



Costs Lawyer Standards Board

AGENDA

Thursday 19 May 2022 @ 10:30am

Remotely via videoconference

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 and Company Secretary
	Jacqui Connelly	Director of Operations
	Heather Clayton	Director of Policy (Item 7.1)
	Jack Ridgway	ACL (Item 1.3)
	Sarah Hutchinson and Kirsty Allison	ACL Training (Item 3.2)

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 with incoming ACL Chair	- - Item 1.3	 Yes	DH DH DH
2	Minutes 2.1 Approval of minutes (2 February 2022) 2.2 Matters arising (2 February 2022)	Item 2.1 -	Yes	DH DH
3	Strategy 3.1 Progress against Business Plan: Q1 2022 3.2 Roundtable discussion with ACL Training	Item 3.1 Item 3.2	Yes No (B, D)	KW DH
4	Board matters 4.1 Annual declaration of interests 4.2 Scheduled review of staff working arrangements	Item 4.1 -	Yes	KW DH

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.

5	Finance 5.1 Quarterly report: Q1 2022	Item 5.1	No (D, E)	JC
6	Risk management 6.1 Review of risk registers 6.2 Compliance with government sanctions on Russia	Item 6.1 Item 6.2	Yes Yes	KW KW
7	Regulatory matters 7.1 Innovation project report 7.2 Complaint triage process 7.3 Costs Lawyer profession in 2021	Item 7.1A+B Item 7.2 Item 7.3	No (G) Yes Yes	HC KW KW
8	Legal Services Board (LSB) 8.1 Continuing competence 8.2 Policy statement on empowering consumers 8.3 Other consultations	Item 8.1 Item 8.2A+B -	Yes Yes	KW KW KW
9	Stakeholder updates² 9.1 ACL Council meeting minutes 9.2 Work updates	Item 9.1 Item 9.2	Yes Yes	KW KW
10	Operations 10.1 2021 CPD audit outcomes 10.2 New exit survey	Item 10.1 Item 10.2	Yes Yes	JC JC
11	Publication 11.1 Confirmation that papers can be published	-		DH
12	AOB	-		DH
13	Next meeting Date: 20 July 2022 Venue: Institute of Advanced Legal Studies, London	-		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.



Association
of Costs
Lawyers

BUSINESS PLAN

2022

Approved by Council on 20 April 2022

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1. EXECUTIVE SUMMARY

Foreword

I am fortunate enough to have begun my three year term as Chair of the Association of Costs Lawyers on 1 April 2022. I am grateful for the opportunity given to me by the membership to lead our representative body. That said, I strongly believe that to be representative, decisions must be made with the knowledge and input of the membership. We are small in number therefore our voice is strongest when all members speak as one. It is my hope that during the coming year we, as a Council, will be able to bring members closer to the Association and that a process of renewal will leave members more confident that the Association represents them.

Who are we?

The Association of Costs Lawyers is the representative body for Costs Lawyers, and the approved regulator for Costs Lawyers, as recognized by the Legal Services Act 2007.

The Association is managed by the Council, which is led by the Chair of the Association. Day to day tasks are carried out by the Operations Team.

Why have a business plan?

A map without a compass is of little use. The business plan is our compass, to point us in the right direction as we navigate an ever changing legal landscape. To do that, we will;

- Remind ourselves of our mission and our values
- Reflect on how our business fulfils our mission
- Plot the right direction for the Association in 2022 and what we must do to achieve this

Our Big projects this year

- Modernisation – Ensuring our operations provide the greatest benefit to members
- Engagement – Find out what matters to you and exploring how to bring more non-member Costs Lawyers into the Association
- Representation – Promoting our members interests

Jack Ridgway, Chair of ACL

2. MISSION & VALUES

Our Mission is to protect and promote the interests of Costs Lawyers to the consumer and wider legal profession; to encourage those working in, or wishing to join, the legal costs industry to become Costs Lawyers, and to contribute to the development of law relating to legal costs.

Our Values

We have set our values in 2022, with the intention that these will be reviewed every three years to ensure they remain appropriate. We have come up with three core values to the Association which will be reflected in each part of the business plan.

- Community First
- Inclusive
- Proactive

Community First

The purpose of the Association is to represent and develop the Costs Lawyer community and all those involved put the interests of the community before their individual interests, or those of their clients or employers. The Council are representatives of the Costs Lawyer community and custodians of the Association. They want to ensure the continued success of the Association for the next generation of Costs Lawyers.

Inclusive

Costs Lawyers are a diverse profession, constituted from a broad-range of backgrounds, ethnicities and religions. Our diversity is our strength and the Association will actively work to remove barriers to entry to the Costs Lawyer community.

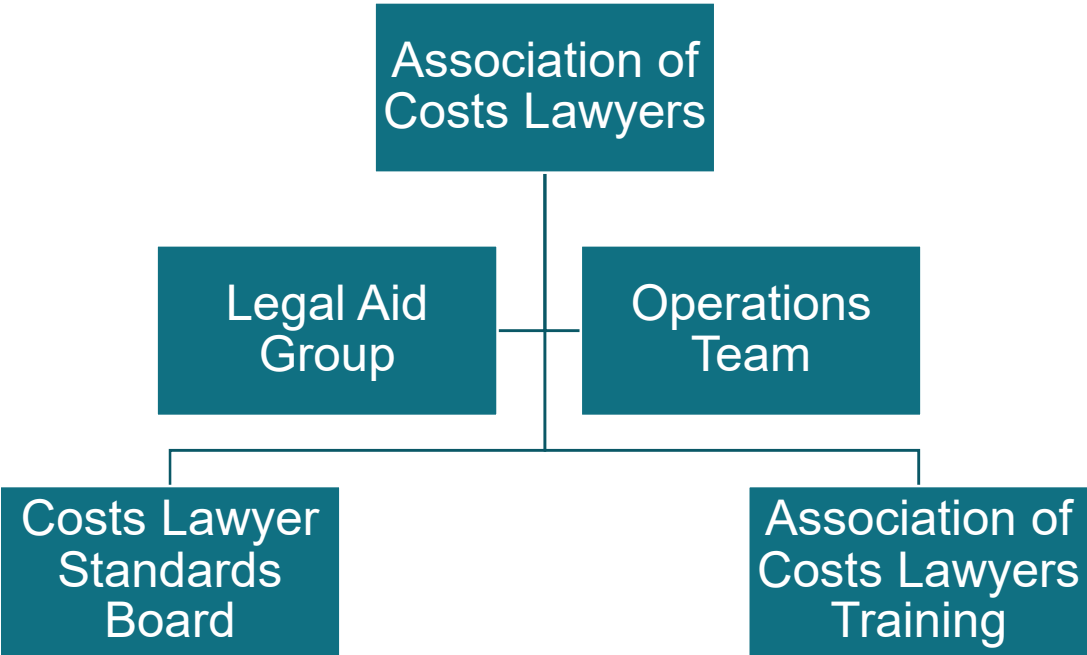
Proactive

The purpose of the Association is to represent its members. This must be done in a proactive, rather than reactive, manner. To do this, the Association will ensure that its business model and operations are modern; responsive to the challenges the membership faces; and proactively engage issues on the horizon. By being proactive the Association will actively engage the membership and wider costs community to the benefit of the membership.

3. BUSINESS OVERVIEW

Overview

The Association of Costs Lawyers is formed of the following structure;



Association of Costs Lawyers (ACL)

The Association of Costs Lawyers is the representative body for Costs Lawyers. It is also recognised as the regulator of last resort by the Legal Services Board. The ACL is led by the Council. The Council comprises of the elected Chairperson and elected Councillors. From the Council members, a Vice Chairperson and Treasurer are elected.

The Council separates four key functions into committees comprised of Council members; PR & marketing, policy, education, and finance.

The Council is responsible for overseeing the Legal Aid Group and directing the Operations Team. The Council is also responsible for liaising with the leadership teams in the CLSB and ACL Training but both are led by their own leadership teams.

Association of Costs Lawyers

Business Plan

Legal Aid Group (LAG)

The Legal Aid Group is a part of the ACL. It is a specialist interest group for ACL members who provide services in legally aided costs and costs incurred under legal aid payable by another party. It both represents the interests of those Costs Lawyers and provides support and assistance to them. The LAG is led by an Executive Committee which selects a Chair and Secretary from its number.

Operations Team

The Operations team is a part of the ACL. It is responsible for providing administration services to ACL, LAG, and ACL Training. It is formed of two employees, one full-time and one part-time.

Costs Lawyer Standards Board (CLSB)

The CLSB is a wholly owned subsidiary of the ACL. It is, by delegation from the ACL, the arms-length body responsible for the regulation of Costs Lawyers. The CLSB is responsible for the provision of Practising Certificates and furthering the eight regulatory objectives under the Legal Services Act 2007. The CLSB is led by a board of non-executive Directors, with a Chair and Vice-Chair. It employs a Chief Executive Officer, Operations Director, and Policy Director, all on a part-time basis.

Association of Costs Lawyer Training (ACL Training)

ACL Training is a wholly owned subsidiary of the ACL. It is an Accredited Course Provider, responsible for providing the entry route to the profession, the Costs Lawyer Training Course. ACL Training is led by a board of four Directors and Chair. It has one full-time employee and receives operation support from ACL.

4. REPRESENTATIVE OVERVIEW

The Association of Costs Lawyers is one of five representative bodies for legally authorized individuals (Licensed Conveyancers not having a representative body). The market can be defined by three key areas;

- The representative environment
- Costs Lawyers
- Potential practitioners

Representative Environment

While ACL itself does not compete with another representative body for Costs Lawyers, it does operate within the wider legal market and therefore must remain aware of other representative bodies of regulated professionals, and special interest groups.

The key groups which ACL is likely to encounter when representing the interests of Costs Lawyers, in particularly via consultation or intervention, are broadly;

- Ministry of Justice
- Legal Services Board
- Legal Aid Agency
- The Law Society
- Solicitors Regulatory Authority
- Bar Council
- Bar Standards Board
- Chartered Institute of Legal Executives
- Legal Aid Practitioners Group
- Association of Personal Injury Lawyers
- Forum of Insurance Lawyers

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Costs Lawyers

As of 1 February 2020 there were 682 Costs Lawyers holding a Practising Certificate for 2022. Of those 440 (65%) are subscribed to the Association of Costs Lawyers.

CLSB data from 2020 (Costs Lawyer profession in 2020) shows that for the first time, nearly half of all Costs Lawyers work within a firm regulated by the Solicitors Regulatory Authority. This has been on an upwards trend since 2015.

The Association needs to ensure it understands the employment circumstances of Costs Lawyers and that it remains relevant to Costs Lawyers whether they are self-employed, work in a Costs firm, or an SRA regulated firm.

It is a key goal of the Association to increase the number of Costs Lawyers subscribing to the Association.

Potential Practitioners

According to CLSB data from 2021, the number of Costs Lawyers under 30 has halved in 5 years (Costs Lawyer profession in 2021).

For the ACL to remain a viable body, the number of Costs Lawyers qualifying each year must meet or exceed the number retiring, or leaving the profession for other reasons. The qualification requirements of Costs Lawyers are set by the CLSB and the current gateway to qualification is provided by ACL Training.

In light of nearly half of Costs Lawyers working for SRA regulated firms, there are more options to professional qualification open to those working in legal costs than there has been historically. In particular, the new pathway to become a Solicitor and refreshed route to become a Chartered Legal Executive. While ACL is not responsible for setting entry routes or requirements, it can push for the bodies responsible to ensure that the route and requirements to become a Costs Lawyer remain competitive.

It is also possible for those regulated by a legal regulator other than the CLSB to join the Association as an Affiliate member, last year there were four Affiliate members and the Association will look to increase that number where such membership is in line with member interests.

5. OPERATIONS OVERVIEW

Current Position

The operations team for the past few years has consisted of a two person team, consisting of the Head of Operations, and an Administrator, fulfilling the operational needs of ACL and providing shared services to ACL Training.

The year ahead

This is a year of significant change for the operational functions of ACL. The Head of Operations retires in April which requires a replacement employee and a move of office, the current office being on premises owned by the retiring Head of Operations. Furthermore, the shared services provided to ACL Training are being reviewed in line with their business needs and infrastructure required to support their plans for growth in student numbers.

While subject to revision, the current plan is to recruit a new Head of Operations, who will commence employment in early June (Q1). The role will be four days a week to reflect the efficiency savings made by certain administrative processes having being automated, and by the reallocation of other responsibilities to the Administrator.

The shared services provided to ACL Training currently comprise of Administrative, Corporate, and Registry services. While the administrative and registry services will be addressed differently going forwards, the corporate services (e.g. payroll, book-keeping, credit control) will continue to be provided as a shared service.

A new office has been secured and the premises will be transferred in April (Q1). It was decided to retain an Office in the Diss area for continuity purposes and to enable staff to work in the office if they choose to do so.

In order to support the goals set out in the office plan, the Operations Team will embark on a review of all current office practices and infrastructure with the aim of moving the Association to a suitable cloud-based application that will enable greater sharing of information internally and the provision of improved services to members. Additional capital expenditure is anticipated to enable this, however these will be set off by the medium and long-term savings achieved.

6. THE YEAR AHEAD

The Foundation

In order to develop the capabilities of the Association over the medium term, the Council has determined that the year ahead should be focused on the capabilities and functions of the Association. The goal is to develop the foundation that will allow improved member benefits and services, this is referred to as the '*value proposition*'.

The year has some key events to note and has been divided into quarters to provide measurable targets and to ensure that the Committees and Operations Team have sufficient capacity.

Key Events

- Call for new Council Member – May
- ACL Costs Conference – Manchester – 1st July
- Round Tables with ACL Members, non-member Costs Lawyers, and employers – Q2
- Call for new Council Member – September
- ACL Training Applications Close – October
- ACL Mid-year review – Q3
- ACL Training Business Plan – TBC
- ACL Subscription renewal – October
- ACL Costs Conference – London – November
- Annual General Meeting – Virtual – Q3
- ACL Legal Aid Group Seminar – Q3/Q4
- CLSB Practising Certificates renewal – November
- Call for new Council Member – March

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Q1 – April to June

The focus in this period is the effective relocation of the office and on-boarding of new staff. Alongside this, the Committees will take initial steps to develop the key documents required to enable effective working, and a successful conference in Q2.

Chair

- Oversee change of premises
- Oversee recruitment process and on-boarding for new Head of Operations
- Liaise with external HR Consultants regarding employee contracts and company related documentation to ensure compliance with legislation and standardisation of terms
- Assist in liaising with ACL Training regarding shared served provision

Policy Committee

- Preparation and / or approval of Terms of Appointment for Council Members
- Develop Terms of Reference for the various Committees
- Creation of new Risk Register
- Responding to known consultations - Fixed Recoverable Costs (April) and Court of Protection E-Bill (May)

Education

- To assist in furthering the goals in ACL Training's business plan
- Review of shared services provision

PR & Marketing

- Liaise with Black Letter to increase use of ACL related social media
- Liaise with Black Letter to implement new e-bulletin
- Lead on organisation and preparation for conference
- Prepare surveys to obtain views on value proposition and inclusivity

Finance

- Prepare revised budget for 2022 following recruitment.
- Provide enhanced oversight of financial functions until new Head of Operations recruited

Association of Costs Lawyers

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Q2 – July to September

A strong start to Q2 relies upon a successful Conference on 1st July. Whilst the pace of work will be influenced by the Summer holidays and availability, the aim of the Association is to progress the various projects commenced in Q1 and to start some new projects which will pick up pace in Q3.

Chair

- Provide support as necessary to the various Committees
- Continue with on boarding of new Head of Operations
- Approve Annual Accounts

Policy

- Review and consult on the Articles of Association, By-laws, and Legal Aid Group Constitution
- Review of Council structure
- Engage with CLSB regarding data captured when Practicing Certificates are renewed
- Respond to any relevant consultations

Education

- Support marketing of ACL Training course due to commence in January 2023
- Prepare response to CLSB's Consultation on new regulatory arrangements for qualification

PR & Marketing

- Execute the Manchester conference
- Conduct surveys to members on value proposition and inclusivity
- Lead round-table discussions with ACL Members, non-member Costs Lawyers, and employers
- Commence planning of the London conference

Finance

- Assist Head of Operations in review of office functionality, identification and procurement of new infrastructure
- Commence review of suppliers and supplier contracts/service level agreements

Q3 – October to December

As we push into the back half of the year, the Association will be focused on the successful completion of the second ACL conference, in London, and completing our research into the value proposition to inform the offering to members in 2023.

Chair

- Assist Policy in completion of Articles of Association and By-laws
- Preparation of mid-year review
- Assist Head of Operations / Finance with supplier review
- Lead Annual General meeting
- Lead implementation of new value proposition.

Policy

- Finalise Articles of Association and By-Laws for approval
- Assist PR & Marketing by providing analysis of their surveys/round-table meetings.
- Liaise with CLSB & ACL Training to coordinate approach to inclusivity and diversity

Education

- Provide analysis of applications for January 2023 course
- Prepare annual viability report on ACL Training
- Assist PR & Marketing explore creation of additional special interest groups

PR & Marketing

- Execute the London conference
- Prepare paper on value-proposition
- Develop and implement marketing campaign regarding value proposition.
- Explore creation of regional meetings and additional special interest groups

Finance

- Complete review of suppliers and assist Head of Operations in any changes of supplier
- Assist PR & Marketing by providing analysis of costs of value proposition.
- Work with Head of Operations to prepare 2023 projections
- Review of budget.

Association of Costs Lawyers

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Q4 – January to March

At the end of the year, the focus will be on considering the progress made, what has worked, and what can be improved. Cementing the foundational year will set the basis for a successful 2023.

Chair

- Implementation of any changes in Council structure following AGM.
- Lead preparation of 2023 business plan.

Policy

- Analysis of CLSB data
- Draft annual report to members
- Preparation of the ACL 2023 business plan

Education

- Assist in presentation of ACL Training business plan and budget
- Assist in further tasks as set out in ACL Training business plan.

PR & Marketing

- Analysis of ACL subscriptions for 2023
- Preparation of the ACL 2023 business plan

Finance

- Analysis of 2022 finances
- Finalise budget forecast for 2023
- Preparation of the ACL 2023 business plan

7. FINANCIAL PLAN

The Association has been financially stable for several years, following an increase in subscription rates under the former Chairman Ian Stark in 2017. In light of the COVID19 pandemic the former Chair Claire Green, and Head of Operations Diane Pattenden are to be commended for their financial discipline in 2020 and 2021.

Income

The key income of the Association are subscriptions, two conferences, and Legal Aid Seminar, all held annually. Alongside these are income from the e-bulletin, and management charge for shared services.

Outgoings

The biggest expenditure for the Association are office / staff costs, the Costs Lawyer journal, PR & Marketing services, and office costs. Changes to the way the e-bulletin/costs lawyer journal are delivered, and the change of premises, will reduce expenditure in these areas.

2022

Astute business decisions under the previous Chair, and the change in office premises and personnel will result in a notable sum of yearly expenditure becoming available for redeployment into other areas of the business.

These resources are likely to be redeployed in 2022 to increasing the functionality of the Operations team and in 2023 to provide additional member benefits.

It is anticipated that there will be one-off capital expenditure during 2022 for recruitment, moving premises, updating the Association website and any changes of supplier.

Association of Costs Lawyers

Business Plan

ACL Financial Budget Projections – 2022/2023

	2021	2022	Variance
	£	£	£
Subscriptions	168,078	164,100	(3,978)
Costs Lawyer Magazine & ebulletins	6,750	5,780	(970)
Conferences	42,430	52,300	9,870
Legal Aid Seminar	-	5,000	5,000
Seminars	-	-	-
Management Charge	25,000	25,000	0
Covid Job Retention Scheme Recharge	3,318	-	(3,318)
Sales	245,576	252,180	6,604
Costs Lawyer Magazine & ebulletins	68,394	44,340	(24,054)
Conferences	25,298	26,886	1,588
CPD Seminars	-	-	-
Legal Aid Seminar	-	3,000	3,000
Seminars	-	-	-
Council Costs	-	-	-
Cost of Sales	93,692	74,226	(19,466)
Marketing	52	100	48
General Expenses	16	83	67
Direct Expenses	67	183	116
Net Contribution	151,817	177,771	25,954
Office and Staffing Costs	81,786	82,543	757
Travel & entertaining	3,333	5,778	2,445
Website Costs	3,908	6,000	2,092
Software Costs	2,350	2,013	(337)
Professional Fees	43,947	44,684	737
Bank & Other Interest Charges	1,690	679	(1,011)
Depreciation	1,008	367	(641)
Subscriptions	1,160	1,000	(160)
Insurance	4,845	5,000	155
Overheads	144,027	148,064	4,037
Net Profit/(Loss)	7,790	29,707	21,917

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
Wednesday 2 February 2022 at 10:30 am
Remotely by videoconference

Board:	Rt Hon David Heath CBE	Lay NED (Chair)
	Stephanie McIntosh	Lay NED (Vice-Chair)
	Paul McCarthy	Non-Lay NED
	Andrew McAulay	Non-Lay NED
In attendance:	Kate Wellington	CEO and Company Secretary
	Jacqui Connelly	Director of Operations
	Heather Clayton	Director of Policy (Item 7.1)
	Alison Hook, Ben Rosie and Nankunda Katangaza	Hook Tangaza (Item 7.1)

1. OPENING MATTERS

- 1.1** The Chair declared the meeting quorate. There were apologies from Andrew Harvey, who provided comments on the papers by email.
- 1.2** There were no declarations of interest on any agenda item.

2. MINUTES

2.1 Minutes dated 20 October 2021

The board considered the minutes of its last scheduled quarterly meeting on 20 October 2021. The board agreed the minutes as being a true record for signing.

Action: Publish approved minutes on CLSB website.

2.2 Matters arising

The board considered the matters arising from the minutes of its meeting on 20 October 2021. 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: 2021 roundup

The board was provided with a progress update against the 2021 Business Plan. Kate noted that five additional priorities had been achieved during Q4, which completed the Business Plan in its entirety other than two items. Those were:

- Priority 10, on improving consumer information about regulatory status: This had been wrapped into the innovation project (see Item 7.1 below), so would be delivered through the final project report in March 2022.
- Priority 11, on testing the efficacy of the CLSB's interim suspension order (ISO) powers: No suitable disciplinary cases had arisen in 2021 to allow this work to be carried out. However, to ensure the work is completed when a suitable case arises, looking at ISOs had been incorporated into a new complaints triage process that was under development.

The board noted that several significant projects had been delivered during the year that were not included in the original Business Plan, including the Competency Statement and innovation projects. It was therefore a particularly notable achievement to complete the Business Plan for 2021, and the board commended the executive team for their effort and careful resource planning.

3.2 Annual progress against performance indicators

The board was provided with a summary of progress against the metrics in the performance indicators document (PID), which was adopted in January 2020 and updated in January 2021. The performance indicators had been developed to help the board monitor the effectiveness of the CLSB's governance arrangements and track achievement of the mid-term strategy. The board was also provided with the results of a NED satisfaction survey that had been carried out to provide data for the governance metric in the PID relating to cultural alignment and accountability.

The board was asked for feedback on the progress made in 2021, as well as the ongoing relevance of the performance indicators. Kate recommended tweaking certain measures for 2022, as outlined in the board report, but noted that overall she found that assessment against the PID continued to be a useful reflective exercise.

The board considered the report, starting with the 2021 operational statistics. The board considered the reinstatement and new qualifier numbers, both of which seemed to be increasing. Jacqui explained possible reasons for this and trends over time, including new processes that had been put in place to contact leavers after an appropriate period depending on their reasons for termination. Board members also asked about the figure reported for the longest time taken to process a PC renewal application. Jacqui explained that this was an outlier due to human error in data entry for one application. The remaining data showed the vast majority of complete applications were processed on the day of receipt or the following day.

The board discussed the governance metrics and whether any adjustments should be made for the following year. The board agreed that, while robust business continuity measures were in place, there had not been any unexpected events that tested those arrangements in real-time. Therefore while the risks around business continuity were better controlled than previously, a KPI in this area remained appropriate.

The board also considered the results of the NED satisfaction survey and whether cultural indicators were still a relevant KPI given the 100% satisfaction rates reported in the survey this year. Board members agreed that the KPI should be adjusted to refer to the qualitative rather than quantitative aspects of the survey, noting that the words NEDs had used to describe the CLSB's culture had evolved between 2020 and 2021. This was a more nuanced and insightful reflection of the organisation's journey than perpetually high satisfaction rates.

The board agreed the other adjustments to the metrics that were suggested in the report.

Action: Update PID for 2022 and publish on website.

3.3 Education and competency

The board was provided with updates and papers on various education workstreams, including:

- an update on Kate's attendance at the first meeting of the new ACL Training board, which was showing very promising progress under the leadership of the new independent chair;
- a draft Board Decision Note (BDN), recording the decision-making process in relation to accrediting ACL Training for 2022, for approval;
- the proposed consultation outcome report for the Competency Statement consultation, for approval;
- an early draft of a new training provider accreditation scheme, for initial feedback; and
- an update on resourcing, including consultancy arrangements, for the various aspects of the CLSB's education work.

In relation to accrediting ACL Training for 2022, the board had considered between meetings (by email) ACL Training's final response to the course audit recommendations, as well as a financial viability report for 2022 and a proposed accreditation letter. Given the time pressures involved, the accreditation letter was sent to ACL Training in November. The board therefore took the opportunity, at this meeting, to ratify the accreditation on the terms set out in the accreditation letter.

Board members agreed that the accreditation decision was a good candidate for a BDN, to ensure stakeholders had a full picture of how the decision was made and what evidence was taken into account. The board approved the BDN for publication.

The board then considered the consultation outcome report in relation to the Competency Statement. Board members commented on how constructive and positive the consultation process had been. They hoped that the level of detail in the outcome report, which showed how responses had been taken into account, would encourage respondents to engage again in the future.

Board members suggested some final tweaks to the wording of the Competency Statement, including to ensure that references to "budgeting" captured the whole

process of budget and costs management and not just preparing written costs budgets. Subject to those adjustments, the board approved the outcome report for publication.

The board considered the early draft of the provider accreditation scheme in detail. Board members asked about how the scheme would work in practice, including whether initial advice given by the CLSB would be binding, at what stage a refusal to accredit could be made, the timing of validation events, the consequences of competition emerging between providers, and which elements of the decision-making process would require discretion. Kate explained the intentions and options in relation to each aspect and the board provided feedback to shape development of the scheme.

As well as inviting general feedback, Kate had asked the board for input on two specific aspects of the scheme, namely: (i) whether a fee should be charged to applicants in order to cover the cost of the scheme, and (ii) which body should have ultimate decision-making authority in relation to accreditation. The board discussed the pros and cons of charging applicants and considered the approaches taken by others in the sector. Ultimately it concluded that the CLSB could absorb the cost of at least one application in the first few years of the scheme without impacting the practising fee, and any unanticipated applications could be dealt with using uncommitted reserves if necessary. The issue could be revisited once there was some lived experience of how resource-intensive the application process would be. Board members also acknowledged the significant investment that ACL Training would need to make in order to modernise the existing course. It was therefore agreed to remove reference to fees from the drafting at this stage.

The board discussed the options for where ultimate decision-making responsibility should lie – including weighing the logistical challenges of requiring board approval for all decisions against the need to maintain proper board scrutiny and accountability – and the appropriate avenue for appeals. The board agreed that a sound balance would be struck by appointing a board member to the proposed Accreditation Panel, alongside one independent member and CLSB staff member. Appeals in relation to accreditation decisions could be made to the Chair of the board, who would convene a panel of three board members to consider that appeal, none of whom would be the Accreditation Panel member.

Kate agreed to update the accreditation scheme based on the board's feedback and then proceed with next steps, which included the production of supplementary documents and beginning to socialise the proposals with stakeholders.

Action: Publish BDN on website; Amend and publish consultation outcome report and final version of Competency Statement; Implement comments on accreditation scheme and proceed with next steps.

4. BOARD MATTERS

4.1 Reappointment of Chair

David left the meeting for this item and handed the chair to Stephanie. The board considered David's performance in the role during his first term as Chair and

unanimously approved his reappointment for a further three years, in line with the Board Appointment Rules.

David returned to the meeting after a short break. Stephanie thanked David for his stewardship during 2021 and conveyed that all board members looked forward to working with him into the future.

Action: Formalise reappointment of Chair.

4.2 Governance review

Kate introduced this item. She explained that she had been working with governance experts at Indigo during Q3 and Q4 to develop a new suite of governance documents that were fit for purpose and reflected current good practice standards. The board was provided with a proposed new Board Governance Policy, which appended a series of related governance documents as a “one stop shop” for board members. The board was asked to approve the Board Governance Policy and revoke eight existing documents that had been superseded by the review.

The board considered the Policy, including the new list of matters reserved for the board, and approved it for adoption. It was recognised that a policy of this kind could potentially cover a vast array of material, but the scope of the draft was appropriate for an organisation of the CLSB’s limited size and complexity.

The board discussed whether it was appropriate to reinstate a Remuneration Committee (RemCom). Kate conveyed Indigo’s advice that having an independent RemCom was good practice even for a small board, to avoid real or perceived conflicts of interest. The board accepted this and agreed to reinstate a RemCom with two members, as per the draft Terms of Reference appended to the Board Governance Policy. The board approved the appointment of Paul and Andrew H to that committee.

Kate explained that, in producing the Board Governance Policy, she had been mindful to implement the recommendations from the LSB’s deep-dive reviews into the governance arrangements of the BSB and Faculty Office. The board was provided with an updated version of the CLSB’s internal tracker document that records changes to governance arrangements made in light of the LSB’s findings across both reviews. The board noted that there were a few recommendations yet to be implemented, as they were not naturally housed within the Board Governance Policy, but that workplans for implementing the outstanding items in a timely fashion were in place.

Actions: Adopt Board Governance Policy; Revoke superseded policies; Make arrangements for RemCom.

5. FINANCE

5.1 Quarterly report: Q4 2021

Jacqui introduced the quarterly finance report. She noted that several costs for 2022 had been brought forward into 2021, but the final budget position at year-end was nevertheless balanced. She also conveyed that budgeted income for 2022 had already been achieved. The board noted the financial position in the report.

5.2 Cost of living wage rise

The board considered the annual standing item of a pay rise across all employees to reflect the increasing cost of living. The Bank of England had reported that the rate of inflation rose to 5% in the winter of 2021 and would reach about 6% by spring 2022, but was expected to start falling after that to a projected average of 3.5% across next year. Average inflation across 2021 was reported as 2.6%.

On that basis, the board approved a salary increase of 3%, being an average of the 2021 and 2022 figures, implemented from 1 March 2022. The board also noted that future decisions about wage adjustments for the cost of living would be made by the RemCom.

Actions: Implement wage rise from 1 March 2022; Update the “cost of regulation” webpage to reflect changes.

6. RISK MANAGEMENT

6.1 Review of risk registers

The board reviewed the risk registers and considered whether any new risks should be added, any existing risks removed or any risk scores changed. The board discussed the positive feedback from the first ACL Training board meeting, but agreed it was too early to downgrade the rating for any of the risks relating to new qualifiers or stakeholder relationships.

The board agreed to:

- update the evidence of risk OP1 (*more enter than leave the profession*) to reflect that there were no terminations directly linked to covid-19 in the recent renewal round, and to provide the attrition rate for 2021;
- update the controls for risk OP3 (*insufficient numbers of new qualifiers*) to reflect engagement with the new ACL Training board, and update the actions/status for risk OP3 to reflect completion of the course audit and delivery of the Competency Statement;
- update the evidence of risk OP4 (*ACL becomes insolvent*) to reflect the potential challenges with succession on Council;
- update the controls for risk R1 (*our standards do not achieve positive consumer outcomes*) to reflect the findings from recent work on under-insurance; and
- update the controls for risk R5 (*CLSB cannot promote diversity due to small size of profession*) to reflect the EDI work carried out in 2021.

Action: Update risk registers as agreed and publish on website.

6.2 Professional indemnity insurance

Kate reminded the board that priority 9 in the 2021 Business Plan required the CLSB to take an in-depth look at three key areas in which it had identified risks of poor consumer outcomes, namely: under-insurance; handling of client money; and communication of complaints procedures. Having considered client money and complaints earlier in the year, under-insurance was reviewed in Q4. The board was provided with a paper summarising the findings of the review, which looked at the

insurance cover purchased by a sample of regulated Costs Lawyers. The paper recommended several follow-up actions specifically targeted at the areas identified as posing the highest risk to the regulatory objectives. The board was asked to agree those recommended actions for delivery in 2022.

The board discussed a number of issues arising from the paper, including the sufficiency of the minimum prescribed cover, the intersection between client money risks and insurance risks, and client information about policy limits. Board members probed the relevance of using firm turnover as an indicator of risk and Kate explained the rationale for this, although acknowledging that it was a proxy only. The board considered statistics from the regulatory return as to the level of cover that firms and sole practitioners are actually procuring and discussed the circumstances in which the minimum level of cover might be appropriate for a particular firm. Analogies were drawn to data about the value of claims made on compensation funds administered by other bodies.

There was clearly a large variation in Costs Lawyers' circumstances, in terms of insured risk as well as client type, and this would impact both the appropriate level of cover and the framing of client communications. The board considered whether a sliding scale of prescribed cover was necessary, however it was recognised that the benefits of a sliding scale were likely already achieved through the current approach of requiring Costs Lawyers to take their own assessment of risk, based on the nature of their work and their client profile. The evidence showed that cover values have increased over time faster than inflation, which could indicate that Costs Lawyers are engaging in this risk assessment process as the landscape changes. The Non-Lay NEDs provided feedback on how the risk profile of costs work has changed over time, particularly following the Jackson reforms, and the factors that firms are likely to take into account in determining cover levels. These will extend far beyond the regulatory requirements and will include practical considerations such as contractual obligations to clients, price and policy availability.

The board agreed that the minimum prescribed cover should be retained, and approved the recommendations in the report by way of next steps.

7. REGULATORY MATTERS

7.1 Innovation project update

The purpose of this item was to update the board on progress of the project entitled *How could Costs Lawyers reduce the cost of legal services?*, which was funded by the Regulators' Pioneer Fund. The board was provided with an interim report from consultancy Hook Tangaza, explaining how the project had been structured and summarising the findings of the project's first stage. David welcomed Heather and guests from Hook Tangaza to introduce this item and speak to the report.

Heather confirmed that the project was running to time and budget, and that there were no material governance issues or risks. The board was also informed that two external members had been recruited to the challenge board – Fran Gillon of IPReg and Elisabeth Davies of the OLC – and a successful meeting of that board had taken place at the end of the year.

Nankunda and Alison drew out various themes from the report and emerging findings. Board members asked questions about how the research had been carried out and what evidence was being uncovered, including in relation to: the degree of engagement from practitioners, the profession's profile and sense of identity, stakeholders outside the profession who would have useful insights, traditional vs emerging models of costs work, structural conflicts within the profession, the use of costs data in innovation, and the impact of the project on the CLSB's regulatory approach.

The board noted that the outputs of the project would be useful in a variety of ways and agreed to have a session, once the final report was produced, on how the findings could inform the CLSB's strategic focus.

David thanked Hook Tangaza for attending and noted that the progress so far was very encouraging.

8. LEGAL SERVICES BOARD (LSB)

8.1 Updated regulatory performance assessment

The board had been informed by email in December that the CLSB was now assessed as meeting all standards in the LSB's regulatory performance framework. For this meeting, the board was provided with the final version of the assessment as published, under cover of a letter from the LSB. The letter signalled the LSB's likely areas of interest in upcoming assessments, as well as the LSB's intention to have a new performance framework in place for 2023. Kate explained that priorities in the 2022 Business Plan would need to be flexed to accommodate the LSB's areas of interest.

Board members noted the significant achievement of meeting all standards in the performance framework, given the CLSB's starting point in 2019. They also flagged the fundamental change in the organisation's relationship with the LSB, which was now considered constructive and mutually beneficial. The board also noted the LSB's intended areas of interest and encouraged the executive to work collaboratively with the LSB and others in these areas where possible.

8.2 Consultations

The board received updates in relation to LSB consultations (and the CLSB's engagement with them) in relation to:

- the LSB's 2022/23 business plan and budget;
- ongoing competency; and
- a draft policy statement on empowering consumers.

9 STAKEHOLDER UPDATES

9.1 ACL Council meeting minutes

The board noted the minutes of ACL Council meetings held in September, October and November 2021. The board discussed an extract from the September minutes that flagged a risk around turnover of Council members and succession planning, particularly for the chair role. Board members considered options that might be open

to ACL, such as appointing joint-chairs to share the workload, as well as the potential impacts on CLSB if succession risks materialised.

Andrew M updated the board on key points from the ACL conference in late 2021.

9.2 Work updates

The board was updated on the Legal Ombudsman's consultation on its budget and workplan for the following year, including feedback from stakeholder workshops that Kate had attended.

10 OPERATIONAL MATTERS

10.1 Practising certificate renewals data

Jacqui introduced this item and noted that the CLSB had continued to improve and refine the online practising certificate (PC) renewals process in 2021. The improvements in efficiency, accuracy and data capture achieved through digitalising the process were immense.

The board considered a roundup paper, summarising how the process went, providing renewal statistics and updating last year's project evaluation. Board members discussed the reasons for termination given by Costs Lawyers exiting the profession and the extent to which these were linked to economic impacts. They also considered verbatim comments drawn from a new field in the online form, through which Costs Lawyers could provide feedback on how they thought the CLSB was doing. The responses were overwhelmingly positive, with only one comment suggesting that there was further work for the CLSB to do to become fully effective. Particularly notable was the number of unsolicited positive comments about the new CPD regime, introduced for 2021.

The board commended the executive on the pace of digitisation and thanked Jacqui for her hard work in running the system smoothly.

The board also considered a paper on preliminary results of the 2021 diversity survey. The board noted that, despite offering a prize incentive this year, the survey response rate had fallen from the previous year. There was also a clear indication from respondents that they did not want the CLSB to store their diversity data (such that survey responses could be pre-populated for convenience year to year). Only 22% said they would prefer this option. The board agreed that it would be inappropriate to store practitioners' diversity data if they were not comfortable with this, and that doing so could have the counterproductive effect of disincentivising people to provide information.

The board considered various other options for boosting response rates, including an opt-in model to storing diversity data or further integrating the survey into the PC renewal form. Board members drew on experience in other organisations and agreed that many regulatory and public bodies face similar difficulties where practitioners cannot be compelled to provide data. The board agreed that the executive should work with other regulators to identify best practice and possible options to explore, accepting that a best practice approach might not lead to comprehensive data.

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

Kate informed the board of a role that she would be taking on outside her CLSB duties, namely as a co-founder of the Class Representatives Network. She confirmed that there were no conflicts between the work of the Network and that of the CLSB.

13 NEXT SCHEDULED QUARTERLY MEETING

The next meeting was scheduled for 19 May 2022. The board agreed to hold this meeting virtually, although using Teams instead of Zoom, with the aim of holding the July meeting in person.

Action: Update joining details for upcoming meetings.

There being no further business, the Chair declared the meeting closed at 12:59.

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Chair

Related documents

Item	Document	Publication location (CLSB website)
2.1	Board minutes (20 October 2021)	About ⇒ Our board
3.2	Performance Indicators	About ⇒ Strategy and governance
3.3	Consultation outcome report	Regulatory ⇒ Consultations
3.3	Competency Statement	Qualification ⇒ How to become a Costs Lawyer
6.1	Risk registers	About ⇒ Strategy and governance
7.1	Innovation project webpage	CLSB website here
11.1	Board papers	About us ⇒ Our board
Item	Document	Publication location (other)
8.1	Regulatory performance assessment	LSB website here

8.2	LSB consultations on business plan and budget, ongoing competency, and empowering consumers	LSB website here
9.2	Consultation on Legal Ombudsman business plan and budget	Legal Ombudsman website here

DRAFT

Q1 board update

Costs Lawyer Standards Board



Annual priorities

Improving our regulatory arrangements

	Initiative	Progress status / expected completion
1.	<p>Review the Costs Lawyer Code of Conduct to ensure it aligns with:</p> <ul style="list-style-type: none"> • our consumer outcomes framework; • our research into the competencies expected of a qualifying Costs Lawyer; • learnings from our risk deep-dive exercise carried out in 2021; • the better regulation principles, and in particular that it does not impose unnecessarily broad regulatory burdens; • recent updates to our other regulatory arrangements; • evidence of good practice across the wider professional services sectors. 	<p>Pending (expected Q4)</p> <p><i>Work on this priority is scheduled for H2, with any necessary rule changes being implemented in Q4.</i></p>
2.	<p>Implement changes to the Training Rules and other regulatory arrangements relating to education – informed by evidence from our competencies project in 2021 – to modernise the requirements for becoming a Costs Lawyer and facilitate a wider range of flexible pathways to qualification.</p>	<p>In train (expected Q4)</p> <p><i>Achieved: The board considered the first draft of the new Accredited Study Provider Handbook in January. During Q2 we have developed the first draft of assessment outcomes and assessment guidance for the qualification and have worked closely with ACL Training to align expectations and timings for a new course.</i></p> <p><i>Outstanding: The assessment outcomes, guidance and other annexes to the Handbook will be finalised in Q2 and new Training Rules will be developed. Final drafts, along with a proposed consultation document, will be put to the board for consideration in July. Consultation will take place during Q3 with a rule change application to the LSB in Q4. This is a significant workload that will demand ongoing attention and resource throughout the year.</i></p>

3.	Using our new supervision framework, evaluate the extent to which our revised approach to Continuing Professional Development (CPD) has been understood and adopted by Costs Lawyers, and develop communications to address any areas of difficulty or other themes identified.	Achieved (Q1) <i>An audit of CPD for the 2021 practising year – being the first year in which the new CPD Rules were in force – was carried out in Q1. A report of the findings, as well as actions taken to provide feedback to the regulated community and further embed the approach, will be presented to the board at this meeting.</i>
4.	Evaluate the success of our new Disciplinary Rules and Procedures two years after implementation.	In train (expected Q2) <i>Achieved: A review of our experience in applying the new DR&P has been carried out and several recommended adjustments have been identified, mainly to clarify the relationship between complaints to the CLSB and complaints to LeO, and to align their timings. The review also identified a need for a documented, step-by-step triage process. This has been developed and will be put to the board at this meeting for consideration. We have also secured additional resource for disciplinary matters on a flexible basis.</i> <i>Outstanding: A report setting out recommendations for changes to the DR&P will be presented to the board in July, with a rule change application to follow.</i>

Protecting the interests of consumers and promoting professional standards

	Initiative	Progress status
5.	Update our <u>Consumer Engagement Strategy</u> to capture learnings from the first year, and deliver the updated priority activities for the second year.	In train (expected Q2) <i>Achieved: Our Consumer Engagement Strategy has been updated for year 2, reflecting learnings from year 1 and bringing it into line with our policy statement on consumer outcomes. We have delivered a number of the anticipated workstreams, such as updating our guidance on vulnerable individual consumers and promoting pro bono work.</i> <i>Outstanding: Final actions, particularly around privacy and communication of regulatory status, will be delivered in Q2.</i>

6.	<p>Embed a culture of considering consumer outcomes in all of our regulatory work, seeking evidence of effectiveness where possible.</p> <p>In line with this culture:</p> <ul style="list-style-type: none"> gather evidence of whether and how consumer outcomes differ when clients use regulated advisers and unregulated advisers, so we can better assess the risks to consumers of under- or over-regulation in the market for costs law services; based on evidence, evaluate how far we can tackle any issues raised in the areas of price; innovation; access; privacy; and fairness. 	<p>In train (expected Q4)</p> <p><i>Achieved: Part of this priority was delivered through our project “How could Costs Lawyers reduce the costs of legal services?”, with funding from the Regulators’ Pioneer Fund. In this work we explored the differences between regulated and unregulated advisers, and explored the impacts of under and over regulation. The research phase of the project concluded in March. The final project report will be presented to the board at this meeting.</i></p> <p><i>Outstanding: Following our RPF funded work, we now have a much better idea about the type of work Costs Lawyers do, what kind of clients they serve, and what our regulatory priorities should be. We will structure a discussion at the July board meeting to cover taking forward recommendations around price, innovation and fairness. Access and privacy will be covered separately (see below).</i></p>
7.	<p>Carry out a research project to better understand the pricing structures used by Costs Lawyers and to benchmark prices for different types of costs services.</p>	<p>Pending (expected Q4)</p> <p><i>Work on this priority is scheduled for H2.</i></p>
8.	<p>Investigate consumers’ expectations in relation to privacy – including by reference to learnings from existing research in related markets – and assess whether there is any evidence that expectations are not being met.</p>	<p>Pending (expected Q2)</p> <p><i>Work on this priority is scheduled for Q2, in line with delivery of year 2 of the Consumer Engagement Strategy.</i></p>
9.	<p>Deliver the next phase of our diversity and inclusion work program in the three broad areas identified in our 2021 comparative report, namely:</p> <ul style="list-style-type: none"> further improving our data collection; enhancing engagement with our regulated community; assessing the likely effectiveness of potential regulatory 	<p>In train (expected Q4)</p> <p><i>Achieved: We are in the process of analysing the results from our recent survey on pay and earnings, which will be published in June 2022. As part of this, we are learning lessons from the City of London socio-economic diversity taskforce in an attempt to extract the maximum value from the data we have. We are engaging with the LSB and other regulators to improve and better align future data collection exercises.</i></p> <p><i>Outstanding: We are seeking a partner for a joint event, having decided it would be better to collaborate in order to build a bigger potential attendee list. Activities</i></p>

	interventions to improve diversity and inclusion.	<i>under the three workstreams will continue throughout the year.</i>
10.	Deliver a project to benchmark the level of innovation in the profession and to explore any regulatory or statutory arrangements that might hinder or assist innovation in the market for Costs Lawyers' services.	Achieved (Q1) <i>This priority was delivered through our project "How could Costs Lawyers reduce the costs of legal services?", with funding from the Regulators' Pioneer Fund. The research phase of the project concluded in March. The final project report will be presented to the board at this meeting.</i>
11.	Engage with the other legal services regulators to identify and act on opportunities for collaboration that have the potential to deliver: <ul style="list-style-type: none"> material cost savings; new evidence or learnings that we could not access on our own; and/or unique benefits from taking a whole-sector approach. 	In train (expected Q4) <i>Achieved: We identified a number of areas for collaboration in Q1 and joined a number of cross-sector initiatives. Examples include work on unbundling of services, PLE, a joint statement on counter-inclusive behaviours, and sanctions compliance.</i> <i>Outstanding: This will continue to be a priority throughout 2022 as we identify and act on new opportunities during the year.</i>

Modernising our organisation

	Initiative	Progress status
12.	Begin to consider a vision for our organisation beyond the current <u>mid-term strategy</u> that ends in 2023, focused around a board strategy day informed by the views of stakeholders.	Pending (expected Q3) <i>The strategy session will take place at our in-person board meeting in July, drawing on learnings about the market from our RPF project which captured the views of a wide range of stakeholders.</i>
13.	Review our methodology for measuring, recording, monitoring and responding to risk in light of changes to our regulatory approach and organisational culture since our existing methodology was introduced.	Pending (expected Q4) <i>Work on this priority is scheduled for H2.</i>
14.	Test the measures in our Business Continuity and Disaster Recovery Plan to ensure they remain fit for purpose following changes to our organisational design.	Pending (expected Q2) <i>Work on this priority is scheduled for Q2.</i>

15.	<p>Deliver the next phase of our digital workplan, including:</p> <ul style="list-style-type: none"> • automating the analysis of routinely captured data; • building add-on functionality for the Costs Lawyer database, such as bespoke report generation. 	<p>Achieved (Q1)</p> <p><i>In Q1 we added the following functionality to the database:</i></p> <ul style="list-style-type: none"> • <i>Complaints procedure audit records</i> • <i>Tracker of all contacts with Costs Lawyers</i> • <i>Auto-fill of address fields to save admin time</i> <p><i>Ultimately, we decided that adding a bespoke reports option was not cost effective given that new reports required can be added quickly (usually within a day if urgent). We also made the following upgrades to the PC renewal application form:</i></p> <ul style="list-style-type: none"> • <i>Automatic calculation of fee remission</i> • <i>Provision of invoices rather than Fee Notes to facilitate bulk payments in large firms</i> • <i>Changes to make the form easier to follow, and more user friendly, in line with user feedback</i> <p><i>Back-end improvements meant that we were quickly and easily able to analyse the data captured in the Regulatory Return and for performance indicators, without needing external support as anticipated.</i></p>
16.	<p>Review and modernise our internal staff policies to ensure they are fair, relevant and reflect our current ways of working.</p>	<p>Pending (expected Q3)</p> <p><i>Work on this priority is scheduled for Q3.</i></p>
17.	<p>Consider whether additional or different advisory appointments are necessary to fill any skill gaps at board or executive level.</p>	<p>Achieved (Q1)</p> <p><i>We incorporated this work into our wider governance review which was carried out in H2 2021. The recommendations from the governance review were implemented in Q1, following board approval in February 2022, with the RemCom due to convene in Q2.</i></p>

Consolidated Register of Interests

At 27 April 2022

Name	Rt Hon David Heath CBE, Chair
Employment in last year	<ul style="list-style-type: none"> • Independent Chair, MCS Standards Board • Non-Executive Director and Chair of Primary Care Commissioning Committee, Somerset Clinical Commissioning Group (NHS) • Chair, Independent Funeral Standards Organisation • Chair, Policy advisory Group, Institute and Faculty of Actuaries
Businesses in which partner or sole proprietor	
Company Directorships	
Charity Trusteeships	
Memberships (with control or management)	<ul style="list-style-type: none"> • President, Frome & District Agricultural Society • Vice-President, Frome Festival
Immediate family declarations of interest	
Breach of CLSB Board Code of Conduct?	No
ACL decision-making role?	No
Gifts or hospitality from external bodies?	No
Any other personal or professional interests	No

Name	Stephanie McIntosh, Vice Chair
Employment in last year	<ul style="list-style-type: none"> • The Parole Board of England & Wales • Judicial Appointments Commission • Bar Tribunal & Adjudication Service • Royal College of Veterinary Surgeons • Solicitors Disciplinary Tribunal
Businesses in which partner or sole proprietor	
Company Directorships	
Charity Trusteeships	
Memberships (with control or management)	
Immediate family declarations of interest	
Breach of CLSB Board Code of Conduct?	No
ACL decision-making role?	No
Gifts or hospitality from external bodies?	No
Any other personal or professional interests	No

Name	Andrew Harvey
Employment in last year	<ul style="list-style-type: none"> • Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust - Chair, Mental Health Act Appeals Panel (demitted office) • General Pharmaceutical Council - Deputy Chair, Investigating Committee • Judicial Appointments Commission - Independent Selection Panel Member and Chair • Nursing and Midwifery Council - Chair, Fitness to Practise Committee

	<ul style="list-style-type: none"> • Registers of Scotland - Non-Executive Director and Chair, Audit and Risk Committee • Recruitment and Employment Confederation - Chair, Remuneration and Appointments Committee • General Osteopathic Council - Chair, Professional Conduct Committee • Institute of Chartered Accountants of England and Wales - Chair, Disciplinary Committee • First Tier Tribunal, Health and Social Entitlement Chamber (Mental Health) - Specialist Member • Civil Nuclear Policy Authority - Non-Executive Director
Businesses in which partner or sole proprietor	<ul style="list-style-type: none"> • Communications consultant, sole trader (no legal service regulation clients)
Company Directorships	<ul style="list-style-type: none"> • Northumbria University Students' Union Limited
Charity Trusteeships	<ul style="list-style-type: none"> • Northumbria University Students' Union
Memberships (with control or management)	<ul style="list-style-type: none"> • North East Fund for the Arts - Advisory Board member
Immediate family declarations of interest	<ul style="list-style-type: none"> • Spouse, employed by Pele Trust • Daughter, employed by Derbyshire County Council • Son, employed by West Northamptonshire Council • Son, employed by Activate Management Limited • Brother, employed by NatWest Group plc
Breach of CLSB Board Code of Conduct?	No
ACL decision-making role?	No
Gifts or hospitality from external bodies?	No
Any other personal or professional interests	No

Name	Andrew McAulay
Employment in last year	<ul style="list-style-type: none"> Clarion Solicitors
Businesses in which partner or sole proprietor	<ul style="list-style-type: none"> Clarion Solicitors
Company Directorships	
Charity Trusteeships	
Memberships (with control or management)	
Immediate family declarations of interest	
Breach of CLSB Board Code of Conduct?	No
ACL decision-making role?	No
Gifts or hospitality from external bodies?	No
Any other personal or professional interests	No

Name	Paul McCarthy
Employment in last year	Horwich Farrelly Limited
Businesses in which partner or sole proprietor	
Company Directorships	
Charity Trusteeships	
Memberships (with control or management)	
Immediate family declarations of interest	

Breach of CLSB Board Code of Conduct?	No
ACL decision-making role?	No
Gifts or hospitality from external bodies?	No
Any other personal or professional interests	No

Name	Kate Wellington, Company Secretary
Employment in last year	<ul style="list-style-type: none"> Chartered Insurance Institute - Independent Member of the Professional Standards Committee Ombudsman Association - Independent Member of the Validation Committee
Businesses in which partner or sole proprietor	
Company Directorships	<ul style="list-style-type: none"> Director of Home Insurance Consumer Action Ltd
Charity Trusteeships	
Memberships (with control or management)	<ul style="list-style-type: none"> Co-founder and Director of the Class Representatives Network
Immediate family declarations of interest	<ul style="list-style-type: none"> Spouse, Partner at Norton Rose Fulbright
Breach of CLSB Board Code of Conduct?	No
ACL decision-making role?	No
Gifts or hospitality from external bodies?	No
Any other personal or professional interests	No

COSTS LAWYER STANDARDS BOARD LTD

RISK REGISTERS

As at 2 February 2022

1. RISK SCORING

(i) Nature of risk

Our operational risks are categorised as:

- Legal
- Financial
- Operational continuity
- Capacity
- Reputational
- Stakeholder

Our reputational risks are categorised as having the potential to impact one or more of the following regulatory objectives:

- Protecting and promoting the public interest.
- Supporting the constitutional principle of the rule of law.
- Improving access to justice.
- Protecting and promoting the interests of the consumer.
- Promoting competition in the provision of services.
- Encouraging an independent, strong, diverse and effective legal profession.
- Increasing public understanding of the citizen's legal rights and duties.
- Promoting and maintaining adherence to the professional principles, namely: independence and integrity; proper standards of work; acting in a client's best interests; duty to the court; confidentiality of client affairs.

(ii) Gross risk: Impact x Probability

Impact (I)	Probability (P)
The consequences of an event occurring. The event will have: Negligible (1): Very little consequence Slight (2): Some consequences, but none serious Moderate (3): Some consequences which could be serious Serious (4): Serious consequences Severe (5): Very serious consequences	The likelihood of an event occurring. The event is: Low (1): Very unlikely to occur Medium low (2): Unlikely to occur Medium high (3): Likely to occur High (4): Very likely to occur

IMPACT	5	5 YELLOW	10 YELLOW	15 RED	20 RED
	4	4 GREEN	8 YELLOW	12 YELLOW	16 RED
	3	3 GREEN	6 YELLOW	9 YELLOW	12 YELLOW
	2	2 GREEN	4 GREEN	6 YELLOW	8 YELLOW
	1	1 GREEN	2 GREEN	3 GREEN	4 GREEN
		1	2	3	4
		PROBABILITY			

(iii) Adequacy of controls

Descriptor	Score	Description
Fully effective	5	Controls are well designed for the risk and address the root causes. The Executive and Board are comfortable that controls are effectively applied, monitored and assured
Substantially effective	4	Most controls are designed correctly and are in place and effective. Some more work to be done to improve operating effectiveness, or doubts about operational effectiveness and reliability
Partially effective	3	Controls in place but are not sufficient to fully mitigate risk. There are potential weaknesses in the application of controls and limited assurance or reporting available
Largely ineffective	2	Significant control gaps. Either controls do not treat root causes or they do not operate at all effectively
None or totally ineffective	1	No credible control and limited confidence in the application or oversight of risk activity

2. OPERATIONAL RISK REGISTER

Logged by board: 6/4/2011	Reference: OP1	Risk score: I(5) x P(4) = 20
Risk to operation	Changes to the profession impact CLSB viability as more leave than enter the profession	
Nature	Financial, operational continuity	
Evidence of risk	<ul style="list-style-type: none"> • Increase in fixed costs (from September 2021): MOJ confirmation that it will expand fixed costs regime. • Coronavirus (from May 2020 and April 2021): Results of our first coronavirus impact survey suggested a significant minority of Costs Lawyers were concerned about their ability to carry on practising, while the outlook from our second survey was more optimistic and there were no terminations reported as being covid-related for 2022. • Whiplash reforms (from January 2021): could reduce work in low value PI claims, but may also increase complexity of instructions. • Link to OP3 in terms of numbers entering the profession. • Actual net attrition of 2 practitioners over 2021, down from 12 in 2020. 	
Controls	<ul style="list-style-type: none"> • Monitor impact on the profession via impact assessment surveys, including coronavirus impact surveys in Q2 2020 and Q1 2021. • Respond to proposals/consultations to help stakeholders understand the Costs Lawyer market and ensure policy developments are in the public interest. • Implement regulatory arrangements that support safe innovation and diversification, to promote ongoing competition and choice. • Pursue recommendations in the Mayson report for expansion of costs regulation. • Mitigate risks around route to entry – see OP3. • Review of historic termination and reinstatement data carried out in 2020 and new processes put in place for communicating with potential returners. • Retain six months' operating budget as reserves. 	
Control adequacy	4	
Priority area of risk	High	
Actions/status	Monitor reasons for leaving the profession at PC renewal and respond to new factors. Impact of coronavirus on regulated numbers being kept under close review.	

Logged by board: 13/1/2015	Reference: OP2	Risk score: I(5) x P(1) = 5
Risk to operation	The CLSB's size means that business continuity cannot be assured in all possible circumstances	
Nature	Operational continuity, capacity, reputational	
Evidence of risk	Being a small organisation, institutional knowledge and operational capacity of the CLSB rests with a small number of individuals. Duplication of staffing costs in the event of a long term absence could have a disproportionate impact given the number of staff.	
Controls	<ul style="list-style-type: none"> • Increase in policy support resource from February 2021. • Updated Business Continuity and Disaster Recovery Plan adopted in July 2020 following restructure and reflecting changes for coronavirus. • Reassessment of continuity risks in light of coronavirus (including retaining core functions in the absence of a key staff member). • Move to a paperless organisation, including via the database, electronic processes and cloud storage. • Minimisation and logging of paper archives, with joint access. • Systematic documentation of all processes. • Joint signatories to bank account. • Retain six months' operating budget as reserves. 	
Control adequacy	5	
Priority area of risk	Low	
Actions/status	<ul style="list-style-type: none"> • Rehousing or safe destruction of paper archives over coming years. • Knowledge transfer of all systems, processes, data and knowhow between staff and into internal policies and manuals. 	

Logged by board: 25/7/2017	Reference: OP3	Risk score: I(5) x P(3) = 15
Risk to operation	There are insufficient numbers of newly qualified Costs Lawyers such that regulated numbers fall to an unsustainable level	
Nature	Reputational, financial, operational continuity	
Evidence of risk	<p>There is only one means of entry into the profession and one provider (ACLT).</p> <ul style="list-style-type: none"> • In 2017, due to financial concerns, the CLSB authorised ACLT's course to the end of 2020 for current trainees only (i.e. a suspension on new intakes). The course reopened to new students in January 2020 and ACL did not confirm a 2021 intake until December 2020. • In 2017, the CLSB considered applying to the government apprenticeship scheme, but concluded this was not an option. 	

	<ul style="list-style-type: none"> • Coronavirus may impact the number of new qualifiers, due to assessment delays and reduced employer funding.
Controls	<ul style="list-style-type: none"> • Flagship project in 2021 to create a new competency statement, providing a basis upon which to modernise regulatory requirements for the qualification. • Work closely with new ACLT board, appointed in January 2022, to effect sustainable change. • Nurture relationship with ACLT to ensure early notification of any future issues and ensure current learners are protected. • Retain six months' operating budget as reserves.
Control adequacy	4
Priority area of risk	High
Actions/status	<ul style="list-style-type: none"> • Final delivery of consequential rule changes following Competency Statement.
Commentary	Establishing a stable, modern, flexible qualification is the CLSB's highest priority for the short and medium term.

Logged by board: 24/10/17	Reference: OP4	Risk score: I(5) x P(3) = 15
Risk to operation	ACL, named in the Legal Services Act 2007 as approved regulator (role undertaken by CLSB under delegation), becomes insolvent	
Nature	Regulatory, operational continuity, reputational (for CLSB and the profession)	
Evidence of risk	<ul style="list-style-type: none"> • Coronavirus may impact regulated numbers or Costs Lawyers' ability to pay membership fees. • Lack of communicated value proposition for membership over the medium and longer term. • Succession planning challenges with chairmanship. • Inherent risk for any regulatory body acting under the delegated authority of its parent company. 	
Controls	<ul style="list-style-type: none"> • Open dialogue with ACL to give us early warning of financial issues. • Ongoing engagement with the LSB's contingency planning initiative. • Retain six months' operating budget as reserves. 	
Control adequacy	3	
Priority area of risk	Medium	
Actions/status	Financial instability in 2017-2018 appears to have subsided.	

Logged by board: 24/1/18	Reference: OP5	Risk score: $I(4) \times P(1) = 4$
Risk to operation	Failure to comply with data protection obligations	
Nature	Legal, financial, reputational	
Evidence of risk	Increased risk under new GDPR arrangements, including a significant increase in the level of fine that can be imposed. CLSB handles the personal data of Costs Lawyers, employees, agents and (to a limited extent) some members of the public.	
Controls	<ul style="list-style-type: none"> Data protection compliance review carried out in Q4 2019, leading to adoption of a new Data Protection Manual and implementation of updated processes for ensuring compliance in 2020. Updates to IT systems with a focus on data security. 	
Control adequacy	4	
Priority area of risk	Low	
Actions/status	Updates to IT systems ongoing throughout 2020.	

Logged by board: 23/1/19	Reference: OP6	Risk score: $I(4) \times P(4) = 16$
Risk to operation	Breakdown in communications between any of ACL, ACL Training and the CLSB	
Nature	Operational continuity, reputational	
Evidence of risk	<ul style="list-style-type: none"> Previous difficulties in securing ACL/ACLT engagement with CLSB, due to lack of resource or appetite. Governance and oversight complications as between ACL and ACLT in relation to the Costs Lawyer Qualification. Highly strained relations between ACL and ACLT during 2021. A breakdown of any of the bilateral relationships could adversely impact the qualification and the CLSB. 	
Controls	<ul style="list-style-type: none"> Contingency planning for operational areas that require ACL input. New MOU and OP agreed with ACL in 2020. Help ACL engage with its regulatory obligations as a designated body under the IGRs. Extend engagement beyond ACL Chair to foster understanding within the Committee as a whole. Work within the parameters of the new Protocol agreed with ACLT. 	
Control adequacy	2 – relations between ACL and ACLT could significantly impact CLSB but are largely outside of the CLSB's control	
Priority area of risk	High	
Actions/status		

Logged by board: 21/4/21	Reference: OP7	Risk score: I(5) x P(2) = 10
Risk to operation	A significant, unexpected fall in practising fee income	
Nature	Operational continuity	
Evidence of risk	<ul style="list-style-type: none"> The ability to collect practising fees is subject to LSB approval, which may be withheld for various reasons as outlined in the LSB's Practising Fee Rules. The coronavirus pandemic reminds us of the potential for an economic crisis to occur without warning, affecting practitioners' ability to pay. 	
Controls	<ul style="list-style-type: none"> Early engagement with the LSB on practising fee applications and budget setting. Retain six months' operating budget as reserves. 	
Control adequacy	4	
Priority area of risk	Medium	
Actions/status		

Logged by board: 21/4/21	Reference: OP8	Risk score: I(3) x P(1) = 3
Risk to operation	Unplanned involvement in litigation results in the payment of significant legal costs and/or damages	
Nature	Legal, financial, reputational	
Evidence of risk	<ul style="list-style-type: none"> Decisions of the CLSB are subject to judicial review. The CLSB may choose to seek an injunction for breach of the Legal Services Act 2007. A private law action for damages could be brought against the CLSB at any time. 	
Controls	<ul style="list-style-type: none"> Risk is partially insured (including legal expenses insurance). Retain six months' operating budget as reserves. 	
Control adequacy	5	
Priority area of risk	Low	
Actions/status	Insurance cover is scheduled for review in 2022.	

3. REGULATORY RISK REGISTER

Logged by board: 23/01/2020	Reference: R1	Risk score I(4) x P(1) = 4
Risk	The professional standards set by the CLSB do not achieve positive consumer outcomes or, where poor consumer outcomes cannot be prevented, the CLSB is unable to take action	
Risk to objectives	Regulatory objective: Protecting and promoting the public interest. Regulatory objective: Protecting and promoting the interests of consumers. Professional principle: Proper standards of work. Professional principle: To act in the best interest of the client.	
Evidence of risk	There is limited evidence of actual risk, although there are theoretical risks that must be controlled, for example: <ul style="list-style-type: none"> • Risk of complaints processes not being properly communicated: While the very low level of complaints about Costs Lawyers to the CLSB or LeO could suggest that either few complaints arise at first-tier or those that are raised are handled well, this may also suggest that consumers are unaware of how to complain to their Costs Lawyer. • Risk of under-insurance: Costs Lawyers are free to select an insurance provider from the open market, as this promotes competition and keeps fees at a sustainable level, but this may carry a risk of a Costs Lawyer not purchasing the right type of cover. • Risks from lack of supervision: The shift to remote working during 2020 could have long-term consequences for proper supervision and training of junior Costs Lawyers. As we do not regulate entities, we cannot address this at firm/system level. 	
Controls	<ul style="list-style-type: none"> • New Practising Rules, CPD Rules and Disciplinary Rules and Procedures implemented in 2020, including to increase the deterrent effect of financial penalties. • Guidance subject to systematic review from 2019, with all Handbook content reviewed by the end of 2021 (other than Code of Conduct, which will be reviewed in 2022). • New Supervision Policy and four supporting supervision frameworks adopted in 2021. • Risk reviews carried out on complaints procedures and under-insurance in 2021 with follow-up actions identified. • Data collected during year 2 of the Consumer Engagement Strategy to benchmark consumer outcomes across our areas of focus. 	
Control adequacy	4	

Priority area of risk	Low – no evidence of risk having materialised to date	
Actions/status	Year 2 of the Consumer Engagement Strategy to be delivered by the end of H1 2022. Recommendations from the review of under-insurance to be carried out in 2022. Expansion of complaints procedure audit in 2022.	
Logged by board: 31/10/2011	Reference: R2	Risk score: I(5) x P(2) = 10
Risk	Costs Lawyer (not working for SRA regulated firm) accepting client monies	
Risk to objectives	Regulatory objective: Protecting and promoting the public interest Professional principle: To act with integrity Professional principle: To act in the best interests of the client	
Evidence of risks	<ul style="list-style-type: none"> As Costs Lawyers are not permitted to handle client monies, they will not have systems in place to ensure proper handling in the event they do inadvertently or deliberately accept monies in breach of our rules. No evidence from client survey or complaints that a Costs Lawyer has handled client monies. However a complaint in Q1 2020 suggested there is scope for poor client outcomes even where a Costs Lawyer does not handle client money directly. Pending whiplash reforms could increase the prevalence of direct instructions – including complex instructions – from lay clients with a likely increase in the desire for funds on account. 	
Controls	<ul style="list-style-type: none"> Covered under Principle 3.6 of Code of Conduct. Associated guidance updated in 2020 following a targeted review, including to promote the use of TPMAs to safely deal with client monies. Client survey asks: <i>“Did you send any monies to your Costs Lawyer other than in payment of an invoice?”</i> Information sharing arrangement with LeO in relation to complaints involving client monies that fall within CLSB jurisdiction. 	
Control adequacy	4	
Priority area of risk	Medium	
Actions/status		

Logged by board: 24/07/2019	Reference: R4	Risk score: I(4) x P(2) = 8
Risk	CLSB cannot generate sufficient evidence about the consumer dimension of the Costs Lawyer market, resulting in regulatory arrangements that are misaligned to consumer need	
Risk to objectives	Regulatory objective: Protecting and promoting the public interest.	

	Regulatory objective: Increasing public understanding of citizens' legal rights and duties.
Evidence of risk	<p>It has historically proven difficult to generate statistically significant data on the consumer experience with the Costs Lawyer market. Engagement with client surveys is low, as are complaint volumes, making traditional methods of data capture insufficient.</p> <p>It is intended that the Legal Choices project will provide additional data and insights into the way consumers interact with the market, although there have been threats to the success of that project including withdrawal of the Bar Standards Board.</p>
Controls	<ul style="list-style-type: none"> • Consumer Engagement Strategy covering the period of our mid-term organisational strategy (2020 – 2023), establishing workstreams for building consumer-related evidence base. • Consumer outcomes framework developed in 2021 to inform strategy and overall approach to regulatory interventions. • Research projects launched in 2021 to directly target individual clients. • Data sharing arrangements with LeO in relation to complaints about Costs Lawyers. • Participation in the Legal Choices Governance Board, which oversees the project's risk register, to identify early warning signs that the project will not deliver as expected.
Control adequacy	4 – a forward plan is in place, as set out in the Strategy, but work will be ongoing for some time
Priority area of risk	Medium, so long as we remain on target to deliver Strategy
Actions/status	Implement Consumer Engagement Strategy.

Logged by board: 20/10/2020	Reference: R5	Risk score: I(4) x P(3) = 12
Risk	CLSB cannot promote all aspects of diversity within the profession given the small size of the regulated community and trainee population	
Risk to objectives	Regulatory objective: Encouraging an independent, strong, diverse and effective legal profession.	
Evidence of risk	<ul style="list-style-type: none"> • There is only one route of entry into the profession and, in some years, there may be no new students accepted through that route (linked to OP3). • Statistically the size of the profession makes it more difficult to strive for a composition that is reflective of wider society. • The LSB has provisionally assessed existing data that we capture on the diversity of the profession as insufficient. 	

Controls	<ul style="list-style-type: none"> • Testing of approaches to new diversity and inclusion survey. • Diversity work programme developed in 2021, with delivery in 2021 and 2022. • Audit recommendations made to ACLT on promoting diversity. • Seeking opportunities to collaborate with other regulators and organisations in this area.
Control adequacy	2 – plans are in place but it will take time to implement and then assess these during 2022
Priority area of risk	Medium, so long as we are able to deliver planned initiatives
Actions/status	Further work on survey response rates in 2022. Delivery of second stage of work programme in 2022.



Ministry
of Justice

Kate Wellington
By Email Only

The Right Honourable
Dominic Raab MP
Deputy Prime Minister
Lord Chancellor & Secretary
of State for Justice

7 April 2022

Dear Kate,

LEGAL SECTOR EFFORTS TO ENFORCE THE SANCTION REGIME IN RESPONSE TO THE RUSSIAN INVASION OF UKRAINE

The UK government condemns the Russian government's unprovoked and premeditated war against Ukraine. This is a horrific attack on a democratic, sovereign European nation and the world is taking action to hold Russia accountable. The UK continues to play a leading role in supporting Ukraine and, as you are aware, has imposed sanctions on Russia and Belarus. But the situation remains grave.

We only have to look at Russia – where corruption is rife and Government critics are silenced - to see why the rule of law is so important. I am proud that here in the UK the rule of law means that everyone has a right to access legal representation. The Government needs to defend these rights – in contrast to authoritarian jurisdictions. But clearly, legal services regulators also have a responsibility under the regulatory objectives to protect the public interest and rule of law, maintain adherence to professional principles and ensure an independent, strong, diverse and effective profession. This means regulators have a duty to safeguard the UK and protect the reputation of their profession and our legal system by upholding the sanctions and anti-money laundering regime. Over the recent weeks the legal professions have come under significant scrutiny against the backdrop of the Russian invasion of Ukraine. There has been criticism of firms and chambers for acting on behalf of clients linked to Russia. I have and will continue to defend the rights of all – including those subject to sanctions – to access legal advice. But I expect legal professionals to operate to the highest ethical standards and to demonstrate this to the public. Thankfully, I am confident that the overwhelming majority do so.

The legal sector is in fact critical to the operation of an effective sanctions regime and ensuring designated persons comply with the restrictions placed on them. Government and the public look to you as regulators to uphold the regime and give the highest confidence that it is being complied with.

I want to thank you all for your work stepping up awareness raising, compliance monitoring and starting to explore your supervision and enforcement strategies including additional powers you may require. I also welcome efforts to come together with the Legal Services Board to look at how to further improve the effectiveness of the supervisory system. Thank you for providing the Legal Services Board with updates on the work you have done so far and any prospective plans. I have asked the Legal Services Board to share these insights and where there are opportunities for improvement with the department, and we are now carefully considering how we might best support these efforts.

I am keen to hear from you directly on what you plan to do to strengthen enforcement of the sanctions regime and how government can best support you in your duties. I expect to see everyone playing their part and actively pursuing this agenda and I look forward to hearing about the progress of this work soon.

We must continue to act visibly on this issue to maintain confidence in the sector and the wider legal system, and to ensure we are standing strong with Ukraine.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Dominic Raab', with a stylized flourish at the end.

RT HON DOMINIC RAAB MP



Costs Lawyer Standards Board
Centurion House
129 Deansgate
Manchester
M3 3WR

Office: 0161 956 8969
Email: ceokw@clsb.info

12 April 2022

The Right Honourable
Dominic Raab MP
Deputy Prime Minister
Lord Chancellor & Secretary of State for Justice

Dear Mr Raab

Legal sector efforts to enforce the sanction regime in response to the Russian invasion of Ukraine

Thank you for your letter of 7 April 2022 regarding the role of the legal sector in ensuring the effectiveness of UK government sanctions. We share the government's grave concerns for both the citizens of Ukraine and the threat to democracy and the rule of law posed by the Russian invasion. We agree that it is vital for legal professionals to comply with – and be seen publicly to comply with – the sanctions regime, within the framework of their professional obligations.

Your letter asks what the CLSB, as a legal services regulator, plans to do to strengthen enforcement of the sanctions regime and how government can provide support.

The Costs Lawyer profession is the smallest of the legal professions, with 689 practitioners currently on the Register.¹ One benefit of regulating a relatively small profession is that we have a detailed understanding of the types of work that Costs Lawyers do, the organisations in which they work, and the nature of their clients. We can also offer individualised, bespoke advice on compliance issues to practitioners where needed.

Based on our knowledge of the market that we regulate, we expect that no Costs Lawyers are working directly for organisations or individuals subject to sanctions. The vast majority of Costs Lawyers work in an intermediate position, whereby they are instructed by other legal services professionals.

¹ Available here: <https://clsb.info/find-a-costs-lawyer/register-of-costs-lawyers/>

To test this, and to mitigate against the risk of any outliers, we sent communications in March and April 2022 directly to each regulated Costs Lawyer highlighting key aspects of the sanctions regime (including the need to apply for a licence by way of exemption), instructing practitioners to inform us if they undertake work that has a Russian nexus or in the event they apply for an OFSI licence, and offering assistance with compliance.

We have also promoted awareness of the issue generally within our regulated community via our website² and social media,³ providing links to government and regulatory resources relating to the sanctions regime and OFSI licensing. Improved awareness will help Costs Lawyers identify and report on any non-compliance they might be exposed to in the wider legal community, or within the firms or chambers that instruct them, when they are advising on costs aspects of legal matters.

The CLSB is ready and willing to help the government, Legal Services Board and other regulators in whatever way we can, to promote compliance with the sanctions regime while preserving access to legal representation for those who need it. For the reasons above, we are unlikely to be in a position to directly strengthen enforcement of the sanctions regime through cross-reporting or taking disciplinary action. However, we have been – and will continue to be – engaged in sector-wide conversations with the aim of identifying opportunities to support the sector's efforts wherever possible. One potential opportunity, for example, might be to leverage the unique expertise of the Costs Lawyer profession to assist OFSI or others in assessing whether fees for legal services are reasonable under the OFSI licensing regime. We are keen to explore such ideas further as the situation progresses.

For completeness, we note that your letter also mentions the duty of legal professionals (and their regulators) to comply with anti-money laundering (AML) requirements. Costs Lawyers, unlike many other legal practitioners, are not permitted to hold or deal with client money. As such, the CLSB is not an AML supervisory body and is not overseen by the Office for Professional Body Anti-Money Laundering Supervision. We have instead developed guidance and supporting materials for Costs Lawyers to help them comply with general AML obligations in the same way as other businesses in the UK.⁴ Accordingly, the risk of Costs Lawyers undermining the sanctions regime by inappropriately handling the funds of individuals or businesses on the sanction list is negligible.

If we can provide any further information or data that would be of use to the government, please do not hesitate to contact us at any time.

Yours sincerely



Kate Wellington
CEO, CLSB



Rt Hon David Heath CBE
Chair, CLSB

² See for example: <https://clsb.info/complying-with-the-russian-sanctions-regime/>

³ See for example: <https://www.linkedin.com/feed/update/urn:li:activity:6915189243011026944>

⁴ Available here: <https://clsb.info/download/anti-money-laundering/?wpdmdl=1390&refresh=624fa0f7319d91649385719>



Purpose

1. This document sets out the triage process that is used by the CLSB when considering whether a complaint falls within the scope of the CLSB's [Disciplinary Rules and Procedures](#) (DR&P) and deciding what steps to take in handling the complaint during the initial stages.
2. The CLSB has engaged an external consultant, with expertise in professional conduct matters, to provide services from time to time in relation to complaints made about the conduct of Costs Lawyers (the Investigator). That person acts on behalf of the CLSB upon the instruction of the CLSB Executive. Any activities or decisions that are ascribed in this document to the Investigator may be carried out by the Executive; for example, where the Investigator does not have capacity to handle a particular complaint.
3. References to the "Executive" in this document are to any of the following persons, as relevant to the circumstances of the complaint:
 - the CLSB CEO;
 - the Director of Policy or Operations Director (or equivalent) upon delegation from the CEO; or
 - any other person acting pursuant to arrangements set out in the CLSB's Business Continuity and Disaster Recovery Plan.
4. This document should be read together with the other guidance and materials published by the CLSB from time to time in relation to the DR&P. In the event of any inconsistency between this document and the DR&P, the provisions of the DR&P should be followed.

Overarching considerations

Regulatory objectives

5. All of the CLSB's activity must promote the regulatory objectives set out in the Legal Services Act 2007. The objectives that have direct relevance to handling complaints about conduct matters are:

-
- Protecting and promoting the public interest
 - Supporting the constitutional principle of the rule of law
 - Protecting and promoting the interests of consumers
 - Encouraging an independent, strong, diverse and effective legal profession
 - Promoting and maintaining adherence to the professional principles

6. The “professional principles” require Costs Lawyers to:

- act with independence and integrity;
- maintain proper standards of work;
- act in the best interests of their clients;
- comply with their duty to the court to act with independence in the interests of justice; and
- keep the affairs of clients confidential.

Breach of a “Principle” under the DR&P

7. Under DR&P 1.2(i), the CLSB is concerned with complaints about Costs Lawyers that give rise to a reason to suspect the Costs Lawyer has been, or is, in breach of a Principle. The DR&P define a Principle as follows:

Any one or more of the seven principles a Costs Lawyer must comply with under the Code of Conduct, namely:

- 1. Act with integrity and professionalism*
- 2. Comply with your duty to the court in the administration of justice*
- 3. Act in the best interests of your client*
- 4. Provide a good quality of work and service to each client*
- 5. Deal with the regulators and Legal Ombudsman in an open and co-operative way*
- 6. Treat everyone with dignity and respect*
- 7. Keep your work on behalf of your client confidential*

The Principles are underpinned by CLSB rules, such as Practising Rules and CPD Rules, contained in the CLSB Handbook. A potential breach of a Principle may therefore

involve breach of a rule and a potential breach of a rule may indicate the breach of a Principle. For this reason, a reference to a Principle in these DR&P includes a reference to any associated CLSB rule.

Triage process

Stage 1: Establishing jurisdiction

8. The steps in the flowchart on page 5 should be carried out by the Operations Director (OD) promptly upon receipt of a complaint from an external source or when a complaint is instigated by the CLSB (for example, following an audit).
9. The OD should consider whether they need to obtain further information – from the complainant, from the Costs Lawyer or from public sources – in order to answer the questions in the flowchart. If so, the OD should request that information promptly, unless this is not appropriate for any reason (such as confidentiality or sensitivity of the complaint). The OD should seek advice from the Executive if they are unsure about gathering information or otherwise need assistance.
10. The OD should never request personal data over and above that which the CLSB requires to fulfil its purpose. Personal data received from complainants, Costs Lawyers and other individuals must be handled in line with the CLSB’s Privacy Policy and Data Protection Manual.
11. When the flowchart below indicates that a complaint should be closed, the OD should explain the reason for this to the complainant, including by reference to any relevant provisions of the DR&P, providing a link to the DR&P on the CLSB website where appropriate.
12. When referring the complainant to another organisation or service, the OD should provide contact details and/or weblinks where possible, to assist the complainant in navigating the regulatory framework.

Stage 1 flowchart

1. Is the complaint about a Costs Lawyer?

→
No

Close complaint. Refer the complainant to any other body that might have jurisdiction. Log any complaints about unregulated costs advisers.

↓ Yes

2. Did the Costs Lawyer hold a practising certificate when the conduct occurred?

→
No

Close complaint.

↓ Yes

3. Did the Costs Lawyer hold a practising certificate when the complaint was made?

→
No

Close complaint.

↓ Yes

4. Is the complainant a litigant or lawyer on the other side of open proceedings involving the Costs Lawyer?

→
Yes

Close complaint. Advise the complainant that conduct issues may be raised with the court. If the court does not deal with the issue, the complaint can be renewed once the proceedings close.

↓ No

5. Does the complaint relate to the Costs Lawyer's professional conduct?

→
No

Close complaint. Refer the complainant to the Legal Ombudsman for purely service-related complaints from clients.

↓ Yes

6. (Where the complainant is a client) Has the complainant exhausted the Costs Lawyer's first tier complaints procedure, or provided a valid reason why they should not be required to do so?

→
No

Close complaint. Advise the complainant to complain under the first tier procedure. If the matter is not resolved satisfactorily within eight weeks, the second tier complaint can be renewed.

↓ Yes

7. (Where the complainant is a client) Does the complaint also relate to the service provided by the Costs Lawyer (e.g. fees, timeliness, quality)?

→
Yes

Refer complainant. Refer the complainant to the Legal Ombudsman, who should consider the complaint in the first instance. CLSB will consider any outstanding conduct issues following the Ombudsman's determination if it has jurisdiction to do so. Ask to be kept informed. (Check with the Executive that they do not consider the complaint to be so serious in nature that it requires the immediate attention of CLSB.)

↓ No

See next page.

8. Was the complaint made in writing?

→ No

Invalid complaint. Advise the complainant to put the complaint in writing. Remind the complainant of any upcoming time-limits.

↓ Yes

9. Does:

**(i) the Costs Lawyer work for a firm regulated by the Solicitors Regulatory Authority (SRA); and
(ii) the complaint relate to the conduct of, or implicate, the firm as well as the Costs Lawyer?**

→ Yes

Refer complaint. Refer the complaint to the SRA directly or ask the complainant to do so, as appropriate. Ask to be kept informed.

↓ No

**10. (Other than where the complainant is the CLSB)
Was the complaint made within one calendar year of the date of the conduct, or within one calendar year of the date on which the complainant became aware a breach of a Principle may have occurred?**

→ No

Refer complaint to the Executive. The Executive will consider whether DR&P 1.4 applies and thus whether the CLSB should consider the complaint despite the delay.

↓ Yes

Refer complaint to the Executive for consideration under stage 2.

For all complaints about Costs Lawyers, at the end of stage 1, regardless of the outcome:

- Inform the Executive of the answers to each of the above questions.
- Record the complaint and the outcome in the database against the Costs Lawyer's record. (More information may be added subsequently if the complaint proceeds to stage 2.)
- Follow the procedure set out in the CLSB's Supervision Framework for Point of Complaint Monitoring. If a supervisory check reveals potential non-compliance, refer this to the Executive so that it can be dealt with in line with the Supervision Framework.

Stage 2: Confirming jurisdiction and preparing for investigation

13. The steps below should be carried out by the Investigator when a complaint is referred from stage 1, as described above. The Executive will contact the Investigator and convey the details of the complaint and the stage 1 findings. The steps should be carried out in the order shown, unless the circumstances require otherwise.
14. The Investigator should consider whether they need to obtain further information in order to carry out these steps. The factors in paragraphs 9 and 10 above apply equally here.

1. Determine whether there is reason to suspect that the Costs Lawyer is, or has been, in breach of a Principle. If there is not, close the complaint. Provide summary reasons for this determination to the OD, so the OD can communicate the outcome to the complainant.

2. If the complaint is out of time, determine whether the complaint should nevertheless be considered under DR&P 1.4. If not, close the complaint. Provide summary reasons for this determination to the OD, so the OD can communicate the outcome to the complainant. If jurisdiction is taken in reliance on DR&P 1.4, provide a reasoned decision to the Costs Lawyer.

If the complaint has not been closed by this point, then the CLSB has jurisdiction to, and should proceed promptly to, consider the complaint.

3. Consider whether there are grounds for imposing an interim suspension order under DR&P 4. If so, appoint a Lay Person Panel Member to consider the relevant facts and make a recommendation as to whether such an order should be imposed.

4. Check whether the Costs Lawyer is regulated by any other body. If so, inform that body that a complaint has been made about the regulated individual and that the complaint is under consideration by the CLSB.

5. Inform the complainant that the CLSB has taken jurisdiction over the complaint.

- Provide summary reasons for any complex or unusual aspects of the determination that the CLSB has jurisdiction.
 - Explain the intended next steps and note that the CLSB might need further information from the complainant as matters progress.
 - Inform the complainant that they will be told about the outcome of the complaint, but will not be a party to any disciplinary investigation that may be carried out.
 - If relevant, manage the complainant's expectations about the outcome; reiterate that the CLSB may impose disciplinary sanctions but cannot adjudicate disputes or award remedies as between the complainant and the Costs Lawyer.
 - Provide links to web material to aid understanding.
-

Wherever possible and appropriate, the CLSB should aim to resolve the complaint through early resolution. An investigation should only be opened where it is genuinely needed.

6. Inform the Costs Lawyer of the complaint and ask for their initial account of events and/or any preliminary information required to determine whether an investigation is warranted. If the Costs Lawyer provides evidence (such as court documents or correspondence) that demonstrates there has been no breach of a Principle, close the complaint and inform the complainant.

7. Where the Costs Lawyer's conduct is capable of being rectified, and it is appropriate to do so, seek a voluntary resolution. For example, if the complaint relates to a Costs Lawyer's failure to provide their complaints procedure to a client, ask the Costs Lawyer to provide the procedure and rectify the misconduct. Explain the proposed resolution to the complainant. If it is acceptable, close the complaint.

8. Where the facts are not contentious and the Costs Lawyer accepts that they have breached a Principle, seek to agree an appropriate disciplinary outcome. This is most likely to be a warning letter or written undertaking, as provided for in DR&P 5.3.1.

Where early resolution is not possible or not appropriate, an investigation should be commenced under DR&P 5. Bear in mind that the investigation should be completed within three months of appointing the Investigator, or within three months of taking jurisdiction where the Executive conducts the investigation.

CLSB

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Introduction

The CLSB holds various types of data about the Costs Lawyer profession. We collect and analyse this data for a variety of purposes, such as:

- understanding the nature of our regulated community, including the service that Costs Lawyers provide, the challenges they face and how they interact with consumers and the public
- identifying areas of risk so that we can tailor our regulatory interventions accordingly
- monitoring the diversity of the profession and barriers to entry, promotion or inclusion
- supervising compliance with our regulatory rules
- sharing intelligence with other organisations, such as the Association of Costs Lawyers, to help with initiatives for the benefit of Costs Lawyers and the public.

Data we collect includes:

- information about the nature of Costs Lawyers' practice as part of their annual application for a practising certificate (the regulatory return)
- diversity statistics
- supervision and disciplinary information
- ad hoc information to help us fulfil our statutory obligations, such as opinions, feedback and predictions about market impacts.

The data we hold is [available on our website](#) or by [contacting us](#). This report provides an annual summary.

Throughout this report, data is presented in a series of tables. Unless otherwise indicated, the figures in the tables show the percentage of Costs Lawyers that fall into each relevant category. By way of example, in the table on the next page that provides statistics on the age profile of the profession, the figures indicate that 8.5% of Costs Lawyers were aged between 20 and 29 in 2017. If you have any questions about interpreting the data, please [contact us](#).

About Costs Lawyers

Age

2021 appears to show a stabilisation of the gradual increase in the average age of Costs Lawyers seen over the last few years (due to the route of entry into the profession being closed in 2017 to 2019). An increase in the number of Costs Lawyers who chose not to provide their age in 2021 has impacted on the figures; data collected over the next few years will indicate whether there is a sustained downward trend in the average age.

Year	20-29	30-39	40-49	50-59	60+	Age not given
2017	8.5	37	26	18	8	2.5
2018	9.5	36.8	27.1	16.6	8.5	1.5
2019	7.4	37.3	27.2	18.2	9.2	1.5
2020	4.3	37.7	29	18.9	9	1
2021	4.1	35.6	28.2	18.5	7.6	5

Diversity

Data relating to the diversity of the Costs Lawyer profession is [available on our website](#). An analysis of the data from our 2021 Diversity Survey, which focused on differences in pay and earnings between men and women, will be published later this year.

About Costs Lawyers' practice

Organisation type

Since 2011, the number of Costs Lawyers in each type of practice has fluctuated year on year. Overall, the proportions of Costs Lawyers working for costs law firms and as sole practitioners have fallen, while the number working in firms regulated by the Solicitors Regulation Authority (SRA) has increased. Since 2018, more Costs Lawyers have been working in SRA regulated firms than any other type of organisation. In 2020, just under half of all Costs Lawyers worked in SRA regulated firms.

Year	Unregulated costs law firm	Sole practitioner	SRA regulated firm	In-house
2011	53.8	16.1	26.5	
2012	48.2	17.4	31.0	
2013	42.0	19.4	29.2	
2014	44.0	17.8	34.3	
2015	41.0	15.8	33.7	
2016	38.0	17.7	37.2	
2017	43.1	14.5	37.8	
2018	39.6	14.1	41.0	
2019	39.7	11.8	41.2	
2020	35.4	13.6	47.0	3.0
2021	39.3	12.2	44.8	3.7

Note: In-house data is not available prior to 2020. Figures do not always total 100% because prior to 2020 data was not recorded for Costs Lawyers not working exclusively in one of the first three categories, and it was not obligatory for practitioners to provide this information.

Insurance

The CLSB collects data relating to the professional indemnity insurance policies held by Costs Lawyers working as sole practitioners or for costs law firms not regulated by the SRA. The minimum level of cover prescribed in the Practising Rules is £100,000.

Since 2014, the percentage of Costs Lawyers with higher levels of cover has been increasing. The percentage with the highest level of cover (£2m or more) has almost doubled between 2014 and 2021. Since 2016, more Costs Lawyers have the highest level of cover than any other range.

Cover level	2014	2015	2016	2017	2018	2020	2021
£100,000	22.1	17.5	18.6	16.0	10.6	10.1	9.8
£100,001-£999,999	32.0	28.9	26.6	23.7	23.3	24.6	23.6
£1,000,000-£1,999,999	24.9	25.8	25.1	26.5	29.4	26.5	27.0
£2,000,000 or over	20.4	28.0	29.5	33.9	37.1	38.8	39.7

Note: This data was not collected in 2019.

To improve our understanding of the risk profile across the profession the CLSB carried out a project to look at the risk of under-insurance in 2021. In a sample of Costs Lawyers we looked at in more detail, the vast majority appeared to have adequate insurance in terms of monetary cover per claim, but this more detailed look also suggested that it is possible that very few Costs Lawyers have obtained specific insurance against cyber risks. Whether or not this is of concern depends on the risks of each particular lawyer; that is, whether their clients are in any event covered by insurance held by a firm the lawyer is working in or for, and what safeguards they have in place.

In 2021, we began working with the National Cyber Security Centre – a government agency that provides cyber security guidance and support – to raise awareness of cyber risks within our regulated community and promote free online training for small businesses. We will continue this work in 2022.

Other legal regulation

In 2021, the CLSB asked Costs Lawyers for the first time whether they held a current practising certificate from any other legal regulator. The number of such Costs Lawyers is shown below.

Number regulated as	2021
Chartered legal executive	13
Solicitor	13
Other	1
Total	27

Note: The one practitioner in the “other” category is a Costs Lawyer also regulated as a foreign lawyer by the Law Society of Scotland.

Complaints

The number of complaints made at first tier remains low, which could be explained by a variety of factors such as strong client satisfaction, high levels of informal resolution or a lack of awareness about how to complain. To mitigate against the possibility that a lack of understanding is a barrier to complaints, in 2021 we introduced a [supervision framework](#) for auditing Costs Lawyers' complaints procedures.

Year	Number of first tier complaints made
2011	7
2012	Not collected
2013	Not collected
2014	Not collected
2015	6
2016	1
2017	3
2018	3
2019	5
2020	3
2021	4

Similarly low levels of complaints are formally escalated to the second tier (namely the CLSB in relation to conduct complaints and the Legal Ombudsman in relation to service quality complaints).

Year	Number of second tier complaints upheld	
	CLSB (Conduct)	Legal Ombudsman (Service)
2011	0	0
2012	2	1
2013	0	1
2014	1	0
2015	0	1
2016	0	0
2017	0	0
2018	2	0
2019	1	0
2020	0	0
2021	0	0

About Costs Lawyers' clients

Sources of instructions

From 2020, we began to ask Costs Lawyers about the sources of their instructions as a proportion of total work. (Although we had asked questions about number of cases from different sources in the past this data is not directly comparable.)

Proportion of instructions from each client type	Lay clients		Legal services providers		Corporate	
	2020	2021	2020	2021	2020	2021
0%	80.77	80.79	22.34	26.54	71.75	72.87
1-10%	15.68	15.10	2.22	1.91	8.14	7.77
11-25%	1.78	1.76	1.48	1.47	2.66	2.64
26-50%	1.18	1.17	3.40	3.23	3.40	3.37
51-75%	0.00	0.00	2.66	2.64	1.18	1.03
76-90%	0.15	0.15	6.66	6.30	1.48	1.32
91-99%	0.30	0.29	10.50	10.26	1.92	1.76
100%	0.74	0.73	50.74	47.65	9.47	9.24

In both 2020 and 2021 around half of all Costs Lawyers were instructed exclusively by other legal services providers, such as solicitors or barristers. That is, they received instructions from a fellow practitioner on behalf of, or for the benefit of, an underlying client. However, there was a 3% drop in this figure between the two years. In the same period the number of Costs Lawyers receiving no instructions from other legal service providers was up 4%. In both years less than 20% of Costs Lawyers received any instructions at all from lay (individual) clients, and less than 5% received more than 10% of their instructions from lay clients. Less than 30% of the profession received instructions directly from corporate clients.

Legal aid

Between 2012 and 2020 the proportion of the profession undertaking exclusively legal aid work doubled from 2.5% to 5%. This has dropped slightly in 2021 to 4.7%. The number of Costs Lawyers who do not undertake any legal aid work has continued to increase in 2021, almost doubling since 2012, from 38.8% to 71.4%. This might suggest that legal aid work is becoming increasingly specialist. Evidence from our [coronavirus impact surveys](#) carried out in 2020 and 2021 suggests that Costs Lawyers specialising in legal aid are more concerned about the future viability of their practice than practitioners specialising in other areas (such as commercial litigation costs or personal injury / clinical negligence costs).

Year	Proportion of workload comprising legal aid work					
	0%	1-25%	26-50%	51-75%	76-99%	100%
2012	38.8	28.7	5.2	8.9	9.9	2.5
2013	46.7	23.4	4.7	7.9	8.3	2.9
2014	49.1	27.4	3.4	6.6	6.7	3.2
2015	49.8	23.7	5	1.6	6.3	4.1
2016	50.3	15.6	1.4	3.5	2.6	3.8
2017	56.1	20.8	3.4	2.4	5.9	2.1
2018	55.2	24.0	2.8	3.2	5.1	2.8
2019	51.3	22.3	3.0	3.1	4.3	3.7
2020	70.2	17.3	2.4	2.8	1.9	5.0
2021	71.4	16.7	2.3	2.2	0.7	4.7

Note: Where years do not total 100%, some Costs Lawyers did not provide this information.

Pro bono work

The number of pro bono cases undertaken by Costs Lawyers rose between 2015 and 2019. In 2019 there were 97 pro bono cases in total, and 45 of these were dealt with by one Costs Lawyer; the next largest number of cases was just 6. The overall trend is likely to be explained by the changing nature of traditional work areas and the rise in litigants in person using the justice system generally.

Year	Number of cases
2015	0
2016	4
2017	77
2018	61
2019	97

To better capture how the trend may be changing over time, from 2020 we asked Costs Lawyers to report on the percentage of their instructions that were pro bono. The figures are almost identical for the two years.

Proportion of workload comprising pro bono cases	% of the profession	
	2020	2021
0%	97.2	97.2
1-25%	2.7	2.6
26-50%	0	0
51-75%	0	0
76-100%	0.2	0.2

To promote engagement with pro bono work, in 2021 we introduced new [guidance for Costs Lawyers](#) and engaged with other organisations – such as LawWorks and The Access to Justice Foundation – to publish relevant materials for the regulated community.

Vulnerable clients

This data has been collected since 2016. Generally Costs Lawyers deal with very few vulnerable clients, which reflects the low number of instructions received directly from lay (individual) clients.

From 2020 the data has been collected as a percentage of total instructions rather than an absolute number of instructions to improve comparability. In 2020 and 2021, 95% of one Costs Lawyer's clients were vulnerable, but no other Costs Lawyer reported more than 30% of their clients having vulnerabilities. The nature of vulnerabilities in 2021 included clients who were protected parties, patients, elderly, litigants in person, as well as clients with mental health issues.

Year	Number of vulnerable clients
2016	2
2017	4
2018	16
2019	13

Proportion of vulnerable clients	% of the profession	
	2020	2021
0%	98.5	98.5
1 – 25%	1.0	1.0
26 – 50%	0.3	0.3
51 – 75%	0.0	0.0
76 -100%	0.2	0.2

Consultation response

Draft LSB statement of policy on ongoing competence

7 March 2022

Introduction

The CLSB welcomes the opportunity provided by the consultation to reflect on ongoing competence issues. We are already implementing change in this area through initiatives such as our new CPD supervision programme that was introduced for the 2021 practising year and research being carried out as part of our Regulators' Pioneer Fund project, *How could Costs Lawyers reduce the cost of legal services?*

Q1. Do you agree with the proposed outcomes?

The measures listed in paragraph 13 of the consultation are activities, not outcomes. The key objective in setting outcomes is to allow variation in how that outcome is best achieved. By listing activities, instead of outcomes, the LSB is effectively prescribing what each regulator should do. This is only appropriate when what every regulator should do is the same. While we are fully committed to the overall aims of the LSB in seeking to improve levels of ongoing competence, if it were to state the requirements in terms of outcomes it would allow regulators such as the CLSB greater scope to tailor regulation appropriately to the sector. We highlight this by suggesting alternative wording below and the benefit this might bring.

LSB wording	Alternative outcome based wording	Examples of advantages that outcome based wording could allow
Set the standards of competence that those they regulate should meet at the point of authorisation and throughout their careers.	Levels of competence are maintained in a profession which are proportionate to the risks posed to consumers	<p>Risks vary depending on the nature of the work a legal professional is engaged in – where a legal professional only serves other professionals, the risks are lower. Where risks are higher, for example (in our sector) client/solicitor cost challenges, CPD expectations can be higher.</p> <p>In some circumstances, regulators assuming the responsibility of setting standards of competence risk creating safe harbours – it may be more appropriate to set a framework for professionals to meet. This would allow, for example, obligations to be extended automatically for new areas of risk without waiting for regulations to catch up.</p> <p>The alternative wording allows scope to use incentive based approaches – for example,</p>

		<p>allowing legal professionals with higher levels of CPD to use particular quality marks. This could be particularly advantageous (in terms of consumer benefits) to encourage legal professionals to undertake CPD – for example to promote innovative products – but where it would be disproportionate to make this a regulatory requirement.</p>
<p>Regularly assess and understand the levels of competence within the profession(s) they regulate, and identify areas where competence may need to be improved.</p>	<p>Regulators understand the relationship between risk and competence levels in the profession they regulate. Risks of too low competence are appropriately mitigated.</p>	<p>The alternative wording directs regulators resources to where it is likely to delivery greatest benefit to end users. It allows a regulator to decide what mechanisms may be appropriate to assess risks – the regulator carrying out an assessment itself may be slow and expensive, there may be better ways to mitigate risk.</p> <p>For example, in our sector, the greatest benefit to corporate end users may not be traditional skills of Costs Lawyers (which lend themselves to a regulatory assessment of competence) but the opportunity for Costs Lawyers to distinguish themselves by having experience of certain types of commercial work – this is an emerging finding from our recent research, and if the LSB gave us the freedom to use our CPD efforts along these lines, we could end up delivering much greater benefit than using our scarce regulatory resources to carry out assessments of more traditional skill sets.</p>
<p>Make appropriate interventions to ensure standards of competence are maintained across the profession(s) they regulate.</p> <p>Take suitable remedial action when standards of competence are not met by individual authorised persons.</p>	<p>Alternative wording is not necessary – the first two outcomes above capture the obligation for regulators to act (by identifying and then mitigating risk).</p>	

Q2. Do you agree with our proposed expectation that regulators will demonstrate that evidence-based decisions have been taken about which measures are appropriate to implement for those they regulate?

We agree that regulators should consider available evidence and indeed consider whether further evidence should be obtained before making decisions. Regulators should be alive to potential consumer harm in their regulated community and take appropriate measures. However any decision to impose additional burdens on authorised persons should be justified by clear evidence of the need to impose such a burden based on the regulatory objectives. There should be no reversal of the burden of proof – regulators should not be in the position of having to justify why any particular new measure or burden should not be imposed, simply because, for example, such a measure is imposed in another sphere. This would run contrary to the Better Regulation Principles, particularly that of proportionality recently reaffirmed by the UK Government.¹

We do not consider that it is necessary for the LSB as an oversight regulator to be prescriptive about which measures are to be taken when the evidence justifies an intervention. However guidance and the sharing of experience on such issues is always welcome.

Q3. Do you agree with the LSB proposal that each regulator sets the standards of competence in their own competence framework (or equivalent document(s))?

Yes. The CLSB has recently developed and published a [Competency Statement](#) aimed at those joining the profession and is considering how best to extend this as a standard applying throughout the career of a Costs Lawyer.

Q4. If not, would you support the development of a set of shared core competencies for all authorised persons?

We would query whether having bespoke competence frameworks is necessarily mutually exclusive of identifying shared core competencies. It might be appropriate for each of the regulators' competence frameworks – which will of course be tailored to the unique characteristics of each legal profession, the needs of its clients and the public interest in its work – to coalesce around a set of core competencies that are common to all legal advisers and which reflect public expectations of the profession as a whole.

In carrying out the research programme that underpins our own Competency Statement, we were mindful to ask ourselves what competencies a Costs Lawyer requires in particular, rather than what competencies a lawyer requires in general. We therefore do not have the data to meaningfully assess whether a set of shared sector-wide competencies is in fact identifiable. But we acknowledge that it might be beneficial to compare the competency frameworks of the legal regulators to identify commonalities, and consider whether there is value in articulating any common competencies in a consistent way. This would be an area where the LSB could usefully take a leadership role.

Q5. Do you agree with the areas we have identified that regulators should consider (core skills, knowledge, attributes and behaviours; ethics, conduct and professionalism; specialist skills, knowledge, attributes and behaviours; and recognition that competence varies according to different circumstances)?

Yes, in general terms these are relevant issues. We do feel that care should be taken so that the factors listed in paragraph 19 of the draft Statement of Policy do not result in competence requirements that are overly complex or over specific. There is a lot to be said for a general standard within a particular regulated community. For example a requirement that authorised persons do not

¹ [The Benefits of Brexit: How the UK is taking advantage of leaving the EU \(publishing.service.gov.uk\)](#) page 27

take on cases for which they are not competent may be more useful than a list of what those circumstances would be for different types of case, particularly as those circumstances are likely to change. If emphasis is given to risks, ethics and behaviours, this will drive the correct decisions in our view.

Q6. Do you agree with the LSB proposal that regulators adopt approaches to routinely collect information to inform their assessment and understanding of levels of competence?

Yes, provided that the principle of proportionality is followed. Regulators must be able to target the collection of information towards outcomes which benefit consumers. They must be alive to the dangers of overburdening authorised persons by routinely collecting large volumes of information when more targeted methods are available. This is particularly true for regulators (like the CLSB) that do not have the regulatory powers needed to collect information at a firm level or require firms to collate and then pass on information as part of routine compliance processes (which are often managed, for example, by risk and compliance or L&D functions that are already doing this kind of work).

Q7. Do you agree with the types of information we have identified that regulators should consider (information from regulatory activities; supervisory activities; third party sources; feedback)

These are all sensible sources of information. However any framework should be flexible to reflect the different size and nature of the regulated communities. The CLSB currently regulates 682 Costs Lawyers. Given the size of this regulated community, the data from the measures listed is inevitably limited and is unlikely to have statistical significance. For example, since 2019 the Legal Ombudsman has received four second tier complaints related to Costs Lawyers, three of which it rejected for not being within the rules and only one of which led to a decision. In 2021, we received three disclosures of disclosable events under the CLSB Practising Rules. These numbers are not surprising given the size of the regulated community and the professional nature of most of their clientele. As a result the CLSB has needed to develop a different approach – see below.

Q8. Are there other types of information or approaches we should consider?

The CLSB is in the particular situation most of its regulated community are either employed in or bodies authorised by the SRA or do work predominately for those bodies – the number of Costs Lawyers acting as sole practitioners is much smaller than it once was. Therefore the SRA is in a unique position to be able to supply information relevant to competence issues of Costs Lawyers. Information is exchangeable under the Memorandum of Understanding between the regulators² but the CLSB is raising the issue with the SRA of further information potentially being available.

Q9. Do you agree with the LSB proposal that regulators should be alert to particular risks (to users in vulnerable circumstances; when the consequences of competence issues would be severe; when the likelihood of harm to consumers from competence issues is high)?

Yes.

Q10. Do you agree with the LSB proposal that regulators adopt interventions to ensure standards of competence are maintained in their profession(s)?

Yes, but we suggest that the LSB should not mandate particular measures or provide that the regulators must provide evidence to rebut a presumption that such measures should be taken. The Statement of Policy should be broad enough to reflect the situation of regulators such as the CLSB, whose regulated communities primarily provide services to professional clients as a “sub set” of

² [Framework Memorandum of Understanding \(sra.org.uk\)](https://www.sra.org.uk/framework-memorandum-of-understanding)

those professional clients' own services. This might be better thought of as a professional collaboration than a one-way service provision.

We would therefore like to see the Statement of Policy contain some reflection of the different knowledge and power relations between authorised persons and professional clients. The research carried out by the LSB and referred to in the consultation makes no reference to Costs Lawyers or their clients. This is perhaps inevitable in broad based research across the sector, but shows the danger of adopting a one size fits all approach.

Q11. Do you agree with the types of measures we have identified that regulators could consider (engagement with the profession; supporting reflective practice; mandatory training requirements; competence assessments; reaccreditation)?

These are all good examples, but for the reasons stated above should remain as examples rather than measures that the regulators have to justify not taking.

Q12. Are there other types of measure we should consider?

Scope should be left in the Statement for the regulators to adopt other measures as appropriate.

Q13. Do you agree with the LSB proposal that regulators develop an approach for appropriate remedial action to address competence concerns?

Regulators will usually already have this approach, however we agree that they should be kept under review and that there is no room for complacency but each regulator's efforts should be proportionate to the apparent risks. For example the CLSB has this year brought into effect a new CPD audit under [this CPD supervision framework](#).

Q14. Do you agree that regulators should consider the seriousness of the competence issue and any aggravating or mitigating factors to determine if remedial action is appropriate?

Yes.

Q15. Are there other factors that regulators should consider when deciding whether remedial action is appropriate?

The risk posed to the public and any wider public interest would appear to be key factors. The CLSB has a more detailed list of factors contained in its [disciplinary rules and procedures](#) particularly at 5.1.5 but these arguably would be included within the broad categories of seriousness and aggravating and mitigating factors.

Q16. Do you agree that regulators should identify ways to prevent competence issues from recurring following remedial action?

Yes.

Q17. Do you agree with our proposed plan for implementation?

No – see response to Q18.

Q18. Is there any reason why a regulator would not be able to meet the statement of policy expectations within 18 months? Please explain your reasons.

Any timetable needs to reflect the realities of regulators' business planning cycles and resources. For example the CLSB has an 18 month business planning cycle beginning in June of each year, which is dictated by the timeline for approval of the annual practising fee by the LSB. The CLSB will need time to reflect on the outcome of this consultation once announced, and consider at board level what changes are required and how they should be prioritised. If measures miss a business planning cycle due to the timing of the policy statement being published, they will need to wait until the

subsequent year before work is begun. Of course, any very significant change such as reaccreditation would take far longer than 18 months for any regulator to implement, as the LSB is no doubt aware from its experience with the Quality Assurance Scheme for Advocates.

Q19. Do you have any comments regarding equality impact and issues which, in your view, may arise from our proposed statement of policy? Are there any wider equality issues and interventions that you want to make us aware of?

See below.

Q20. Do you have any comments on the potential impact of the draft statement of policy, including the likely costs and anticipated benefits?

The LSB has not provided an impact assessment of these proposals, stating that regulators will be in a better position to assess the impact of any specific measures. However since the LSB is basing its proposals to a significant degree on measures that have been taken in other professions, we would have hoped that the LSB would be in a position to describe the impacts of those measures and attempt to show in broad terms what the impact would be on this market.

Q21. Do you have any further comments

No.

Statement of policy on empowering consumers

Issued under section 49 of the Legal Services Act 2007.

11 April 2022

Purpose of this document

1. This statement of policy is issued under section 49(2) of the Legal Services Act 2007 (Act) and in preparing it the Legal Services Board (LSB) has had regard to the principle that its principal role is the oversight of approved regulators.¹
2. The purpose of this statement of policy is to set expectations of the approved regulators and the regulatory bodies to whom some have delegated their regulatory functions (regulators) in the interests of the public and consumers. These are expressed as general expectations, principles and specific expectations and will apply as the regulators use regulatory arrangements and other appropriate activities to pursue them.
3. In exercising or deciding whether to exercise any of its functions, the LSB must have regard to any relevant statement of policy published under section 49 of the Act. This statement of policy on empowering consumers is likely to be most applicable to:
 - a. The maintenance and development of standards in relation to the regulation by regulators of persons authorised by them to carry on reserved legal activities and the education and training of persons so authorised, under section 4 of the Act;
 - b. The approval of changes to a regulator's regulatory arrangements in accordance with section 20 and Part 3 of Schedule 4 to the Act; and
 - c. Enforcement functions under sections 31 to 45 and 76 of the Act.
4. The LSB will also have regard to regulators' compliance with this statement of policy in discharging its other oversight functions, including in its assessment of regulators under the regulatory performance assessment framework.
5. In discharging its functions, the LSB must, so far as is reasonably practicable, act in a way which is compatible with the regulatory objectives and which it considers most appropriate for meeting those objectives. This statement of policy is relevant to all the regulatory objectives, and in particular the following:
 - a. Improving access to justice;
 - b. Protecting and promoting the interests of consumers;
 - c. Promoting competition in the provision of legal services;
 - d. Encouraging an independent, strong, diverse and effective legal profession; and

¹ Section 49(3) of the Act.

- e. Increasing public understanding of the citizen's legal rights and duties.
- 6. In developing this statement of policy, the LSB has had regard to the principles of best regulatory practice, specifically the importance of regulatory activities being transparent, accountable, proportionate, consistent, and targeted only at cases in which action is needed.
- 7. This statement of policy takes into account the LSB's requirements for regulators' regulatory arrangements relating to complaints procedures for authorised persons, specified under section 112 of the Act.²
- 8. The provisions of the Act, and any rules made under those provisions, will prevail over this statement of policy.
- 9. We may review this statement of policy and issue a revised version if our policy changes.

2

https://legalservicesboard.org.uk/what_we_do/regulation/pdf/2016/201607_Version_2_Requirements_Guidance.pdf. This includes the accompanying guidance issued under section 162 relating to those requirements.

LSB statement of policy – empowering consumers

10. The LSB will have regard to the general expectations, principles and specific expectations set out below in discharging its functions set out in paragraphs 3 and 4.

General expectations

11. The LSB expects regulators to:

- a. Pursue the following outcomes:
 - i. Consumers have the knowledge and capability to recognise when their problem is a legal issue and know how to get legal assistance where necessary.
 - ii. Consumers have the knowledge and capability to engage effectively with the legal services market.
 - iii. When choosing a legal services provider, consumers can access, as a minimum, useful information about a provider's services, price, quality, regulatory status and access to resolution of complaints that enables them to make an informed choice as to the provider most suited to meet their needs.
- b. Ensure compliance by those they regulate with the regulatory arrangements they put in place to pursue these outcomes, including through effective measures to address non-compliance;
- c. Have appropriate mechanisms in place to evaluate and report on the effectiveness of the steps they have taken in pursuit of these outcomes and make changes where these have not been met.

Principles

12. In implementing this statement of policy, the LSB will have regard to the following principles:

- a. In its 2016 study of the legal services market and 2020 review, the Competition and Markets Authority (CMA) found that competition is not working well in the legal services sector for individual consumers and small businesses³. As such, regulators should pursue the outcomes with particular attention to individual consumers and small businesses. In considering their approaches, regulators should have regard to the wider findings of the CMA's study and review.

³ For these purposes, we refer to small businesses as businesses meeting two of the following criteria: a) annual turnover must be not more than £10.2 million; b) the balance sheet total must be not more than £5.1 million; c) the average number of employees must be not more than 50.

- b. Regulators regulate different professions within the legal services sector, and, as a consequence, may adopt different approaches to meeting the general and specific expectations.
- c. In considering whether specific approaches are required for providers in different practice areas within their regulated communities, regulators should consider:
 - i. the needs of consumers, including those of consumers in vulnerable circumstances (for example where consumers are digitally excluded and do not have access to information online);
 - ii. the types of provider and services offered (for example some services are more “commoditised”, such as conveyancing and wills and probate, whereas in more bespoke areas, such as legal aid work, it may be more difficult to compare providers).
- d. Collaboration between regulators is encouraged where this may lead to more effective and proportionate activities (for example where there may be overlapping consumer needs, where practice areas are covered by more than one regulator, or where economies of scale are sought, particularly on testing solutions).
- e. Testing proposed measures with consumers is encouraged.

Specific expectations

13. In implementing this statement of policy, the LSB has specific expectations of the regulators:

Public legal education

- 14. Regulators are expected to put in place an effective programme of activity to support the regulatory objective of increasing public understanding of the citizen’s legal rights and duties. This should be with a particular focus on public legal education that supports people to understand where they have a legal problem and how to access the professional help they need to resolve it.
- 15. Regulators are expected to make meaningful contributions to cross-sector initiatives, such as Legal Choices, that are subject to appropriate mechanisms to ensure they are effective. Regulators should be able to demonstrate suitable investment, reach and impact of such initiatives following evaluation.

Information about price

- 16. Regulators are expected to put in place regulatory arrangements and undertake other appropriate activities to ensure the provision of useful information that best enables effective consumer choice about the price, or potential price, of the services offered by providers.
- 17. In assessing what information about price is useful and best enables effective consumer choice, regulators are expected to consider such factors as:

- a. The pricing/charging model;
- b. Hourly fees (where charged) by grade of staff;
- c. Indicative fixed fees, factors that may affect these and the circumstances where additional fees may be charged (where offered);
- d. Typical ranges of costs for different stages of cases (where appropriate);
- e. The scale of likely disbursements (e.g. searches, court fees); and
- f. Other key factors that determine price (including disbursements).

Information about quality

18. Regulators are expected to put in place regulatory arrangements and undertake other appropriate activities to ensure the provision of useful information that best enables effective consumer choice on the quality of legal services providers to consumers. Such information should include as a minimum:

- a. Providers' disciplinary and enforcement records, including any sanctions; and
- b. Published decisions made by the Legal Ombudsman on complaints about providers.

19. In considering what further information about quality is useful, the LSB expects regulators to have regard to:

- a. Information about:
 - i. The quality of legal services provided;
 - ii. The quality of customer service; and
 - iii. Outcomes of work done.
- b. The following types of information, as appropriate for the particular market:
 - i. Quantitative data on a provider's performance (for example complaints data, success rates, error rates); and
 - ii. Customer feedback, ratings and reviews, in particular those that comment on the aspects of quality set out in paragraph 19a.

Information about service, redress and regulation

20. Regulators are expected to put in place regulatory arrangements and undertake other appropriate activities to ensure the provision of useful information that best enables effective consumer choice, including:

- a. Contact information;
- b. A description of the services that the provider offers, including areas of practice;
- c. The mix of staff that deliver the services;
- d. Key (and discrete) stages of services;

- e. Indicative timescales of completing services and factors affecting these;
- f. The provider's regulatory status, registration details; and
- g. The provider's complaints process and access to the Legal Ombudsman.

How information is made available to consumers

21. Where information set out at paragraphs 16 to 20 is made available, this should relate to regulated entities and/or regulated individuals as appropriate.
22. Regulators are expected to take steps to ensure that their regulatory arrangements and activities result in the provision of information by providers that is:
- a. Clear and prominent;
 - b. Comprehensible, including through the provision of appropriate contextual information;
 - c. Accurate and up-to-date; and
 - d. Easy to compare to information made available by other providers.
23. Regulators are expected to take steps to ensure that the following information about the providers they regulate is available in at least one single location online. This may include the regulator's own register of regulated providers⁴:
- a. Contact information;
 - b. A description of the services that the provider offers, including areas of practice;
 - c. The provider's regulatory status and registration details;
 - d. The provider's disciplinary and enforcement records, including any sanctions; and
 - e. Published decisions made by the Legal Ombudsman on complaints about the provider.
24. Regulators are expected to consider how to facilitate the use of tools that could provide useful and comparable information to consumers, such as digital comparison tools, review websites or a centralised database of regulatory information.⁵ Regulators should consider the following activities:
- a. Ensuring consumers are made aware of such tools;
 - b. Embedding trust among consumers and providers in such tools; and
 - c. Making relevant information freely available to third parties on an open data basis.⁶

⁴ Subject to relevant legislation on regulators' registers of authorised persons, and any alterations to regulatory arrangements that may be needed.

⁵ These should be considered in the context of the CMA's recommendation to "improve access to regulatory information, including through the development of a single digital register".

⁶ Subject to relevant legislation on regulators' registers of authorised persons, the Privacy Act 2018 and UK General Data Protection Regulation.

Register of Costs Lawyers: compliance with LSB statement of policy on empowering consumers

Action Plan

6 May 2022

Introduction

The LSB issued a [Statement of policy on empowering consumers](#) on 11 April 2022. This Action Plan covers the work required to the [Register of Costs Lawyers](#) to be compliant with paragraph 23 of the statement (covering the information about regulated Costs Lawyers that the CLSB must make available “in at least one single location online”).

The aim is to ensure compliance with the requirements by January 2023,¹ whilst maintaining the same “at a glance” user friendliness of the current Register. New software will maintain the grid style of the Register, but allow additional information shown in an expandable section for each Costs Lawyer.

Information required	Status	Action required for compliance	Other action
a. Contact information	Near compliant (minor adjustment needed)	Name, address and telephone number of organisation already included. Need to remove option to omit organisation address and telephone number from the Register on application form (whilst retaining functionality on database for exceptional circumstances).	Consider possibility of adding email address, subject to dev costs and data protection considerations.

¹ Several compliance actions require additional data and/or new consents to be collected from Costs Lawyers during the practising certificate (PC) renewal round that takes place at the end of the year. We will work on the technical developments that are needed in advance of PC renewals, so that changes can go live as soon as the requisite data and consents are obtained. Any changes that can be made in advance of January 2023 will be prioritised.

b. A description of the services that the provider offers, including areas of practice	Not compliant (new data and functionality needed)	<p>Provide a checklist of areas for Costs Lawyers to tick on practising certificate application form – PI/CN; commercial; legal aid; court of protection; criminal; family; litigants in person; solicitor/own-client; other (unspecified).</p> <p>Display selected areas on Register (subject to agreement on what is in grid view, and what is in the expanded view).</p>	Add search by practice areas functionality to improve user experience (from January 2023).
c. The provider's regulatory status and registration details	Compliant	None – Register is updated annually to show all Costs Lawyers with current practising certificate, and their CL number.	<p>Show regulatory status of organisation (from January 2023).</p> <p>Potentially consider when Costs Lawyers should be added to and removed from the Register (note: this is a much wider project that requires preliminary work to identify full regulatory history of hundreds of Costs Lawyers on the original CLSB Register).</p>
d. The provider's disciplinary and enforcement records, including any sanctions	Near compliant (minor adjustment needed)	Adjustments needed to ensure this information is "in one single place". Remove the Conditions on Practising column from the Register. Add relevant information (as currently shown on the Disciplinary outcomes webpage) to the expandable section of the Register.	
e. Published decisions made by the Legal Ombudsman on complaints about the provider	Not compliant (new functionality needed)	Add link to any Ombudsman decisions to the expandable section of the Register. This will be updated manually on a quarterly basis using data reported directly from the Ombudsman about cases involving Costs Lawyers.	

Cost

The cost of the above work is expected to be £2500-£3000. An optional additional £1000 would automate some of the updates.

We explored the possibility of saving costs by keeping the current style of grid for the Register. We could achieve compliance this way but could not provide a search function for practice areas, and it would make it harder to add non-practising Costs Lawyers in future. Adding more information to the current layout would also mean the Register is less clear, and we will lose the ability to add further information (such as email addresses) in future. We therefore recommend incurring the cost of adding an expandable section for each Costs Lawyer as described above.

As we did not have sight of the LSB's policy statement when setting the 2022 budget, these development costs are not accounted for. If they result in a budget overspend, we will draw the funds from uncommitted reserves (as permitted under the Reserves Policy).

Council members present: Claire Green, Chair (CG),
David Bailey-Vella (DBV), David Cooper (DC),
Ian Curtis-Nye (ICN), Adam Grant (AG), Kris Kilsby (KK),
Jack Ridgway (JR),

Also present: Diane Pattenden (DP)

The meeting started at 11.am

Item	
1	Welcome and apologies
1.1	CG welcomed all to the meeting.
1.2	Apologies were received from JPJ, VMH and Laura Reeves (LR).
2	Minutes of the council meeting held on 5 November 2021
	The minutes were approved as being an accurate account of the meeting. Redactions, prior to publication were agreed.
3	Actions arising from the council meeting held on 5 November 2021
	The actions were reviewed and updated.
4	Council Chair and vacancies on council
4.1	CG confirmed that only one nomination had been received for the two vacancies on the ACL council.
4.2	It was agreed that nominations would be invited during the first week of January for the current vacant position and for DC's replacement following his retirement at the end of the month.
4.3	AG agreed to put together a role description to be sent with an email seeking nominations for the position of Chairman.
5	Education
5.1	JR reported that the amended ACLT articles were ready for adoption.
5.2	JR reported that it had been confirmed that in the event of winding up the company, all assets would be distributed to the single shareholder (ACL). He confirmed that all relevant correspondence would be forwarded to DP to be held centrally on file.
5.3	JR proposed that the amended memorandum and articles of association be adopted. DC seconded the proposal and all council members were in favour.
5.4	It was noted that the amendment should be documented as a special resolution and that the resolution and articles needed to be posted to Companies House without delay.
5.5	JR asked that both he and VMH were duly appointed as directors of ACLT and that CG was removed as a director. This was unanimously agreed.

5.6	A discussion regarding the appointment of Sarah Hutchinson (SH) as Chair of ACLT was held. <i>(section redacted due to confidentiality)</i>
5.7	It was unanimously agreed to appoint SH – initially on a 12 month contract and for a maximum of 20 days <i>(section redacted due to confidentiality)</i>
5.8	It was agreed that CG would speak with AH at Hook Tangaza to set the wheels in motion for the appointment of Chair.
5.9	It was agreed that DP would ask Hook Tangaza to contact the other 2 new board members to ask all the appropriate regulatory questions and ensure no conflicts of interest , prior to them being appointed as directors.
5.10	JR confirmed that he would email the CEO of the CLSB with a copy of the updated ACLT articles to be adopted.
	<i>Points 5.11 and 5.12 have been redacted due to confidentiality</i>
6	<i>Item 6 has been fully redacted due to confidentiality</i>
7	Policy
7.1	AG reported that the policy committee was currently reviewing internal governance and structure which would enable them to identify any areas of risk. He confirmed that a detailed spreadsheet had been sent to council members ahead of the meeting and that the committee will continue working on the listed items. He went on to say that the committee would be asking for a significant level of input from council members.
7.2	AG reported that there were two consultations on the horizon that needed consideration; one from the LSB regarding ongoing competence/CPD (March deadline), the second is a working report from the CJC (closing on 24 December).
8	Finance Report
8.1	In the absence of JPJ, DP said that the management accounts to the end of October 2021 had been circulated prior to the meeting and invited questions.
9	PR and Marketing
9.1	DBV said that from a PR point of view the London conference was a great success. The number of tweets/re-tweets was higher than for previous events.
9.2	DBV confirmed that the Legal 500 have accepted ACL's proposal and that costs lawyers will be listed within the rankings of barristers.
10	Operations Report
10.1	DP reported that the feedback from the conference was excellent . All speakers and topics were rated highly. A detailed analysis of the evaluation was circulated to council members prior to the meeting.
10.2	DP gave an overview of the early indications of the 'financials' from the event.
10.3	It was agreed to hold a conference on 29 th April, subject to the availability of a suitable venue. DP will consider venues in Manchester, Leeds and Birmingham.
10.4	It was further agreed that a conference in London would be considered for November 2022.
10.5	Following feedback from one conference attendee, a discussion took place about holding an online presentation/Q&A for members to provide them with an update on ACL council plans. Council members were all in favour and agreed that further consideration should be given to the idea.

11	Date of next council meeting
	The next council meeting will be held at 11am on 28 January 2022
12	Any other business
12.1	CG acknowledged that due to retirement, DC's term of office would end on 31 December. She thanked him, on behalf of council members, past and present, for his contribution over the years.
12.2	There being no further business the meeting ended at 12.35pm



Council members present: Claire Green, Chair (CG), Stephen Averill (SA), David Bailey-Vella (DBV), Ian Curtis-Nye (ICN), Stephanie Donald (SD), Adam Grant (AG), Kris Kilsby (KK), Victoria Morrison-Hughes (VMH), Laura Rees (LR), Jack Ridgway (JR)

Also present: Diane Pattenden (DP)

The meeting started at 11 am

Item	
1	Welcome and apologies
1.1	CG welcomed all to the meeting.
1.2	Apologies were received from JPJ.
1.3	SA apologised ahead of the meeting that due to a prior appointment he would need to leave the meeting early (SA left immediately prior to 5.5).
1.4	VMH apologised prior to the meeting that she would be joining late (joining at 5.4).
2	Minutes of the council meeting held on 10 December 2021
	The minutes were approved as being an accurate account of the meeting. Redactions prior to publication were agreed.
3	Actions arising from the council meeting held on 10 December 2021
3.1	The actions were reviewed and updated.
3.2	Item 3 - DP to circulate DC's report on affiliate membership to new council members.
3.3	Item 7 - SA nominated himself to sit on the Finance Committee.
4	Education Report
4.1	JR reported that the first ACLT Board meeting had recently taken place and that KW (CLSB CEO) had attended the first part of the meeting. At the meeting KW confirmed that the CLSB would be issuing a further competency statement consultation.
4.2	JR stated that the key tasks for the ACLT Board were staffing/ resourcing and reviewing the course.
4.3	Item 4.3 is redacted due to confidentiality
4.4	Item 4.4 is redacted due to confidentiality
4.5	A brief discussion took place regarding the shared services detailed in the ACLT/ACL draft MOU and it was agreed that the shared services needed to be fully reviewed and defined.

5	Operations Report
5.1	CG reported that she had spoken with Hook Tangaza and a virtual resourcing company with regard to providing support when DP leaves but neither could offer a full solution.
5.2	ICN confirmed that he and AG had spent some considerable time defining tasks, looking at roles and considering the potential for outsourcing..
5.3	Redacted due to confidentiality <i>VMH joined the meeting (12.15pm)</i>
5.4	CG referred to a commercial proposal that had been circulated to council members by AG/ICN and suggested that a full proposal should be sent to Hook Tangaza to respond to by 4 February. <i>SA left the meeting at 12.20pm</i>
5.5	JR/ VMH will further consider the services required by ACLT from ACL by 4 February.
5.6	VMH suggested that the Head of Operation's role is advertised at the same time as tenders for outsourcing are invited.
5.7	ICN raised the subject of new premises for ACL and DP confirmed that ACL had use of the current premises to 29 April.
5.8	AG/ICN agreed to finalise a role specification for the Head of Operations.
5.9	DP asked SD and LR to provide a photograph and copy for the ACL Council Member page on the website.
5.10	It was unanimously agreed that Costs Lawyers who sat their exam in December but received their results in January would be included with the 2021 qualifiers for the purpose of the 2021 Student Cup.
5.11	DP reported that space was being held at two venues in Manchester (The Lowry and the Radisson) for the proposed conference on 29 April.
5.12	CG raised the issue of resource in the two weeks prior to the event and a discussion took place as to the merits of postponing the event. It was generally agreed that the event should go ahead.
5.13	LR's offer to provide cover to help with communications and the organisation of the event was gratefully accepted. SD said she was also willing to assist.
5.14	CG proposed that the Conference was held at The Lowry. All agreed.
6	Finance Report
	It was agreed that SA would sit on the Finance Committee.
7	PR and Marketing
	It was proposed by DBV that the revised proposal for the Costs Lawyer to be replaced by an online publication containing rolling content should be approved. This was unanimously agreed.
8	Policy Report
8.1	AG reported that there was an LSB consultation on ongoing competence closing on 7 March which ACL should respond to.
8.2	AG confirmed the next significant task of the Policy committee was to set out a robust structure and terms of reference for each of the ACL council sub committees. Committees were agreed as being :- <ul style="list-style-type: none"> • Policy and Governance - AG/ICN/KK • Education – JR/VMH /LR • Finance and HR – JPJ/SA /SD • PR/Media –DBV/LR

8.3	It was agreed that each committee should circulate a written update at least 2 clear days before each council meeting.
9	Member Survey
9.1	Prior to standing down as a council member FK had discussed the idea of a member survey with Black Letter. It was agreed that this should be revisited.
9.2	LR will compile a report on membership with recommendations
10	Insurance for Governors/Directors
	VMH raised the question of officers and directors insurance. DP will send copy of ACL/ACLT's insurance to all council members to review.
11	Discounted membership for council members
11.1	VMH suggested that there should be a fiscal benefit to council members and a discussion followed.
11.2	DP will circulate the 2012 consultation on changes to the ACL management structure to council.
11.3	AG will look into how CLSB board members are currently remunerated.
11.4	It was generally agreed that the membership should be canvassed for their views via a survey.
12	Date of next council meeting
	The next council meeting will be held at 2pm on Monday 28 February.
13	Any other business
13.1	JR reminded council members that under the current articles ACL needed to appoint a vice chair. It was agreed that AG would email council members after the meeting to ask them to consider taking on the role.
13.2	There being no further business the meeting ended at 13.25pm



Council members present: Claire Green, Chair (CG), Stephen Averill (SA)
David Bailey-Vella (DBV), Ian Curtis-Nye (ICN),
Adam Grant (AG), Kris Kilsby (KK),
Victoria Morrison-Hughes (VMH), Laura Rees (LR),
Jack Ridgway (JR)

Also present: Diane Pattenden (DP)

The meeting started at 2pm

Item	
1	Welcome and apologies
1.1	CG welcomed all to the meeting.
1.2	Apologies were received from Stephanie Donald (SD)
1.3	ICN apologised in advance that due to a prior appointment he would need to leave the meeting at 3pm
2	Education Committee Report
2.1 – 2.6	<i>Items 2.1 – 2.6 are confidential and have been redacted.</i>
2.7	The question of whether it was appropriate for JR to remain on the ACLT Board, when he took over as ACL Chairman was raised. JR confirmed that this had been considered and that his intention was to stand down from the ACLT Board in May, at which point LR would take over as a director of ACLT.
2.8	<i>This item has been redacted due to it being confidential</i>
2.9	CG stated that she could not support the decision of the ACLT Board and was therefore standing down as Chair with immediate effect. She thanked all council members for their help during her term of office. <i>CG retired from the meeting.</i>
2.10	Council members took a five minute break to consider the implications of CG's resignation.
2.11	JR proposed that he chaired the rest of the meeting. SA seconded the proposal which was unanimously agreed.
2.12	A discussion followed regarding the rules of the Association.
2.13	JR nominated himself as Vice Chair. VMH seconded the proposal and it was unanimously agreed.
2.14	DP was asked to contact CG to seek written confirmation of her resignation.
3	Minutes of the council meeting held on 28 January 2022
	The minutes were approved as being an accurate account of the meeting. Redactions prior to publication were agreed.

4	Actions arising from the council meeting held on 28 January 2022
4.1	<i>ICN gave his apologies and left the meeting</i>
4.2	The actions were reviewed and updated.
4.3	JR removed a number of items on the list, most of which had been carried forward for many months and which JR advised he would cover in the business plan, leaving only the action points that could be completed in the short term.
4.4	Item 17 - LR provided a report on ACL membership prior to the meeting and highlighted the key points. VMH offered to speak with her contact at PIC for their view on ACL membership benefits.
5	Policy Committee Report
5.1	AG reported on progress with reviewing the ACL office function and his understanding of the service requirement from ACLT. He stated that tentative investigations had been made and it was clear that it was not an option to outsource the office function.
5.2	AG confirmed that a draft job description had been prepared and sought confirmation of whether the role was for a COO, CEO or Head of Operations. A discussion followed. It was acknowledged that the role needed to be 'hands on' but that the job holder needed to be able to make a significant contribution towards helping to shape the future and direction of ACL. JR suggested that a 4 day per week role should be discussed with a selection of recruitment agencies.
5.3	<i>Item 5.3 has been redacted due to confidentiality</i>
5.4	AG will circulate a draft role description to council members. DP will speak with a recruitment consultant regarding the title and job profile.
5.5	DP confirmed that all ACL documents and emails were held on the ACL PC hard drive and were fully backed up.
5.6	Following a discussion on the location of the office/remote working it was agreed that there needed to be an office base, even if there was a level of hybrid working. It was acknowledged that the new office location was likely to be in the same area as at present but it was agreed to fill the role before a final decision was made.
6	PR and Marketing Report
6.1	DBV confirmed that the last issue of the Costs Lawyer had been published and that Black Letter would take over the online version from 1 March
6.2	The e-bulletin will continue to be published by Archant to the end of March.
6.3	LR reported on a recent meeting with NR and that regular meetings with Black Letter have been set up.
7	Finance Report
	<i>Redacted due to confidentiality</i>
8	Operations Report
	It was agreed to reschedule the Manchester conference to June, depending on the venue's availability. DP agreed to contact speakers who had agreed to speak at the April conference.
12	Any other business
12.1	AG confirmed that his term of office would end in May and that he would not continue beyond that date. He would therefore be handing over his lead on the policy committee to ICN over the next two months.
12.2	A discussion on whether to invite nominations for new council members was held. It was

12.3	agreed to delay this for 2 or 3 months. AG advised council members that he could not continue with his current high work load for ACL and that he would need to delegate some of his tasks. JR/AG agreed to have a conversation outside the council meeting to reallocate tasks.
12.4	<i>DBV left the meeting due to a prior engagement.</i>
12.5	AG will draw up a list of outstanding tasks to send to JR/KK/ICN.
13	Date of next council meeting
13.1	Tuesday 22 March – 1pm.
13.2	There being no further business the meeting ended at 4.40pm

Council members present: Jack Ridgway (JR), Stephen Averill (SA)
David Bailey-Vella (DBV), Ian Curtis-Nye (ICN),
Stephanie Donald (SD), Adam Grant (AG),
Kris Kilsby (KK), Laura Rees (LR).

Also present: Diane Pattenden (DP)

The meeting started at 1pm

Item	
1	Welcome and apologies Apologies were received from VMH.
2	Minutes of the council meeting held on 28 February 2022 It was agreed that there was no requirement to redact 2.7 on the draft minutes. Subject to this change and changing 'recommendations' in 2.9 to 'decision', the minutes were approved.
3	Actions arising from the council meeting held on 28 February 2022 Actions were reviewed and updated
4	Chair's update
4.1	It was agreed that JR would resign (in writing) as Vice Chair of ACL with effect from 1 April and take over as Chair of ACL on the same date.
4.2	JR nominated SD as Treasurer. LR seconded this and it was unanimously agreed.
4.3	JR proposed that DBV and SA be appointed joint vice chairs, effective 1 April. ICN seconded the proposal and it was unanimously agreed.
4.4	It was agreed that the PR and Marketing committee would give consideration to additional speakers for the Manchester Costs Conference and liaise with DP.
4.5	It was unanimously agreed to nominate LR as Director of ACLT from 1 April. JR will confirm this to SH and seek the ACLT Board's approval.
4.6	JR reported that he was currently drafting a business plan which he hoped to be able to circulate in April. He added that he intended reviewing the composition of council and updating the Articles and Bye Laws later in the year.
5	Education committee report
5.1	LR summarised the report which was circulated ahead of the meeting. She highlighted that the proposed new course would need to be accredited within the next few months and there would be some tight deadlines to meet. She reported that there would be an intake of Unit 2 and Unit 3 students in January 2023 but the Unit 1 intake would be delayed to September 2023. It was agreed that this needed to be clearly articulated to prospective

5.2	students and LR will discuss the changes required to the ACLT section of the ACL website at the next ACLT board meeting.
5.3	LR reported that the ACLT Board were in the process of gathering information from employers who currently sponsor employees to undertake the qualification course.
5.3	LR stated that ACLT will be reviewing all regulations and policies in the next few months.
6	Policy Committee report
6.1	AG confirmed that he was in the process of handing over to ICN/KK prior to his term of office ending on 3 May. ICN will take over work on the assurance documents. KK will manage the consultation responses.
6.2	KK reported that there were two consultations that he would soon be looking at. The first was a consultation on proposals for fixed recoverable costs in lower value clinical negligence cases, closing on 24 April. The second was on a proposed e-bill for court of protection matters, closing on 31 May 31 May.
6.3	ICN and JR will agree policies, procedures and priorities for the policy committee.
6.4	SA asked for his thanks to AG for all his work for the policy committee over the last few years to be noted.
7	Finance Committee report
	A brief update was circulated to council members ahead of the meeting and there was nothing further to report or discuss.
8	P R and Marketing Committee report
	DBV reported that a meeting with Black letter and ALCT was soon to be scheduled.
9	Operations report
	<i>SD apologised for having to leave the meeting due to a prior appointment</i>
9.1	DP confirmed that a venue and AV company were on hold and subject to council approving the date of 1 July would be contracted with. Council agreed to the bookings and payment of deposits.
9.2	A discussion was held on the need for a professional photographer for the conference. This will be reviewed closer to the conference date.
9.3	DP reported that a 'save the date' note had been put on the website and as soon as further speakers were confirmed bookings will be opened.
9.4	The conference rates proposed by DP were agreed.
9.5	It was agreed to hold networking drinks after the conference closed. An £800 initial budget was agreed.
9.6	DP reported that a Yorkshire regional costs group meeting was being hosted by Clarion Solicitors on 28 April and that an email had been sent to members.
9.7	<i>Item redacted due to confidentiality</i>
9.8	DP confirmed that the new style e-bulletin/Costs Lawyer will go live on 7 April and that an email will be circulated prior to this to inform members. The question of for how long articles would be publicly available before being archived and available only to subscribers and members was raised. The PR committee will discuss this and agree parameters with the publisher.
9.9	<i>Item redacted due to confidentiality.</i>
9.10	DP provided an update on progress with staff recruitment. A discussion followed regarding the structure of the operations team. JR expressed a preference for 3 part time staff.
9.11	It was agreed that a working group (ICN/SA/DBV) would look at the CVs for the Head of operations role and DP would sit in on the first interview with one member of the committee.

9.12	<p>This committee member plus one other member will conduct the second interviews.</p> <p><i>LR and ICN apologised for leaving the meeting to attend pre-arranged meetings.</i></p> <p>Discussion followed regarding contingency should the role of Head of Operations not be filled by the time DP had left the organisation.</p> <p><i>SA offered his apologies for having to leave the meeting.</i></p>
9.13	<i>Item redacted due to confidentiality.</i>
9.14	It was agreed that DP should make enquiries regarding new office premises as a priority, initially for a short term lease.
9.15	It was agreed that on DP's departure, JR would act as JG's line manager until a replacement Head of Operations was appointed.
10	Any other business
10.1	There being no further business the meeting ended at 4.10pm
10.2	The date of the next meeting will be confirmed.

2 March 2022

Dear Kate,

Draft Business Plan and Budget 2022/23: Overview of stakeholder responses

We are writing to follow up on the recent OLC Business Plan and Budget consultation for 2022/23. It was really valuable to hear stakeholder views on our proposals, and the responses provided much to reflect on.

The consultation process closed on 13 December 2021, and since then the OLC Board and the Legal Ombudsman Executive Team have been reviewing the responses received and reflecting on the feedback received, to help redraft and finalise the content of the revised Business Plan and Budget. The revised Business Plan was approved by the OLC Board earlier in February and has now been submitted to the Legal Services Board, who will consider our plan and proposed budget at their Board meeting on 22 March 2022.

Ahead of the final decision, we wanted to take the opportunity to provide an overview of what we heard during the consultation process and outline how we have responded to this.

There was a recognition in the responses we received to the consultation that the Legal Ombudsman has been much more open and transparent and that increased communication channels have enabled ongoing progress and challenges to be conveyed on a regular basis. This level of transparency will continue and we want you to feel confident that the Legal Ombudsman will achieve its recovery in a way that is sustainable and enhances delivery of the Scheme in the future.

It was particularly pleasing to hear support for the radical approaches that were proposed in the draft Business Plan. Alongside this, responses made it clear that we needed to do more to provide assurance that we would deliver on our trajectories. In particular, the responses showed that there was insufficient confidence that the recruitment and retention issues carried into 2021/22 could be resolved quickly enough to enable the organisation to meet the pace of recovery set out for 2022/23.

Other key feedback has been:

- A need to focus on the customer experience and reducing customer journey times. When will an acceptable level of performance will be achieved?
 - The options 2 budget proposal and ongoing financial sensitivities within the sector: an increased budget could have a real impact on some service providers and any uplift may be passed on to consumers.
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- A keen interest in the review of the Scheme Rules; focusing on how this could support a better customer experience and also achieve longer term stability.
- On the presentation of the Business Plan, the need to draw out key details which are not prominent enough in the initial draft.

Over the last couple of months, we have reflected carefully on what we heard during the consultation process. In particular, we have focused on reviewing the budget proposals, capturing the impact on customer journey times and making sure it is clear how the trajectories we have outlined in the Business Plan are backed up by robust and rigorous testing.

Whilst the final Business Plan and Budget may still be subject to some changes, what we can say is that we have ensured the revised Business Plan and Budget has been rebalanced to include:

- A clearer demonstration of how the PAP reduction trajectories have been reached and that they are based on realistic expectations and assumptions which are already being carried out. Following a successful national recruitment campaign, we will be starting 2022/23 with a full complement of investigators. It is important to emphasise that we have also recruited above our FTE target to ensure we continue to have adequate resource in anticipation of Q1 and Q2 attrition.
- A better demonstration of the interconnectedness of priorities 2 and 3 with the Business Plan, and their role in supporting the overall aim of recovery and in managing future demand.
- Explicit consideration of value for money and evidence that we have scrutinised every area of our operations for opportunities to reduce costs in the context of significant inflationary pressures, weighing these against the impact they would have on our ability to deliver our forecast performance recovery.
- Key data and milestones being presented in a sharper and more prominent way.

At the same time as revising the Business Plan, the Legal Ombudsman has worked with the OLC to finalise and launch a consultation on the review of our Scheme Rules. It was clear from the Business Plan and Budget consultation that there was a strong level of support for the review and we have therefore engaged with a number of interested parties prior to its launch. The proposed changes reflect on the considerable focus the Legal Ombudsman has given to identifying operational improvements which will help achieve a sustainable performance and provide a better standard and more proportionate service for both consumers and legal service providers.

Further detail on the outcome of the review and an outline of the proposed changes can be found at: <https://www.legalombudsman.org.uk/media/nahpyypc/olc-scheme-rules-consultation-feb-2022.pdf>

Revising the Business Plan and Budget has been a delicately balanced process. Quite rightly the sector wants to see a faster pace of recovery, with value for money and an improved customer experience being at the heart of our plans. To deliver against this we need to ensure that we have the appropriate resource to drive down customer journey times and invest in the changes required without allowing our backlog to grow.

As we go into 2022/23 we do so with the determination, resilience and confidence that we will deliver against our plans.

As ever, if you have any questions relating to any aspect of the Business Plan and Budget, please do not hesitate to get in touch.

Yours sincerely,



Elisabeth Davies
OLC Chair



Paul McFadden
Chief Ombudsman

Board paper

Audit of 2021 CPD

April 2022

Introduction

This report provides the Board with an overview of the audit of 2021 CPD which was undertaken February-March 2022.

This is the first audit of CPD undertaken under the new CPD Rules effective from 1 January 2021.

The audit was undertaken in line with the [Supervision Framework for CPD Audit](#). The audit process was intended to be supportive, with the aim of improving standards and compliance with the new Rules.

This report also addresses item 3 in the [2022 Business Plan](#):

Using our new supervision framework, evaluate the extent to which our revised approach to Continuing Professional Development (CPD) has been understood and adopted by Costs Lawyers, and develop communications to address any areas of difficulty or other themes identified.

Outcomes

1. 19 Costs Lawyers were randomly selected for audit, and asked to provide evidence of both their individual CPD activities in 2021, as well as their written CPD record identifying their training needs, setting CPD objectives and evaluating the effectiveness of their CPD ("Full CPD Records"), as required by the new Rules. Their Full CPD Records were assessed using the Audit Checklist in the [Supervision Framework for CPD Audit](#).
2. As part of the website materials provided to support the introduction of the new CPD Rules an optional template for planning and recording CPD was provided, as well as a worked example. Each and every Costs Lawyer audited used the CLSB example template for planning and recording their CPD. By using this structure they complied with many of the points on the Audit Checklist.
3. The majority of Full CPD Records demonstrated a good level of engagement with planning, recording and evaluating CPD.

4. It is clear that the new framework for CPD has already had a positive impact on the planning of CPD, and will continue to do so in the next few years, as shown in the following extracts from the Full CPD Records submitted:

“Setting out my objectives from the beginning of the year ensured I got the most out of my CPD activities, rather than trying to fit them all in at the end of the year.”

“I need to assess my needs at the beginning of the year and plan out/ resource sources at an earlier point in the year. The template this year has helped, but I feel I can utilize it further next year.”

“Assessing my needs and planning my CPD throughout the year helped me get more value from CPD activities, as I no longer had to try and fit in activities in the final months of the year to make up the requisite points. I found it difficult to source external training in certain niche areas. Next year I will establish a log of potential training providers and events, which everyone in the firm can contribute to and access.”

“Next year I plan to identify relevant webinars on a monthly basis so that my CPD is better spread out through the year.”

“Whilst planning my CPD activities was helpful and as a result I believe I took a more targeted approach to selecting my CPD activities, I still found myself “cramming” towards the end of the year (see November) to ensure that my CPD requirements were met both in terms of achieving sufficient points but also ensuring that it was relevant to my area of work.”

5. There is clear evidence that Costs Lawyers are thinking about emerging issues in planning their CPD.
- a. For example:

“I hadn’t considered the long term effects of how some of the ways in which I work have been effected by the COVID restrictions. I am particularly thinking of Court hearings being conducted by video link and the slightly different skill set that has to be applied...I need to consider planning for an attendance at court much further in advance to how I worked previously. The filing of document bundles electronically for example. The preparation of such a bundle electronically indexed can be time consuming therefore started a lot earlier than it had previously been.”
 - b. At least 8 of the 19 Full CPD Records examined noted an increase in solicitor-client disputes and linked this to their training. (This information was passed to Hook Tangaza as further evidence for one of the issues emerging from the RPF project.)
6. In line with the Supervision Framework the focus of the audit was on education rather than sanction, and Costs Lawyers whose Records were lacking in specific objectives or detail were encouraged to address this in future years.

7. The most common feedback that Costs Lawyers were asked to consider in future was how they could better set specific objectives that reflected their own practice, existing skills and learning needs. This was particularly noticeable in the legal and technical competence category, where the only objective of several Costs Lawyers audited was to “keep up to date”.
8. Four Costs Lawyers did not send Full CPD Records as required.
 - a. The first two Costs Lawyers who did not submit Full CPD Records were asked to plan and submit their CPD objectives for 2022, which we felt was likely to be a more valuable exercise than asking them to retrospectively set and evaluate 2021 objectives.
 - i. One of these Costs Lawyers submitted (by return) a 2021 record, saying they had omitted this from the information sent.
 - ii. The second submitted objectives for 2022, and we concluded the audit.
 - b. One Costs Lawyer admitted that they had not set 2021 objectives and submitted their 2022 CPD objectives instead, but these were very high level and did not relate to the individual’s own practice. They were asked to set more meaningful and specific objectives for 2022 and told that they would be audited again next year.
 - c. The final Costs Lawyer in this category failed to meet the first and second deadlines set. Our email reminding them that non-cooperation with an audit will be dealt with under the Disciplinary Rules and Procedures and requesting a reply by the end of the day, was responded to 4 days later with patchy audit information (largely due to changing employment). This Costs Lawyer was reminded of the new Rules and told they will be audited in the next year.
9. We did not feel it necessary or appropriate to take disciplinary action against any of the Costs Lawyers who did not fully pass this year’s audit. Unlike in previous years,¹ all audited individuals cooperated to a reasonable degree with the audit process and showed willingness to take feedback on board and make improvements in the following year. We believe that following up with certain individuals through a further audit next year – to ensure this willingness has been acted upon – is a proportionate approach that is most likely to yield positive compliance outcomes in the longer term.

Actions

10. There are places where we might usefully revise the CPD record template to make the intention more clear. One of the categories Costs Lawyers are asked to consider setting objectives in is “dealing appropriately with your client and third parties”. Several people audited (presumably taking instructions from a colleague in the same firm) interpreted this to mean lay clients (and therefore not relevant to them) rather than taking a broader interpretation of a client. One said:

¹ In 2019, disciplinary action was taken against a Costs Lawyer who failed the CPD audit and, consequently, his practising certificate was revoked. However, that individual refused to cooperate with the audit and did not provide any evidence of CPD undertaken.

“We do not tend to deal with lay clients, but it is an area we could deal with.”

The RPF project has also identified a potential issue with Costs Lawyers considering the notion of a “client” unduly narrowly, particularly if their instructions come from within the same firm. As you know, we are considering potential amendments to the Code of Conduct and other regulatory arrangements to address this. When we effect those changes, we will also adjust the wording of the CPD template in this regard.

11. We will update the FAQs on the [Continuing Professional Development webpage](#) to encourage Costs Lawyers to be specific in setting CPD objectives, so that they get the most from the process, and consider how we can use any of the extracts from the Full CPD Records cited above to show the benefits of setting objectives and planning CPD more effectively.
12. We will develop a “lessons learned” webpage, sharing feedback from the audit outcomes with the wider regulated community. This will look similar to the webpage we produced to communicate the [outcomes of the first complaints procedure audit](#) in 2021. We will promote this material in the Costs Lawyer newsletter and on social media.
13. We expect these actions to be completed by the end of Q1, or shortly thereafter depending on IT development time.

Conclusions

14. 15 of the 19 Costs Lawyers audited passed the audit without further information being required. Two complied with our requests for further information, and two did not pass and will be audited again next year. We endeavoured to provide encouragement and feedback for future years to all audit participants.
15. The audit suggests that the majority of Costs Lawyers (based on the audited sample) are aware of the new approach to CPD, and many are already seeing the value of identifying their training needs, setting CPD objectives and evaluating the effectiveness of their CPD to their practice. This reflects the comments we received in the 2021 regulatory return, when we asked Costs Lawyers whether and why they felt the CLSB was an effective regulator; in that context, several respondents mentioned the changes to the CPD Rules in positive terms (as reported to the board in February 2022).
16. Follow up communications and future audits will ensure the new approach becomes embedded so that, as well as benefitting from the increased freedom and choice of individual CPD activities under the new Rules, Costs Lawyers plan and evaluate CPD as effectively as possible, for the benefit of their practice and clients.

Jacqui Connelly



Exit survey

* 1. Why are you leaving the Costs Lawyer profession? Please select all that apply.

☐ Retirement

☐ Studying

☐ Parental or other caring responsibilities

☐ Ill-health

☐ Change of career

☐ Unemployment

☐ Qualification as another type of lawyer

☐ Prefer not to say

☐ Other (please specify)

* 2. Do you expect to return to the profession in future?

☐ Yes

☐ No

☐ Not sure yet

* 3. Do you intend to keep doing costs work of any kind?

☐ Yes, as a lawyer regulated by a different regulator

☐ Yes, as an unregulated adviser (e.g. a costs draftsman)

☐ No

☐ Not sure

☐ Other (please specify)

* 4. How significant were these factors in your decision to leave the profession?

Very significant

Quite significant

Neither significant nor
insignificant

Insignificant

	Very significant	Quite significant	Neither significant nor insignificant	Insignificant
Salary	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Job satisfaction	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Workload	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Environment/culture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Regulatory requirements (please give details below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Equality or diversity issues (please give details below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please give details below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please give details

* 5. For how many years did you work as a regulated Costs Lawyer?

☐ 0-3 years

☐ 16-30 years

☐ 4-6 years

☐ Over 30 years

☐ 7-15 years

6. What did you like best about being a Costs Lawyer?

7. What did you like least about being a Costs Lawyer?

8. How do you think Costs Lawyers can be supported to stay in the profession?

9. Do you think CLSB was an effective regulator when you were authorised and regulated as a Costs Lawyer ?

☐ Yes

☐ No

10. Please explain your answer to Q9 if you wish, to help us improve.

Done

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