability for a CFA, this should be set out.
 - In cases where costs are recoverable from another party, you should ensure your client understands how costs recovery works, if there is a risk that their costs could exceed the sums that can be recovered, and what this means for them – for example, whether they will have to meet any shortfall. This is equally important in cases that are subject to fixed costs.

-
- It can be helpful to link to external information (for example, to the relevant section of gov.uk for court fees) when this will assist the consumer's understanding.
 - If the type of service you are promoting involves a risk that the client will have to pay costs to the other side, you should indicate this and make it clear that this is additional to your fees.

11. In providing price information, you might not be able to cover all of the different services that you or your organisation offers, but you should look to cover the most common. In [An ombudsman's view of good costs service](#), the Legal Ombudsman states:

"We recognise that your website –won't be able to cover all the different circumstances that could affect the cost of a piece of work ~~on your website~~, but you might want to make it clear what the expected costs would be for a typical instruction and some typical examples of things that would affect the price."

It will also be useful to keep a record of the information displayed on your website, and when and how it changes. If a client makes a complaint in the future about your initial costs information, this record will be useful to demonstrate what they would have seen at the time."

12. An illustrative example of information on the price of a Costs Lawyer acting for a client challenging a solicitor's bill is at Annex 1.

Information on services

13. For price information to be meaningful, consumers also need information about the services you are offering and what is included. Price information will not mean much unless the consumer knows what they are getting for that price.

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14. Therefore, we recommend that you set out, in as much detail as you can, what services will be provided for each price or range indicated. Where possible, you should include key stages for the work. The client might not understand what the key stages are so you will need to explain them in simple language.
 15. You should inform clients if anything that could reasonably be expected to be included in the price is not.
 16. To be able to make an informed choice, consumers will want to know some contextual information. Therefore, we also recommend that you set out:
 - Typical timescales for the work. This might be by key stages, as above. Where the timescale is out of your control (for example, it depends on the court or other side) you might need to give a general estimate, for example: “If the matter is not settled by agreement, cases of this kind typically take 6 to 9 months for the court to resolve, assuming there is no appeal”.
 - The qualifications and experience of those who will be providing the particular service. For example, the number of years they have been qualified as a Costs Lawyer, specialisms that they have, and the type or range of matters that they advise on.
 - 17. If you will be making a Conditional Fee Agreement (CFA) or Damages Based Agreement (DBA) with your client when dealing with contentious work, or if your remuneration includes a success fee element, you should refer to the CLSB’s Contingency Retainers guidance note. This provides further detail about the pricing information that should be provided to clients where a CFA or DBA will be made, and where your remuneration includes a success fee.

Presenting the information

~~17.18.~~ The target audience for the information is individual consumers and small businesses. They will need information presented differently from professional clients, who will be more familiar with legal processes and terminology and are more likely to have an idea of competitive pricing.

~~18.~~19. It will help to:

- Keep information concise and sentences short.
- Break up the text with headings, diagrams and tables, and set out any processes in stages.
- Use plain language where possible, and if you do have to use a technical term then give an explanation.
- Think of it from the consumer's point of view and focus on the information that they need.
- Provide anonymised examples of typical cases that you have dealt with in order to bring the information to life.
- Consider providing information in different languages where this will meet consumer need.

20. It is good practice to provide cost information in writing, and to keep records of the costs information you provide to clients. This will help to ensure that clients understand how they will be charged at the outset, and can help to avoid disputes over what was discussed later on. It can also help you to show that information was provided to enable clients to make an informed decision. If providing information in writing is not suitable (for example, because your client is unable to read), then you should record the information you provided about costs, including how and when it was provided. It is also good practice to keep records of payments made to, and received from, clients. See the Dealing with Consumers guidance note for more details.

~~19.~~21. Where you have a website, display the information in a way and place that is easily accessible – for example, not buried away in a terms and conditions link at the bottom of the page. A website that is easy to read and navigate will boost interest in your business and inform and attract consumers. You will also want to consider that many people now access websites using mobile devices, and therefore make your website mobile friendly.

22. Tips on website accessibility are available from the [Website Accessibility Initiative](#).

Keeping the consumer updated

23. It is important that the consumer is made aware of any changes to the cost of the case as it progresses, so that they have an opportunity to try to control the costs being incurred. This is a matter of good consumer service and professional courtesy, and part of your duty under Principles 3.4 and 4.6 of the Code of Conduct. Keeping the client informed also helps to avoid complaints later on; many complaints arise because lawyers did not keep their client informed about changes to costs through the case.
24. Where costs are going to increase, you should explain the reason for this clearly to your client and explain what the impact will be. You should also provide them with an updated estimate of costs.
25. You should consult your client about how to manage potential increases and what course to take, if new options become available during the course of the matter. You should not make assumptions about how your client would want to proceed or make decisions on their behalf without consulting them.
26. It is not unusual for cases to become more complex and costly as they progress, and this can be financially challenging for clients. If your client raises concerns about the costs of a matter, you should see if there are ways of managing the cost – for example, by spreading payments over a period of time. In this situation, it will also be helpful for you to discuss with the client how much work needs to be done, what this will mean for them in terms of costs, and how they wish to proceed.
27. Where your arrangement with your client includes a price cap or fixed fee, you should ensure that your client understands what this will cover. If the circumstances of the case change, you should tell your client about what has

changed, and the reasons for the change in good time, and explain what impact – if any – this has on your initial agreement.

~~20.~~

Seeking feedback

~~21-28.~~ The most important thing is that the consumer or small business actually understands how much they might pay for your services, so they can make a meaningful comparison, and ultimately an informed decision on who to instruct. Once you have taken steps to include appropriate price and service information on your website and in your promotional materials, the next step is to seek feedback on your efforts to check whether they are achieving their purpose.

~~22-29.~~ There are many different ways you could do this. For example, you could ask new clients (during the client onboarding process) whether they looked at the information, whether they understood it and whether they relied on it in making their decision. You could track the questions you are asked by clients and see whether those questions could be more clearly addressed in your promotional material. Or you could ask users of your website whether they found information helpful by using a survey pop-up.

~~23-30.~~ Testing whether the information you provide is having the desired effect is an important part of ensuring you meet your transparency obligations. The CLSB would also be interested in any data or learnings from the testing that you carry out; please [contact us](#) if you have information to share.

Further guidance

- The pre-engagement chapter of [An ombudsman's view of good costs service](#), published by the Legal Ombudsman, contains advice on price transparency based on common problems and complaints from consumers. [It also sets out how LeO will approach consumer complaints that relate to costs.](#)

should make clear the regulatory status of the organisation and any other individuals that will be working on the matter.

Scope of work

19. The CCL should include:
 - an outline of your understanding of the client’s instructions;
 - a description of the work you will and will not do for the client;
 - details of the information or other assistance you will need from the client;
 - a description of what will happen next.

20. This information should be clear and specific to the individual case, rather than generic. The language and presentation used should be tailored to the needs of the client. For example, it might be appropriate to use technical legal terminology when preparing a CCL for a client who is a fellow legal professional, while plain language is likely to be preferable for an individual client without legal training.

Fees

21. It is helpful to present a clear, concise breakdown of the likely costs of a matter toward the beginning of the CCL. If fees are to be charged on the basis of an hourly rate, you should indicate both the rate and the number of hours you expect to spend working on the matter, as well as factors that might impact your estimate. Any known or likely disbursements should also be included. VAT should also be made clear.

22. Below are two simple examples of approaches you could take, as appropriate:

Example 1:	<i>Our professional fees</i>	<i>£750</i>
	<i>Court fees</i>	<i>£500</i>
	<i>VAT</i>	<i>£250</i>
	<i>Total fixed fee</i>	<i>£1,500</i>

Example 2: *Based on the information you have provided to me, I estimate that your total bill for dealing with this matter will be between £750 and £1,250 plus VAT, in addition to disbursements of between £300 and £500 plus VAT. The final cost will depend upon the volume of material I will need to review before I can provide my advice and whether specialist advice will be needed on the tax issue arising from your instructions. I will be able to confirm the costs more precisely as the matter progresses.*

23. For guidance on entering into contingency retainers (conditional fee agreements and damages based agreements), see our separate [guidance note](#).

~~23.~~

24. [For guidance on price transparency and how to communicate with clients about costs, see our separate Price Transparency guidance note.](#)

Likely timescale

25. Whilst this can be difficult to estimate, due to factors outside of your control, there are average timescales for dealing with different types matters and clients would like to know what these are. We suggest that your CCL sets out the average timescales and, if necessary, also sets out examples of why this might not apply in their case, for example delay by the other side or delay by the client in providing documents.

Provision of other required information

26. Some types of information are seen by clients as less relevant than others at the beginning of the legal process. These include terms and conditions of business, complaint information, data protection information and regulatory information. However, such information still needs to be provided upfront for a number of reasons. One important reason is that, in relation to clients who are lay individuals, the Consumer Rights Act 2015 creates a presumption that a contract term is unfair (and thus unenforceable) if it purports to bind a consumer to terms with which the consumer had no real opportunity of becoming acquainted before the contract was concluded. Another reason is that, at the moment when the

client needs the information, the relationship with their adviser might have broken down.

27. While such information should be provided upfront to allow you to comply with your obligations and ensure the client understands all your contractual terms, in order to engage the client more successfully with the information in the CCL, it is recommended that this information is either placed at the end of the CCL or provided in a separate leaflet which is referred to in the CCL. The latter option provides the client with a reference document that can be referred to at a later date, when the information might be more relevant. It is open to you to use the CCL to draw your client's attention to, or highlight, certain aspects of the leaflet for example, any conditions attached to your services.

Service levels

28. Your CCL should explain that you will communicate (and, if relevant, how and when you will communicate):
- progress on the matter;
 - changes to cost estimates and timescales;
 - important changes in the law that affect the matter; and
 - reasonably foreseeable risks that could affect the outcome.

Complaints

29. As noted above, the CCL should state your regulatory status and any supervision arrangements in relation to the client's matter. It should also explain what a client can do in the event they have a complaint, including the information prescribed in paragraph 3.4 of the Code of Conduct. You can do this by including your complaints procedure in, or with, your CCL.
30. For guidance on what to include in your complaints procedure, see our separate guidance note.

By email: ceokw@clsb.info

4 December 2024

Dear Kate

People use legal services at times in their lives that really matter. The Legal Ombudsman (LeO) has a unique perspective into what that looks like in practice – specifically, the things that can go wrong when people turn to a lawyer, and how well lawyers put them right through their in-house (tier one) complaint process.

Our annual data for 2023/24, which we're publishing this week, highlights a failure over time, and across the profession, to engage with the issues causing people to turn to LeO for an independent resolution.

This is clearly a problem for consumers; too many people are being let down. But it's also a problem for LeO, as we can't help people as quickly as we need to while receiving complaints in these volumes. And it's a problem for the legal sector, which is having to pay for our service to be resourced to meet consistently high demand.

I recognise that your communities generate relatively small volumes of complaints for LeO. However, I'm writing to all regulators to set out LeO's insights into what needs to change across legal services as a whole, and the action we're taking going forward – including the engagement we want to have with you – to ensure people relying on legal services have a consistently excellent experience.

LeO's insights: how and why are consumers getting poor outcomes?

It's important to recognise that we see examples of legal providers who understand what good service and good complaints handling look like. They have accessible processes for clients to raise concerns, are receptive to this feedback, and respond with clarity and empathy. If we can see a lawyer has done all they can to resolve things, we can reassure their client that's the case.

However, of the complaints LeO investigates in-depth, we found:

- Evidence of poor service in 69% of complaints. Of the primary areas of law we report on, conveyancing showed the highest incidence, at 76% – but the figure was 58% even in the area with the lowest incidence, family law.
- Basic service issues around legal providers' communication, delays and failure to progress the matter in hand featured in nearly half (47%) of all complaints consumers made.
- Approaching half (46%) of consumers experienced poor complaints handling. This was highest in conveyancing (56%), but even in the highest-performing area, litigation, more than a third (34%) of consumers hadn't had their complaints handled well.

Underlying this data is a range of concerning behaviour that our investigators and ombudsmen identify in lawyers' complaints handling. It means consumers who complain don't get the right outcome first time – and in some cases, don't get an answer at all. As central concerns, we're consistently finding that legal providers are:

Failing in their culture and attitude

- Taking a defensive or confrontational approach to complaints as standard, showing no empathy or understanding of clients' experience.
- Not acknowledging or responding to complaints, or not engaging with their client or LeO after a complaint has been made.
- Refusing to deal with certain complaints at all – for example, because a client has used the word “negligence”, and the provider has interpreted this in a technical rather than everyday sense.
- Refusing to acknowledge clear failings in their service – or accepting failings, but not attempting to put things right.
- Responding to complaints in a legalistic, technical way that is difficult for a client to understand.
- Showing no interest in recognising either the commercial or customer service benefits of learning from complaints.

Failing in their processes and information

- Having inconsistent, complex complaints processes that put clients through too many stages and hoops – which providers themselves may not even follow.
- Creating barriers to complaining at all or about certain issues, including giving misleading information about what LeO will investigate.
- Giving out-of-date and inaccurate information about the complaints process.
- Setting unrealistic expectations about how complaints will be handled – such as unachievable timescales, which then aren't met.
- Requiring clients who complain to comply with unrealistic and unreasonable requests, such as attending the office for a meeting.
- Failing to anticipate, consider and accommodate reasonable adjustments clients need.
- Failing to signpost to LeO, or giving unclear or incorrect information about how and when to use our service.

Failing in their responses and remedies

- Failing to take, and see the benefit of, a coherent and proactive approach to putting things right at the earliest possible stage.
- Offering insincere apologies, such as telling clients, “I'm sorry if you feel that...” or “I have been told to apologise”.
- Not addressing all the issues their client has raised concerns about.
- Not attempting to remedy the issue, or not offering enough to put things right.
- Disputing or not recognising the emotional impact of any failings.
- Incorrectly quoting LeO guidance or our likely remedies, giving clients the impression it isn't worth taking their complaint further.

- Offering remedies with the condition they're in full and final settlement of future, unrelated complaints.

These failings have an unacceptable impact on each individual client who experiences them. Taken together, however, they present serious, systemic barriers to achieving the shared regulatory objectives of protecting and promoting the public interest, improving access to justice, and protecting and promoting the interests of consumers.

We already regularly share detailed data with you about the complaints we're receiving and resolving about providers you regulate. And in our published data, you'll be able to see how many complaints are being generated by your regulated community as a whole.

While some communities' outcomes may be relatively better, this isn't a reason for complacency. There's considerable room for improvement across the board, and it's essential there's a clear and consistent commitment to cultural change across the sector.

Action we're taking

As we discussed at the LSB's meeting of regulators' Chairs and Chief Executives in September, both LeO and regulators have a vital role in building a culture where complaints are valued as opportunities to do things better.

While you have tools and powers to set and enforce standards, the data you use, and the action you take, needs to be underpinned by real-world insight and experience of what's happening on the front-line of complaints. LeO has this insight, based on our assessment and resolution of tens of thousands of disputes. This is reflected in our 2024-27 strategy, which sets out our ambition to use our independent voice to drive improvements in both standards of service and complaints handling.

Although legal services themselves are diverse, our experience, and that of Ombudsman schemes in different sectors, strongly suggests that the fundamentals of good service and complaints handling are universal. As such, we think there's significant benefit in moving toward greater standardisation around the core tenets of good complaints handling. These include, for example, early resolution, the quality of investigations and responses, processes and timescales – while retaining appropriate flexibility for particular sectors.

For consumers, this standardisation would bring simplicity, clarity and confidence over what to expect if they want to raise complaints about the service they've received – whatever that service may be. Legal providers will also have clarity and confidence over what's expected of them – helping ease the burden of compliance on smaller providers in particular.

In light of the need to radically improve first-tier complaints handling – and in view of the timescale for implementing the LSB's framework – our 2025/26 business plan sets out specific actions in this area, including:

- Engaging with the legal sector and consumer representatives to create and implement model complaints handling procedures and standards for first-tier complaints – building on our work this year to define best practice and establish how to bridge the gap between the current picture and excellence in complaints handling.
- Playing a leading role in the LSB's coalition, supporting regulators to implement its framework for delivering world-class first-tier complaints handling.

- Launching and delivering a comprehensively refreshed complaints-handling training and learning offer.
- Delivering targeted complaints-handling interventions and support for providers who generate high demand for LeO, working with regulators to align and agree a coordinated approach to this.
- Creating further best practice guidance and tools to support legal service providers overcome barriers to good complaints handling.

Future engagement with you

We want to work with you to address the specific issues we're seeing in different communities, including via targeted interventions with individual firms . This builds on LeO's previous success in reversing patterns of failings: including, for one large provider regulated by a larger regulator, reducing the number of enquiries to LeO and cases accepted for early resolution by more than 50%, and the number of cases needing investigation by more than 40%.

I'm keen to discuss how we can move forward in a coordinated way, recognising that regulators are also progressing with plans in this area, and will be following up shortly to help facilitate this. We want to focus this next conversation on how we can progress at pace in 2025 to deliver improvements – and in turn, reduce unnecessarily high demand for LeO.

Looking further ahead, as part of our 2024-27 strategy we set out plans to establish a new forum for engagement between LeO and regulators. We want this to be an action-oriented forum for sharing insights, ensuring strategic alignment and momentum in driving better outcomes for those relying on legal services. We see our next conversation as the precursor to regular meetings of this forum going forward.

If you have any questions about this letter or our data, please let me know. For transparency, I'll be sharing a copy of this letter with the LSB and publishing a version on our website.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Paul McFadden', is written over a horizontal line. The signature is stylized and cursive.

Paul McFadden
Chief Ombudsman

Costs Lawyers, Technology and Regulation: Next Steps

28 November 2024

Introduction

1. In October 2024, the Board reviewed the draft report, [Costs Lawyers, Technology and Regulation](#) and agreed to consider next steps at its December meeting.
2. This paper sets out proposed next steps in response to the report. This will also help us ensure we comply with the [LSB's new statutory guidance on technology and innovation](#).

Background

3. In May 2024, we commissioned Hook Tanganza to carry out research to understand how Costs Lawyers are using technology and AI, as well as regulatory opportunities, risks and barriers in this area.
4. The report made 15 recommendations and identified 8 priority actions that the CLSB could take to help Costs Lawyers increase their take-up of AI and other new technologies. These priority actions include using competency and CPD requirements to encourage Costs Lawyers to stay up to date with developments in technology, providing guidance on the ethical issues of using AI, and emphasising cyber security as an area of risk.
5. The report was published on a dedicated page of the CLSB website following board approval in October.

Proposed next steps

6. Having considered the report and its recommendations in detail, we intend to carry out work in four key streams, as follows:

a) Public legal education

This workstream encompasses activities that will improve the information available for consumers about technology and AI in the costs space.

b) Upskilling Costs Lawyers

This workstream encompasses developing guidance for Costs Lawyers on the ethical and professional issues associated with technology and AI; exploring options for providing training to Costs Lawyers on technology and AI; and considering whether the Ongoing Competency Framework should be updated to explicitly refer to technology and AI skills.

c) Collaborating with others

This workstream involves working with regulators, the Legal Services Consumer Panel, representative bodies and others on a range of activities. It includes participating in the LSB Technology and Innovation Forum and working with partners individually.

d) Evidence and data gathering

This workstream encompasses obtaining further evidence and/or data to inform our work related to technology and AI, such as holding a roundtable with Costs Lawyers who provide consumer-facing services to understand their technology needs.

7. The table at Annex A sets out the recommendations from the report, with detailed actions against each set out in blue in the right hand column.

Annex A: Compliance map – CLSB’s workplan to comply with the LSB’s statutory guidance on technology and innovation as at December 2024

Outcome 1: Regulation enables the use of technology and innovation to support improved access to legal services and to address unmet need.			
LSB requirement	Recommendation for CLSB (from report)	Priority	CLSB next steps
a. Consult with the public to better understand their needs and obtain and act on feedback related to using technology and innovation to access legal services.	The CLSB has a survey for consumers available on its website. A more visible embedded survey (e.g. using SurveyMonkey) could be placed on the website’s home page to gather views from consumers about how they would want to get introductory information about costs from e.g. chatbots or other online sources	Low	Workstream (c): Collaborating with others Timeframe: H1 2025 Our evidence suggests that end-user consumers are unlikely to visit the CLSB website in large numbers at this stage given the client profile of Costs Lawyers. Consequently, a survey on the CLSB website may not be the most efficient way of gathering a good number of responses from consumers. Instead, we will work with the LSCP to add a question/s to the next LSCP Tracker Survey and/or Legal Needs Survey about how consumers are currently obtaining information about costs - and how they might want to do this differently now or in the future - to inform our work in this area.
b. Promote the use of technological solutions to share information with consumers about price, quality, and routes for redress - including ensuring that consumers are aware of the redress mechanisms for legal services provided by technological solutions or service innovations.	The CLSB might also seek to obtain funding (e.g. from a future RPF or equivalent source e.g. Legal Education Foundation) for a project to develop a tool to assist litigants in person with some initial navigation based on their issues, about costs and costs risks. This would be intended to build further on the good work done with Legal Choices and add a further layer of specificity around costs issues.	Low	Workstream (c): Collaborating with others Timeframe: Reactive This recommendation would need a joint approach across professions. The Law Society is already carrying out work to develop a consumer-facing diagnostic tool for identifying routes to redress. It is not clear at this stage how much of that tool will be directed at LiPs, but a sensible first step would be to continue keeping abreast of the Law Society’s work in this area, and engage with them to ensure costs information is built in for all consumers – as well as LiPs.

<p>c. Provide information to the public to explain the benefits of using technology and innovation to access legal services in order to build and enhance public trust.</p>	<p>The CLSB has expanded its website to include a section of FAQs for consumers and a filter on the register which allows individuals to select only those Costs Lawyers who represent/advise individuals directly. A further evolution of the register could include embedded links to the websites of the organisations in which these individuals work. Further simple guidance on costs (e.g. fixed costs, when they apply and when they do not, avoiding nasty surprises etc) would help to build confidence and awareness amongst consumers.</p>	<p>Low</p>	<p>Workstream (a): Public legal education Timeframe: H1 2025 The CLSB website FAQs could be expanded to add consumer-facing information in future. In the short term, and to avoid duplication of information already in the public domain, we could add a link to the Legal Choices webpage on costs, which includes some basic information about contingency retainers, fixed fee agreements, etc.</p> <p>Workstream (a): Public legal education Timeframe: H1 2025 Embedding links to only some Cost Lawyers' websites could potentially be unfair. It could also present issues where a Costs Lawyer does not have a website. We will explore whether we can link to organisation websites for everyone on the register as a first step.</p>
<p>d. Understand the needs of different consumer groups/segments and the barriers they may face in accessing legal services provided by technology and innovation, and how these barriers can be addressed.</p>	<p>There is scope to look in more depth at litigants-in-person as a specific segment of the costs market, given they are likely to be most exposed to barriers in using technology to meet their legal needs. Guidance for this group might be produced jointly by the CLSB and other frontline advice providers on the costs aspects of litigation.</p>	<p>Low</p>	<p>Workstream (c): Collaborating with others Timeframe: H2 2025 Identify which advice providers might be interested in working together on this topic and whether there is appetite for developing joint guidance.</p> <p>Workstream (c): Collaborating with others Timeframe: H2 2025 Investigate whether more information about the costs aspects of litigation could be added to the 'Advice for Litigants in Person' page of the Judiciary website.</p>

Outcome 2: Regulation balances the benefits and risks, and the opportunities and costs, of technology and innovation in the interests of the public and consumers.			
LSB requirement	Recommendation for CLSB (from report)	Priority	CLSB next steps
a. Grow knowledge of technology and innovation and the potential benefits and risks to consumers related to their use in the provision of legal services.	The consumer market for costs work remains very small (only 10% of Costs Lawyers accept direct approaches from the public). The CLSB should keep this area under review, engaging directly with those Costs Lawyers who provide consumer services (see 2d below). There might be scope for the CLSB to engage directly with developers to encourage them to understand the challenges that Costs Lawyers face and which AI might help to address. This could be done by way of some kind of costs “hackathon” (see glossary).	Medium	Workstream (b): Upskilling Costs Lawyers Timeframe: H1 2025 to medium term See 2(c) to (e) below.
b. Consider the risks to consumers related to the use of technology and innovation in the provision of legal services will be assessed, monitored, and mitigated,	<p>We recommend noting that the consumer risk in relation to technology and innovation for costs is still relatively low. However, this risk may increase if Costs law firms see more direct approaches regarding Solicitor and Barrister costs, or if consumers start using Costs Lawyers to plan their litigation from an earlier stage. (Medium)</p> <p>The CLSB should keep the growth of consumer activity by the Costs Lawyer profession under review and consider, for example, providing more specific guidance to Costs Lawyers engaged with such clients about potential ethical risks (e.g. if developing/using costs chatbots, when using client portals, cyber/information security etc). (High)</p>	Medium/ High	<p>Workstream (b): Upskilling Costs Lawyers Timeframe: Ongoing We already monitor areas of practice and how CLs receive instructions through the annual regulatory return.</p> <p>Workstream (c): Collaborating with others Timeframe: H1 2025 Develop a specific guidance note (or topic note in the Ethics Hub) that encompasses:</p> <ul style="list-style-type: none"> • the use of AI and technology as a Costs Lawyer; • the potential ethical risks; and • considerations when using technology to engage with clients.
c. Use ongoing competence requirements to encourage legal professionals to stay abreast of developments in technology and other innovations in the sector and how they	This is one of the areas in which the CLSB can have most impact on the technological take up of the Costs Lawyer profession. The CLSB should use both its competence requirements and ongoing CPD requirements to incorporate	High	Workstream (b): Upskilling Costs Lawyers Timeframe: Medium term Through the 2025 evaluation of the Ongoing Competency Framework, consider whether and how to explicitly refer to skills in technology and

<p>might be used to improve access to services.</p>	<p>technological knowledge and capability elements.</p>		<p>AI in the Ongoing Competency Framework or related CPD guidance note.</p> <p>Workstream (b): Upskilling Costs Lawyers Timeframe: Medium term Investigate external training on AI for CLs and whether it would be possible for CLSB to fund this.</p> <p>Workstream (b): Upskilling Costs Lawyers Timeframe: Medium term Work with ACLT to develop a specific module on technology and AI, related professional and ethical risk, and considerations for using technology when interacting with clients.</p>
<p>d. Monitor the impact of the use of technology and innovation on consumers and their ability to access legal services, including assessing consumer complaints to identify and track complaints related to the use of technology or innovation in the provision of legal services.</p>	<p>The evidence that emerged from the AI and Technology survey of direct consumer engagement with Costs Lawyers suggests that although this is a small part of costs activity, it is growing. The CLSB could seek to engage more directly with the Costs Lawyers who have indicated that they offer services directly to consumer clients, to establish how this segment of activity is changing year on year and what this might suggest for further policy evolution.</p>	<p>High</p>	<p>Workstream (d): Evidence and data gathering Timeframe: H2 2025 Hold a roundtable meeting with Costs Lawyers who provide services directly to consumer clients, to understand how this market is changing, how they use technology, and what they think they will need in future.</p> <p>Workstream (d): Evidence and data gathering Timeframe: Ongoing Continue to monitor data from LeO to understand trends in complaints relating to use of technology and innovation.</p>
<p>e. Be open to experimentation when considering new technology and innovative solutions that can provide services for the benefit of consumers.</p>	<p>As the CLSB does not regulate entities this may be of less immediate relevance, however the CLSB could still signal on its website that it is always interested in hearing from technology providers who have applications or the potential to develop applications that could improve the productivity of the costs sector. The survey</p>	<p>Medium</p>	<p>(Note: Links to 2(a) above and 3(a) below).</p> <p>Workstream (c): Collaborating with others Timeframe: H2 2025 onwards Hold a roundtable meeting with Costs Lawyers and costs software providers (e.g. CostsMaster) to explore gaps and opportunities of existing</p>

	<p>suggested that there is a gap in the market for an appropriate, updated costs software. Even if this were not of immediate direct benefit to consumers, it could help to reduce with the management and reduction of legal costs in general. (see related point at 2a above)</p>		<p>tools, and how current software could be improved for the benefit of Costs Lawyers and the public. We could collaborate with ACL on this.</p>
<p>f. Be aware of, and use, where relevant, wider available guidance relating to current and emerging risks related to the use of technology, for example: on cyber threats and data protection regulations, as well as the use of artificial intelligence.</p>	<p>The apparent low level of awareness in the profession of cyber threats is an area that the CLSB could immediately address through its risk outlook and ongoing competence requirements. Although cyber risk has been flagged in previous risk outlooks, this could be given greater prominence and included as a separate topic in the ethics hub. The CLSB might also consider whether it can do anything to encourage the entities in which Costs Lawyers work to obtain the Cyber Essentials mark.</p>	<p>High</p>	<p>Workstream (b): Upskilling Costs Lawyers Timeframe: H1 2025 Give greater prominence to technology and AI in next annual risk outlook.</p> <p>Workstream (b): Upskilling Costs Lawyers Timeframe: H1 2025 and ongoing Create a specific section in the Ethics Hub for tech and AI topic notes, and continue to build these resources over time. A CLSB guidance/topic note on tech and AI could signpost to Cyber Essentials as something that Costs Lawyers could consider obtaining.</p> <p>Workstream (b): Upskilling Costs Lawyers Timeframe: H1 2025 and ongoing Develop ethical scenarios that relate to technology and AI, and include these in the Ethics Hub.</p> <p>Workstream (c): Collaborating with others Timeframe: Medium term Engage with ACL to raise awareness of Cyber Essentials and see if they can promote Cyber Essentials at a future ACL conference – for example, by having a presentation from Cyber Essentials.</p>

Outcome 3: Regulation actively fosters a regulatory environment that is open to technology providers and innovators.			
LSB requirement	Recommendation for CLSB (from report)	Priority	CLSB next steps
a. Collaborate and co-operate with relevant stakeholders, including, but not limited to, technology providers, innovators, other regulators, legal professionals, unregulated providers, and consumer representative organisations.	<p>This is an area where the CLSB could potentially play a useful role in helping to raise awareness amongst developers of the Costs sector, the data that is potentially available within it and the opportunities for providers to undertake small-scale projects. This might best be organised jointly with other regulators who are seeking to encourage low cost, small-scale projects to help the take up of technology amongst smaller legal services providers.</p> <p>The CLSB should take steps to engage with the courts, encouraging the judiciary to gain a better understanding of how Costs Lawyers can support the adoption of e-bills and similar developments.</p>	Medium	<p>Workstream (c): Collaborating with others Timeframe: Medium term Hold a roundtable meeting with Costs Lawyers and costs software providers (e.g CostsMaster) to explore gaps and opportunities of existing tools, and how current software could be improved for the benefit of Costs Lawyers and the public. We could collaborate with ACL on this.</p> <p>Workstream (c): Collaborating with others Timeframe: Medium term Explore the possibility of working with Costs Judges to understand what more could be done in this area, and working with Costs Judges and Judicial Office/Judicial College to develop resources for judges around this.</p>
b. Provide those exploring innovative approaches to legal services delivery with support and information that helps identify and address both real and perceived barriers to entry.	This is less directly applicable to the CLSB as it does not regulate entities, nor does it prevent Costs Lawyers from working in any type of organisation. There might be something that could be done, however, to increase awareness amongst tech providers and developers of opportunities in the costs sector (see above e.g. in relation to engagement and outreach to include the sector and developers).	Medium	See 3(a) above.
c. Review regulatory arrangements to identify potential barriers and working to address these where possible.	Costs Lawyers were unable to identify any existing regulatory barriers that prevented them from adopting technology, other than a lack of confidence. But the CLSB could, nonetheless, assist through education (working with ACLT and ACL) and by issuing more ethical guidance that builds on and dovetails with any SRA guidance.	High	<p>Workstream (b): Upskilling Costs Lawyers Timeframe: H1 2025 Develop a specific guidance note (or topic note in the Ethics Hub) that encompasses:</p> <ul style="list-style-type: none"> • the use of AI and technology as a Costs Lawyer; • the potential ethical risks; and

			<ul style="list-style-type: none"> considerations when using technology to engage with clients.
d. Provide technology providers and innovators with access to relevant data where appropriate.	The CLSB already provides most of the relevant data it can via its register.	Not relevant	No further action needed at this stage.
e. Learning from best practice in other jurisdictions and sectors related to the promotion and use of technology and innovation for the benefit of consumers and the public.	Costs lawyers do not have many direct comparisons in other jurisdictions. There are sources that may be useful for the CLSB to draw on (e.g. International Conference of Legal Regulators) to stay abreast of what more mainstream legal regulators are doing in relation to technology and innovation.	Low	<p>Workstream (d): Evidence and data gathering Timeframe: Ongoing The CLSB participates in the LSB Tech and Innovation Forum with other regulators to stay abreast of developments and what others regulators are doing in this space, and identify opportunities for collaboration.</p> <p>Workstream (d): Evidence and data gathering Timeframe: Ongoing Continue horizon scanning to stay on top of developments in the wider sector through research for the annual risk outlook.</p>

Outcome of thematic review of client care letters

Board report

26 November 2024

Background

1. Priority 12 in our 2024 Business Plan is to “investigate whether a new supervision framework for client care letters is warranted based on evidence of client outcomes”. Our current guidance is [here](#).
2. At its meeting in July 2024, the Board [agreed](#) that we would carry out a one-off thematic review of client care letters based on samples that (a) were provided to us in 2023 alongside practising certificate applications on an ad hoc basis (because they contained the relevant Costs Lawyer’s complaints procedure) and (b) were provided following a further direct request to firms for examples earlier in 2024.
3. This paper sets out the results of the review. We considered information from 18 Cost Lawyer practices.
4. The documentation supplied was usually described as either a client care letter or as standard terms and conditions by the practices. It is possible that some practices supply further information to clients once the engagement has begun, but our focus in this review has been on information that is provided to clients before or upon engagement so as to enable them to make an informed decision.

A reminder of the key regulatory obligations

5. We impose a number of regulatory obligations for Costs Lawyers to provide information to clients on first engagement. These are set out in our current guidance, and the key provisions are set out below.
6. Principle 1.4 of the Code of Conduct provides: “When you supply or offer your services as a Costs Lawyer, you must not be misleading or inaccurate about the nature or scope of the services you are offering, who will be legally responsible for undertaking them, the extent to which they are covered by regulation and insurance, the terms on which they will be supplied or the basis on which they will be charged.”
7. Under Principle 3.4 of the Code of Conduct, Costs Lawyers must advise new clients in writing when instructions are first received of:
 - an estimate of fees / details of charging structure;
 - the client’s right to complain;
 - how to complain (that is, the first-tier complaints handling procedure);
 - if applicable, the client’s right to refer their complaint to the Legal Ombudsman in certain circumstances.

8. Under Principle 4.6 of the Code of Conduct the Costs Lawyer must ensure that clients are able to make informed decisions about the work being undertaken on their behalf throughout the lifetime of the matter, including how it will be priced, the costs incurred and the likely overall cost of the matter (including any potential liability for the costs of other parties).
9. Under the Provision of Services Regulations 2009, Costs Lawyers must provide clients with the contact details of their professional indemnity insurance provider and the territorial coverage of that insurance. However, this can be provided in a number of ways, including display at the relevant premises.
10. Our guidance also sets out the following key obligations for Costs Lawyers to inform clients:
 - Set out any limitations on the liability of the professional services provider.
 - Make clear that, in accordance with Principle 3.6 of the Code of Conduct, they cannot accept client money save for incurred disbursements and payment of invoiced professional fees. If they offer clients the option of using a third party managed account (TPMA), explain how the TPMA works.
 - Notify the client of their right to keep copies of documents for their professional records (subject to the client's data protection rights) and any arrangements in place for the return of originals, if relevant.
 - Explain how they are required to act in accordance with the Costs Lawyer Code of Conduct and other rules issued by the CLSB.
 - Explain the arrangements they have in place to ensure compliance with data protection laws, including how they will process and store personal data. The General Data Protection Regulation (GDPR) requires businesses to provide certain information to clients about how their data is used, such as how long it is kept for, who it will be shared with and their data protection rights.
 - Advise the client of the scope and relevant terms of any proposed outsourcing arrangements (if applicable).
 - Advise how the instruction may be brought to an end and what liabilities the client might face in the event they terminate the retainer prior to conclusion of the matter.
11. Where a Costs Lawyer is acting for consumers (defined as an individual acting for purposes that are wholly or mainly outside that individual's trade, business, craft or profession) this brings in additional requirements. In particular if the contract is concluded at a distance (e.g e-mail, online or over the phone) or off-premises the Consumer Contracts (Distance Selling Regulations) 2013 require certain extra information to be given, namely:
 - the right to cancel the contract within 14 days;
 - information about price including VAT and any billing period;
 - how the contract can be terminated and any costs involved.
12. We have also provided specific [guidance](#) on acting for consumers.
13. It was not always obvious from the documentation available whether practices acted for individual consumers (likely in relation to own solicitor costs) or not, but when considering these additional consumer rights, we excluded those firms that clearly aimed their services solely at professionals.

Findings of the review

14. The table below summarises our findings.

Costs/charging information
All practices gave information about their charging structure and billing, although in 4 cases the information was very scanty.
Information about VAT
All the practices except one made it clear that their charges were plus VAT.
Liability for other side's costs
The potential for this was only mentioned by 4 practices.
Services and service standards
11 of the practices gave details about their service and service standards.
Complaints information
The information provided about complaints procedures was the most complete and consistent in the survey. 17 practices gave information about the right to complain. 16 covered how to complain. 16 referred to the right to complain to LeO – of which 13 gave full information (timeframes and contact details).
Information about the CLSB
14 referred to the right to complain to the CLSB – which conversely means that 4 practices did not mention that the Costs Lawyers employed by them were regulated by the CLSB at all (although one of these stated that the practice was regulated by ACL).
GDPR
The provision of GDPR information was very hit and miss, with only 9 of the practices providing some information, and only 3 providing or linking to an adequate explanation of GDPR obligations and rights.
Right to retain files (lien)
The right to retain files via lien was mentioned by 4 practices. However, in an age where most documents are sent electronically, the relevance of this as an issue is declining.
Limitation of liability
10 of the practices mentioned limitations on their liability to the client, usually in the context of PII.
PII (Professional Indemnity Insurance)
Information given about PII was patchy. Only 3 firms gave adequate information about PII, and 9 did not mention it at all in their terms and conditions. Note however that practices can comply with the PII requirements under the Provision of Services Regulations 2009 in other ways e.g by displaying a notice in their offices.
Contract termination – general
Only 6 practices explained the conditions for termination of the contract by the client.
Contract termination under the Consumer Contracts (Distance Selling Regulations) 2013
Although 6 firms referred to cancellation rights under these Regulations, only 1 of them provided information in a way that would be compliant with the regulations.
Anti-money laundering restrictions
These were only mentioned by 4 practices. This is likely to reflect the fact that the Money Laundering Regulations will rarely apply to Costs Lawyers' work.
Client money
The requirement not to hold client money applies to individual Costs Lawyers, not their organisations. It is therefore unsurprising that this issue is not mentioned in any firm's terms and conditions.

Summary conclusion

15. The sample, although small, shows a lack of consistency in the standard terms and conditions, with almost all of the practices missing information in some areas. This is especially concerning for those practices that might be dealing with individual consumers.

16. Areas of particular concern are:

- Failure to explain regulation by the CLSB
- Inadequate GDPR information
- Lack of information about PII
- A lack of understanding of how to comply with the Consumer Contracts (Distance Selling) Regulations
- Failure to tell clients how the contract can be terminated
- Failure to mention potential liability for other side's costs

Next steps

17. Based on this thematic review, we propose to take the following next steps. The board is asked to consider and approve the proposed way forward.

- Q1 2025: Use the first newsletter of 2025 to remind Costs Lawyers of their current obligations, the outcome of this review and forthcoming changes to clarify the guidance and introduce monitoring (see below). Also remind Costs Lawyers that “commercial confidentiality” is not a valid reason to refuse to provide such information to the CLSB when requested.
- Q2-3 2025: Revise the Guidance Note on Client Care Letters to make it more user-friendly, with more examples, top tips, lists and better links to external information. Consider whether any revisions are also warranted to the Guidance Note on Dealing with Consumers. This work will be carried out by our external consultant, Patrick Reeve, at the anticipated cost of around £1,500.
- Q2-3 2025: Expand our [FAQs](#) for consumers and small businesses to provide questions that clients should ask their Costs Lawyer (e.g. in relation to regulation, PII, costs, right to terminate etc) on first instruction. Similar examples exist elsewhere but are not tailored to Costs Lawyers. See for example [Lawyer Checklist | Legal Choices](#) and [IPReg Consumer Leaflet March 2023.pdf](#). This work would also be carried out by Patrick within the cost estimate above.
- Q3-Q4 2025: Develop a short video (like the existing CPD overview video) about good client care practices to be hosted on our website. This work would need to be priced separately.
- Q3-4 2025: Develop a Supervision Framework for Client Care Letters, with compliance monitoring to begin in 2026. In line with our other Supervision Frameworks, this would aim to educate, support and encourage Costs Lawyers to improve their contracting practices.

Confidentiality and data protection

What are my main obligations?

1. Under Principle 7 of the CLSB [Code of Conduct](#), you must keep client information confidential. This is your primary regulatory obligation in relation to your clients' data.
2. If you are obtaining a client's personal data for the purpose of providing them with legal advice or other services, you will also be a data controller under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. Personal data is any information about an individual from which that individual can be identified.
3. Where the GDPR applies, you must ensure that you process your clients' personal data lawfully in accordance with the [seven data protection principles](#). This includes having appropriate security measures in place to protect the personal data you hold, which will also be necessary to meet your obligation to keep client information confidential.
4. Under the GDPR, you must not keep personal data for longer than you need it. In particular:
 - You will need to think about – and be able to justify – how long you keep different categories of personal data. This will depend on the purposes for which the data was collected.
 - You will need a policy that establishes standard retention periods for each category of personal data you hold.
 - You should periodically review the data you hold and ensure you erase or anonymise it when you no longer need it.
 - You must carefully consider any challenges to your retention of data, as individuals have a right to erasure if you no longer need to process their personal data.

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5. All these obligations are the same whether you hold your clients' information electronically or in paper files.

How long should I keep client data and files?

6. There is no set time period for retaining a client's file. You should follow the principles set out above in establishing appropriate internal policies. Whatever approach you take, you should ensure it is documented and communicated to your clients.
7. When setting retention periods, the following factors will be relevant:
 - You will need sufficient information to properly resolve any complaints relating to a matter.
 - You will want to retain certain information to protect yourself in the event of legal action arising from a matter.
 - Your professional indemnity insurer is likely to require you to keep information for a certain period.
 - You might be required by the CLSB to demonstrate compliance with our rules in the event of an audit or if there is a complaint.
 - It could be in the best interests of your client for you to retain certain documents for the client's future use.
8. With those considerations in mind (and subject to any specific insurance requirements), it is common to retain client files for six years after the end of the matter, as this is the usual limitation period for breach of contract and negligence claims.
9. However, you should take the following into account, particularly in relation to personal data that might be included in a client's file:
 - If you never carried out work for the client (for example, the file relates to an enquiry only), then you are unlikely to be able to justify retaining personal data for the full retention period.
 - It might not be necessary to retain all data for the full retention period.

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- You must consider any requests from individuals for their personal data to be erased and, if necessary, justify why you are retaining their personal data for the full retention period.
 - There might be other laws or rules applying to specific types of data, such as client identity records in organisations covered by anti-money laundering legislation.

What happens when the retention period ends?

10. At the end of the retention period you should ensure that the client's file is disposed of securely. This is necessary to meet your obligations under the GDPR (in relation to any personal data in the file) and to ensure the client's information remains confidential.
11. For hard copy files, this might be achieved by shredding physical documents or using a service provider that safely destroys confidential waste. For electronic data, you must ensure that the data is destroyed in such a way that it can no longer be read by an operating system or application, and cannot be recovered and used for unauthorised purposes. Simply deleting the data is unlikely to be sufficient.
12. If you hold any original documents, these should be returned to the client when they are no longer needed by you and should not be destroyed without the client's consent.

What do I need to tell clients?

13. Individuals have the right to be informed about the collection and use of their personal data. This is a key transparency requirement under the GDPR.
14. You must provide individuals with information about the purposes for which you will retain their personal data, your retention periods and who the data will be shared with. In relation to sharing data, you should inform clients that you might

need to share information about their matter with the CLSB for regulatory purposes, such as reporting on complaints.

15. For a checklist of the information that you are required to give clients in relation to their personal data, visit the [Information Commissioner's Office](#) website.

Other GDPR rights and obligations

16. Individual clients have [a number of other rights](#) under the GDPR of which you need to be aware, including the right to access their data and the right to have errors rectified. For more detailed guidance on complying with the GDPR, including your wider obligations beyond retention of client data, see the resources on the [Information Commissioner's Office](#) website.

Ownership of client data and files

Who is my client?

17. Under the [Code of Conduct](#), your client is the person for whom you act, including (where the context permits) a prospective or former client.
18. A professional client is any person or organisation authorised to carry out reserved legal activities under the Legal Services Act, or any unauthorised costs adviser, who instructs you to provide services to or in relation to a client. Information about balancing the interests of your professional client and your ultimate client can be found in the [Ethics Hub](#).

Who owns the file?

19. Where a client seeks the return of documents, the following general principles should be borne in mind about the ownership of documents in the matter file (whether hard copy or electronic). Generally, a client will have a right to receive any documents owned by them.
20. The following documents will usually be owned by the client:

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- original documents sent to you by your client;
 - documents sent or received by you as agent of the client, such as correspondence with third parties;
 - final versions of documents, such as schedules of costs;
 - final versions of documents prepared by a third party, such as expert reports or counsel's advice.

21. The following documents will generally belong to you:

- those prepared for your own benefit or protection, such as drafts and working papers;
- copies of internal emails and correspondence, and correspondence written by the client to you;
- accounting records.

What if the client has outstanding unpaid fees?

22. A Costs Lawyer is not able to assert an equitable lien over money held in the same way that a solicitor can (in certain circumstances) when costs remain unpaid. One reason for this is that Costs Lawyers are prohibited from handling client money under Principle 3 of the [Code of Conduct](#). However, a Costs Lawyer might nonetheless have a common law lien over the client's file.

23. A lien is a type of security interest or right that entitles a party to hold onto another party's assets in its possession pending payment of a debt owed. Common law liens are created by operation of law or contract. They arise when a party has obtained and retained lawful possession of an asset until the relevant debt is repaid. Even if documents in your possession belong to a client, you might be entitled to retain those documents if you are exercising a lien in respect of unpaid fees.

24. If you intend to exercise a lien in circumstances of non-payment, it is advisable to expressly set out in your client care letter that you will have a contractual lien over the client's file until all fees have been discharged.

What principles govern equitable liens?

25. Most of the case law relating to the exercise of common law liens over client files concerns solicitors. From a regulatory perspective, we would expect similar legal principles to be applied to authorised Costs Lawyers. However, please note that this is not legal advice and a court’s view might differ. This guidance is intended to help you understand the position for solicitors, which is arguably analogous to the position a court would adopt in relation to a Costs Lawyer asserting a lien.
26. The key principles were set out in *Donaghy v JJ Haughey Solicitors Ltd* [2019] NICH 1 and later repeated in *Ellis v John Hodge Solicitors* [2022] EWHC 2284 (Comm). Their effect can be summarised as follows.
- Subject to any agreement to the contrary, a solicitor has a common law right to exercise a general lien in respect of costs over any property belonging to the client that properly comes into the solicitor’s possession in that relationship. As was said in *Ismail v Richard Butler* [1996] 2 All ER 506: “The basic rule is that a solicitor has the general right to embarrass his [or her] client by withholding his [or her] papers in order to force him [or her] to pay what is due and the court will not compel him [or her] to produce them at the instance of the client.”
 - Solicitors as officers of the court are subject to its supervisory jurisdiction and the court can therefore interfere with the enforcement of a common law lien on equitable principles.
 - Where the lawyer terminates a retainer, they should seek an undertaking by the client’s new lawyer to preserve the original lien (or a court may make a similar order).
 - Where the client terminates a retainer, this is a weighty factor against interfering with the exercise of the lien, but the court would retain the power to do so on an equitable basis.

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- When invited to interfere with the exercise of a lien, the court should make the order that best serves the interests of justice, in particular weighing the risk that the client would be deprived of material relevant to the conduct of the case against the principle that litigation should be conducted with due regard to the interests of those who have a payment justly due to them.
 - In determining the appropriate order to make, the court should have regard to all the circumstances of the case including in particular:
 - (a) when and why the lawyer/client relationship ended;
 - (b) who ended it;
 - (c) the nature of the case;
 - (d) the stage that the litigation had reached;
 - (e) the conduct of the lawyer and client respectively;
 - (f) the balance of hardship which might result from the order that the court is asked to make;
 - (g) the fact that the value of the lien is likely to be considerably reduced if the file is handed over.

Is it ethical to exercise a lien over a client's file?

27. You must remember your duty under Principle 1 of the [Code of Conduct](#) to act with integrity, and you must balance carefully any conflicting professional principles when considering whether it is appropriate to exercise a lien. No two cases are exactly the same, and the overriding principles for you to consider will always be maintaining the confidence that the public places in you and the profession, and upholding the rule of law and the proper administration of justice. See our [Guidance Note](#) on Client Confidentiality and Acting with Integrity for more information on balancing professional duties.
28. Principle 3.1 of the [Code of Conduct](#) states: "You must act at all times in the best interests of your client except where this conflicts with your duty to act independently in the interests of the proper administration of justice or where otherwise permitted by law." You will therefore also need to consider whether a conflict has arisen between your own interests and those of your client, and/or

between your client's interests and your regulatory duties, when deciding whether to exercise a lien. See our [Guidance Note](#) on Conflicts of Interest for more information.

29. Where your client is a lay individual acting in person, you should consider whether the client could be regarded as a vulnerable consumer and balance the situation appropriately. See our [Guidance Note](#) on Vulnerable Consumers for more information.

Examples of scenarios in which a lien might be exercised

Scenario 1

Facts: You have prepared a final bill on behalf of a litigant in person who now requests the return of her file. The client has not paid your invoiced fees. You have not stipulated in your client care letter that you retain a contractual lien over the client's file for non-payment.

Considerations: You may assert a common law lien over the file for the outstanding fees, although the lien would be stronger if it had been stipulated by contract.

Scenario 2

Facts: You are instructed to prepare a bill of costs by a professional client. During the course of the work, your ultimate client informs you that he has terminated your professional client's retainer and now requires you to send him the file as he intends to continue acting in person. He no longer wishes to instruct you as a Costs Lawyer. You have not been paid for the work.

Considerations: You may consider asserting your common law (or contractual) lien over the file until you have been paid either by the ultimate or professional client. It is reasonable to expect that if your professional client is a firm of solicitors, it will have client money on account from

which to discharge your fees. In any event, your professional client may be contractually bound to pay your fees.

If you cannot recover your fees from your professional client, you may consider informing the ultimate client, courteously, that you are happy to make the file available but you will require payment of your outstanding fees first. You will need to make clear that you believe you are entitled to retain possession of the file until you are paid.

You should bear in mind that if you remain unpaid because the professional and ultimate clients disagree over who is responsible for payment, and if there are ongoing court proceedings for which your file is required, you may need to justify to the court your right to withhold the file in accordance with the principles governing liens, and ask the court for guidance.

Scenario 3

Facts: After accepting instructions from a professional client, A, and undertaking costs work on its behalf, you receive a communication from a firm of solicitors, B, enclosing a form of authority from their ultimate client (for whom A formerly acted) asking for your file against an undertaking by B to pay outstanding fees owed to you.

Considerations: You should first satisfy yourself of the form of authority and the precise nature of the undertaking (for your own protection and that of the ultimate client). An undertaking given by a named solicitor is binding upon that solicitor. You may then transfer the file to B, although it would be courteous to inform A that you are transferring the file against a form of authority from the ultimate client.

END



2024 Annual Regulatory Performance Assessment

Response to LSB information request

15 November 2024

Introduction

Below is our response to the information request received from the LSB on 27 September 2024. It follows the tabular format used in the Annex to the LSB's request.

References to evidence in support of our response are denoted in the text as **E1**, **E2** and so on. A table of evidence is then provided on pages 31 to 34 of the response, showing where each evidence source can be found. The evidence is available either via a hyperlink to published web content, or in a bundle of documents provided with this response.

Aspects of our response are intended to provide general assurance that we meet the “well-led”, “effective approach to regulation” and “operational delivery” overarching standards. In these sections, we have indicated the specific assessment characteristic(s) to which our response most closely relates – using the format (*Characteristic [•]*) – at the end of each paragraph.

In preparing this response we have taken account of the LSB's Sourcebook of Standards and Characteristics, the LSB's thematic feedback from the 2023 regulatory assessment, and expectations on the regulators set out in a letter from Richard Orpin dated 28 May 2024.

Response to information request

Well-led: *Regulators are well-led with the resources and capability required to work for the public and to meet the regulatory objectives*

Please provide assurance to the LSB on how CLSB demonstrates this standard's characteristics and therefore meets this standard. As part of your response please also answer the specific questions below.

Specific questions

- 1: Please provide an update on the CLSB's annual risk outlook and how it has informed Board activities and decisions.
- 2: Please provide an update on the implementation of the CLSB's new Code of Conduct.

General assurance

1. We were assessed in 2023 as providing sufficient assurance that we meet the well-led standard. The information below updates the information provided last year to explain how we continue to demonstrate the characteristics in the Sourcebook.
2. In 2019 we adopted our first mid-term organisational strategy. In 2023, our board held an annual strategy day at which it evaluated progress and achievements against the strategy and developed a new strategic plan for the period 2024 to 2027 (**E1**), drawing on a variety of evidence sources such as the findings of our 2022 innovation project funded by the Regulators' Pioneer Fund (the 'RPF Project'). The strategy sets out our mission, vision, strategic objectives and indicators of success. (*Characteristic 1*)
3. Each year we develop an annual Business Plan that pursues our mid-term strategy and the regulatory objectives, and also takes into account emerging issues and opportunities for collaboration. Our Business Plans for 2024 and 2025 are available on our website (**E2 and E3**). (*Characteristic 1*)
4. We have a progressive, open and collegiate board that is active in setting and overseeing our organisational direction. We hold four scheduled board meetings a year, including one in-person meeting, plus an annual strategy day. We have achieved a 100% attendance rate at all board meetings consistently for the last five years. Our published agendas, board papers and board minutes (**E4**) demonstrate the breadth and depth of issues considered by the board and the richness of discussion and input on strategic issues. (*Characteristic 2*)
5. The board receives a report at each meeting setting out progress against the annual Business Plan during the previous quarter – examples can be found in each of our published board packs at Item 3.1 (**E5**) – as well as an outline from the executive on proposed priorities for the coming quarter. The board considers on an annual basis

achievement against a published set of KPIs linked to our organisational strategy (**E6**) as well as an Annual Performance Dataset that provides operational statistics by comparison to previous years (**E7**). A report from the executive against these KPIs is also published with our board papers and the discussion is recorded in the minutes (example from January 2024 at **E8**). The board reviews its own culture and effectiveness through an anonymised survey, the results of which are shared with the board for discussion and published with the board papers (example from January 2024 at **E9**). (*Characteristic 2*)

6. Financial data is reported to the board at quarterly meetings, including notes from our Director of Operations to explain any changes to projections for the budget year and seeking approval for any material departures from the agreed budget. We have worked with an accounting consultant to improve our reporting systems over time, to avoid human error and ensure information can be presented to the board in a way that is comprehensive but easy to digest. This has resulted in the development of a bespoke internal system which allows us to automatically generate MI reports from our bookkeeping and budget records for use by the board. Following the LSB's recommendation, we have also engaged an independent firm to audit our accounts in 2025. (*Characteristic 2*)
7. Our governance systems and processes were subject to a comprehensive review in late 2021, with a new Board Governance Policy being introduced in February 2022. This is kept updated through ongoing evaluation and review and has been subject to three rounds of updates so far (current version, version 4, at **E10**). The Board Governance Policy houses a variety of processes and procedures, including the Board Code of Conduct, Board Appointment Policy, Board Performance Appraisal Policy, Board Additional Remuneration Policy and Director Job Descriptions. It also establishes and sets Terms of Reference for the board's Remuneration Committee, which meets annually and determines remuneration against the CLSB's Remuneration Policy (**E11**). Performance reviews for individual board members are carried out annually, with the latest round having been completed in July this year. (*Characteristic 8*)
8. Supporting the Board Governance Policy we have a series of other processes and materials to which the board refers as relevant. These include, for example, a board skills matrix, board appointment letters, our risk register which is reviewed quarterly at board meetings (**E12**), a register of directors' interests which is published on our website (**E13**), various finance policies including the Reserves Policy (**E14**), and so on. (*Characteristic 8*)
9. We have also now completed all actions in the tracker document that we used to ensure implementation of the learnings from the LSB's two well-led reviews (**E15**). (*Characteristic 8*)
10. We have fostered a constructive working relationship with the profession's representative body, the Association of Costs Lawyers (ACL), and now regularly collaborate on areas where the interests of Costs Lawyers, their clients and the public overlap. A recent example is the virtual roundtable on the regulation of costs law

services in Wales that was hosted jointly by ACL, the CLSB and the Welsh Government in October. We have also collaborated extensively this year with ACL and its subsidiary company, ACL Training, on the development of the new apprenticeship standard for Costs Lawyers. (*Characteristic 3*)

11. We collaborate with ACL in a way that is mindful of the Internal Governance Rules (IGRs). We have an MOU and Operating Protocol in place that meets the requirements of the IGRs (**E16**), and the effectiveness of those arrangements is reviewed on an annual basis (most recently in July 2024). We also have systems in place to ensure internal compliance; for example, all staff and contractors are issued with an “IGRs Quick Guide” (**E17**) and we keep an internal log of those who have confirmed they have read and understood the document. Our submission to the LSB in August 2024, in response to the LSB’s request for information about its review of the IGRs, contains further details of how we ensure compliance. (*Characteristic 3*)
12. In relation to transparency, we take the approach of publishing, in a clear and accessible format, all board documents and information other than in narrow and defined exceptional circumstances. Our publication policy is formally housed in our Board Governance Policy (see section 8), but is also published with explanatory text on a dedicated page of our website (**E18**). It summarises the information that we publish, the purpose of publication (i.e. how stakeholders might want to use the information) and when the information will be available. The policy covers the publication of board agendas, board papers, minutes, and the dates of scheduled and extraordinary board meetings. The policy clearly states the circumstances in which we would (exceptionally) redact or withhold information and informs stakeholders of how they can tell whether information has been withheld. We then annotate our published board agendas with letters (A to G) showing where a document has been withheld and why. This gives stakeholders the information necessary to understand – and importantly to challenge, if need be – our rationale for any instances of non-publication. (*Characteristic 5*)
13. Our board materials are published on our website using easy to navigate drop-down menus organised by year (**E19**). For certain types of decisions, such as a significant policy or strategic changes, we will also publish a Board Decision Note alongside the usual board minutes. As well as our board webpages, we have a “strategy and governance” page on which we publish key documents such as our annual business plans, annual budgets, mid-term strategy, performance indicators, consumer outcome commitments and risk register (**E20**). Annual reports of our attainment against KPIs are published with our board papers, as explained above. We also have a webpage where we would publish complaints about the CLSB as a regulator, although we have not had any complaints to date (**E21**). (*Characteristic 5*)
14. We use our annual practising fee consultation as a hook to publish information about our broader work and to ensure accountability for delivery of our annual Business Plan, including through a summary of the benefits achieved via our work in the previous year (most recent example, published with our 2025 practising fee consultation, at **E22**). We also use the practising fee consultation as an opportunity to explain how we use practising fee income and set our annual budget. The budgets for

previous years remain available on our website to facilitate comparison, and we also have a dedicated webpage setting out the cost of regulation, including comparative data from 2012 to the present (**E23**). The webpage provides data about the practising fee, CLSB costs (including senior level remuneration and a copy of our annual accounts), the LSB and Legal Ombudsman levies, and our contribution to Legal Choices. Under priority 11 in our 2025 Business Plan, we will be looking at whether it would be appropriate to allocate resources to compiling this information into a light-touch Annual Report in future years. (*Characteristic 5*)

15. In relation to capacity and capability, given our size we run a flexible resourcing model that suits our needs well. Our board has identified this as a key strength of the organisation and something to be nurtured going forward. We have three core staff members that provide continuity and stability of resourcing, namely the CEO, Director of Policy and Director of Operations. We meet the remainder of our resource needs through a pool of skilled contractors and consultants that we have built-up over many years, ensuring that we have people on hand who understand our business and the regulatory environment in which we operate, and who can support us in areas where our demand ebbs and flows. (*Characteristic 6*)
16. We find that the level of resource required for enforcement can be unpredictable. Like all other areas in which a permanent staff member is not appropriate for us, we manage this by engaging a consultant with extensive skills and expertise in legal disciplinary matters to provide support on an “as needed” basis. Our current arrangement was put in place in December 2021 and works effectively for our needs. We also have a pool of experienced panel members that are available to call on in the event we need to convene a Conduct Committee. They have been recruited in line with our Panel Member Appointment Policy and Code of Conduct (**E24**), and we refresh the commitment of all members annually and update panel members on our activities throughout the year. (*Characteristic 6*)
17. Our staff turnover levels are very low, including at board level where all board leavers over the last five years have served their full permitted terms. As announced in November, our CEO will be stepping down next year after five and a half years with the CLSB, and recruitment for her successor is well underway. The board reviews its own capability against its skills matrix at points of recruitment and regularly considers succession and contingency planning, most recently at its scheduled meeting in July 2024 (as reflected in the minutes at Item 3.3) (**E25**). Where the board has identified that additional skills or expertise are required, but there are no board vacancies, the board appoints specialist advisers who are available on an “on call” basis, such as our education adviser Professor Carl Stychin (**E26**). Our budget setting process, along with a description of how we ensure our business plan priorities are fully resourced, is set out in detail in our annual practising fee application. (*Characteristic 6*)
18. Externally, we have worked hard to develop strong collaborative relationships with our stakeholders and participants in the sector, including at board level. Board members have regular interaction with ACL, for example as panel participants at ACL conferences or through attendance of our non-lay directors at ACL events with their CLSB “hat” on. We hope you share our view that the CLSB’s relationship with the LSB

is positive and constructive, including at board level through Chair meetings as well as periodic board-to-board sessions, which provided an opportunity for wider visibility. *(Characteristic 7)*

19. Historically, horizon scanning at board level was relatively ad hoc, with our non-lay directors providing updates on market developments at scheduled meetings or by email, and our lay directors bringing comparative expertise from other sectors. We wanted to put this on a more formal footing and considered how we might do so as part of the risk review we undertook in late 2022. Through that project, we developed a more systematic approach to horizon scanning and the collection of market intelligence, culminating in our first Annual Risk Outlook published in May 2023. More information about our second Annual Risk Outlook, published in May 2024, is provided below in response to question 1. *(Characteristic 7)*
20. More information about understanding the needs of consumers and the public interest *(Characteristic 4)* is set out below in addressing the “effective approach to regulation” standard, where we talk more about our research and evidence base.

Question 1: CLSB’s Annual Risk Outlook

21. As mentioned above, we undertook a wholesale review of our approach to risk in late 2022, culminating in the adoption of a new risk register in March 2023 (**E12**) and the publication of our first Annual Risk Outlook for the profession in May. We drew on learnings from our own work to do this – particularly the findings of our RPF Project – and combined these with the learnings of others through a comprehensive desk research exercise. The Annual Risk Outlook serves the dual purpose of informing the board’s consideration of risks to the regulatory objectives on the one hand, and sharing intelligence with our regulated community to help them identify and manage risks within their own practices (and thus to their clients) on the other.
22. Priority 5 in our Business Plan for 2024 related to publishing our second Annual Risk Outlook during the course of this year. We commissioned horizon scanning research to inform this exercise in Q1. The research was carried out by consultancy Hook Tangaza and canvassed the risks that had changed or emerged during 2023/early 2024, since the first Annual Risk Outlook was published (**E27**). The research was analysed to produce the 2024 Annual Risk Outlook (**E28**), which was approved by the board in April. This builds on the 2023 version, highlighting new developments and considering what they mean for Costs Lawyers.
23. The CLSB has used the Annual Risk Outlook and the research that underlies it in a number of ways during 2024, including:
- By the board, at its scheduled meeting in April 2024, to review and update the CLSB’s risk register (as reflected in the minutes at Items 6.1 and 6.2) (**E29**).
 - To inform our business planning for 2025 in order to address emerging risks (see for example priority 4 on creating additional materials for the Ethics Hub in response to emerging risks) (**E3**).
 - To inform the questions addressed through our deep-dive project on Costs

Lawyers, technology and regulation (see question 8 below).

- To raise awareness of emerging risks with our regulated community, including through giving the Annual Risk Outlook a new home in the Ethics Hub under a resource page entitled “Managing risks to your clients” (**E30**).

Question 2: Implementation of the new Code of Conduct

24. The new Costs Lawyer Code of Conduct came into force in April 2024, following LSB approval on 21 March (**E31**). The updated Code ensures the CLSB’s requirements for professionalism remain in line with the expectations of clients, employers and the courts. It also enshrines independence as a core ethical principle within the profession for the first time.
25. We updated our guidance notes that accompany the Code of Conduct in April 2024, including our guidance notes on economic crime, conflicts of interest, continuing professional development, dealing with consumers, handling client money, referral arrangements and more. All guidance notes are published in the Costs Lawyer Handbook (**E32**).
26. When we consulted on changes to the Code of Conduct in late 2023, we asked our Advisory Panel of Costs Lawyers what supporting resources the profession was likely to find useful. The most popular response was the publication of “ethical scenarios”, sometimes referred to as ethical dilemmas, to help practitioners navigate common ethical challenges they might encounter in their working life. Based on this feedback, we launched a new Ethics Hub in June to house the ethical scenarios and support engagement with the revised Code of Conduct (**E33**).
27. Since then, the Ethics Hub has expanded to be our primary portal for resources and material touching on issues of professional ethics. The Ethics Hub is intended to help Costs Lawyers navigate common ethical challenges in their professional life, and to help them engage with - and reflect on - what it means to uphold high professional standards. It brings the new Costs Lawyer Code of Conduct to life in a practical way.
28. The ethical scenarios are hypothetical but are informed by learnings from enquiries and complaints received by the CLSB. They cover areas such as:
- “you are asked to handle your client’s money”
 - “you notice signs of possible economic crime”
 - “your client asks you to do something unprofessional”
 - “the interests of your clients conflict with each other”
 - “the person you’re supervising does something wrong”
 - “your instructing solicitor makes an error”
29. The Ethics Hub also houses new resources relating to professional ethics and conduct. These resources are intended to help Costs Lawyers consider appropriate steps to take when faced with a situation that raises ethical concerns. Advice in the Ethics Hub covers topics such as:
- Costs Lawyers and the rule of law
 - reporting ethical issues

- economic crime
- balancing the interests of your ultimate client and your professional client
- managing risks to your clients
- learnings from the Post Office Horizon scandal
- ethical duties when presenting information to the court

This month, we published new advice in the Ethics Hub on equality, diversity and inclusion (EDI), tackling bullying and harassment, addressing pay gaps in the workplace, and whistleblowing.

30. Accompanying the launch of the Ethics Hub, our June 2024 Spotlight blog featured a guest post by Professor Stephen Vaughan, Professor Richard Moorhead and Kenta Tsuda on professional ethics and the rule of law (**E34**). The post discussed the centrality of the rule of law to costs work, what it means for Costs Lawyers to uphold the rule of law, and translating the rule of law into everyday practice.
31. To help embed the Code of Conduct into training and qualification for Costs Lawyers, the CLSB now delivers the face to face element of ACL Training's module on professional ethics and standards for year 2 students on the Costs Lawyer Professional Qualification. This includes a presentation on professional ethics and the Code of Conduct, followed by development and facilitation of ethical scenarios in small groups. This content was delivered for the first time in 2024 and received very positive feedback.
32. The CLSB also delivered a presentation on the new Code of Conduct at the Association of Costs Lawyers' Annual Conference on 11 October. The presentation generated positive engagement, including follow up discussions with leaders and managers in the profession, several reports of potentially unethical conduct from practitioners, and suggestions for additional content in the Ethics Hub that we have already started to work up. We are using Google Analytics to track engagement with the Ethics Hub over time, to help us assess the impact of these communication touchpoints.

Transparency – LSB letter of 28 May 2024

33. We note that Richard Orpin's letter of 28 May 2024 explained the LSB's expectations for regulators around transparency. While there is no specific question in the information request relating to the expectations in Richard's letter, we see that paragraph 5 of the information request states that the LSB looks forward to receiving our assurance on this issue. We will therefore address the matters raised in the letter here for completeness.
34. Following receipt of the letter, our executive prepared a gap analysis for the board comparing the CLSB's governance practices to the expectations in the letter. The executive recommended changes to the CLSB's processes in three areas to ensure compliance with the expectations, namely:
- seeking board approval by email for all consultation documents and consultation outcome reports, regardless of whether the board has already approved the

substantive content of the consultation, and minuting the board's decision at its next scheduled meeting;

- publishing minutes of Remuneration Committee meetings;
- publishing the full versions of non-confidential, formal responses to consultations that are received from organisations.

The board discussed the gap analysis in detail at its scheduled meeting in July 2024 and approved the recommendations (as reflected in the minutes at Item 8.2 (**E25**)).

35. The gap analysis was updated following the board meeting to reflect the board's adoption of the recommendations (**E35**). This document now provides a map of the CLSB's compliance with each of the expectations in Richard's letter.

36. The recommendations have been put into practice since July. By way of example:

- Minutes of past Remuneration Committee meetings are now available on our website (**E4**).
- In response to our consultation about the 2025 practising fee for Costs Lawyers we received a unanimously supportive response to our proposals from the profession. Previously, this would have meant that the CLSB executive would not seek the board's further consent before applying to the LSB for approval of the proposed fee. This year, the board was consulted by email and approved the executive's recommendation to proceed as planned, based on the consultation outcome. That decision was then recorded in the minutes of the board's next scheduled meeting, in October 2024 (see Item 5.2 (**E36**)).
- Our policy statement setting out our approach to consultation has been updated to reflect the changes (**E37**).

Effective approach to regulation: *Regulators act on behalf of the public to apply their knowledge to identify opportunities and address risks to meeting the regulatory objectives*

Please provide assurance to the LSB on how CLSB demonstrates this standard's characteristics and therefore meets this standard. As part of your response please also answer the specific questions below.

Specific questions

3: Please provide an update on how you are meeting the outcomes of the ongoing competence policy statement and your plans for evaluating the effectiveness of the measures you have taken and continue to take.

4: How does the CLSB ensure its regulatory and sectoral risk assessment activities are effective and contribute to the development of its regulatory approach? How does it ensure it has sufficient capacity and capability to carry them out? What steps has it taken, if any, to review its risk identification and assessment practices based on cases and events it and other regulators have encountered?

5: Please describe how during the assessment period CLSB has:

- Sought to understand the needs of consumers and the public
- Engaged with consumers, the public and interested stakeholders (including hard-to-reach groups)
- Taken account of information gathered from this engagement in:
 - o Identifying risks to consumers and the regulatory objectives
 - o Revising its regulatory approach and practices
 - o Carrying out its regulatory activities

6: Please provide an update on the CLSB's long-term communication strategy.

7: Please provide an overview of the work CLSB has carried out in relation to diversity and inclusion since January 2024, and any next steps resulting from this work.

8: Please provide an update on the CLSB's work to encourage innovation and the adoption of innovative approaches amongst costs lawyers.

9: Please provide an overview of the work the CLSB has undertaken to understand poor client outcomes in unregulated parts of the market.

General assurance

37. We were assessed in 2023 as providing sufficient assurance that we meet the effective approach to regulation standard. The information below updates the information provided last year to explain how we continue to demonstrate the characteristics in the Sourcebook.
38. Historically the CLSB has had a modest research budget due to our size, and has relied on finding creative ways to leverage publicly available sources and research undertaken by larger regulators to inform our work. In 2021 we received a substantial grant from the Regulators' Pioneer Fund – which supports projects to foster innovation by regulatory bodies or their regulated communities – to conduct a research project looking at how Costs Lawyers can impact the cost of legal services (**E38**). That work grew our evidence base significantly and we were able to gather data on a wide range of issues under the auspices of the project. The evidence we generated has informed a number of priority workstreams in our 2023, 2024 and 2025 Business Plans, as well as the overall direction of travel established by our new mid-term strategy that will see us through to 2027. (*Characteristics 9, 10, 13*)
39. We also used the findings of the RPF Project to inform a wholesale review of our approach to risk in late 2022, combining the findings with a variety of other evidence sources (as described above at paragraphs 19 and 21). This culminated in the adoption of a new risk register in March 2023, the publication of our first Annual Risk Outlook for the profession in May 2023 and the second Annual Risk Outlook in May 2024. Our risk register sets out how our work programme is designed to tackle the identified risks through the priority activities in our annual Business Plans and other key initiatives undertaken throughout the year (see in particular section C of the risk register at **E12**). (*Characteristics 9 and 10*)
40. We regularly engage directly with stakeholders to gather evidence on specific issues, market developments and proposed regulatory interventions as the need arises. We have an Advisory Panel comprised of Costs Lawyers from a range of practising types and specialisms, which we consult on topical issues. Paragraph 26 above, relating to implementation of the new Code of Conduct, provides an example of how we use the Advisory Panel to help inform our work. (*Characteristics 9 and 10*)
41. One area where we have identified a need for a more systematic approach is in coordinating engagement and communication with different stakeholder groups. To address this, priority 3 in our 2024 Business Plan (**E2**) is to: “*Develop and begin to implement a comprehensive, long-term communications strategy, aimed at supporting each of the five strategic goals in our new mid-term organisational strategy in a cohesive and systematic way*”. This project was undertaken throughout 2024, culminating in the adoption of a new communications strategy in October (see below under question 6). Work on implementing the strategy is now underway and is reflected in our Business Plan priorities for 2025. (*Characteristics 9 and 10*)
42. We collect a wide variety of data from our regulated community on an annual basis

through a regulatory return, which is integrated into our online practising certificate renewal application. The return captures information such as the level of insurance a practitioner holds, the type of clients they act for, the type of work they do and where their instructions come from, amongst other things. This data is stored in our internal database allowing us to run targeted reports, including comparative reports across different groups within the profession. We also ask Costs Lawyers annually whether they perceive the CLSB to be an effective regulator and provide a free-text box for comments on our performance. (*Characteristic 12*)

43. We publish the data we hold about Costs Lawyers on a dedicated webpage entitled “Reports and research” (**E39**). This includes diversity data, key survey data, an annual report compiling the regulatory return data with comparative statistics for previous years, and major research project reports. (*Characteristic 12*)
44. We use a variety of regulatory levers to promote the regulatory objectives across all of our work. An example of how we have combined a range of levers is in the implementation of our new regulatory framework for qualifying as a Costs Lawyer. The framework is rooted in formal regulatory arrangements, specifically the new Training Rules. Those Rules are then supported by a suite of guidance materials, collated in the Accredited Study Provider Scheme Handbook, including formal requirements and criteria, processes and procedures, and good practice suggestions (such as the Assessment Guidance). We then rely on contractual obligations, found primarily in the standard-form Accreditation Agreement, to safeguard our ability to intervene if our objectives are not being met. Template materials for demonstrating Qualifying Experience, including worked examples, are provided to assist students in complying with formal requirements, supported by extensive FAQs on topical issues. Early communication with students – through our participation in the course induction day and webinars – seeks to encourage best practice and influence students’ perception of the purpose of Qualifying Experience and the opportunities it can bring. This aims to create a wholistic package of formal and informal mechanisms for promoting high standards of competency and ethics through the path to qualification. The materials mentioned above are all available on our website (**E40**). (*Characteristic 11*)
45. We have a programme of evaluation and review for our core regulatory arrangements, and we use these touchpoints to make improvements based on learnings from our work. For example, we made wholesale changes to our Disciplinary Rules and Procedures in 2020 and have carried out scheduled evaluations of those changes every two years, so in 2022 and 2024 (**E41**). This has allowed us to address inconsistencies in the way our processes interacted with the Legal Ombudsman’s scheme rules, to put in place additional supporting materials for practitioners and to improve board reporting on complaints, amongst other things. (*Characteristic 11*)
46. We also review and update our regulatory interventions outside of scheduled reviews where learnings from our work suggest this is warranted. For example, in the first half of 2024 we carried out a disciplinary investigation in relation to a Costs Lawyer who had failed to fulfil a professional undertaking. We received two further enquiries about the operation of undertakings across the same timeframe. We reviewed our guidance

for Costs Lawyers in response to this and concluded that additional material was warranted. In response, we developed a new guidance note on giving professional undertakings, which was published in July 2024 (**E42**). (*Characteristic 11*)

47. In relation to diversity, we have internal policies and processes to help us lead by example. These include an internal Equality and Diversity Policy, which dates from 2019 but which was reviewed for currency when we introduced our new Employee Handbook in October 2022 (**E43**). We use a standard candidate diversity survey that all applicants for any CLSB role must complete and we use the results of those surveys to inform our recruitment practices (most recent example at **E44**). Our website includes an EDI webpage (**E45**) that explains our role in diversity matters and what we expect of Costs Lawyers, as well as resources to encourage good practice such as our Business Case for Diversity. We have also embedded EDI material in our Ethics Hub to position it as a professional ethics issue. We participate in sector-wide initiatives relating to diversity where the opportunity arises, with participation in the regulators' EDI Forum as our key touchpoint. (*Characteristics 14 and 15*)

48. In relation to promoting diversity within our regulated community, we have EDI strategic priorities that are considered and approved by the board alongside our annual Business Plan, and our Business Plans always contain at least one initiative targeted specifically at this regulatory objective. Diversity is also one of the key metrics in our policy statement on good consumer outcomes (**E46**), to which our Business Plan priorities are linked. (*Characteristics 14 and 15*)

49. Every three years we run a whole-of-professional general diversity survey. This was last carried out in 2023 and a report analysing the survey data is published on our website (**E47**). We have taken the approach of identifying discrete, tangible EDI issues that our general survey evidence suggests are most relevant to our regulated community, gathering more in-depth data on those issues and then designing interventions based on our findings. Our first two areas of focus have been: (i) pay gaps; and (ii) social mobility. These were the subject of whole-of-profession surveys, and reports of the findings are published on our website (**E48** and **E49**). Examples of our follow-up work in these areas include:

- A successful online event in collaboration with ACL and KE Costs on “Driving Social Mobility in Costs”, which sparked the work we are doing to open up an apprenticeship route to qualifying as a Costs Lawyer (more information on this work is set out under question 11 below).
- Publication of practical guidance on addressing pay gaps, which we are promoting in partnership with Women in Costs (**E50**).

In 2025, our EDI focus will be on capturing lived experience of different groups within the profession. A survey to kick-off this workstream is currently live and practitioners are encouraged to complete it alongside their practising certificate renewal application for 2025 (**E51**). (*Characteristics 14 and 15*)

Question 3: Ongoing competence policy statement

50. Our first submission to the LSB on ongoing competence, dated 24 January 2023, sets out our initial gap analysis for compliance with the policy statement (**E52**). That document provides assurance on how we comply with most aspects of the statement, and then describes the two workstreams that were needed to bring us into full compliance. The first workstream involved developing an additional section in our policy statement on enforcement and sanctions to cover competency issues, setting out how those issues will be treated in a disciplinary context. This was implemented in 2023; the new text appears under the heading “Approach to enforcement relating to competency” on pages 6 to 10 of our policy statement (**E53**).
51. The second workstream involved the development of a new Ongoing Competency Framework, which builds on our existing Competency Statement (which applies at the point of authorisation) to look at competency throughout a Costs Lawyer’s career. At the time of our last update to the LSB, in July 2023, we had presented a first draft of the Ongoing Competency Framework to our board. We carried out stakeholder engagement on the Framework in the second half of 2023, including by convening a reference group of Costs Lawyers from different practice areas and levels of seniority to provide feedback as drafting progressed. The final version of the Ongoing Competency Framework was approved by the board in January this year and came into effect on 1 March (**E54**).
52. The Ongoing Competency Framework is now housed on our CPD webpage, and has been integrated into our CPD guidance, resources and template documents. For example, our template for planning and recording CPD (**E55**) now includes a section that asks practitioners to self-identify as an experienced practitioner, a people manager and/or a business manager, mirroring the three career milestones used in the Ongoing Competency Framework. Where a practitioner selects one or more of these categories, the template directs them to consider the skills in the Ongoing Competency Framework when setting their CPD objectives for the year.
53. Full CPD records are requested from Costs Lawyers who are selected for audit each year. From the 2025 audit onward, this will allow us to assess whether practitioners are engaging with the self-identification mechanism described above and then applying the Ongoing Competency Framework as intended. This will form the basis of our evaluation activities for the next two years. Based on learnings from the next two audits, we will then consider whether any further activity is required to embed the Ongoing Competency Framework in order to meet the objectives of the LSB’s policy statement.

Question 4: Risk identification and assessment activities

54. Our risk identification and assessment activities are described at paragraphs 21 to 23 and 39 above, and primarily involve:
- a new approach to risk assessment adopted in 2023 based on detailed market analysis;

- implementation of risk mitigation strategies through our annual Business Plan priorities, as documented in the internal risk register (section C);
- quarterly review and adjustment of our internal risk register by the board at its scheduled meetings;
- publication and use of our Annual Risk Outlook and the horizon scanning research that sits behind it.

We also use themes and learnings from complaints and enquiries to identify and address emerging risks, as described further at paragraph 111 below.

55. We consider this activity proportionate to the relatively low risk profile of our regulated community. That profile derives from factors such as the prohibition against Costs Lawyers handling client money and the very limited number of instructions that Costs Lawyers receive directly from individual consumers.

56. We also take steps to understand, analyse and, if appropriate, respond to risks that arise in other parts of the sector that have the potential to impact Costs Lawyers and their clients. By way of illustration, two recent examples are:

- The Post Office Horizon scandal – While there were no Costs Lawyers implicated in the scandal, many Costs Lawyers conduct advocacy on behalf of their clients and there is a small cohort of Costs Lawyers who work in-house. We have therefore drawn analogies from the learnings for solicitors and barristers arising from the scandal and applied these to Costs Lawyers. We have created resources in the Ethics Hub on the following topics, directly addressing relevant risks:

Learnings from the Post Office Horizon scandal (**E56**);
 Ethical duties when presenting information to the court (**E57**);
 Whistleblowing (**E58**);
 Costs Lawyers and the rule of law (**E59**).

- The Axiom Ince collapse – Earlier this year we began to consider whether the factors that led to the Axiom insolvency could also give rise to risks in our part of the sector. While Costs Lawyers do not handle client money, which negates many of the relevant risks, there has been an increase in market consolidation and acquisitiveness in the past 12 to 18 months. At its July meeting, when carrying out its quarterly review of the risk register, the board was presented with statistics on recent acquisition activity and discussed the potential ramifications for the market (as reflected in the minutes at Item 6.1 (**E25**)). The risks canvassed by the board included: (i) conflicts of interest that could undermine the regulatory objectives relating to market competition and consumer interest; and (ii) increasing concentration of employment which could undermine the regulatory objective of promoting a strong, diverse and effective profession. The data suggested there was no immediate threat and the board agreed to keep a watching brief. The board is due to consider the LSB's report on the SRA's handling of the Axiom Ince collapse, which was published recently, at its December meeting.

Question 5: Engagement with consumers

57. As the LSB is aware, Costs Lawyers have very limited direct interaction with consumers. Statistics on the proportion of Costs Lawyers' instructions that come from consumers are set out in our response to the LSB's information request on compliance with its policy statement on empowering consumers (see page 5) (**E60**). Overall, of the expected total workload of all regulated Costs Lawyers in 2023, just 0.7% was anticipated to come from direct consumer instructions.
58. This makes engaging directly with end consumers of Costs Lawyers' services very difficult. From prior experience of the CLSB, LSB and Legal Services Consumer Panel, we know that general population surveys – including surveys specifically targeting users of legal services – have never unearthed a respondent who has used a Costs Lawyer.
59. Our main efforts in this area over the last year have therefore focused on the following:
- Implementation of the LSB's policy statement on empowering consumers. Our work in this area, including to segment and target those Costs Lawyers who do provide services directly to consumers from time to time, is set out in detail in our recent compliance submission (**E60**). Our new website hub on dealing with consumers (**E61**) was developed for us by a former executive director of the CMA, to ensure we captured general consumer protection principles and the CMA's extensive body of research about the needs of consumers in professional services sectors.
 - We have updated our Client Survey (**E62**) to gather additional information from lay client respondents. We have promoted the Client Survey with the cohort of Costs Lawyers who market or provide services directly to consumers.
 - We continue to engage with the Legal Services Consumer Panel and draw insights from their research insofar as they can be applied to our part of the sector. The Chair of the Panel attended our October board meeting to discuss overlap between the Panel's priorities and our own, and possible areas for collaboration (see Item 1.3 of the meeting minutes (**E36**)). The Panel has agreed to work with us to review the questions asked in its tracker survey to see if we can garner any additional information about the experience of consumers with costs issues.
 - We draw analogies from research carried out with consumers by other bodies to inform our own regulatory interventions. For example, our recent report entitled "Costs Lawyers, technology and regulation" (**E63**) draws on existing consumer research to consider how technology and AI can be used to grow consumer-facing activity amongst Costs Lawyers and costs law firms. This produced four recommended areas of regulatory activity relating to improving outcomes for consumers (see activity areas ii), iv), v) and viii) on pages 43 to 44 of the report).
 - We ensure our policy statement on good consumer outcomes (**E46**) is at the centre of our strategic and business planning. As in previous years, our 2025 Business Plan (**E3**) demonstrates how each of our annual priorities supports the promotion of one or more of the consumer outcomes in the policy statement.

Question 6: Communications strategy

60. We began this project in January, with the board articulating the purpose and scope of the strategy (see the paper for Item 3.3 at the board's January meeting and the associated minutes, also at Item 3.3 (E4)). Following that discussion, the board considered a series of risk appetite statements relating to communication risks, and final versions of the appetite statements were approved by the board in July (E64).
61. We appointed a communications consultancy to assist with the project in Q2. At our board strategy day in July, the board held a session with the consultancy to workshop various aspects of the project and agree key messages.
62. Based on that session, the consultancy worked with the executive during Q3 to develop a communications strategy that is tailored to the CLSB's size, strategic objectives and key audiences (E65). The strategy was considered and approved by the board at its scheduled meeting in October (as reflected in the minutes at Item 3.2 (E36)). The year 1 activities set out in the strategy will be delivered next year under priority 1 in our 2025 Business Plan.

Question 7: Diversity and inclusion work since January 2024

63. Our overall approach to EDI is described in paragraphs 47 to 49 above. We set out below our priority workstreams for 2024, which contribute to our ongoing EDI strategy.

Gathering and publishing data

64. We published our latest diversity report – Costs Lawyers: Diversity in the Profession 2023 – in January 2024 (E66). That report provides data on protected characteristics and other aspects of diversity, such as socio-economic background and caring responsibilities, and comparative data for other legal professions and the UK population.
65. Our next diversity survey is currently live alongside the practising certificate renewal process for 2025 and focuses on career pathways (E51). This is the start of a wider project to support Costs Lawyers from all backgrounds into, and through, successful careers. Data from the survey will help us to understand the different paths that led individuals to a career in costs law, and what more could be done to support different groups in the costs law profession as well as future generations. The survey will provide the quantitative data to support our key EDI priority in our 2025 Business Plan, which involves undertaking qualitative research into the lived career experience of under-represented groups of Costs Lawyers.

New resources

66. Principle 6 of the new Code of Conduct requires Costs Lawyers to treat everyone fairly and equitably, and with dignity and respect. This includes their clients, colleagues and third parties. In 2024, we developed three new topic notes on equality, diversity and inclusion-related issues that have been published in the Ethics Hub to support Costs Lawyers in meeting this obligation. These topic notes cover the following subjects:

- Addressing pay gaps (**E67**)
This topic note was informed by a previous issue-based diversity survey that suggested a significant gender pay gap may exist amongst Costs Lawyers. The content encourages practitioners to address the issue in their workplace, and provides practical advice for doing so. We are working with partners, including Women in Costs, to promote this content to relevant audiences.
- Equality, diversity and inclusion (**E68**)
This topic note sits alongside the CLSB's published Equality and Diversity Statement and its report on the Business Case for Diversity. It provides the profession with additional, practical advice on promoting EDI.
- Bullying and harassment (**E69**)
This topic note sets out Costs Lawyers' obligations in this area and provides information about what to do if they are being bullied or harassed themselves, or they witness another person being bullied or harassed. It also contains advice for employers on identifying and dealing with bullying and harassment in their organisation. This is a topical EDI issue and supports the CLSB's commitment to the regulators' joint statement on counter-inclusive behaviour.

Projects

67. In addition to the above, two projects have been central to our EDI strategy in 2024, namely (i) expanding eligibility for judicial roles to include Costs Lawyers; and (ii) supporting the profession in Wales.
68. Eligibility for judicial roles was historically limited to solicitors and barristers. In 2008 and 2013, eligibility for certain judicial roles was extended to Chartered Legal Executives and, in June 2023, expanded further to enable Chartered Legal Executives to become Recorders and Upper Tribunal judges. In 2014, registered patent attorneys and registered trade mark attorneys became eligible to apply for specific roles relating to their expertise.
69. The CLSB is working with the Ministry of Justice to have the current statutory eligibility requirements for judicial appointment expanded to include Costs Lawyers. This would help to achieve the objective – shared by the Ministry of Justice and Judicial Appointments Commission – of improving judicial diversity. Our comparative data shows that the Costs Lawyer profession is more diverse than the solicitor profession across a range of characteristics (**E66**), with the potential for that diversity profile to be drawn through to the judiciary if eligibility was expanded.
70. During 2024, we compiled evidence to support the case for making Costs Lawyers eligible. We ran a survey of the profession to gauge Costs Lawyers' interest in judicial appointment, as requested by the MoJ, in January 2024. Using the survey information and our profile of the profession (including our diversity data), we developed an evidence submission that sets out the case for change (**E70**). This submission was presented to the MoJ in May. Given that expanding judicial eligibility will require

ministerial agreement and legislative amendment, there are several steps in the process that need to be completed. We are working with colleagues at the MoJ and ACL to take this project forward, though the timetable has understandably been affected by the recent change of government.

71. In relation to supporting the profession in Wales, in October the CLSB convened an online roundtable with Costs Lawyers to discuss the legal landscape in Wales, in collaboration with the Welsh Government. The aim of the roundtable was to develop a greater understanding of the Welsh costs law landscape, in order to identify opportunities, regulatory barriers, and areas where the CLSB, ACL and Welsh Government could collaborate to support the regulated costs profession and legal consumers in Wales. It was a positive and constructive meeting with Costs Lawyers from a range of locations and practice areas. Topics discussed included how to address unmet legal need in Wales, promoting the Costs Lawyer profession in Wales, and cross-border working between Wales and England.
72. The roundtable is part of the CLSB's ongoing work to gain a deeper understanding of the regulated costs landscape in Wales and our initial findings have been shared with the Legal Regulators in Wales Forum. We envisage that the roundtable will be the start of a series of discussions looking at opportunities, barriers, and areas where stakeholders can collaborate going forward. This work will also help us capture the experience of Welsh lawyers in our career pathways work looking at under-represented groups in 2025.

Question 8: Work to encourage innovation

73. The CLSB's policy statement on good consumer outcomes (**E46**) identifies innovation as one of seven key categories of client outcomes that are important to us. The outcomes we want to see are that consumers benefit from innovative ways to supply services, and that innovation reduces prices and drives up quality and accessibility. This aligns with the LSB's aim of ensuring that technology and innovation are used to support improved access to legal services and address unmet need. Our second Annual Risk Outlook (**E28**) also identified several trends relating to the use of technology that are likely to have an impact on Costs Lawyers in the near future.
74. The policy statement, Annual Risk Outlook, and publication of the LSB's guidance on promoting technology and innovation to improve access to legal services, make the use of technology and AI in the legal costs sector a key strand of our work on how the regulation of Costs Lawyers should evolve into the future. The aims of this strand are to ensure Costs Lawyers have a robust and clear framework for using technology in their work that does not create inadvertent barriers, and to raise awareness of the regulatory risks of using technology.
75. In May 2024, we commissioned a research project to help us better understand the following issues:
- What, if any, changes there have been in how Costs Lawyers are using technology and AI since the RPF Project in 2022.

- New opportunities that might have emerged since the RPF Project – or which might emerge in the future for Costs Lawyers – related to technology and AI.
- Emerging risks from technology and AI facing Costs Lawyers.
- Barriers to Costs Lawyers making greater use of technology and AI.
- Whether there are differences in how the unregulated costs sector/other areas of the market are using technology and AI compared to regulated Costs Lawyers.
- Anything additional that the CLSB might need to do to comply with the LSB's guidance; for example, any gaps in our regulatory framework or potential barriers that we need to address.

76. The findings are set out in a final report, entitled “Costs Lawyers, technology and regulation”, which was published in October (**E63**). Some notable findings include:

- Costs Lawyers are broadly optimistic about the potential impact of technology on their work. Use of software such as CostsMaster, Proclaim and other case management software is commonplace, and there is potential scope for AI to play a bigger role in automating routine tasks, eliminating manual data entry, speeding up legal research and providing predictive insights.
- Respondents identified training on technology issues as a high priority.
- Barriers to greater adoption and dissemination of technology include concerns over regulatory compliance, the cost of technology investment, and making the business case for technology investment in the costs sector.
- The availability of appropriate tools is a major barrier to greater use of technology. There is a growing number of individual developers in the market with AI capability who may be able to run low-cost projects to help costs law firms find solutions to their individual issues. However, the level of awareness of what is needed and what is possible on both sides is currently low.

77. The report makes 15 recommendations and identifies 8 priority actions that the CLSB could take to help Costs Lawyers increase their take-up of AI and other new technologies. These priority actions include using competency and CPD requirements to encourage Costs Lawyers to stay up to date with developments in technology, providing guidance on the ethical issues of using AI, and emphasising cyber security as an area of risk. Our board adopted the recommendations at its October meeting (as reflected in the minutes at Item 7.3 (**E36**)). We are now developing an action plan for taking the recommendations forward, which will be shared with the board for approval in December.

78. Given the emphasis on training and upskilling in the report's recommendations, in summer 2024 we took the opportunity to apply for a modest DSIT grant under a pilot programme to fund AI training for small businesses. Our bid was unsuccessful but we are now considering other ways in which we could fund this training independently. Options will be put to the board for consideration in December.

79. For completeness, we note that the CLSB suggested developing a Technology Forum in its response to the LSB's consultation on promoting technology and innovation. We were pleased to see that the LSB has established such a forum, given the appetite for this among legal regulators, and we look forward to participating in it going forward.

Question 9: Poor client outcomes in the unregulated part of the market

80. We carried out work in Q2 of this year to compile all the data held by the CLSB relating to complaints about unregulated providers of costs services. A report setting out the findings of that review was provided to the board at its July meeting (see Item 7.3 in the board papers for that meeting **(E71)**).
81. While the number of complaints we receive about unregulated providers is high as a proportion of overall complaints, the number of examples in absolute terms remains relatively small. When we isolate complaints for which we have sufficient information to adequately describe the consumer outcome, the pool is even smaller. We were able to identify five case studies that give a feel for the issues we are seeing in the unregulated part of the market. These are summarised in the board report.
82. The board considered whether this evidence was sufficient to take proactive steps to highlight poor consumer outcomes, or whether the evidence remained too anecdotal / circumstantial at this stage. The board considered options including publishing anonymised case studies, sharing information with ACL and/or using the evidence reactively (for example, in response to consultations) while continuing to build the evidence base (as reflected in the minutes at Item 7.3 **(E25)**).
83. The board agreed that proactive publication was not appropriate at this stage, but that the CLSB should continue to collate data of the kind set out in the report for use once more evidence was available. Where possible and appropriate, sufficient information should be sought from complainants to build meaningful case studies.
84. The board discussed the unsatisfactory position of not being able to help complainants find a resolution when they experienced a poor outcome in the unregulated part of the market and the damage this caused to the reputation of CLSB, Costs Lawyers and the legal sector generally. Options for providing assistance and advice were discussed, and it was agreed that for complaints where no signposting was available at all, complainants should be encouraged to write to their local MP about their experience under the existing regulatory framework to help build the case for change.
85. Following this review and the board's feedback, we have improved the way we track and record enquiries about unregulated providers so that, in time, we can develop a better overall picture. We have received two further complaints about unregulated costs advisers since July and have actioned this new approach. In one case, an SRA regulated firm was also involved in the conduct and we have referred the matter to them.

86. In the meantime, we have developed new guidance for unregulated costs law firms, published in October, which will go some way to addressing consumer outcomes in the unregulated part of the market (**E72**). We will use the regulated Costs Lawyers working in those unregulated organisations to help us disseminate information about good practice and to help build our evidence base around poor consumer outcomes.

Operational delivery: Regulators' operational activity (eg education and training, authorisation, supervision, enforcement) is effective and clearly focused on the public interest.

Please provide assurance to the LSB on how CLSB demonstrates this standard's characteristics and therefore meets this standard. As part of your response please also answer the specific questions below.

Specific questions

Education and training

10: Please share an overview on the implementation of the CLSB's new Costs Lawyer Professional Qualification and Ongoing Competency Framework, including any themes identified during their first year of implementation.

Authorisation

11: Please provide an update on the potential apprenticeship route to qualification.

General assurance

87. Information about how to qualify as a Costs Lawyer is published on a dedicated page of our website (**E73**). The material covers qualification requirements, the CLSB's role (as distinct from the training provider's role), links to key resources, and extensive material on the new regime for Qualifying Experience. We do not provide information about choosing a training provider because there is currently only one provider delivering the Costs Lawyer Professional Qualification, namely ACL Training. However we do explain ACL Training's role as a provider and link to the relevant section of their website. (*Characteristic 16*)

88. Entry-point and ongoing practising requirements are published in our Training Rules and Practising Rules respectively (**E74** and **E75**). Under the Training Rules, in order to qualify as a Costs Lawyer, a practitioner must: (i) have successfully completed the Costs Lawyer Professional Qualification; and (ii) have completed, or be currently undertaking, two years of Qualifying Experience. (*Characteristic 16*)

89. ACL Training is accredited by the CLSB to deliver the Costs Lawyer Professional Qualification. The framework for accreditation is found in our Accredited Study Provider Scheme Handbook (**E76**). This includes information about the accreditation process, a comprehensive set of Accredited Study Provider Requirements, a template Accreditation Agreement, template forms for annual monitoring of course delivery, and the Assessment Outcomes and Assessment Guidance for the qualification. In line

with the processes in the Scheme Handbook, we carry out a major validation event every four years – most recently in 2023 – supplemented by annual monitoring in the intervening years. More information about the current annual monitoring process is set out below under question 10. (*Characteristic 16*)

90. Decisions in relation to accreditation of the training provider, including the imposition of conditions or recommendations during annual monitoring, are taken by the CLSB's Accreditation Panel. This is comprised of an independent chair, a CLSB board member and the CLSB's CEO. The processes in the Scheme Handbook make up our programme of quality assurance for delivery of the qualification. (*Characteristic 16*)

91. The purpose of the Costs Lawyer Professional Qualification is to ready a learner for practising as a Costs Lawyer and, through assessment, satisfy the CLSB that the learner has demonstrated the competencies in the Costs Lawyer Competency Statement (**E77**). The CLSB gains assurance of the competency of all learners by setting Assessment Outcomes (Annex 6 of the Scheme Handbook), which are linked to the knowledge and skill areas in the Competency Statement. Accredited Study Providers must design assessments for the Costs Lawyer Professional Qualification that meet the Assessment Outcomes. This is reflected in criterion 7.1 of the Accredited Study Provider Requirements. In this way, learners who pass the assessments, and complete the Costs Lawyer Professional Qualification, will have demonstrated that they meet the standards in the Competency Statement and are thus ready for authorisation. (*Characteristic 16*)

92. The purpose of Qualifying Experience is to ensure that all qualifying Costs Lawyers have the support, mentorship and oversight needed to meet the standards in the Competency Statement in a day-to-day working environment (Training Rule 5.2). The requirements for Qualifying Experience in the Training Rules are supplemented by a guidance note, template forms (for a student's Qualifying Experience Record and Qualified Person Statement) and expandable FAQs, all of which are published on our website (**E73**). (*Characteristic 16*)

93. Once qualified, to obtain a practising certificate under the Practising Rules a Costs Lawyer must provide evidence on an annual basis of, amongst other things:

- professional indemnity insurance that meets our minimum terms;
- their complaints procedure;
- attainment of at least 12 CPD points in the last practising year (other than for newly qualified Costs Lawyers);
- disclosable events that are relevant to the individual's fitness to practice.

This evidence is provided annually through our practising certificate application form, including by uploading supporting documents. We use a flowchart to track the different pathways through our application forms, which shows the information required annually for authorisation (**E78**). More information about checks (audits) of the information provided is at paragraphs 99 to 101 and further information about ongoing competence is provided under question 3. (*Characteristic 16*)

94. We host the Register of Costs Lawyers on a dedicated page of our website (**E79**).

The Register can be searched by keyword (such as a practitioner's name or location) and can be filtered by practising area (such as family, crime, personal injury etc). There is also an option for litigants in person and other individual clients to filter the Register to show only those Costs Lawyers who accept direct instructions. *(Characteristic 17)*

95. The Register contains the following information about each practitioner, in line with the expectations in the LSB's policy statement on empowering consumers:

- name
- registration number
- year of qualification
- organisation(s)
- whether the organisation is regulated, for example by the SRA
- contact details
- currency of the individual's practising certificate and any conditions on practising
- practising areas
- disciplinary decisions (in line with our policy statement on publication of disciplinary decisions (**E80**))
- Legal Ombudsman determinations *(Characteristic 17)*

96. Our website contains a dedicated area for the public (**E81**) with a number of subpages housing relevant information. One page provides information about different types of legal advisers, with links to each of the legal regulators' websites as well as Legal Choices (**E82**). Another page relates to capturing the experience of clients, including links to our Client Survey and our complaint resources (**E83**). A third page contains extensive FAQs about how a Costs Lawyer can help with a legal problem, under headings such as: How a Costs Lawyer can help you; What a Costs Lawyer can't do; Choosing a regulated Costs Lawyer; Finding a Costs Lawyer; Once you have found a Costs Lawyer (**E84**). This helps clients understand the protections afforded by regulation and what they should expect from their Costs Lawyer's conduct and service. Finally, there is a webpage allowing users to search the Legal Choices dictionary of legal terms. *(Characteristic 17)*

97. The Register displays information housed in our internal database, which is a bespoke CRM built for the CLSB. The Register is updated by a push mechanism from the database. Rather than updating the Register on a scheduled cycle, the Register is updated in real time whenever a change is made to the database that causes a consequential amendment to the Register. This means the Register is always current and accurate. There are two exceptions to this: first, the Legal Ombudsman only provides us with reports of decisions made against Costs Lawyers on a monthly basis, and second, there is sometimes a delay in practitioners informing us they have changed organisation. This information is uploaded to the Register as soon as we receive it. We also proactively follow up with practitioners where there is an indication they have changed roles (for example, where we receive an email bounce-back to our communications). Practitioners must reconfirm the accuracy of all details on the Register when renewing their practising certificate each year. *(Characteristic 17)*

98. The criteria for taking decisions about the authorisation of Costs Lawyers are set out in our Practising Rules (**E75**), supplemented by guidance notes on topics such as conditions on practising, indemnity insurance and reserved legal activity rights (**E32**). We have a webpage dedicated to practising certificates (**E85**) that explains the requirements for obtaining a practising certificate, including how to renew your practising certificate and how to be reinstated to the Register. This webpage also contains a large bank of FAQs on all aspects of authorisation, including how we determine applications. (*Characteristic 18*)

99. We undertook a comprehensive review of our approach to supervision in 2021. This included developing four new supervision frameworks, using a consistent approach and format, which:

- introduced an audit programme for compliance with our CPD Rules;
- implemented a structured annual audit of complaints procedures for the first time, measuring compliance with our guidance on first tier complaints;
- complemented the new version of our Accredited Costs Lawyer Rules, by introducing more rigorous supervision of compliance with those rules at the point of reaccreditation;
- formalised our “point of complaint” targeted supervision activities, drawing evidence from our database.

The frameworks are tied together by a Supervision Policy, and all five documents are available on a dedicated supervision page of our website (**E86**). (*Characteristic 18*)

100. As explained in the Supervision Policy (at paragraph 12 onward), the activities that we carry out under the supervision frameworks make up our core programme of targeted, proactive supervision, and each supervision framework sets out the potential outcome(s) of our supervision activities in the relevant area. Our third audit under the CPD supervision framework was carried out in March and April 2024 and the outcomes are documented in a report presented to the CLSB board at its April meeting (see Item 10.1 in the board papers for that meeting (**E87**)). A similar report detailing the outcomes of our latest audit under the supervision framework for complaints procedures was considered by the board in October (see Item 10.1 in the board papers for that meeting (**E88**)). You can see from both reports that the regulated community has responded well to the audits and we have been able to use these processes to engage with practitioners in areas of risk and improve compliance. You can also see from the reports that we have identified follow-up actions for the following year’s audits, and have addressed follow-up actions from the previous year’s audits. (*Characteristics 18 and 20*)

101. As well as communicating the lessons learned from these audits to our regulated community through dedicated webpages (**E89**), we also apply the lessons to inform improvements and updates to our regulatory arrangements. For example, you can see from the CPD audit report (under the heading “Actions” from page 2 onward) that we have amended our guidance, communications and internal processes to reflect common themes identified in the audit and improve standards. (*Characteristics 18 and 20*)

102. The criteria for taking decisions about enforcement proceedings against Costs Lawyers are set out primarily in our Disciplinary Rules and Procedures (**E90**). Additional criteria relating to specific issues or types of decisions are set out in the following documents, which are available on a dedicated page of our website (**E91**):
- Policy statement on enforcement and sanctions (**E52**) – sets out our approach to enforcement activity and criteria for imposing different sanctions, including mitigating and aggravating factors that will be taken into account.
 - Panel Member Appointment Policy and Code of Conduct (**E24**) – sets out the ethical principles that Panel Members must follow when involved in disciplinary decision making.
 - Policy statement on publication of disciplinary decisions (**E80**) – sets out the criteria for taking decisions about publishing disciplinary findings.
 - Guidance note on practising conditions (**E92**) – sets out the criteria for imposing practising conditions as a disciplinary outcome under the Practising Rules and Disciplinary Rules and Procedures. (*Characteristic 18*)
103. We also have internal guidance documents that ensure decisions are taken in line with the published criteria. These include Guidance to Conduct Committees on Decision Making and Penalties (**E93**) and Guidance for the Case Manager in Disciplinary Proceedings (**E94**). (*Characteristic 18*)
104. Inbound complaints and concerns are handled by our Director of Operations in the first instance, with support from the Director of Policy or CEO as needed. This ensures consistency in approach and a high degree of senior oversight of all matters raised with the CLSB. Anyone raising a concern with us receives a response within two working days (and usually sooner), in line with our service standards for enquiries. (*Characteristic 19*)
105. All enquiries, including complaints and issues raised, are recorded in our Enquiries Log which allows us to track themes and trends in complaints over time, and also record any advice/responses provided for complaints that do not result in an investigation. (Please note that the Enquiries Log contains personal data so we have not included it as an Annex to this response, but if you would like to see it please let us know and we can prepare a redacted version.) (*Characteristic 19*)
106. Information about how to make a complaint or raise an issue is available on a dedicated page of our website (**E95**). This webpage includes information about when and how to complain, which body to contact, how we will handle a complaint, possible outcomes of the complaint, and guidelines for complainants. (*Characteristic 19*)
107. The first step we take upon receiving a complaint is to check the regulatory status of the individual complained about. Roughly half of all complaints we receive relate to unregulated costs providers (see question 9 above). In these situations, our Director of Operations will signpost alternative avenues of recourse and will provide the complainant with assistance in accessing those avenues where needed; for example, if an instructing solicitor or barrister is involved in the matter, the complainant will be

provided with information about how to make a complaint to the SRA or BSB.
(*Characteristic 19*)

108. Where the complaint involves a regulated Costs Lawyer, we apply our Complaint Triage Process (**E96**) to determine how to proceed. This document is available to the public via our “Complain about a Costs Lawyer” webpage. The Complaint Triage Process sets out the overarching principles we will take into account in handling a complaint (including the regulatory objectives) and then provides for a two-staged triage approach. Stage 1 involves establishing whether the CLSB has jurisdiction to investigate the complaint. Stage 2 involves confirming jurisdiction and preparing for an investigation. Each stage uses a “decision tree” style flowchart, ensuring consistency and objectivity of decisions relating to complaints. For each complaint, the Director of Operations will complete a checklist that mirrors the decision tree in the Complaint Triage Process so that we have a comprehensive record of all information relating to the complaint and the factors that impacted our decision about whether or not to investigate (**E97**). (*Characteristic 19*)
109. If, following the Complaint Triage Process, a complaint proceeds to a formal investigation, this will be carried out by our independent investigator in line with the timeframes set out in the Disciplinary Rules and Procedures for each stage (with a prescribed long-stop of three calendar months). If the complaint does not proceed to a formal investigation, the complainant will be informed of the reasons for this by email. While complainants are not party to disciplinary proceedings under the Disciplinary Rules and Procedures, they are kept up to date at key stages, informed of any delays in handling the complaint and the reasons for those delays, and informed of the outcome. (*Characteristic 19*)
110. Each year the CLSB’s board analyses a summary of all complaints received, other than those relating to unregulated providers (**E98**). This shows how complaints have been pursued by the CLSB, providing information about the number and nature of complaints handled, resolution timeframes and outcomes. (*Characteristic 19*)
111. We take steps to address any thematic issues identified through the Enquiries Log and any potentially systemic issues raised in individual complaints. The development of new guidance on professional undertakings, as described at paragraph 46 above, provides a good example. Another recent example is the development of new guidance on balancing the duties of client confidentiality and acting with integrity, published in July this year (**E99**). That guidance addresses issues raised in disciplinary proceedings against a Costs Lawyer who, in good faith but contrary to her professional obligations, gave preference to her duty to act in her client’s interests over her duty to the proper administration of justice. (*Characteristics 19 and 20*)
112. Given the low volume of complaints we receive and our prompt response times, we have not experienced any need for separate systems to manage complaints received from the Legal Ombudsman or other regulators; these are handled in the same way as complaints from other sources. (*Characteristic 19*)
113. As part of our recent periodic review of the Disciplinary Rules and Procedures (**E41**),

we identified the need for a clearer policy on making reasonable adjustments for those involved in the disciplinary process, including Costs Lawyers and vulnerable complainants. We have allocated resource to delivering these improvements under priority 13 in our 2025 Business Plan (**E3**). (*Characteristic 19*)

Question 10: Implementation of the new Costs Lawyer Professional Qualification

114. Our new Training Rules were approved by the LSB on 15 February 2023 and were brought into force by the CLSB the same day. This was supported by a new webpage (**E73**) to host the Training Rules and supporting documents. The webpage explains the new qualification requirements in clear terms, explains the CLSB's role (as distinct from the training provider), hosts resources including the Training Rules and Accredited Study Provider Scheme Handbook, and provides extensive resources on the new framework for Qualifying Experience.
115. In relation to Qualifying Experience, we developed a Guidance Note, template forms and expandable FAQs, all of which were published on the website following board approval in March 2023. These formed the basis of discussions with individual students to ensure there was no detrimental impact caused by the transitional arrangements we put in place, and allowed us to begin communicating with current and future students about our expectations and good practice.
116. During May and June, we began processing the first applications from students to verify their Qualifying Experience and have created new materials to help with this process, such as a verification checklist. As we began to identify themes across the enquiries we were receiving, we developed additional guidance and materials to address these. In June 2023, following an extensive verification and QA process, the CLSB accredited ACL Training to deliver its new version of the Costs Lawyer Professional Qualification.
117. The first cohort of students joined the new course in September 2023 and finished their first year in August 2024. We were in regular contact with ACL Training during this period, and delivery of the new course has been very successful. The CLSB has proactively become more integrated into students' experience than previously, including by:
- attending the induction session at the start of the year to discuss the benefits and purpose of regulation and qualification with students;
 - delivering a webinar on Qualifying Experience to ensure students understand both its purpose and the various practical requirements;
 - being involved in delivery of the module on professional ethics, as described above at paragraph 31;
 - delivering a presentation to graduating students about regulatory responsibilities and our regulatory arrangements.
118. The first year of course delivery has also been the CLSB's first full year of assessing students' Qualifying Experience under the new regime. Again, this process has been very successful. Any issues that we identified were addressed promptly during the

year. Examples include the following:

- Some students were finding it hard to demonstrate that they had practised advocacy skills, as required during their period of Qualifying Experience, particularly in firms where senior staff undertook limited advocacy work. We addressed this by creating a database of Costs Lawyers who were willing to supervise junior practitioners to gain advocacy experience outside their current role, as well as updating our FAQs to provide practical suggestions for different ways to gain advocacy experience.
- Some students, to whom the transitional arrangements for the new Training Rules applied, had carried out part or all of their Qualifying Experience with a supervisor who no longer met the requirements for being a Qualified Person under the Training Rules. This mainly affected students who were supervised by unregulated costs practitioners or CILEx lawyers who did not have a right of audience. We updated our transitional arrangements to account for these students in a way that was fair and pragmatic, without undermining the regulatory purpose of Qualifying Experience, and assisted students to find new supervisors who could meet the requirements for a Qualified Person going forward.

119. Following completion of the first academic year of the new course in August, we began the first annual monitoring process as envisaged in the Accredited Study Provider Scheme Handbook (**E76**). This involved us populating the template monitoring form with information and evidence provided by ACL Training during the accreditation process, so that ACL Training could update the evidence where necessary and provide data and information about course delivery during the year. The information collected through the monitoring form includes:

- retention, progression and achievement statistics for students;
- diversity data;
- problems with or risks to delivery and how they were addressed;
- progress against conditions / recommendations from previous years;
- details of student complaints and how they were resolved.

120. We received ACL Training's completed submission on 31 October in line with the agreed timetable. The submission is now being considered by the CLSB's Accreditation Panel. The Panel consists of an independent chair (subject matter expert), a CLSB board member and the CLSB's CEO. The Panel is scheduled to meet on 25 November to consider the chair's report and agree recommendations for the following year. The outcome of the annual monitoring will be communicated to ACL Training in November and to the CLSB board at its scheduled meeting in December. This process will give us a clear indication of any additional themes that we need to address from a regulatory or logistical perspective (over and above those we have identified with Qualifying Experience throughout the year as explained above).

121. Question 10 also mentions the Ongoing Competency Framework; please see the response to question 3 above for information on this topic.

Question 11: Apprenticeship route to qualification

122. We began exploring an apprenticeship route for qualifying as a Costs Lawyer in mid-2023. ACL Training ran an initial survey to ascertain whether there was sufficient interest amongst employers, which led to the establishment of an Employer Trailblazer Group (ETG) in Q3. The ETG then commenced discussions with the Institute for Apprenticeships and Technical Education (IFATE). Through these initial discussions, we became comfortable that the apprenticeship route would integrate with (but sit separately to) our existing regulatory requirements for qualification and had significant potential to bring EDI benefits for the profession, particularly by opening up new funding pathways and promoting social mobility. The CLSB board indicated early on that it was supportive of this project and asked the executive to work closely with ACL Training, the ETG and IFATE to develop the apprenticeship standard.
123. We collaborated with stakeholders in Q4 of 2023 to agree the knowledge, skills and behaviours for the apprenticeship standard, particularly where there was divergence between our Costs Lawyer Competency Statement and what IFATE expected from an apprenticeship perspective. We also developed the infrastructure around the apprenticeship, including arrangements for the End Point Assessment and how this should be resourced.
124. In December 2023, the CLSB, ACL Training and the ETG gave a joint presentation on our proposals to the IFATE Route Panel, seeking provisional approval for the apprenticeship standard, which was subsequently granted. Following public consultation, we finalised and submitted the proposed Costs Lawyer Occupational Standard for formal approval. Approval was received on 16 September 2024 and the apprenticeship standard is now live on IFATE's website (**E100**).
125. In late July, following a detailed application process, the CLSB was approved as the External Quality Assurance Provider (EQAP) for the apprenticeship. Following this, we received advice from IFATE that conflicted with earlier advice, informing us we could not be both EQAP and the End Point Assessment Organisation (EPAO) for the apprenticeship, as envisaged under the standard. We understand this has now been resolved, allowing us to apply to join the EPAO register. We are currently working toward this with colleagues in the Apprenticeship Service team at the Department for Education. Once resolved, this will enable ACL Training to register as the training provider for the apprenticeship and begin accepting applications.
126. If the timing allows – which essentially depends on IFATE and the Department – we hope to begin accepting apprentices onto the scheme in September 2024. ACL Training is working with the ETG to develop additional employer-led modules for apprentices over and above our regulatory requirements and all parties expect to be ready for launch in September.

Table of evidence

We have endeavoured to provide a selection of evidence that is relevant to the questions raised in the information request. This evidence does not represent a comprehensive suite of our documents and resources. If you would like assurance through other specific materials, please let us know.

Ref	Document	Location
E1	Current mid-term organisational strategy	Link
E2	2024 Business Plan	Link
E3	2025 Business Plan	Link
E4	Board meeting agendas, papers and minutes	Link
E5	Examples of updates against Business Plans at Item 3.1 of published board papers	Link
E6	Performance Indicators	Link
E7	Annual Performance Dataset	Link
E8	Most recent board report against performance indicators	Annex E8
E9	Most recent board survey results	Annex E9
E10	Board Governance Policy	Annex E10
E11	Remuneration Policy	Annex E11
E12	Risk register	Link
E13	Register of directors' interests	Link
E14	Reserves Policy	Annex E14
E15	Governance actions tracker from the LSB's well-led reviews	Annex E15
E16	MOU and OP between CLSB and ACL	Link
E17	IGRs Quick Guide	Annex E17
E18	"What we publish" webpage	Link
E19	Website access to board papers	Link
E20	"Strategy and governance" webpage	Link
E21	"Complain about the CLSB" webpage	Link
E22	Summary of activity funded by the 2023 practising fee	Link
E23	"Cost of regulation" webpage	Link
E24	Panel Member Appointment Policy and Code of Conduct	Link
E25	Minutes of board meeting on 17 July 2024	Link
E26	Board webpage showing director and specialist adviser expertise	Link
E27	Hook Tangaza horizon scanning report	Annex E27
E28	Second Annual Risk Outlook	Link

E29	Minutes of board meeting on 23 April 2024	Link
E30	Ethics Hub: Managing risks to your clients	Link
E31	New Costs Lawyer Code of Conduct	Link
E32	Costs Lawyer Handbook	Link
E33	Ethics Hub	Link
E34	June 2024 Spotlight blog on Costs Lawyers and the rule of law	Link
E35	Map of compliance with transparency expectations	Annex E35
E35	“Data about Costs Lawyers” webpage	Link
E36	Minutes of board meeting on 21 October 2024	Link
E37	Policy statement on approach to consultation	Link
E38	Regulators’ Pioneer Fund project webpage	Link
E39	“Reports and research” webpage	Link
E40	“How to become a Costs Lawyer” webpage	Link
E41	Board report on 2024 review of Disciplinary Rules and Procedures	Annex E41
E42	Guidance Note on undertakings	Link
E43	CLSB Equality and Diversity Policy	Annex E43
E44	Recent example of a candidate diversity survey	Link
E45	“Equality and diversity” webpage	Link
E46	Policy statement on good consumer outcomes	Link
E47	Costs Lawyers: Diversity in the profession 2023	Link
E48	Diversity survey report: Male and female pay and earnings	Link
E49	Diversity survey report: Social mobility in the Costs Lawyer profession	Link
E50	Ethics Hub: How to address pay gaps in your workplace	Link
E51	2024 career pathways survey	Link
E52	Initial submission to the LSB on compliance with the ongoing competence policy statement	Annex E52
E53	Policy statement on enforcement and sanctions	Link
E54	Ongoing Competency Framework	Link
E55	Template for planning and recording CPD	Link
E56	Ethics Hub: Learnings from the Post Office Horizon scandal	Link
E57	Ethics Hub: Ethical duties when presenting information to the court	Link
E58	Ethics Hub: Whistleblowing	Link
E59	Ethics Hub: Costs Lawyers and the rule of law	Link
E60	CLSB response to LSB information request about compliance with the LSB’s policy statement on empowering consumers	Annex E60
E61	“Dealing with consumers” area of the website	Link
E62	CLSB Client Survey	Link

E63	Project webpage: Costs Lawyers, technology and regulation	Link
E64	Communications risk appetite statements	Annex E64
E65	Communications strategy	Annex E65
E66	Costs Lawyers: Diversity in the Profession 2023	Link
E67	Ethics Hub: How to address pay gaps in your workplace	Link
E68	Ethics Hub: Equality, diversity and inclusion for Costs Lawyers	Link
E69	Ethics Hub: Tackling bullying and harassment	Link
E70	Submission: Evidence to Ministry of Justice on eligibility for judicial appointment	Link
E71	Papers for board meeting on 17 July 2024	Link
E72	Guidance for costs law firms	Link
E73	“How to become a Costs Lawyer” webpage	Link
E74	Training Rules	Link
E75	Practising Rules	Link
E76	Accredited Study Provider Scheme Handbook	Link
E77	Costs Lawyer Competency Statement	Link
E78	Practising certificate application form flowchart	Annex E78
E79	Register of Costs Lawyers	Link
E80	Policy statement on publication of disciplinary decisions	Link
E81	“For the public” area of the website	Link
E82	“Different types of legal advisers” webpage	Link
E83	“Your experience” webpage	Link
E84	“FAQs” webpage	Link
E85	“Practising certificates” webpage	Link
E86	“Supervision” webpage	Link
E87	Papers for board meeting on 23 April 2024	Link
E88	Papers for board meeting on 21 October 2024	Link
E89	Example of a “lessons learned” webpage	Link
E90	Disciplinary Rules and Procedures	Link
E91	“Disciplinary outcomes” webpage	Link
E92	Guidance note: Conditions on Practising	Link
E93	Guidance for Conduct Committees on Decision Making and Penalties	Annex E93
E94	Guidance for the Case Manager in Disciplinary Proceedings	Annex E94
E95	“Complain about a Costs Lawyer” webpage	Link
E96	Complaint Triage Process	Link
E97	Complaint Triage Checklist	Annex E97
E98	Board summary of all complaints handled in 2023	Annex E98

E99	Guidance Note: Client Confidentiality and Acting with Integrity	Link
E100	Costs Lawyer apprenticeship standard	Link

Kate Wellington, Chief Executive
CLSB

By email: CEOkw@CLSB.info



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5th November 2024

Dear Kate,

Review of the Regulatory Events Leading Up to the Solicitors Regulation Authority's Intervention into Axiom Ince Limited

The Legal Services Board has published the above report on 29 October 2024, and I am writing to draw it to your attention. The review focused on the effectiveness with which the SRA discharged its regulatory functions in respect of Axiom Ince in accordance with its duties under the Legal Services Act 2007 (the Act).

The full details of the recommendations can be found in Chapter 4 of the report. While the review is specific in the nature of its findings, there is learning in the report that we think has the potential to help improve the effectiveness of regulation in the legal services sector. I would encourage you, therefore, to consider the ways in which you discharge your regulatory functions and your own decision-making processes, in light of the review findings.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Craig Westwood', written in a cursive style.

Craig Westwood
Chief Executive

Lessons from the independent review of the regulatory events leading up to the SRA's intervention into Axiom Ince

Board discussion paper

1 December 2024

Background

1. In October the LSB published a [report](#) setting out the findings of the independent review of the SRA's intervention into Axiom Ince Ltd.
2. The review found (in summary) that in the lead-up to Axiom Ince being closed in October 2023:
 - the SRA did not act adequately, effectively and efficiently;
 - the SRA did not take all the steps it could or should have taken; and
 - the SRA's actions and omissions necessitated change in its procedures to mitigate the possibility of a similar situation arising again.
3. In November, we received a letter from the LSB encouraging all the legal regulators to consider their own activities and decision-making processes in light of the review.
4. The purpose of this paper is to facilitate a board discussion around the lessons from the review that might be informative for the CLSB.

Recommendations from the review

5. The recommendations from the review are grouped into three categories, namely recommendations regarding the SRA's:
 - (a) approach to the regulation of solicitors' accounts;
 - (b) approach to accumulator firms and the acquisition of law firms;
 - (c) approach to interventions.
6. The learnings that the CLSB can draw from these recommendations is limited. This is primarily because, unlike the SRA, the CLSB does not regulate entities and, unlike solicitors, Costs Lawyers are prohibited from handling client money. Further analysis is set out below, including two areas in which analogies might be drawn despite the differences between Costs Lawyers and solicitors.

Category (a) – Approach to the regulation of solicitors’ accounts

Assessment: Not applicable to our regulated community

7. These recommendations relate to activity such as trust account inspections and accountant reporting.
8. The recommendations are not applicable to our work because Costs Lawyers are prohibited from handling client money under Principle 3.6 of the Code of Conduct. The recommendations are not relevant if trust accounts are not in operation. Our [Guidance Note](#) on Handling Client Money provides advice to Costs Lawyers on how to avoid handling client money and explains the benefits of using regulated third party managed accounts (TPMAs) for any client funds.
9. On 14 November, the SRA published a [three-part consultation](#) on “Client money in legal services - safeguarding consumers and providing redress”. The consultation closes on 21 February 2025. The consultation proposals cover three areas:
 - Part 1: The model of solicitors holding client money – should the SRA look at ways to reduce the client money held by solicitors?
 - Part 2: Protecting the client money that solicitors do hold – what controls, checks and balances are appropriate?
 - Part 3: Delivering and paying for a sustainable Compensation Fund – how should payments from the profession be calculated and payments from the Fund to reimburse consumers be allocated?
10. We have reviewed the SRA’s consultation proposals. If taken forward, the proposals will potentially impact Costs Lawyers working in SRA-regulated firms and their clients, but our view is that the proposals do not present any major issues for the Costs Lawyer profession generally, given our existing regulatory arrangements around client money.
11. We therefore do not intend to submit a formal response to the consultation but will keep a watching brief on how client money is treated across the professions.
12. There is one area relating to client money where we could consider seeking additional client protection powers – this is discussed further under category (c) below.

Category (b) – Approach to accumulator firms and the acquisition of law firms

Assessment: Not directly applicable to us, but some analogous risks to consider

13. These recommendations relate to the SRA having greater oversight and monitoring of accumulator firms, and processes to scrutinise and possibly approve/block the sale or acquisition of firms.
14. These recommendations are not directly applicable to our work because the CLSB does not regulate entities. This type of activity is not – and without legislative change cannot be – within our regulatory powers.
15. Entity regulation is not mandatory in the costs market due to a transitional provision in the Legal Services Act 2007 which allows Costs Lawyers (unlike solicitors) to provide reserved legal services directly to clients through unauthorised entities. So long as the

transitional provision remains in force, entity regulation will always be voluntary or “opt-in” for costs firms.

16. In the recent past, the CLSB has considered whether some form of voluntary entity regulation should be introduced for costs firms. Ultimately, the board decided that the potential benefits of such a regime were outweighed by the risks and cost. More information about this decision is recorded in our published board papers and minutes.
17. We do know, however, that at least one accumulator firm exists in the costs market. The board has considered the risks of accumulation previously when carrying out its quarterly review of the CLSB’s risk register (see, for example, minutes of the board’s meeting on 18 July 2024 at item 6.1).
18. The Axiom report explains the concept of accumulator firms as follows (paragraph 13):

The term “accumulators” has been used by the SRA to describe regulated legal service firms which acquire other firms as a means of expansion. This can create risks to the public if, for example, a law firm acquires a much larger firm and does not have appropriate plans in place to enable it to manage its rapid expansion. This can impact on the quality of legal service provided to clients. As demonstrated in the case of Axiom, law firms can also be attractive to individuals or groups seeking to gain access to the funds held in a firm’s client account.
19. While the risk around client accounts is not relevant in our part of the sector, risks relating to poor service quality in accumulator firms are indeed relevant. In addition, in a small regulated community like ours, the mass acquisition of costs firms could reduce the number and type of employers in the market, creating risks to Costs Lawyers (from an employment perspective) and clients (from an access to justice perspective) if an accumulator costs firm happened to fail.
20. We have also received anecdotal evidence, on a confidential basis, of challenges with the internal culture at accumulator firms. This creates potential risks for lawyer wellbeing, competency and ethical behaviour; all of which create risks to promotion of the regulatory objectives.
21. Since we do not regulate entities, we cannot intervene in or supervise accumulator firms. However we can track costs firm acquisitions through market intelligence and analyse our data on employment concentration, to help identify organisations in which Costs Lawyers might need additional support from the CLSB.

Category (c) – Approach to interventions

Assessment: Not directly applicable to us, but one analogous risk to consider

22. These recommendations relate to areas such as:
 - not being shy about intervening in large-scale operations;
 - having appropriate interim measures in place to protect client money prior to / in place of a full intervention;
 - having full records of decisions made around interventions;
 - providing guidance to law firms that are subject to interventions.

23. Again, these recommendations are not directly applicable to our work because the CLSB does not regulate entities, as explained under category (b) above, and we therefore do not (and cannot) supervise or intervene in organisations.
24. One possible area of learning is around the need for interim powers to protect client money. It has never been necessary to take disciplinary action against a Costs Lawyer for handling client money in breach of our regulatory arrangements. However, it is hypothetically possible that such a situation could arise.
25. Our only existing interim powers relate to imposing an interim suspension order (ISO) to protect clients or the public interest, with the effect of suspending a Costs Lawyer's practising rights while the ISO persists. We do not have any powers – interim or otherwise – to confiscate client money that is wrongly held by a Costs Lawyer and return it to the client (if the Costs Lawyer refused to do so voluntarily).
26. We could consider whether it is necessary and appropriate to add an interim power of this kind to our regulatory toolkit. It would necessitate an amendment to the Disciplinary Rules and Procedures, requiring LSB approval. We currently do not have any evidence of real risk in this area, only hypothetical risk based on a read-across from the review.

Minutes of the ACL Council Meeting
held on 3rd September 2024
 via Teams



Council members present: Jack Ridgway (JR), David Bailey-Vella (DBV), Kris Kilsby (KK), Victoria Morrison-Hughes (VMH) & Nathan Cameron (NC)

Also present: Carol Calver (CC) Head of Operations

The meeting started at 11:00

Item	
1	Welcome and apologies
1.1	Apologies were received from Stephen Averill, Julian Caddick & Amy Dunkley. JR welcomed all to the meeting.
2	Minutes of the council meeting held on 23 July 2024
2.1	It was unanimously agreed that the draft minutes of 23 July 2024 were an accurate reflection of the meeting. It was agreed that items 4.3, 5.3 & 10.1 should be redacted / partially redacted before publishing on the website.
3	Actions arising from the council meeting held on 23 July 2024
3.1	Actions were reviewed and updated.
4	Chairman's Report
4.1	<i>Redacted due to confidentiality.</i>
4.2	JR detailed to Council further discussions had with the CLSB regarding the proposed changes to the Association Articles and By-Laws. JR advised queries had centered around the supervisory practice anticipated for the Costs Paralegal member category and that while he had provided <i>redacted due to confidentiality</i> explanation on this the CLSB have asked for him to attend a CLSB board meeting for final discussion. As JR is away, DBV will attend in his place on 21/10.
5	PR & Marketing Committee Report
5.1	NC reported on a BL suggestion to hold an 'ACL In Conversation' event, possibly in November. An on stage interview/discussion with a high-profile member of the profession. BL have suggested LJ Coulson due to involvement in Court of Appeal costs matters. NR or Council member to interview followed by Q&A and drinks. Circa 75 attendees, free event with minimal admin costs. Due to SCCO involvement Council suggested event should be London based. Venue likely to be member or Chambers offices.
5.2	NC also updated Council on a BL created Social media calendar. This <i>redacted due to confidentiality</i> does not include for ad-hoc posts.
5.3	BL have provided costs and details of a Cost Team of the Year award through LexisNexis. Council discussed this at length, determining a response from BL should confirm budget had now been allocated accordingly for 2025 and in asking for further detail, clarification and ROI would allow us to consider the category objectively. BL to confirm if anyone else has been approached to sponsor the category and if LN will offer it either way. <i>Redacted due to</i>

	<i>confidentiality.</i>
5.4	<i>Redacted due to confidentiality.</i>
6	Policy Committee Report
6.1	<p>KK reported back on the creation of the Precedent G working party. A great many members were interested, however 6 were selected due to their experience along with SCCO/Judicial support via Erica Bedford, Kevin Latham and Victoria McCloud.</p> <p>Initial discussions have resulted in members considering three areas: format, standalone or combined documents and compatibility. A further meeting will take place ahead of the breakout session at the London Conference in October, before a final town hall event if required with a final consult on proposals and submission to the SCCO early 2025.</p> <p>As a minimum the ACL will work to provide best practice guidance to its members during 2025.</p>
6.2	<p>KK also reported to Council a request from the CLSB to assist with a Wales and Welsh Government round table. Kris has recommended SA, CC has recommended a member working for Legal Services Department in the Welsh Government and BL will also cover it for PR.</p>
6.3	<p>JR asked for the CLSB to update Council on the consultation for judicial appointments. KK to feed back.</p>
7	Education Committee Report
7.1	<p>VMH reported on September 24 enrollment numbers <i>redacted due to confidentiality</i>. These figures are in line with anticipated and budgeted intake.</p>
7.2	<p>Station Rd digital marketing have been approved by the ACLT Board, while VMH and & DBV reservations were noted, ACLT are confident SR can achieve desired results. Campaign will be in place to influence February 25 intake. JR would like some measurement of success to consider ROI. <i>Redacted due to confidentiality.</i></p>
7.3	<p>DBV raised that ACLT have provided the ACLT board with student feedback following the first full year of the CLPQ. <i>Redacted due to confidentiality.</i> A discussion on feedback followed with the intent to formalise this so all areas are considered – such as course content, delivery and administration.</p>
7.4	<p>CC reminded Council that the re-appointment of ACLT Directors was due at the end of 2024. A discussion was had including the current term of Directors <i>redacted due to confidentiality</i>. On confirmation of Director term, JR will review and revert to Council. <i>Redacted due to confidentiality.</i></p>
8	Finance & Internal Policy Committee Report
8.1	<p>CC provided a brief finance update in the absence of SA. Investments have recovered an initial decrease seen following the change in government. Cash flow remains stable, with a review over the coming weeks in line with conference sponsorship and delegate ticket sales.</p>
9	Operations Report
9.1	<p>CC asked Council advice on the effectiveness and perceived longevity of the ACL forum on the website. Operations are facing further costs to improve the forum which following discussion Council have deemed unnecessary. Forums are not considered the go-to platform for member communication. Operations will continue to promote discussion via the LinkedIn and Special Interest Groups and a formal review and decision as to whether the forum should remain on the website will take place in Feb 25 once the website has been live for 12 months.</p>

9.2	CC reported to Council a full schedule of Chamber speakers for the SiGs into 2025 following discussion with various Chambers, the offer also encourages Affiliate membership from Counsel.
9.3	Operations have been approached by an insurance company interested in advertising in the eBulletin. CC discussed with Council the potential of exploring this as a benefit for members if a discount could be offered. JR anticipates a favorable response as suggests ACL members as part of a professional organisation could be considered lower risk than non-members due to regulation, adherence to best practice and maintaining CPD etc.
9.4	CC provided an update to Council on orders for the new costs law reports benefit, with <i>redacted due to confidentiality</i> further promotion planned by the ACL and Class Legal.
10	Any other business
10.1	There being no other business, the meeting ended at 11:55
11	Date of next meeting
11.1	Next meeting is Thursday 10 th October at the Leonardo Royal Hotel, London EC3N 2BQ at 19:00

Minutes of the ACL Council Meeting

held on 10th October 2024

19:00, Leonardo Royal Hotel, London City EC3N 2BQ



Council members present: Jack Ridgway (JR), David Bailey-Vella (DBV), Kris Kilsby (KK), Stephen Averill (SA)

Also present: Carol Calver (CC) Head of Operations
Jo George (JG) Operations Administrator

The meeting started at 11:00

Item	
1	Welcome and apologies
1.1	Apologies were received from Julian Caddick, Amy Dunkley, Victoria Morrison-Hughes & Nathan Cameron. JR welcomed all to the meeting.
2	Minutes of the council meeting held on 3 rd September 2024
2.1	It was unanimously agreed that the draft minutes of 3 September 2024 were an accurate reflection of the meeting. It was agreed that items 4.1, 4.2, 5.2, 5.3, 5.4, 7.1, 7.2, 7.3, 7.4 & 9.4 should be redacted / partially redacted before publishing on the website.
3	Actions arising from the council meeting held on 3 September 2024
3.1	Actions were reviewed and updated.
4	Chairman's Report
4.1	JR fed back to Council on the results of the second member consultation on proposed changes to Articles and By-Laws with there being no major concerns from the members who responded. DBV will work to suggest who might legally check over both the proposed Articles and By-Laws before putting to a full membership vote late November.
5	PR & Marketing Committee Report
5.1	As neither AD or NC were able to attend the meeting a brief discussion regarding final plans for the London Costs Conference the following day took place, with confirmation of speaker timings, movements and event set up.
6	Policy Committee Report
6.1	KK advised Council that the CLSB had informed us of a delay in petitioning Costs Lawyers eligibility for Judicial Appointments due to the change in Government. The CLSB will continue to drive this forward and will feed back accordingly.
7	Education Committee Report
7.1	DBV detailed that a full ACLT update would be circulated to Council early November for full discussion at the next meeting.
8	Finance & Internal Policy Committee Report
8.1	SA detailed that investments continue to grow.

8.2	<i>Redacted due to confidentiality.</i>
9	Operations Report
9.1	CC asked Council for consideration and suggestion a member specific benefit, one that is only directly beneficial to the member themselves. CC is keen to offer such benefit(s) to encourage more members from large costs lawyer firms where only one Cost Lawyer is a member of the ACL.
9.2	CC asked if Council could determine the dates of Conferences in advance to allow Operations to negotiate a multi venue, multi year price deal with a provider. The second Friday in May (to avoid Easter and 1 st BH) and the first Friday in November (to avoid SCCO clash and school/university timings) were suggested.
10	Any other business
10.1	There being no other business, the meeting ended at 19:55
11	Date of next meeting
11.1	Next meeting November 5 th , 10am via Teams

Supervision Framework: Complaints procedures

Proposed minor amendment

Board report

12 December 2024

Current arrangements

An annual audit of complaints procedures used by Costs Lawyers is one aspect of the CLSB's broader Supervision Policy. The audit is carried out in accordance with the [Supervision Framework: Complaints procedures](#) which involves selecting the procedures audited "from the pool of Costs Lawyers required to submit their procedure in the previous year [as part of their application for a practising certificate]". This pool excludes Costs Lawyers working in-house (who do not require a complaints procedure) and those working for an SRA regulated firm, as organisation requirements are monitored as part of their entity regulation.

New information

In the current round of practising certificate renewals two Costs Lawyers working in (different) SRA regulated firms submitted their complaints procedures. It was clear that these did not comply with either the CLSB or the SRA requirements.

In particular neither procedure mentioned anything at all about being regulated, and the role of the regulators in dealing with conduct complaints not resolved by the firm. [SRA Transparency Rule 2.1](#) says that an authorised body must "publish on its website details of its complaints handling procedure including, details about how and when a complaint can be made to the Legal Ombudsman **and to the SRA**". [emphasis added]

It is unclear to what extent the SRA monitors compliance with [their guidance](#), including suggested text, but it is clear we can no longer assume that because a firm is regulated by the SRA their complaints procedure will comply with the requirements.

Effective, compliant complaints procedures help ensure that Costs Lawyers' clients have confidence that any complaints will be handled appropriately. The failure to have this represents a risk to clients, firms and regulators.

Proposed changes and benefits

To address this we propose to include the complaints procedures of Costs Lawyers in SRA firms in the annual audit going forward. As these complaints procedures are not submitted as part of a practising certificate application, they would be requested at the start of the audit process.

The audits of the last 4 years mean that the vast majority of complaints procedures of sole practitioners and costs law firms are now both broadly compliant and vastly improved. This

means there is administrative capacity to now include SRA firms in the annual audit. As it is likely that these will involve more administrative liaison we propose to include around only 5 SRA firms per year.

In addition to this, and now that we have introduced the option for costs law firms to submit organisation documents in advance of renewals, we propose to pick up any minor issues (such as out of date addresses and timescales) with firms at the point of submission, rather than through audit.

Including the complaints procedures of SRA firms in the audit will give the CLSB the opportunity to highlight thematic risks to the SRA and have even wider impact across solicitor firms.

Proposed amendment to Supervision Framework

If the Board agrees with the changes above, only a minor amendment is required to the [Supervision Framework: Complaints procedures](#). In paragraph 8 we would change:

An audit of approximately 20 complaints procedures is undertaken annually. Costs Lawyers whose procedures are to be audited are selected from the pool of Costs Lawyers required to submit their procedure in the previous year

to

*An audit of approximately 20 complaints procedures is undertaken annually. Costs Lawyers whose procedures are to be audited are selected from **both** the pool of Costs Lawyers required to submit their procedure in the previous year **and Costs Lawyers working in SRA regulated firms***

If this is agreed we will publicise this change in the December newsletter.

CLSB website – developments in 2025 and beyond

Board report

12 December 2024

At the last meeting of the Board there was some discussion about creating a login area of the CLSB website so that only regulated Costs Lawyers can access particular “value add” content (keeping in mind the public interest in transparency and education).

This paper provides more information about the practicalities, cost and implications of doing this, following discussion with our IT consultant.

The first item on the list relates to a technical matter where an upgrade is required prior to introducing any new functionality.

1. Separation of application form system and rest of website

Status: Required

Cost: Part 1 - c£2000; Part 2 – TBC

Schedule: Q1 2025

BP priority: 15 – Reviewing whether the database and e-form upgrades implemented over the last three years are meeting functionality requirements and identifying areas for future improvement

The CLSB website uses Wordpress as its content management system. Wordpress regularly issues new versions of the software, covering updates, fixes and improvements. Periodically therefore our IT consultant, James, updates the website software to a newer version.

The online application forms are essentially just a collection of webpages (which have become increasingly complex). The code they use is much more complicated than normal webpages, and the form content is managed by directly by James, unlike the other web pages which Jacqui edits.

In September James advised that the code used in the online application forms is not compatible with the new version of Wordpress. As both the forms and the rest of the website use the same software we cannot now update to the newest version of the software.

Whilst the forms and website will continue to work for now, this will need to be addressed at some point, and leaving it for more than a year or so would mean both the forms and the website become less stable, less fast and less secure. (We have already had to fix issues to do with webpage layout, and form submission in the last month.) Some of the changes required to the forms are simple but laborious, and others are more significant, because the new version of the code no longer has some of the functionality that we use in the forms.

James proposes that instead of just updating the forms to be able to use the new version of the software we take the opportunity to split the code/software used for the website and the forms. There will be absolutely no visible change to users of either, but behind the scenes it means we won't have issues like this moving forwards, and will be able to update the “back

office” of the website and forms independently. And also the forms will not be limited to the Java script language used by Wordpress, so we may be able to have better functionality in the forms in future.

The cost of separating the forms and the website will cost about £2000. The cost of migrating the forms to new software will only be possible to estimate after the split.

2. Development of a login area of website

2.1 Restricted access to key documents

Status: Optional

Cost: c£3500 (following implementation of 1. above)

Schedule: TBC

BP priority: N/A, additional work in 2025, or include in 2026 BP

This would involve using the database to set up a user account with login and password for each currently practising Costs Lawyer which they could use to access particular documents and information currently publicly available on the website, as well as new information (such as the proposed communications toolkit).

The restricted information would continue to be visible in the relevant list/on the relevant webpage (for example Guidance Notes in the Costs Lawyer Handbook), but could only be accessed once logged in. This is similar to how ACL’s weekly e-bulletin works, with some articles public and others restricted to members only.

Alternatively, the restricted documents could all be accessed in a separate part of the website, but this would mean separating public and restricted documents of the same type. Being able to see information exists that you cannot access might also be an incentive to regulating.

The development carries minimal/low risk as the documents/type of documents to be restricted are currently publicly available on the website, and the only new personal data required would be a login and password.

2.2 Regulation account management functionality

Status: Optional

Cost: TBC

Schedule: TBC

BP priority: N/A, not possible before 2026 at earliest, and following implementation of 2. above

Once a login system has been developed it would be possible to extend this to provide regulation account management functionality for individual Costs Lawyers, allowing them to login to apply for a practising certificate; get a copy certificate or invoice; update their details etc. This is like the system the SRA and some other regulators use. There are, however, significant risks, including:

- The availability of Costs Lawyers’ personal data online permanently (ready for when they choose to login). This data includes non-published information such as home addresses, and potentially complaints and disclosures (including of criminal charges

and convictions) which could constitute sensitive personal data under the Data Protection Act 2018. Whilst security measures can be put in place, as recent high profile data breaches show, if hackers want to get the information there is always a risk they will succeed.

- The security measures (multi factor authentication is the accepted best practice) can be frustrating for users, especially if they only use the system infrequently.
- The relationships with Costs Lawyers become more impersonal, distant and corporate. Liaison with Costs Lawyers during renewals has been a really important way of improving relationships and building trust.
- The accuracy and format of data may become an issue if we allow Costs Lawyers to directly control what is published in the Register of Costs Lawyers.

None of the above negates the significant benefits there may be to Costs Lawyers in such a regulation account management function; rather it underlines that the Board should proceed with this development cautiously, aware of the risks, probably in consultation with the profession (for example through the Advisory Panel), and at a time when executive capacity allows for it.