



Costs Lawyer Standards Board

AGENDA

Wednesday 19 October 2022 @ 10:30am
Remotely via videocall

Board:	Rt Hon David Heath CBE	Lay NED (Chair)
	Stephanie McIntosh	Lay NED (Vice-Chair)
	Andrew Harvey	Lay NED
	Andrew McAulay	Non-Lay NED
	Paul McCarthy	Non-Lay NED
In attendance:	Kate Wellington	CEO
	Jacqui Connelly	Director of Operations
	Paul McFadden	Legal Ombudsman (Item 9.2)

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	- -		DH DH
2	Minutes 2.1 Approval of minutes (20 July 2022) 2.2 Matters arising (20 July 2022)	Item 2.1 -	Yes	DH DH
3	Strategy 3.1 Progress against Business Plan: Q3 2022 3.2 Discussion session: Regulating B2B vs B2C costs services	Item 3.1 -	Yes	KW KW
4	Board matters 4.1 Board member reappointments 4.2 Remuneration Committee matters 4.3 Governance review tracker: NED job descriptions	- Item 4.2 Item 4.3A+B	No (A, B) Yes	DH AH KW

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

5	Finance 5.1 Quarterly report: Q3 2022 5.2 LSB decision on PCF application	Item 5.1 Item 5.2	No (D, E) Yes	JC KW
6	Risk management 6.1 Review of risk registers	Item 6.1	Yes	KW
7	Regulatory matters 7.1 Costs Lawyer Qualification accreditation for 2023 7.2 Professional Qualifications Act 2022	Item 7.1A+B -	No (B, D)	KW KW
8	Legal Services Board (LSB) 8.1 Regulatory performance information request 8.2 Feedback from LSB conference	Item 8.1 -	Yes	KW DH
9	Stakeholder updates² 9.1 ACL Council meeting minutes 9.2 Roundtable with Paul McFadden, Legal Ombudsman	Item 9.1 -	Yes	KW DH
10	Operations 10.1 Complaint procedure audit report 10.2 Review of internal staff policies	Item 10.1 Item 10.2	Yes Yes	JC KW/JC
10	Publication 10.1 Confirmation that papers can be published	-		DH
11	AOB	-		DH
12	Next meeting Date: 31 January 2023 Venue: Remote via videocall	-		DH

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

Company number: 04608905

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

MINUTES
Costs Lawyer Standards Board Ltd
Wednesday 20 July 2022 at 9:30 am
Institute of Advanced Legal Studies, London

Board:	Rt Hon David Heath CBE	Lay NED (Chair)
	Stephanie McIntosh	Lay NED (Vice-Chair)
	Andrew Harvey	Lay NED
	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 3.2)

1. OPENING MATTERS

- 1.1** The Chair declared the meeting quorate. There were no apologies. Andrew McAulay joined by videolink.
- 1.2** There were no declarations of interest on any agenda item. David noted that he had recently been appointed to a disciplinary committee of the Royal College of Veterinary Surgeons, although that appointment had not yet involved active casework. The appointment would be added to his declaration of interests form.

2. MINUTES

2.1 Minutes dated 19 May 2022

The board considered the minutes of its last scheduled quarterly meeting on 19 May 2022. 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 19 May 2022. 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: Q2 2022

The board was provided with a progress update against the 2022 Business Plan. Kate noted that three additional priorities had been achieved during Q2, meaning that overall six of 17 priorities had been achieved with six more in train. Board members

discussed how the projected budget surplus could be used to resource remaining Business Plan priorities to relieve pressure on internal resource.

3.2 Strategy session: Defining our regulatory approach

The board was provided with a paper drawing out issues from the findings of a project, funded by the Regulators' Pioneer Fund, that asked: How can Costs Lawyers help to reduce the cost of legal services? Heather introduced this item with a presentation setting out relevant evidence from the project and exploring how the issues canvassed in the paper could shape the CLSB's approach to regulation.

The board discussed the issues in detail, considering matters such as:

- Whether Costs Lawyers should be seen as providers of business-to-business (rather than business-to-consumer) services, and the implications of this for the cost and scope of regulation.
- Whether the small minority of Costs Lawyers who serve individual consumers could and should be treated differently from a regulatory perspective.
- The benefits and drawbacks of viewing regulation of Costs Lawyers as essentially voluntary, given the nature of the market.
- The potential impact of, and appetite for, expanding the scope of costs regulation.
- The CLSB's place within the Legal Services Act framework, including how it should implement LSB policy, which is aimed primarily at protecting consumers.

The board considered the impact of these issues on practical matters such as the prospect of entity regulation, overlaps and gaps with other regulatory bodies, and the importance of independence from ACL (ensuring that it is the regulatory objectives – not the interests of the profession – that are driving decision-making). Board members debated the purposes of regulation in the market for costs advice, including the benefits that regulation can deliver not just for clients but for the justice system and society as a whole.

The board drew several preliminary conclusions as to how the CLSB should move forward, while acknowledging that ongoing internal and external discussion would be needed on these issues:

- There were benefits to the CLSB remaining within the Legal Services Act framework, but it would be important to agree an approach with the LSB that enabled the CLSB to pursue the regulatory objectives in a way that recognised the business-to-business nature of Costs Lawyers' work.
- The CLSB must not take on representative functions, but this did not preclude it from exploring potential services that Costs Lawyers could provide which would benefit the public and improve access to justice, in line with the regulatory objectives.
- The potential public benefits from light-touch entity regulation were sufficient to warrant preliminary investigations as to viability.
- The board was open-minded as to whether having a specialist regulator for the Costs Lawyer profession was an efficient model, noting that at present the approach was working well and that ultimately ACL was named as the approved regulator in the Legal Services Act.

It was agreed that the executive should continue to develop ideas and workstreams arising from the strategy session, taking the board's views into account, and further discussion would be needed at future board meetings to take these forward. The board thanked Heather for her assistance in curating the strategy session and agreed that it had been a very useful and interesting agenda item.

4. BOARD MATTERS

4.1 Dates for 2023 meetings

The board agreed to meet on the following dates in 2023:

- 31 January
- 29 March
- 28 June
- 20 September

Action: Publish board meeting dates on website.

4.2 Remuneration Committee report

The board was provided with minutes of a meeting of the Remuneration Committee on 16 June 2022, as well as a Remuneration Policy tabled by the Committee for approval by the board in line with the Committee's Terms of Reference. Andrew Harvey, as Chair of the Committee, also gave a verbal report of the Committee's business.

The board noted the minutes, which showed that the Committee had considered in detail options for changing the contractual relationship with the CEO due to her residency in Australia, arrangements the Committee had made for carrying out its business going forward, and the implications of *NMC v Somerville* for the CLSB.

Board members discussed the Remuneration Policy. In relation to proposed paragraph 7, the board considered whether it was appropriate to create an expectation of an annual wage increase linked to inflation, or whether a guaranteed annual review was preferable. It was agreed that any guaranteed pay review should not be hollow and that the objective of maintaining real wages where possible was sound. The board asked Kate to prepare and circulate amended text for paragraph 7 based on this position, which could be approved by email and reported back for the minutes at the next meeting.

The board noted that the proposed changes to the contractual relationship with the CEO could be approved by the Committee under the terms of the Remuneration Policy following the meeting. Those changes would necessitate the CEO resigning as Company Secretary, but a replacement was not necessary as a Company Secretary was no longer required for private limited companies.

Action: Circulate amended wording for paragraph 7 of the Remuneration Policy for approval by email.

4.3 Governance review tracker: New consultation process document

Kate introduced this item. She explained that, following the LSB's well-led reviews in 2021, the CLSB had mapped the recommendations from the review against its own

governance arrangements to produce a series of actions that should be taken to ensure the LSB's expectations were met. Most of these had been dealt with under the new Board Governance Policy, adopted by the board in February. One outstanding item was to formalise and document the CLSB's policy on consulting with stakeholders. The board was provided with a proposed "Approach to consultation" policy for this purpose, as well as the updated recommendation tracker.

The board felt the policy would be helpful both internally and externally, and would give stakeholders reassurance that their views were heard and taken into account. The board approved the policy and suggested it be published on the website.

Action: Adopt policy into Internal Handbook and publish on website.

5. FINANCE

5.1 Quarterly report: Q2 2022

Jacqui introduced the quarterly finance report. She noted that the current projection remained for a surplus, attributable to higher than expected income levels and lower spending in certain areas. The board noted the financial position in the report and that the executive would investigate how to allocate the surplus, as discussed under item 3.1 above.

5.2 2021 accounts

The board was asked to approve the 2021 draft financial accounts for signing and was provided with an explanatory note setting out how the Regulators' Pioneer Fund grant had been recorded for accounting purposes. Board members asked about the additional £10,000 expenditure on professional fees as compared to 2020, and Jacqui explained that this largely comprised expenditure on two consultants who assisted with the review of the Costs Lawyer Qualification, which was not included in the 2021 Business Plan or budget. The board approved the accounts.

Jacqui noted that a small corporation tax liability had been accrued for the first time, from income on the reserve accounts. A tax return would be completed in 2022 and this liability would be recorded in the 2022 accounts, so no amendment was needed to the 2021 accounts as approved.

Action: Sign and file 2021 accounts.

5.3 2023 Business Plan and budget

5.4 PCF consultation

The board took agenda items 5.3 and 5.4 together. Kate introduced this item, explaining how the Business Plan and budget had been developed and highlighting the proposed priorities for 2023. She noted that the contingency budget line had been removed and that, given the current rate of inflation, a 9% uplift had been assumed on budgeted costs.

The board discussed the proposal to keep the practising fee static at £281, as informed by the proposed budget. It was agreed that inflationary pressures might necessitate an increase to the fee in future and that it was preferable not to burden the regulatory community with a significant one off increase in a later year. Despite this, the budget showed that inflation could be borne in 2023, so a static fee was appropriate this year, if not next year.

The board considered the consultation documents and discussed the consultation questions posed. It was noted that question 3 in relation to the benefits of regulation might help to inform the issues the board had discussed under the strategy session at item 3.2 above.

The board discussed engagement activity that could be carried out to complement the consultation. There was concern that the regulated community might be suffering from survey fatigue due to recent demands on their time and it was suggested that a webinar be explored if there was resource for this.

The board approved the consultation documents, including the Business Plan and budget, for publication.

Action: Launch consultation and consider complementary activity.

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 considered risk OP6 (*breakdown in communication between any of ACL, ACLT and CLSB*), which the board had considered downgrading at its meeting in May. Kate updated the board on staff changes at ACL Training, with the CEO's announcement that she would be leaving upon three months' notice. On this basis, the board agreed that the rating for OP6 should remain red as the transition played out.

The board discussed whether the emerging cost of living crisis impacted risk OP1 (*more leave than enter the profession*). It was agreed that there was no evidence at this stage to suggest it did, but this should be kept under review, particularly by monitoring practitioners' reasons for non-renewal.

The board agreed to update the evidence of risk OP1 to reflect the new date for extension of the fixed costs regime by the MoJ and to acknowledge the Civil Justice Council's costs review.

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

7. REGULATORY MATTERS

7.1 Two year review of Disciplinary Rules and Procedures

The board was presented with a report of the scheduled review of the Disciplinary Rules and Procedures two years after their implementation. Kate introduced the item and summarised the recommendations for improvement. She noted that the LSB had been given early sight of the findings of the review, and had been asked for feedback on whether a full rule change application would be necessary. The LSB's view was that it would be and that consultation should be undertaken.

The board considered the report and approved the proposed next steps, including consulting on the proposed changes to the rules.

Action: Develop and publish consultation paper.

7.2 Consumer Engagement Strategy: Year 2 report

The board was provided with a report on progress against the initiatives scheduled for year 2 of the Consumer Engagement Strategy and recommendations for areas of focus in year 3. Kate explained that, because the RPF project found that Costs Lawyers are servicing a negligible number of individual consumers, focus had shifted across some of the initiatives (e.g. around pricing and privacy) away from looking at outcomes for individual consumers toward looking at outcomes for business clients.

The board considered progress in year 2 and approved the proposals for year 3. Board members discussed the proposal for constituting a user panel and suggested that this should include a Costs Lawyer who instructs other Costs Lawyers, as they would have a unique perspective.

Action: Update published version of the Consumer Engagement Strategy to incorporate initiatives for year 3.

7.3 Accredited Study Provider Scheme Handbook

The board was provided with a final draft of the proposed Accredited Study Provider Scheme Handbook, incorporating new content and annexes since the board last reviewed the draft in February. Kate summarised the key changes that would be implemented by the Handbook as compared to the existing arrangements for the Costs Lawyer Qualification and sought feedback on both the substance and drafting.

The board discussed various aspects of the Handbook, including the appeal mechanism from decisions of the Panel, alignment of the accreditation process with market standards and providers' expectations, and internal resource implications of implementing the new processes.

The board approved the Handbook for consultation. It was agreed that the consultation paper should be circulated to the board by email before publication, so the board could satisfy itself that all relevant questions were covered. It was also suggested that, as part of the consultation process, a response was sought from an expert who could comment on any equality and social inclusion consequences of the proposal, to ensure the scheme did not inadvertently create obstacles for entry into the profession.

Stephanie noted that she would send minor drafting points, that need not concern the full board, through the Kate after the meeting.

7.4 Diversity update

The board was provided with a draft report of the findings of the diversity survey that was carried out alongside the 2022 practising certificate renewal round, focusing on the pay gap between men and women. Kate explained that, while only around a third of practitioners responded, enough data had been obtained to meaningfully analyse most categories (age, geographic location etc) against reported earnings. The results suggested there was a significant pay gap between genders in all regions other than the South East. The executive felt that the survey may have hit on an important issue,

where the CLSB could use regulatory tools to make a real difference to EDI markers within the profession.

Kate noted that the report would ultimately be published, but was still in draft form because an independent consultant had been asked to check the analysis and verify the conclusions drawn from the data before any strong statements based on the survey results were made publicly.

The board considered the report and discussed some of the outcomes that were particularly surprising, for example in relation to the differences between London and the South East, as well as factors that might be driving the significant gender pay gap identified in the North East. Board members also discussed the possibility of triangulating the data to other factors such as experience, qualification level and business ownership. It was agreed that the data was unexpected, which meant it was interesting and merited follow-up work, but also warranted doublechecking prior to publication.

8. LEGAL SERVICES BOARD (LSB)

8.1 Regulatory performance framework consultation

The board was provided with the CLSB's response to the LSB's recent consultation on a new regulatory performance framework for the legal regulators. Kate explained how the CLSB had approached its response and the anticipated next steps from the LSB. The board noted the position.

8.2 Feedback from All Chairs meeting

David provided a verbal update on topics of interest covered at the annual meeting of the Chairs of all the legal regulators on 29 June, hosted by the LSB, as well as a bilateral meeting of the LSB and CLSB Chairs on 19 July. He noted that the relationship between the CLSB and LSB remained very constructive, and the LSB was interested in the questions about regulatory approach that the CLSB was currently asking itself. David explained that the LSB had proposed a board-to-board meeting, probably at the beginning of 2023, which the executive would set up in due course.

9 STAKEHOLDER UPDATES

9.1 Annual review of MOU and OP with ACL

The board was informed that the second annual review of the MOU and Operating Protocol (OP) between ACL and the CLSB had taken place in Q2. The organisations had received all the information they needed under the OP in 2021 and there had been no perceived threats to regulatory independence identified during the year. It was agreed that the protocol was working well and that no changes to the documents were necessary at this stage.

The board noted the outcome and Kate confirmed that the versions of the MOU and OP published on the CLSB website would be annotated to show the date of last review.

Action: Publish annotated version of MOU and OP on website.

10 PUBLICATION

10.1 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.

11 AOB

There was no other business.

12 NEXT SCHEDULED QUARTERLY MEETING

The next meeting was scheduled for 19 October 2022, remotely via videocall. It was agreed that the board would aim to hold its June 2023 meeting in person and arrangements for this would be made closer to the time.

There being no further business, the Chair declared the meeting closed at 12:56.

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Chair

Related documents

Item	Document	Publication location (CLSB website)
2.1	Board minutes	About ⇒ Our board
3.2	Project webpage	CLSB website here
4.3	Approach to consultation	Regulatory ⇒ Consultations
5.2, 5.3, 5.4	Practising fee consultation, annexing proposed 2023 Business Plan and budget and 2021 accounts	Regulatory ⇒ Consultations
6.1	Risk registers	About ⇒ Strategy and governance
7.1	Consultation on proposed changes to the Disciplinary Rules and Procedures	Regulatory ⇒ Consultations
7.2	Consumer Engagement Strategy	About ⇒ Strategy and governance
8.1	Response to LSB consultation on new regulatory performance framework	Regulatory ⇒ Consultations
9.2	MOU and OP between CLSB and ACL	About ⇒ Who we are
10.1	Board papers	About ⇒ Our board
Item	Document	Publication location (other)
8.1	LSB consultation on new regulatory performance framework	LSB website here

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 Q4, with any necessary rule changes being implemented following consultation and application to the LSB.</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. A final draft, incorporating assessment outcomes and a series of new annexes, was put to the board in July along with proposed new Training Rules. Consultation materials were then developed and a public consultation was run from August to October. The board will be updated on the outcome of the consultation at this meeting.</i></p> <p><i>Outstanding: A rule change application will be made to the LSB in Q4, completing this priority. We will work closely with ACLT in relation to implementation next year.</i></p>
3.	<p>Using our new supervision framework, evaluate the extent to which our revised approach to Continuing Professional Development (CPD) has been understood</p>	<p>Achieved (Q1)</p> <p><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</i></p>

	and adopted by Costs Lawyers, and develop communications to address any areas of difficulty or other themes identified.	<i>as actions taken to provide feedback to the regulated community and further embed the approach, was presented to the board at its May meeting.</i>
4.	Evaluate the success of our new Disciplinary Rules and Procedures two years after implementation.	<p>Achieved (Q2)</p> <p><i>A review of our experience in applying the new DR&P was carried out in Q1 and several recommended adjustments were identified, mainly to clarify the relationship between complaints to the CLSB and complaints to LeO. A report setting out these recommendations will be put to the board at this meeting. Consultation and a rule change application to the LSB will follow in H2 by way of implementation. The review also identified a need for a documented, step-by-step triage process, which was approved by the board in May.</i></p>

Protecting the interests of consumers and promoting professional standards

	Initiative	Progress status
5.	Update our Consumer Engagement Strategy to capture learnings from the first year, and deliver the updated priority activities for the second year.	<p>Achieved (Q2)</p> <p><i>Our Consumer Engagement Strategy was updated for year 2, reflecting learnings from year 1 and bringing it into line with our policy statement on consumer outcomes. A report on delivery of the year 2 activities was put to the board in July, along with recommendations for our approach to the third and final year of the strategy.</i></p>
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- 	<p>Achieved (Q3)</p> <p><i>A large 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 advisors, and the impacts of under and over regulation. The research phase of the project concluded in March and the project report was published in June. 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</i></p>

	<p>or over-regulation in the market for costs law services;</p> <ul style="list-style-type: none"> based on evidence, evaluate how far we can tackle any issues raised in the areas of price; innovation; access; privacy; and fairness. 	<p><i>serve, and what our regulatory priorities should be. We curated a session at the July board meeting to cover taking forward recommendations around price, innovation and fairness. Access and privacy were covered separately (see below). While this priority is marked as “achieved”, it relates to a cultural shift that we will continue to nurture generally into the future.</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>Deprioritised (Q2)</p> <p><i>We have changed our expectations of the work we should do in this area, in light of findings from our RPF funded project in relation to the nature of Costs Lawyers’ clients. We will be taking further steps to investigate pricing and prices under year 3 of our Consumer Engagement Strategy.</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>Achieved (Q2)</p> <p><i>We have completed an evaluation of privacy and commercial clients of Cost Lawyers, and have set out a plan to reinforce the importance of considering privacy and cyber security in the context of B2B relationships.</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 interventions to improve diversity and inclusion. 	<p>Achieved (Q3)</p> <p><i>We have analysed the results of our 2021 survey on pay and earnings, comparing female and male Costs Lawyers, and a report on the outcomes was put to the board in July. We have commissioned an agency to check the conclusions we have drawn from the data prior to publication in October. We will take forward this work next year by engaging with our regulated community to explore the reasons for a (apparently) substantial pay gap between men and women, and differences by region. We have developed a new survey on social mobility that will be distributed with PC applications in November, giving us additional data to consider in 2023. We decided against holding an event to explore social mobility, as recent similar events struggled to get traction, but our data analysis from these two recent surveys should provide us with a head start to further explore social mobility and progression of Costs Lawyers going forward, in line with LSB priorities for the sector.</i></p>

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 and the final project report was published in June.</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. 	Ongoing (expected Q4) <i>Achieved: We identified a number of areas for collaboration during the year and joined a number of cross-sector initiatives. Examples include work on PLE, a joint statement on counter-inclusive behaviours, and sanctions compliance.</i> <i>Outstanding: This will continue to be a priority in Q4 as we identify and act on any new opportunities.</i>

Modernising our organisation

	Initiative	Progress status
12.	Begin to consider a vision for our organisation beyond the current mid-term strategy that ends in 2023, focused around a board strategy day informed by the views of stakeholders.	Achieved (Q3) <i>The strategy session envisaged under this priority was held alongside the board's July meeting. The board met in person to facilitate open discussion. The session drew on learnings about the market from our innovation project – which captured the views of a wide range of stakeholders – and generated suggestions for areas of strategic focus over the coming years.</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 Q4.</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.	Achieved (Q2) <i>Testing was carried out in Q2 by running through a hypothetical test scenario with key staff. Updates and adjustments have been made to the Plan based on the outcomes of the test, as well as to systems that</i>

		<i>support it. A new version of the Plan has been distributed to holders.</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 functionality to the database to:</i></p> <ul style="list-style-type: none"> • <i>record complaints procedure audit outcomes</i> • <i>track all contacts with individual Costs Lawyers</i> • <i>auto-fill address fields to save admin time</i> <p><i>We decided that adding a bespoke reports option was not cost effective. 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>Achieved (Q3)</p> <p><i>We tendered for bids from HR consultancies for this work and appointed an agency in September. We worked with them to review and update our existing internal policies, taking advice on good practice standards. A proposed new, consolidated staff policy will be put to the board for consideration at this meeting.</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, and the RemCom held its inaugural meeting in June.</i></p>

Proposed non-executive director job descriptions

For inclusion in the Board Governance Policy

Job description – Chair of the Board

Objective

The Chair holds the board and executive to account for delivery of the organisation's mission and vision, providing inclusive leadership to the board and ensuring effective governance of the CLSB. The Chair provides support and constructive challenge to the CEO and acts as an ambassador for the CLSB in partnership with the executive.

Responsibilities

Strategic leadership

- Provide leadership and direction for the CLSB and its board, ensuring that it fulfils its regulatory functions under the Legal Services Act 2007.
- Ensure that the non-executive directors fulfil their governance duties and responsibilities, including by conducting annual appraisals of board members.
- Guide the board in reviewing regulatory and operational risks, as well as associated opportunities, and satisfying itself that systems are in place to take advantage of opportunities and manage risks.
- Ensure that the board fulfils its duties to secure the sound financial health of the organisation, with systems in place to ensure financial accountability.

Governance

- Ensure that governance arrangements are working in the most effective way for the organisation and are transparent to stakeholders.
- Encourage positive change and open dialogue, creating an inclusive and safe environment for the generation of ideas and resolving any conflicts within the board as necessary.
- Ensure that the board is regularly refreshed and incorporates the right balance of skills, knowledge and experience needed to govern and lead the CLSB effectively, and which also reflects the regulated community and wider population.
- Work within the parameters of any agreed internal policies and procedures as well as applicable external laws and regulations, such as the Internal Governance Rules 2019 and the Equality Act 2010.
- Act at all times in accordance with the CLSB's Board Governance Policy, including the Board Code of Conduct, and the terms of the relevant letter of appointment or reappointment.

Profile

- Act as an ambassador for the CLSB, for professional standards and for the benefits of regulation generally.
- Establish positive working relationships and a position of influence with key external stakeholders.
- Act as a spokesperson for the organisation when appropriate and represent the organisation at external meetings and events.

Effectiveness

- Chair board meetings effectively and efficiently, bringing impartiality, objectivity and innovation to the decision making process.
- Ensure that board members are fully engaged and that decisions are taken collectively in the best long-term interests of the CLSB and in pursuit of the regulatory objectives set out in section 1 of the Legal Services Act 2007.
- Work closely with the CEO to give direction to board decision making and to ensure that meetings are well planned and reflect the responsibilities of board members.
- Monitor decisions taken at meetings to ensure they are implemented.
- Develop a working knowledge of the regulatory framework established by the Legal Services Act 2007 and an up-to-date understanding of topical issues, challenges and approaches in legal services regulation.
- Develop an understanding of the work of the Association of Costs Lawyers (ACL), Legal Services Board, Legal Services Consumer Panel, Legal Ombudsman and Ministry of Justice.

Relationship with the CEO

- Build a strong, effective and constructive working relationship with the CEO, ensuring they are held to account for achieving agreed strategic objectives.
- Support the CEO and maintain an overview of the organisation's affairs, whilst respecting the boundaries that exist between the two roles.
- Maintain regular contact with the CEO and foster an environment in which the Chair and CEO can both speak openly about concerns, opportunities and challenges.
- Ensure that the CEO has the opportunity for professional development and has appropriate external professional support.

The above list is indicative only and not exhaustive. The Chair will be expected to perform all duties as are reasonably commensurate with the role.

Job description – Non-executive director

Objective

Together, the non-executive directors oversee fulfilment of the CLSB's mission and vision, providing direction to the executive and contributing to the effective governance of the organisation. Non-executive directors apply their diverse talents and experience to further the interests of the CLSB and help the organisation promote the regulatory objectives in section 1 of the Legal Services Act 2007.

Responsibilities

Stewardship

- Contribute to the development of strategy and objectives for the organisation, bringing an independent perspective and open mind to discussions.
- Apply relevant prior experience and professional expertise for the benefit of the CLSB, making suggestions for positive change that take into account the organisation's resources and purpose.
- Scrutinise financial information provided to the board and encourage sound use of the CLSB's resources.
- Proactively seek assurance and information in order to hold the executive to account for the delivery of agreed business plans, strategic objectives and key performance indicators.
- Consider and respectfully challenge recommendations and decisions of the executive.
- Monitor and help to address regulatory and operational risks.
- Make contributions and take decisions (including by exercising any voting rights) always in the best long-term interests of the CLSB and in pursuit of the regulatory objectives.

Engagement

- Act as an ambassador for the CLSB, for professional standards and for the benefits of regulation generally.
- Constructively engage with key external stakeholders when the opportunity arises.
- Build a strong and effective working relationship with the executive team, providing advice and support in areas of expertise as required.
- Show respect for other non-executive directors and the Chair and support them in fulfilling their respective roles, fostering an inclusive and safe environment for constructive debate.
- Contribute to the work of board committees, subject to expertise and capacity.

Effectiveness

- Develop an understanding of the regulatory framework established by the Legal Services Act 2007 and an up-to-date understanding of topical issues, challenges and approaches in legal services regulation.

- Develop awareness of the role of the Association of Costs Lawyers (ACL), Legal Services Board, Legal Services Consumer Panel, Legal Ombudsman and Ministry of Justice.
- Act at all times in accordance with the CLSB's Board Governance Policy, including the Board Code of Conduct, and the terms of the relevant letter of appointment or reappointment.
- Work within the parameters of any agreed internal policies and procedures as well as applicable external laws and regulations, such as the Internal Governance Rules 2019 and the Equality Act 2010.
- Participate constructively in annual appraisals.

The above list is indicative only and not exhaustive. Non-executive directors will be expected to perform all duties as are reasonably commensurate with the role.

Core competencies – All non-executive directors

Area	Competency	Indicative behaviour
Leadership	Strategic awareness	sees long term trends and their potential impact and recommends timely, proportionate action
	Commerciality	identifies business potential and financial or commercial opportunities
	Prioritisation	sets and manages strategic objectives flexibly and effectively
	Risk awareness	identifies and evaluates risks and likely outcomes when considering issues or making decisions
	Vision	contributes to and clearly conveys a vision for the organisation, providing strategic guidance and direction for its pursuit
	Creativity	offers creative ideas and perspectives
Communication	Clarity	expresses views concisely and clearly
	Collaboration	considers and respects the views of others and actively shares information with colleagues
	Consensus building	is aware of the need for, and is able to, persuade, facilitate and build consensus and reduce the risk of conflict
	Challenging	challenges and tests constructively, without appearing aggressive or dismissive
	Working relationships	develops trusting and effective working relationships

	Stakeholder awareness	builds effective relationships with a range of stakeholders, understanding and responding to their needs and priorities
Decision-making	Independence	thinks independently, then openly and confidently expresses views that may differ from the majority, whilst also being open to challenge
	Information management	is able to analyse data, identify information gaps, handle detail and comprehend specialist or technical issues, asking for advice or training where needed
	Innovation	applies professional knowledge and expertise to draw credible analogies and innovate
	Sensitivity	addresses issues with consistency and diplomacy, respecting confidences where appropriate
Accountability	Professionalism	appreciates and fulfils the statutory and fiduciary duties of a director of a private limited company and regulatory body under the Legal Services Act
	Corporate responsibility	accepts and supports final corporate decisions even if not personally in agreement, but calls out non-compliance and risk
	Personal responsibility	is prepared to take on a reasonable proportion of the work and make consistently valuable contributions
	Integrity	demonstrates a strong personal commitment to the highest standards of public life, including the Nolan principles, and behaves at all times in an ethical, objective and balanced manner
	Equality	demonstrates commitment to promoting diversity, inclusivity and equal opportunities, treating people fairly whilst responding thoughtfully to differences

Learnings from the LSB's reviews of the BSB and Faculty Office under the well-led standard

Internal tracker – as at 3 October 2022

	Thematic lesson	Recommended actions	Status
	BSB review		
1.	The regulatory objectives should be at the heart of decision-making and the way that a regulator thinks about risk	<ul style="list-style-type: none"> Consider during the governance strategy session whether we can better evidence how we take account of the regulatory objectives in our day-to-day decision-making. 	Complete (Q4 2021) <ul style="list-style-type: none"> Discussed at strategy session and kept in mind when producing new board manual.
		<ul style="list-style-type: none"> As part of delivering priority 13 in our 2022 Business Plan, review our approach to measuring and recording risks to the regulatory objectives. 	Pending (expected Q4 2022) <ul style="list-style-type: none"> To be addressed in the project plan for Business Plan priority 13.
		<ul style="list-style-type: none"> Develop our approach to project-specific risk registers by more explicitly linking identified risks to the regulatory objectives. 	Complete (Q3 2021) <ul style="list-style-type: none"> Implemented in the risk register for the RPF project and the template for use going forward.
2.	All relevant stakeholder views and needs should be given due weight when taking key decisions	<ul style="list-style-type: none"> We could better document our approach to gathering stakeholder views, for example by setting out which type of stakeholders we will engage with on which type of issue. This would provide a more objective and transparent framework for the board to assess the adequacy of engagement prior to taking a decision. Consider this proposal during the governance strategy session. 	Complete (Q2 2022) <ul style="list-style-type: none"> Covered in the new consultation process document approved by the board in July 2022.

3.	The board must be provided with sufficient information to support key regulatory decisions	<ul style="list-style-type: none"> • During the governance strategy session: <ul style="list-style-type: none"> (i) reflect on whether we are making sufficient use of Board Decision Notes or whether we have missed any opportunities to report on significant decisions; (ii) seek feedback from board members as to the volume, nature and quality of materials provided to the board by the executive. 	<p>Complete (Q3 2021)</p> <ul style="list-style-type: none"> • Discussed at strategy session – reflected that BDNs will only be relevant once or twice per year and this is appropriate. Board members to ensure the policy is kept in mind and executive to suggest opportunities for use. • Feedback provided at strategy session – quality of papers has significantly improved in recent years. The volume of reading can be substantial, but this allows for efficiency and discussions to be focused appropriately on complex or contentious issues.
4.	The board must have oversight of, and responsibility for, the organisation’s regulatory performance	<ul style="list-style-type: none"> • No actions identified. 	N/A
5.	A regulator’s governance framework should be coherent and up-to-date	<ul style="list-style-type: none"> • Implement a comprehensive, single-source governance manual that captures the outcomes of our governance review and incorporates stand-alone policies. Consider this proposal during the governance strategy session. 	<p>Complete (Q4 2021)</p> <ul style="list-style-type: none"> • Discussed at strategy session – agreed that a new single-source board manual should draw together and update standalone policies. This has been developed as the primary output of the governance review.
6.	Ancillary issues re board meetings	<ul style="list-style-type: none"> • Decisions taken with a non-lay member in the Chair => No actions identified. 	N/A

		<ul style="list-style-type: none"> There must be appropriate time for meaningful discussion => Keep this in mind during the governance strategy session when reviewing the number and length of meetings and whether the agenda should include indicative timings. 	<p>Complete (Q3 2021)</p> <ul style="list-style-type: none"> Discussed at strategy session – agreed that the number of meetings was appropriate, particularly as there was no end time and matters could be discussed for as long as needed. The executive should feel comfortable seeking approval of urgent or routine issues by email between meetings. While there were differing views on the merits of agenda timings, it was agreed that for a small board setting timings would increase the risk that time was inappropriately allocated between items and could undermine robust discussion.
		<ul style="list-style-type: none"> No notice of extraordinary meetings on the website => Going forward, give notice of any extraordinary meetings by publication on the website as early as possible. Update our What we Publish webpage to reflect this change. 	<p>Complete (Q3 2021)</p> <ul style="list-style-type: none"> Webpage updated to include notice provisions for extraordinary meetings.
	Faculty Office review		
7.	Governance processes should be fully documented	<ul style="list-style-type: none"> Ensure we have policies for managing conflicts of interest, recruitment, delegation of decision-making authority, appointments to committees and boards. 	<p>Complete (Q4 2021)</p> <ul style="list-style-type: none"> All covered in new board manual.
8.	Decision-making processes should be fully documented	<ul style="list-style-type: none"> Ensure we have policies for documenting how decisions are made, how they take account of the regulatory objectives and risks, how they are recorded and communicated to the regulated community, wider stakeholders and consumers. 	<p>Complete (Q4 2021)</p> <ul style="list-style-type: none"> All covered in new board manual, which incorporates the former Transparent Decisions Policy and the publication policy (which was previously only recorded in website content).

9.	All staff should have written role descriptions	<ul style="list-style-type: none"> We have a standalone role description for the Chair, however the NEDs' responsibilities are described in their LoE which is not published. Bring the NED role description up to date and into a publishable format. 	<p>Complete (Q3 2022)</p> <ul style="list-style-type: none"> New NED role descriptions developed and adopted by the board in October 2022.
10.	Regulators should document how they consult and how they respond to consultations	<ul style="list-style-type: none"> We do not currently have a written policy covering these matters. This should be remedied through a new consultation process document, covering how widely we consult and how we demonstrate that we have taken account of responses. 	<p>Complete (Q2 2022)</p> <ul style="list-style-type: none"> Covered in the new consultation process document approved by the board in July 2022.
Other			
11.	Board members should each take responsibility for promoting the regulatory objectives	<ul style="list-style-type: none"> Link board member performance to the regulatory objectives in board appraisals. 	<p>Complete (Q4 2021)</p> <ul style="list-style-type: none"> Included in new board manual.



Approval of 2023 Practising Fee application made by the Costs Lawyer Standards Board (CLSB) to the Legal Services Board (LSB) under section 51 of the Legal Services Act 2007 (the Act)

1. The LSB has approved an application made by the CLSB to the LSB under section 51 of the Act. Section 51 of the Act relates to the control of Practising Fees charged by approved regulators.
2. Practising Fees are payable by a person under an approved regulator's regulatory arrangements, in circumstances where the payment of the fee is a condition which must be satisfied for that person to be authorised by the approved regulator to carry on one or more activities which are reserved legal activities. An approved regulator may only apply amounts raised by Practising Fees for one or more of the permitted purposes which are set out in section 51(4) of the Act and the Practising Fee Rules 2021 (the "Rules")¹.
3. Practising Fees are payable under the regulatory arrangements of an approved regulator only if the LSB has approved the level of the fee as required by section 51 of the Act. The Association of Costs Lawyers (ACL) is an approved regulator, and the CLSB is the regulatory body to which ACL has delegated its regulatory functions.
4. In making an application, an approved regulator must comply with the provisions of the Rules. The Rules provide a framework for the practising fee application and approval process. An approved regulator must also have regard to the LSB's Guidance on the Practising Fee Rules 2021 (Guidance)² which gives guidance on each of the Rules.
5. This notice sets out the decision taken, including an assessment of the Practising Fees application.

Summary and overview of Practising Fees application and decision

6. The application submitted by the CLSB³ provides that the Practising Fees to be charged to individuals will remain the same as in 2022 as set out in the table below. The CLSB's projected total Practising Fees income for 2023 is £197,612 based on the assumption of 677 individuals paying a practising fee⁴. This is an increase from budgeted Practising

¹ <https://legalservicesboard.org.uk/wp-content/uploads/2021/02/PCF-Final-Rules-2021-Accessible.pdf>

² <https://legalservicesboard.org.uk/wp-content/uploads/2021/01/PCF-Final-Guidance-for-publication-accessible.pdf>

³ <https://legalservicesboard.org.uk/wp-content/uploads/2022/09/PCF-application-CLSB-to-LSB-7-September-2022.pdf>

⁴Not all fee payers will pay the full fee as some will be subject to discounts and others will pay a partial fee as they join the profession during the practising year.

Fees income of £191,020 in 2022 which was based on 674 costs lawyers paying the Practising Fee.

Individual fee	2022	Proposed 2023
All costs lawyers	£281	£281

7. Of the total amount of Practising Fees to be collected (£197,612), £171,076 (87%) will be retained by the CLSB, while the remaining £26,536 (13%) will be used to fund the work of the Legal Ombudsman, Legal Services Board and Legal Choices.
8. We are satisfied that the CLSB's activities for 2023, which will be funded by the Practising Fees, fall within the permitted purposes, in compliance with section 51(2) of the Act. We are satisfied that the CLSB has set its budget independently from the ACL. We are satisfied that the CLSB has also set out how it intends to discharge its regulatory functions in a way that is compatible with the regulatory objectives set out in section 28 of the Act.
9. Further, the application enables the LSB to be confident that the CLSB has carefully and properly planned its financial position for the forthcoming year. We are satisfied that the application provides transparency to the regulated community about available reserves and the financial resilience of the CLSB.
10. We are satisfied that the application provides transparency to the regulated community about the allocation of the CLSB's resources (including Practising Fees income). We are satisfied that the engagement strategy of the CLSB has allowed it to meaningfully consult with its regulated community.
11. We consider that the application provides meaningful consideration of equality issues, which are particularly relevant to the regulatory objective of encouraging an independent, strong, diverse and effective profession. We note that the CLSB has a remissions policy in place for Costs Lawyers who reinstate their authorisation part way through the practising year, and this is set out in further detail in paragraph 18 below.
12. We consider that the CLSB has given due consideration to the impact of the level of the Practising Fee on the conduct of legal services by their regulated community in setting the Practising Fee for 2023.
13. The LSB's decision is to approve in full the level of the Practising Fee for 2023 to be charged to individuals as set out in the application by the CLSB.

LSB assessment

Budget for 2022 and financial information

14. The application sets out on page 12 and 13 that the CLSB has budgeted expenditure of £197,671 and expects to raise Practising Fee income of £197,612. This leaves a shortfall of £59. We note that the CLSB considered raising the Practising Fee by £1 to £282, thereby ensuring that budgeted income would fully cover budgeted expenditure. The CLSB decided not to raise the Practising in this way as it would have generated a projected surplus of over £600, which far exceeds the shortfall of £59 and was

considered by the CLSB to be “unjustified”⁵. The CLSB also expressed a preference to set its Practising Fee to the nearest whole £1 and was of the view that the £59 was de minimis. We further note from page 13 of the application the CLSB’s confirmation that the £59 shortfall can be covered by reducing the CLSB’s 2023 contribution to reserves by £59 if necessary.

15. Page 11 of the application sets out that this budget assumes inflation of 9% based on CPI forecasts for the year with wages and costs of suppliers increasing by that amount. The application reassures us that should inflation be above 9% then the CLSB has plans in place to mitigate such a situation.
16. We note at paragraph 12 of the application the CLSB’s explanation that it has never needed the £5,000 contingency fund included in previous budgets, and that on this basis, the CLSB has decided not to set aside such a contingency in the 2023 budget. We are reassured that, should an unexpected event arise that requires further expenditure beyond the budgeted figure of £197,671, this can be met from reserves. We are reassured that, as uncommitted reserves would currently accommodate the CLSB’s target of 6 months of operating expenditure, the CLSB is financially resilient.
17. Our review of the CLSB’s published accounts noted a significant increase in Debtors, from £1,467 at the end of 2021 to £36,328 at the end of 2021. We asked the CLSB to provide an explanation for this. The CLSB confirmed that the difference was largely due to the timing of the payment of the grant it received from the Regulator’s Pioneer Fund.
18. In order to understand the CLSB’s financial health over time, we asked it to provide us with details of its final income and expenditure in 2021 and 2020. We consider it would be helpful for the CLSB to continue to provide the actual income and expenditure for the last completed year alongside future PCF applications.

Equality Impact assessment

19. An initial Equality Impact Assessment (EIA) which considers the likely impact of the level of the Practising Fee on the regulated community with protected characteristics has been provided by the CLSB in Annex 8 of the application. The CLSB consulted on this EIA. Paragraph 37 of the application sets out that the consultation responses did not suggest that any group(s) of practitioners would be unfairly or disproportionately burdened by the proposed Practising Fee level.
20. The EIA shows a potential impact on the protected characteristics of sex (gender) and pregnancy and maternity, because the CLSB data shows that these groups may take a career break. CLSB analysis from 2020 shows that costs lawyers, who took parental leave were incurring different practising fees depending on the time of year that their leave commenced due to the way the CLSB calculate practising fees for Costs Lawyers. Following consultation, the CLSB has retained its remissions policy that ensures practitioners can seek a reduction in their fee for the whole period they are on parental leave, regardless of the start date.
21. We consider that the application provides meaningful consideration of equality issues and demonstrates that this has informed the CLSB’s approach, which is positive and is particularly relevant to the regulatory objective of encouraging an independent, strong, diverse and effective profession.

⁵ See page 12 of the CLSB’s application.

7 October 2022

Decision

22. The LSB has approved the Practising Fee application submitted by the CLSB for 2023 under section 51 of the Act.

Summary of expectations for next application

23. In the next application the LSB requests that CLSB includes additional financial information setting out its actual income and expenditure for 2022.

Matthew Hill, Chief Executive

Acting under delegated authority granted by the Board of the Legal Services Board

7 October 2022

COSTS LAWYER STANDARDS BOARD LTD

RISK REGISTERS

As at 20 July 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 April 2023): MOJ confirmation that it will expand fixed costs regime. • Whiplash reforms (from January 2021): could reduce work in low value PI claims, but may also increase complexity of instructions. • CJC review of civil litigation costs (consultation closing September 2022): broad range of possible outcomes that could impact civil costs. • 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 of shocks on the profession via impact assessment surveys, such as 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, based on costed risk analysis in 2021 taking into account various continuity scenarios. 	
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. 	

	<ul style="list-style-type: none"> • In 2017, the CLSB considered applying to the government apprenticeship scheme, but concluded this was not an option. • 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"> • Economic climate 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. • 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. • Engagement with ACL in developing its new business plan for 2022-23. • Retain six months' operating budget as reserves, and committed reserves account for paid up share capital. 	
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) x 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) x 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: “Did you send any monies to your Costs Lawyer other than in payment of an invoice?” 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	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. 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.
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.

By email only

Kate Wellington
Chief Executive
CLSB
ceokw@clsb.info



Legal Services Board
3rd Floor, The Rookery
2 Dyott Street
London
WC1A 1DE

T 020 7271 0050

www.legalservicesboard.org.uk

28 September 2022

Dear Kate,

2022 Annual Regulatory Performance Assessment

As part of our ongoing monitoring of regulators' performance against the regulatory standards and outcomes, we will be conducting our annual performance assessment in November and December. This letter explains the process and timelines, which should reflect discussions at the regular relationship management meetings and sets out the information that we will require from the CLSB.

This will be the last annual performance assessment under the current framework, as our new framework, which we are in the process of finalising following our consultation earlier this year, will be in place for 2023, subject to LSB Board approval.

Below we have set out the scope for this assessment, our specific requests for information and the next steps in the process.

Scope

Our annual assessment will consider:

- Progress towards meeting any outcomes currently graded as 'not met',
- General performance in relation to the regulatory performance standards and outcomes and any issues that have arisen since our 2021 annual assessment.
- How regulators have taken account of the [findings of our targeted review](#) of the Faculty Office's performance against the Well-led standard, which we published in September 2021 (you will recall that we covered the BSB review in the 2021 assessment).

- How regulators have responded to the following issues and policy developments which have arisen during the past year:
 - sanctions and their enforcement; and
 - the LSB's statement of policy on consumer empowerment

Information request

In November 2021, we assessed CLSB as meeting all outcomes. However, we have continued to monitor your performance against the standards and outcomes. For this year's assessment we request a report with responses to:

- Our specific requests for information in relation to outcomes RA2, S1, S3 & S4.
- how the CLSB has taken account of the findings of the LSB's targeted review of the Faculty Office's performance against the Well-led standard and the actions the CLSB has taken, particularly in respect of governance and consumer engagement.
- an update on your work to implement the LSB's policy statement on consumer empowerment.
- A short self-assessment covering key work that you have undertaken in the past 12 months under the five current standards: Well-led, Regulatory Approach, Authorisation, Supervision and Enforcement.

When preparing your response, in line with the Well-led standard and your Board's role in monitoring the CLSB's performance, we would be happy for you to use information in the form that you have already provided to your Board, supplemented by any additional information needed to deal with our specific points.

Please provide us with your response to this information request by **28 October 2022**.

In addition to the information provided, our assessment of your performance will take account of information that the LSB has gathered since our last annual assessment in November 2021. This will include: our contacts with the CLSB such as relationship management meetings, CEO and Board-level meetings; applications submitted to us for approval; any information that you may have provided since the last assessment round; and information from other sources including publicly available material.

The LSB's assessment

We recently consulted on the proposed new regulatory performance framework that we intend to implement from January 2023. As the 2022 annual assessment is expected to be the last assessment round under the existing framework, we stated our intention to adopt a hybrid approach to this year's assessment. In particular, we will assess regulators' performance against the current standards and outcomes, but we will present our assessment using the narrative format that we intend to use under the new framework.

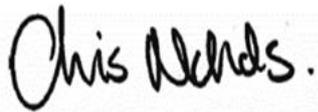
Subject to Board approval of the consultation response and the new performance framework, we intend to use the new rating system for grading performance against the existing standards in this year's assessment. The final version of the new rating system will be confirmed when we publish our response to the consultation and the new performance framework. Subject to Board approval, we intend to publish these following our October Board meeting

Next steps

We will consider the CLSB's response alongside the information we have already gathered and update our assessment and action plan. In doing so, as we have in previous reviews, we will work with you to agree any new actions and milestones. We will ensure that you have time to fact-check our final assessment before publication in December.

If you have any questions about the assessment process or the requests for information set out in this letter and its annex, please either contact me or Steve Violet, your relationship manager.

Yours sincerely

A handwritten signature in black ink that reads "Chris Nichols." The signature is written in a cursive, slightly slanted style.

Chris Nichols
Director, Policy and Regulation

Annex: Information request for the CLSB

Specific questions relating to outcomes

Outcome RA3:

Question: The project undertaken through funds obtained from the Regulator's Pioneer Fund provided CLSB with a range of evidence. Please provide an update on how the evidence obtained has been used to inform CLSB's regulatory approach.

Outcomes S1 and S3:

Question: Please provide us with information setting out supervisory activity undertaken by CLSB over the last year to demonstrate how CLSB is currently meeting outcomes S1 and S3.

Outcome S4:

Question: Please set out how CLSB has shared lessons learnt or good practice stemming from its supervisory activity with the wider regulatory community to demonstrate how CLSB is currently meeting outcome S4.

Consideration of LSB targeted review of the Faculty Office's performance against the Well-led Standard

Question: Please explain how you have taken account of the findings of the LSB's targeted review of the Faculty Office's performance against the Well-led standard, particularly in respect of governance and consumer engagement.

Consideration of LSB statement of policy on consumer empowerment

Question: Please describe your internal processes for ensuring that you take account of the LSB's policy statement on consumer empowerment and an update about your progress in doing so. Please provide an update on relevant work undertaken since you provided a gap analysis submission to the LSB in July 2022, including an indication of when you expect to meet all of the outcomes in the statement..

The CLSB's self-assessment key work that you have undertaken in the past 12 months against the current standards

Well-led:

Regulatory Approach:

Authorisation:

Supervision:

Enforcement:



Minutes of the meeting of the council of the Association of Costs Lawyers.
Held via video conference at 2pm on 20th April 2022

Council members present: Jack Ridgway (JR)
Laura Rees (LR)
Kris Kilsby (KK)
Adam Grant (AG)
David Bailey-Vella (DBV)

Also present: Jo George (JG)

Apologies: Stephanie Donald (SD)
Victoria Morrison-Hughes (VMH)
Stephen Averill (SA)
Ian Curtis-Nye (ICN)

The meeting was held for the purpose of discussing the draft ACL 2022 Business Plan which was circulated ahead of the meeting and to vote on a proposal from ACLT to outsource services to Hook Tangaza.

Item 1 has been redacted due to confidentiality.

Item 2 – ACL Draft 2022 Business Plan

2.1 Mission and Values

In regards to the business plan, all present commented how the Business Plan was very useful and how refreshing it was to see such a plan which has not been done in the immediate past.

AG commented that from a policy perspective inclusivity was something which should be built into planning for the future. There is a lot of information on the CLSB website regarding inclusivity. The CLSB quotes that 37% fall into the category of BAME. The CLSB are interested in qualitative data.

JR sent a draft copy of the business plan to various people, with feedback being that the LSB are encouraging collaboration on inclusivity and diversity.

AG recommended working in tandem with the CLSB in regards to diversity services. The LSB is going to push on this and ACL should be trying to work with the CLSB on this.

AG suggested approaching the CLSB to request data on diversity. Out of a council of 10 he felt that ACL should be representative of its diverse membership.

JR suggested seeking nominations for another council member in September to allow time to look at how ACL can enhance inclusion and diversity going forward.

AG highlighted the importance of holding membership data and stressed the importance of establishing a CRM to ensure we have a larger turnout at elections/consultations.

2.2 Business Overview

JR provided an overview/structure of the organisation.

2.3 Potential Practitioners

JR highlighted the fall in membership numbers in recent years and made the point that there are many routes to practicing as a costs professional. He raised the question of 'how do we manage the fact that it takes longer to qualify as a Costs Lawyer without a degree than CILEx?'

AG spoke of regulatory development suggesting that CILEx might seem desirable if fixed term costs come in.

LR initiated a discussion on the level of affiliate members over the last 2 years. JR agreed that it was something ACL needs to discuss when looking at membership options and categories.

2.4 Operations Overview

Item redacted due to confidentiality.

2.5 The Year Ahead

Further items suggested for inclusion were:

Nominations for council member (September)

JG recommended that the membership subscription notice should go out at the end of October.

JR advised that he is seeking a date from the LAG regarding a conference. The ACL London conference will likely be in November and so the LAG will need to be aware of this to avoid a clash of dates. JR added that he would like to be in a position to offer services to the LAG for their events.

JR advised that the ACLT business plan is anticipated by Q3.

JR said that one of his aims for July-September 2022 was to bring the committees together and continue to plan into next quarter. He noted that ensuring HR policy was in place was a priority and that the ACL accounts needed to be signed off in July.

JR stated that 2023 projections would be agreed between October-December. During this quarter, preparations would need to be made for an AGM and a London conference would be held.

2.6 Financial Plan

The projections for 2022 were discussed.

JR acknowledged the good work and financial discipline undertaken by the previous chair and emphasised that the plan for the year ahead was to invest in systems and technology.

JR thanked AG for his service over the last 3 years and 6 months, especially for his work on policy.

The meeting ended at 5pm

**Minutes of the ACL Council Meeting
held on 24 May 2022**
by Conference Call



Council members present: **Jack Ridgway (JR)**, Stephen Averill (SA)
Kris Kilsby (KK), Ian Curtis-Nye (ICN)
Julian Caddick (JC), Victoria Morrison-Hughes (VMH)

Also present: Jo George (JG)

The meeting started at 1pm

Item	
1	Welcome and apologies
1.1	Apologies were received from DBV, SD and LR.
1.2	JR welcomed JC and the council members introduced themselves.
2	Minutes of the council meetings held on 12 April and 20 April 2022
2.1	It was unanimously agreed that the draft minutes of 12 April were an accurate reflection of the meeting. It was agreed that items 8.3 to 8.14 should be redacted before publishing on the website.
2.2	It was unanimously agreed that the draft minutes of 20 April were an accurate reflection of the meeting. It was agreed that items 1 and 2.4 should be redacted before publishing on the website.
3	Actions arising from the council meeting held on 12 April 2022
3.1	Actions were reviewed and updated.
3.2	Following a question raised by VMH, JR agreed that 2 free delegate passes would be offered to ACLT directors for the Manchester and future conferences. VMH to confirm.
4	Policy Committee report
4.1	The policy documents circulated by ICN ahead of the meeting were discussed. The LSB – ACL relationship management meeting minutes were circulated.
4.2	Skills Audit April 22 highlighted some areas for improvement as a Board. There were key areas where the Board could benefit from additional skills.
4.3	Once finalised, the Directors Declaration will be completed by all Council members. ICN confirmed this will be reviewed on a yearly basis.
4.4	Access to Justice Foundation looking for support from ACL for pro bono costs recovery on a not for profit basis. ICN to progress.
4.5	JR to respond to ICN re Handbook. To be approved by Council by 6 June 2022 if possible.
4.6	KK reported that he was very busy with consultations. Good response was received from the COP-E Consultation. KK to consider whether to publish COP-E consultation on the website due to it being a closed consultation. CPRC Consultation survey to go out next week. Consultation closes 20 June
5	PR and Marketing Committee report
	There was no report discussed due to the absence of DVB and LR.
6	Education report
	The reports circulated by VMH ahead of the meeting were discussed.
6.1	Overall conclusions from the New Course Survey were: <ul style="list-style-type: none"> • If the qualification course was made shorter it needed to be made clear that this did not mean the

	<p>course was easy so as to protect the integrity of those who had already completed the course.</p> <ul style="list-style-type: none"> • The course needed to retain the same number of learning hours. • The course was good value for money. • No firm conclusion regarding exemptions for work based learning.
6.2	<p>VMH reported on the Roundtable Outcome Report.</p> <p>There was a mixed understanding on the transition from ACLT to ACL. VMH suggested that a discount could be offered to newly qualified costs lawyers for membership or some additional training</p> <p>ICN commented that numbers were a challenge for holding networking events.</p> <p>VMH suggested that ACL confirm to ACLT that it supports the transition.</p> <p>Regional Meetings may be a good way forward.</p> <p>VMH suggested training on the CPD requirements and working with the CLSB regarding the regulatory requirements.</p>
6.3	<p>It was discussed whether newly qualified costs lawyers should be offered a discount on ACL membership. This was referred to the Finance committee for consideration.</p>
6.4	<p>It was discussed whether the course was value for money for those students with legal qualifications compared to other legal qualifications and the lack of awareness of the profession.</p>
6.5	<p>VMH suggested that if a 'Diary of a Costs Lawyer' was published it could promote the many areas of work that knowledge is required in the profession.</p>
6.6	<p>JR suggested that the following needs to be addressed for 2023:</p> <ol style="list-style-type: none"> 1. Why become an ACL member? 2. Why employers should employ costs lawyers 3. Why members of the public should appoint costs lawyers <p>It was agreed that good PR and marketing surrounding Costs Lawyers was needed.</p>
6.7	<p>VMH commented that working with the Access to Justice Foundation will also help promote the profession/ACL.</p>
7	Finance Report
7.1	SA reported on investments and acknowledged that the market is very volatile at the moment.
7.2 - 7.4	<i>Items 7.2 - 7.4 are confidential and have been redacted.</i>
8	Chairman's Report
8.1	DP's replacement Carol Calver will be starting on 6 June.
8.2	JR attended the CJC Working Group on Costs first meeting was on 16 June. Awaiting draft report. Paul Seddon also attended on behalf of the ACL LAG.
8.3	ICN proposed that JC was formally appointed as a council member. JR seconded the proposal. It was unanimously agreed.
9	Operation's Report
9.1	JG provided an update on progress for the Manchester Conference on 1 July.
9.2	JR confirmed the gifts to speakers and thank you emails will be sent by the office.
9.3	JG to speak to DVB & LR re photographer
9.4	VMH & JC agreed to be roving mics at the Q&A session at the conference
9.5	SA will host the Q & A panel
9.6	JG is working with Hook Tangaza (HT) to ensure a smooth handover of ACLT and HT will be taking over from 1 June
	JG confirmed that there is a data sharing agreement in place between ACLT and HT
9.7- 9.9	<i>Items 9.7 – 9.9 are confidential and have been redacted.</i>

10	Any other business
10.1	JR suggested that JC assist Policy and then move to PRAM by mid-July so LR can concentrate solely on Education.
10.2	Council expressed their thanks to Adam Grant for his time on council.
10.3	DP thanked the council for their gifts.
10.4	JR gave special thanks to DP for all her help in supporting council There being no further business the meeting ended at 3pm
11	Date of next meeting
	The next council meeting will be 30 June 2022. Time tbc

**Minutes of the ACL Council Meeting
held on 09 August 2022**
via Teams call



Council members present: **Jack Ridgway (JR)**, Stephen Averill (SA), David Bailey-Vella (DBV), Ian Curtis-Nye (ICN), Laura Rees (LR), Victoria Morrison-Hughes (VMH), Julian Caddick (JC).

Also present: Carol Calver (CC)

The meeting started at 10:00

Item	
1	Welcome and apologies Apologies were received from Kris Kilsby
2	Minutes of the council meeting held on 24 May & 30 June 2022 It was unanimously agreed that the draft minutes of 24 May were an accurate reflection of the meeting. It was agreed that items 7.2 to 7.4 and 9.7 to 9.9 should be redacted before publishing on the website It was unanimously agreed that the draft minutes of 30 June were an accurate reflection of the meeting. It was agreed that Item 6.1, 9.2, 9.3, 11.1 and 11.2 should be partially redacted before publishing on the website
3	Actions arising from the council meeting held on 30 June 2022 Actions were reviewed and updated
4	Finance Committee Report
4.1	SA reported that a review of the Business Plan against Q2 Management Accounts is set for later in August with Operations
4.2 – 4.3	<i>Items 4.2 and 4.3 are confidential and have been redacted</i>
5	Operations Report
5.1	CC provided a review of the Manchester Conference, confirming numbers, feedback from delegates and final budget analysis
5.2	CC provided an initial update on London Conference - Council discussed potential dates and venues. Council discussed potential speakers at length – recommendations agreed
5.3	CC requested council permission to make selected changes to IT to ensure better access and economy – Council agreed with proviso of full analysis to be completed before major changes with consideration to CRM system – LR recommended Smart Impact
5.4	Discussion on future council meetings being either in person or virtual. JR proposed schedule of 4 in person per year (2 x conference, 1 x business plan) and remaining 8 virtual. Central-ish location of Birmingham agreed – JC may be able to assist in meeting point as holds regional office there.
6	Education Committee Report
6.1	Action Points discussed with JR confirming that the qualification should continue to be linked to ACL membership <i>redacted due to confidentiality</i> students should continue to receive a discount for events/conferences <i>redacted due to confidentiality</i> .

6.2	LR reported that ACLT are considering outsourcing further areas to LawCab and Hook Tangaza to bridge shortfall in capacity with KA resignation and appointment of replacement. <i>Item redacted due to confidentiality</i>
6.3	Hook Tangaza may provide an interim solution of providing a Programme/Course Manager. LR confirmed a 2023 Business Plan is being prepared for review by Council.
7	PR & Marketing Report
7.1	Council discussed format, questions and schedule for Members Survey
7.2	Separate member enquiry on charging structures/types of work deferred until Spring 23 or 2023 Business Plan
8	Policy Committee Report
8.1	MOU has been agreed and signed off with CLSB
8.2	Handbook and policies has been shared with Council for review and comment by 19/08
8.3	Terms of appointment and data collection form – no comments from Council - Risk register has been drafted to incorporate data from ToR – review and comment by 19/08 Terms of Reference – Council to add/comment on draft by 19/08
8.4	CJC consultation questions and plan of action – no further comments from Council
8.5	Plan attached to email of 08/08/22 CLSB consultation – agreed extension from 23/09 to 07/10
8.6	Meeting with Access to Justice – just received a record £130K pro bono cost award
8.7	- ATLEU v Secretary of State for Justice [2022] - Meeting with Advocate and Law Works on how referrals would work prior to getting out comms Meetings with LSB and CLSB in September as well as meeting with LSB CEO and chair No progress currently made on constitution - JR advised this is acceptable given current priorities
9	Chairman's Report
9.1	Sub-Committees to remain as is, LR to focus on Education, JR to assist in PR-AM short term
9.2	Recruitment of new Council Members – 1 x September, 1 x November
10	Any other business
	Interest in running Northern regional meeting – Operations to assist
11	Date of next meeting
11.1	Next meeting scheduled for AM Tuesday September 20 th There being no further business the meeting ended at 12:40pm

Complaints Procedure Audit 2022

Board report on outcomes

7 September 2022

The second annual audit of complaints procedures was carried out during June. This paper summarises the outcomes and future work arising from the audit.

Outcomes summary

1. 25 Costs Lawyers were selected for audit (20 last year). All of them had complaints procedures noted as being non-compliant with the [Guidance Note on Complaints Procedures](#) when they applied for a 2022 practising certificate. (We did not move to a random audit as originally planned this year, as a sufficient number of the documents submitted were clearly not compliant, making it appropriate to focus on those.)
2. The table on the next page shows how many of the 25 audited did not comply (or had out of date information) in each of the areas checked.
3. As in 2021 many of those audited replied the same day to acknowledge the email and that they understood the action required. All those audited responded within the 2 week deadline, although 2 had to be sent reminders on the final day.
4. 6 Costs Lawyers submitted revised complaints procedures for feedback (24%, as opposed to 40% last year). 5 of these were based on the model policy. Two of these required further minor changes to be compliant.
5. One large costs law firm was contacted at the start of the audit for clarification as to whether the document submitted was the complaints procedure sent to clients, as it read like an internal procedure. After some chasing a revised version was submitted, based on the model policy. Numbers in the table below use the original document.

Audit checklist – Number of policies *not* complying

Section A: Requirements		
1	State date effective or last updated	20
2	Be clear and simple with as few steps as possible	2
3	Identify the person to whom the complaint should be made	15
4	Be reasonable, fair, proportionate and responsive	0
5	Encourage complaints to be made as soon as possible, and set out the time limits for raising unresolved complaints with CLSB and the Legal Ombudsman	25
6	State clearly the timeframe for a complaint to be resolved	18

7	Advise that if the complainant is not satisfied with the outcome of the complaint under the complaints procedure, or the complaint has not been resolved within eight weeks, then the complainant has the right to refer a service complaint to the Legal Ombudsman, or refer a conduct complaint to the CLSB, and provide the timeframes for referral	23
8	Provide contact details for the Legal Ombudsman and CLSB	25
9	Advise the complainant of an approved alternative dispute resolution (ADR) body and state whether you agree to use that body's services	24
Section B: Recommendation		
10	Complaints procedure published on website (as recommended by the Competition and Markets Authority)	24

Future work

6. The revised complaints procedures for the 18 Costs Lawyers not yet seen will be checked after submission with applications for a 2023 practising certificate.
7. The complaints procedures of all staff in organisations where a Costs Lawyer has been audited will also be checked, to ensure everyone is using the revised document.
8. The "Lessons from the 2021 audit of complaints procedures" webpage has been updated and retitled with advice from this year's audit.
9. One of the Costs Lawyers who was audited raised a good question about a potential ambiguity in our model policy relating to compliance with the ADR Regulations. We have adjusted the model policy in response, however this change does not require reauditing the procedures that we have looked at to date.

2021 Complaints Procedure Audit – outstanding issues

10. As reported in the board paper following the 2021 audit, 11 Costs Lawyers did not submit a revised version of their complaints procedure at the time of the audit. The complaints procedures they submitted with their applications for a 2022 practising certificate were checked in January 2022.
11. Of these 11:
 - a. 7 fully complied with the requirements, and the same document was submitted by all Costs Lawyers in the organisation.
 - b. 3 had been revised but needed further changes to fully comply.
 - c. 1 had not been changed at all. The Costs Lawyer was contacted and asked to take action urgently. They were chased two weeks later after no response, with the offer to speak directly to a partner in their firm to avoid the CLSB having to open an investigation in relation to each of the Costs Lawyers in the firm for non-compliance. A new fully compliant complaints procedure, based on the model policy, was received a few days later.
12. One Costs Lawyer working in the same organisation as someone audited in 2021 submitted the out of date complaints procedure. The Costs Lawyer audited (also the

Managing Director of the firm) was contacted about this, and confirmed it would be resolved.

13. All 20 complaints procedures audited in May-June 2021 were fully compliant by 3 March 2022.
14. The complaints procedures of Costs Lawyers working in the same organisation as the four Costs Lawyers whose procedures were not compliant until 2022 will be checked in January 2023.

Draft to board

Employee Handbook

Costs Lawyer Standards Board

Last reviewed: October 2022



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1 Introduction

The purpose of this Employee Handbook is to create a one stop information point where employees can access all information they are likely to need in relation to their employment. These policies and procedures are applicable to all employees. Employees are required, in accordance with the terms of their employment contract, to comply with the CLSB's internal rules, policies and procedures in force from time to time including all relevant provisions of this Handbook.

2 Statement of Intent

This Handbook applies to all employees of CLSB. It may be necessary to change the policies and procedures in this Handbook from time to time to reflect changes in the workforce, employment trends, economic conditions and UK and local legislation. Any changes will be consistent with the CLSB approach to:

- Employing talented individuals whose creativity and imagination will support and contribute to achieving CLSB objectives.
- Communicating CLSB standards and expectations in all aspects of employment including performance.
- Valuing diversity, and assuring equal employment opportunity and a workplace where relationships are based on mutual respect.
- Treating all employees in a professional, non-discriminatory manner.
- Providing safe, effective working conditions.
- Providing competitive terms and conditions in our workplace market.

Any policy changes will be communicated to all employees through normal communication channels.

3 Starting with CLSB

3.1 Pre-employment Checks

Right to Work check

All employees will be required to show CLSB appropriate proof of their right to work in the UK. CLSB is not able to sponsor employees who would require an employer sponsored visa in order to satisfy the Right to Work check.

Criminal Records Check

Certain employees may be required to undergo a criminal records office check from the Disclosure and Barring Service (DBS). Should this be the case, CLSB will discuss this with the employee prior to confirming their appointment.

References

CLSB may request that an employee provide one or two professional references either during the application process or as a condition of an offer of employment. Whether references are

required will depend on the nature of the role and/or the nature of the employee's previous experience. Where references are required, they will be requested directly by the CLSB using contact details provided by the employee and will ask the referee questions aimed at establishing or verifying the employee's suitability for the role. To encourage referees to be open and honest, references will not usually be shared with the employee. It is at CLSB's discretion whether it considers the references satisfactory.

3.2 Contract of Employment

Prior to starting employment, a new employee will have received a contract of employment setting out the terms and conditions of their employment. A non-executive director will have received a letter of engagement and a consultant will have received a contract for services. Those contracts make clear that they do not create an employment relationship with CLSB, and hence this Handbook does not apply to such persons.

3.3 Induction

CLSB believes its employees are its greatest asset and recognises its responsibilities to ensure they are afforded appropriate development throughout their employment. This development begins at the induction stage when a new employee joins.

CLSB aims to support and develop employees in their roles so they feel confident to undertake the responsibilities placed upon them and will provide all required training and information to ensure this is the case.

3.4 Probation Periods

All employees will be subject to a minimum 3 month probationary period unless stated otherwise in their contract of employment. Extension of the probationary period may be made to enable the required standards to be achieved but failure to meet those standards may result in termination of an employee's contract of employment. The disciplinary policy does not apply in a probation period.

3.5 Hours of Work

An employee's normal hours of work and working pattern will be as specified in their contract of employment.

3.6 Flexible Working

CLSB will always try to assist employees to balance their work and home life and is therefore willing to consider any reasonable request to vary their working pattern or hours. Employees with more than 26 weeks service with CLSB have a statutory right to request flexible working and CLSB has a duty to seriously consider such a request.

3.7 Conflict of Interest

An employee should not, directly or indirectly, engage in or have any interest, financial or otherwise in any other business enterprise which interferes or is likely to interfere with the employee's independent exercise of judgment in the best interest of CLSB.

Generally, a conflict of interests exists when an employee is involved in an activity that:

- subjects the employee to unreasonable time demands that prevent the employee from devoting proper attention to his or her responsibilities to CLSB;
- is so operated that the employee's involvement with the activity will reflect adversely on CLSB;
- relates to the representative activities of the Association of Costs Lawyers so as to place CLSB in breach of the Legal Services Board's Internal Governance Rules.

Where an actual or potential conflict has arisen or is likely to arise, or where an employee is in any doubt as to whether an activity involves a conflict, they must discuss the situation with their line manager as soon as possible. They must refrain from engaging in the activity until their line manager is satisfied that there is no actual or potential conflict or, where appropriate, until a plan has been implemented to adequately manage any conflict.

3.8 Appearance

CLSB does not seek to inhibit individual choice in relation to personal appearance however, an employee is expected to dress appropriately at all times in relation to their role and to ensure that their personal hygiene and grooming is properly attended to prior to them presenting themselves as a representative of CLSB in a professional setting. This includes when attending in-person meetings or appearing in virtual video meetings.

3.9 Data Protection

All employees must comply with the Data Protection Manual. Failure to do so may result in disciplinary action.

3.10 Changes in Personal Information

It is important that CLSB records are correct, as inaccurate or out of date information may affect payment of salaries or cause difficulties in situations where contact is required for emergencies. An employee must notify their line manager immediately of any changes in the following personal information:

- Name
- Home address
- Home telephone number / mobile phone number
- Bank account details
- Emergency contact details

- Criminal charges, cautions or convictions, and driving licence penalties if you are required to drive on company business

3.11 Equality and Diversity Policy

All employees must comply with the Equality and Diversity Policy. Failure to do so may result in disciplinary action.

3.12 Whistleblowing policy

All employees must comply with the Whistleblowing Policy. Failure to do so may result in disciplinary action.

3.13 Performance Appraisal

CLSB is committed to promoting continuous improvement across the organisation and job satisfaction through supporting development of all employees.

All employees who have completed their probationary period are required to participate in the appraisal process. Appraisals will be kept confidential to CLSB and its advisers, unless otherwise required by law.

The appraisal discussion is a two-way communication exercise to ensure that both the needs of the employee and CLSB are being met and will be met in the next year. The discussion should be a positive dialogue and will focus on assisting the appraisee to acquire the relevant knowledge, skills and competencies to perform their current role to the best of their abilities. The appraiser is accountable for giving the employee constructive, timely and honest appraisals of their performance, which should take into account both the goals of the organisation and of the individual.

The appraisal process is centred on an annual meeting of each employee and their line manager to discuss their work. The appraisal discussion allows an opportunity for both the appraisee and the appraiser to reflect and comment on the previous year's achievements and learning points. Past performance is reviewed and both the appraiser and the appraisee reflect on their work over the past year.

Where underperformance is identified support and assistance will be discussed and offered as appropriate. The discussion will also cover future career development and progression (if relevant and available) including any immediate training needs, future training requirements or planned qualifications.

The appraiser and appraisee will record the discussion in writing and, once agreed by both parties, this record will be kept for reference throughout the year and at the next appraisal meeting.

4 Pay, Benefits and Pensions

4.1 Pay (Salaries)

Salary payments are made on or about the 15th of each month by bank transfer.

An employee's basic pay will have been outlined in their contract of employment. Any subsequent amendments to basic pay will be notified to the employee in writing by CLSB.

If any queries arise about pay, or if it looks as if a mistake has been made, an employee must bring this to the attention of their line manager immediately so that appropriate action can be taken. Unless agreed otherwise, any pay errors, whether of over or underpayment, will be rectified in the next salary payment.

Appropriate deductions will be made from pay including income tax and National Insurance contributions.

4.2 Overtime

Overtime is defined as all hours worked in excess of an employee's full time contracted hours as set out in their contract of employment.

Overtime will only be payable to posts which have been specifically designated as qualifying for overtime payment.

Any overtime will be payable at an hourly rate (calculated, where necessary, by pro-rating an employee's annual salary) other than for work undertaken on Sundays or designated Bank Holidays which will be payable at time and a half.

4.3 Pension Scheme

CLSB operates a NEST pension scheme. All eligible employees will be enrolled in line with the rules of the scheme which will be communicated to the employee when joining CLSB.

CLSB will pay the legally required contributions and employees will also be required to make contributions. Employees can opt-out of the scheme by providing notice in writing and will be re-enrolled periodically as required by law.

4.4 Expenses Policy

Employees will be reimbursed for any expenditure necessarily incurred to do their job when working away from their normal place of work. Any change to the applicable rates from time to time will be notified accordingly.

Payment

The CLSB will reimburse employees at the end of each calendar month for expenses necessarily incurred by them in accordance with this policy for:

- travelling on approved CLSB business; and
- financial outlay incurred on behalf of CLSB e.g. purchase of supplies and equipment.

Expenses should be claimed using the prescribed form. Receipts must be provided in electronic format with the submitted form. CLSB reserves the right not to reimburse an employee in the event a receipt should be available but cannot be provided.

Travel by road

The CLSB will reimburse an employee for use of their own vehicle by way of transport for business purposes as follows:

Car: 50p per mile

Motorcycle: 26p per mile

Pedal cycle: 22p per mile

The distance claimed will be from and to the home address of the employee, or any other point of departure/return that is closer to the relevant destination than the employee's home address.

Employees using their own vehicle for business purposes should ensure they have fully comprehensive insurance cover for business use as well as social, domestic and pleasure use and ensure that their vehicle is roadworthy. CLSB will not be liable for any loss resulting from a failure to meet these conditions, and CLSB's liability to the employee and any third parties in relation to use of the employee's own vehicle for business purposes is limited to the mileage expenses set out above.

Travel by rail

An employee may, at their discretion when on CLSB business, travel on a first-class ticket:

- when they attend a CLSB board meeting (to facilitate work being done during that journey); and
- in all other circumstances when travel time is in excess of 1.5 hours one way by rail.

An employee may also travel on a first-class ticket with the prior approval of their line manager where they can demonstrate (for example, through screenshots of booking websites) that first-class travel is less expensive than standard travel. This might be the case, for example, where the employee would prefer to travel indirectly on a first-class ticket than directly on a standard ticket.

In the event of first-class travel, the employee must use all reasonable endeavours to minimise the price paid, for example by booking in advance with stated travel times rather than purchasing an open return ticket.

Travel by taxi

Travel by taxi will be reimbursed up to a cost of £33 per journey.

Travel by air

Air travel will be reimbursed only where such travel has been approved in advance by the employee's line manager. Air travel is likely to be approved where the employee can demonstrate that it is more cost effective than any other form of transport for the business journey in question or would save significant working time for the employee.

Hotel accommodation

The cost of hotel accommodation and breakfast will be reimbursed where an overnight stay is unavoidable, as follows:

London: Up to £200 per night

Other: Up to £135 per night

Subsistence

Subsistence may be claimed when away from home for business purposes as follows:

Breakfast: Up to £9

Lunch: Up to £12

Dinner: Up to £27

Approval process

The line manager of an employee will be responsible for approving expenses incurred under this policy. Employees should discuss any unusual or significant expenses with their line manager before they are incurred, with a view to obtaining prior approval. This will help to protect the employee from misunderstandings about the policy's scope or the evidence required.

5 Sickness Absence

Although CLSB aims to secure regular attendance, CLSB does not expect employees to attend work when they are unwell.

5.1 Notification

In the event of sickness an employee must notify their line manager as soon as the employee is aware that they won't be able to perform their duties due to sickness. The employee should outline any urgent tasks that may need to be reallocated in their absence, as well as advise the date of likely return to work. For sickness periods of more than seven calendar days a doctor's note will be required.

5.2 Sickness Pay

Statutory Sickness Pay (SSP)

Most employees have a right to SSP if they earn more than the lower earnings level and have not exhausted the SSP entitlement. SSP is not payable for the first three calendar days of

absence, also referred to as “waiting days”. SSP is only paid for qualifying days, which are days on which the employee is normally expected to work under their contract of employment. There is a limit of 28 weeks SSP in any one period of sickness or linked periods as defined in the SSP rules. SSP is paid in the same way as ordinary pay and is liable to tax and National Insurance contributions.

Company Sickness Pay

Payment during sickness leave in addition to the SSP will be made in accordance with the terms of an employee’s contract of employment.

- When assessing an employee's eligibility for company sick pay, the amount of time they have had off over the previous 48 months will be taken into account.
- CLSB reserves the right to refuse to pay company sick pay if it has reasonable cause to believe that an employee is not genuinely sick, is abusing the sick pay scheme, has failed to comply with the notification requirements or has not supplied the appropriate certification. If the sick pay scheme has been abused, disciplinary action may follow.
- Payments of company sick pay may be terminated, suspended or reduced if an employee fails to notify CLSB of relevant facts, or if their absence or continued absence is due to their taking an unwarranted risk (in or out of work), conducting themselves in a way that prejudices their recovery, abusing alcohol or drugs or other substances, or recklessly endangering the health and safety at work of themselves and others.

6 Leave arrangements

6.1 Annual Leave (Holiday Entitlement)

An employee’s annual leave entitlement will be as stated in their contract of employment. The annual leave year runs from 1 January to 31 December.

CLSB also recognises all Bank Holidays in addition to basic annual leave entitlements. Part-time employees will be allocated a Bank Holidays allowance pro-rated to their contracted hours. This will be added to their annual leave allowance and the combined allowance (normally expressed in hours) should be used to cover annual leave and Bank Holidays that fall on the employee’s normal working days.

Employees must give as much notice as possible of holiday requests. Annual leave must always be agreed with the employee’s line manager in writing (including by email) and the employee should keep a record of annual leave taken.

Annual leave for employees joining after the start of the leave year accrues at the rate of one twelfth of the annual entitlement for each complete calendar month of service. Annual leave for employees who terminate their employment during the leave year is calculated on the same basis. If, however, the annual leave entitlement has been exceeded, a deduction calculated on the same basis will be deducted from the final salary payment.

All annual leave should be taken in the annual leave year it has been accrued. If this is not possible the remaining days may be carried forward into the following holiday year only with the prior written permission of the employee's line manager.

Pay in lieu of accrued leave will be paid by CLSB only on termination of employment and will normally be subject to a maximum of ten working days.

6.2 Maternity Leave and Maternity Pay

Leave

Pregnant employees will be entitled to take 26 weeks' Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML), irrespective of their length of service or the number of hours worked each week.

An employee may not return to work during the two weeks immediately following the birth of their child (compulsory maternity leave). An employee can choose when they would like their maternity leave to start, however the earliest an employee can choose to start their maternity leave is during the 11th week before the expected week of their child's birth.

In certain circumstances, maternity leave may start automatically earlier than the date the employee chose as the start date for their maternity leave. This applies where an employee is absent from work wholly or partly because of their pregnancy at any time during the four weeks before the expected week of childbirth or if the employee gives birth early.

Statutory Maternity Pay (SMP)

If an employee has at least 26 weeks' service by the end of the 15th week before their child is expected to be born, they may be entitled to Statutory Maternity Pay (SMP), provided their average weekly earnings are at or above the Lower Earnings Limit for National Insurance.

SMP is payable for 39 weeks. For the first six weeks, SMP will be paid at 90% of an employee's average weekly earnings. For the remaining 33 weeks, SMP will be paid at the standard rate which is prescribed by regulations and is adjusted from time to time, or at 90% of average weekly earnings if this is lower. CLSB will inform the employee of the applicable rate. SMP will be paid subject to deductions for income tax and National Insurance contributions in the normal way.

Notification

To be eligible for maternity leave and SMP, an employee is required to notify their line manager in writing by or during the 15th week before the expected week of their child's birth. The employee must inform their line manager of the following:

- The employee is pregnant.
- The week in which their child is due.
- The date the employee intended to start their maternity leave.
- The date from which the employee will be claiming SMP.

The employee should enclose a MAT B1 certificate with their written notification signed by their registered doctor or registered midwife to confirm the expected week of childbirth.

Within 28 days of receiving the notice, CLSB will notify the employee in writing of the date when their maternity leave will end. The employee may change the date of their maternity leave providing they give CLSB at least 28 days' notice in writing of either the new start date or the original start date (whichever is earliest). Within 28 days of receiving the notice CLSB will notify the employee in writing of the date when their maternity leave will end.

Prior to an employee's departure on maternity leave their line manager will meet with them to discuss their rights and entitlements during maternity leave, the possibility of flexible working on their return to work and the level of contact they would like with CLSB during their maternity leave. An employee should feel free to raise at this meeting any queries or concerns they have.

Keeping in Touch Days

CLSB may also offer the employee up to 10 days work during maternity leave (Keeping in Touch – KIT days). It is up to the employee whether they take up that offer. The rate of pay for that work will be agreed in advance with the employee. The employee's right to maternity leave and SMP will not be affected by this offer.

Contract During Leave

During maternity leave the employee will continue to receive their contractual benefits and their normal terms and conditions will continue to apply, except for those terms relating to pay. The employee will continue to accrue annual leave entitlement but annual leave should be taken in the year it is accrued wherever possible. If maternity leave will span two holiday years, any outstanding holiday allowance for the first holiday year should be taken before maternity leave starts, or arrangements should be made for the allowance to be taken immediately upon the end of maternity leave.

Health and Safety

If any pregnant employees, or employees who have recently become mothers or who are breastfeeding are employed in positions which have been identified as posing a risk to their health and safety or that of their baby, they will be notified immediately and arrangements will be made to eliminate the risks.

Return to Work

An employee does not have to notify CLSB separately of their return date. It will be assumed that they will come back to work on the date their maternity leave period ends, as notified to them by CLSB. However, should an employee wish to return to work before the end of their full maternity leave entitlement, they should give their line manager at least 8 weeks' notice in writing of their intended return date.

If an employee returns to work immediately after a period of OML they will return to work in the same job they left before they started their maternity leave. If an employee returns to

work from a period of AML will return to the same job they were employed to do. If this is not reasonably practicable an employee may be offered a similar job on equally favourable terms and conditions. If an employee decides not to return to work after maternity leave they should confirm this in writing and give the notice required under their contract of employment.

On an employee's return from maternity leave their line manager will arrange a meeting with them to discuss any changes which have taken place during their absence. This will be an opportunity to discuss any issues relating to breastfeeding. The employee should also feel free to raise at this meeting any queries or concerns.

6.3 Adoption Leave and Adoption Pay

Arrangements parallel to maternity leave and pay are available for the adoption of a child.

6.4 Paternity Leave and Paternity Pay

Statutory Paternity Leave (SPL) is a maximum of two weeks' leave following the birth of an employee's child, taken in order to support the mother or care for the new child. It can be taken as a single week or two consecutive weeks. It cannot be taken as odd days or as two separate weeks.

SPL must be taken within 56 days of the birth. If the baby is born earlier than expected, it must be taken within 56 days from the date the baby was due. To qualify, an employee must have worked for CLSB for at least 26 weeks by the end of the 15th week before the expected birth week.

Statutory Paternity Pay (SPP) is paid at a fixed rate per week (determined in legislation) or 90% of average earnings if that is less. It is paid less income tax and National Insurance contributions in the normal way.

During SPL an employee is bound by all their normal contractual terms and conditions as if they were not absent, apart from contractual pay (SPP is payable). An employee has the right to return to exactly the same job, on the same terms and conditions after SPL.

SPL and SPP are also available for the adoption of a child (available to the parent who is not taking adoption leave).

Eligibility

An employee will qualify for SPL and SPP if they are either:

- the child's father
- the husband or partner of the child's mother (or adopter) - this includes same-sex partners
- the child's adopter
- the child's intended parent (if they are having a baby through a surrogacy arrangement)

6.5 Shared Parental Leave

Shared Parental Leave is designed to give parents more flexibility around caring for their child in the first year following birth or adoption. It allows maternity leave to be curtailed and the remaining balance of the leave and pay to be shared between two parents. Eligibility criteria for shared parental leave are complex so advice should always be sought; CLSB encourages any employee considering taking shared parental leave to discuss their plans with CLSB as early as possible so that appropriate arrangements may be made. Further information on statutory entitlements is available from <https://www.gov.uk/shared-parental-leave-and-pay>.

6.6 Ordinary (Unpaid) Parental Leave

An employee who has or expects to have responsibility for a child is entitled to take Parental Leave to care for their child or look after their child's welfare, for example to:

- spend time with their children
- look at new schools
- settle children into new childcare arrangements
- spend time with family, such as visiting grandparents

This includes the child's registered father (named on the child's birth or adoption certificate) or anyone else who has or expects to have formal parental responsibility for the child. CLSB reserves the right to ask for proof of parentage (such as a birth certificate). To be eligible to take Parental Leave, an employee must have been employed by CLSB for at least one year. Both parents can take Parental Leave for each child they have.

Parental Leave consists of 18 weeks' unpaid leave. It can be taken at any time up to the child's 18th birthday. Up to four weeks' Parental Leave can be taken in respect of each child, each year, in blocks of one week or more. An employee cannot take the leave in blocks of less than one week, unless the child is disabled. An employee must give their line manager at least 21 days' notice of their intention to take Parental Leave.

6.7 Time off for Dependants

An employee is legally entitled to take a reasonable amount of time off to deal with certain prescribed emergencies involving certain dependants. This leave is called time off for dependants. Time off for dependants can be taken, for example, if a dependant falls ill or is injured, if care arrangements break down, or to arrange or attend a dependant's funeral. A dependant is your child (including adopted child), husband, wife or parent. It also includes someone who lives in the employee's household, and someone who reasonably relies on the employee such as an elderly relative. Any time taken off must be necessary and reasonable in the particular circumstances. Time off for dependants is not paid.

6.8 Time off for Public Duties

Employees are permitted reasonable time off for public duties as set out in the Employment Rights Act 1996. Payment for time off work for public duties will be made at the discretion of CLSB.

Jury service is a statutory requirement. Allowances can be claimed while on jury service. Further information is available from <https://www.gov.uk/time-off-work-public-duties>.

6.9 Bereavement Leave

Parental bereavement leave

Parental Bereavement Leave is designed to give parents time off, with pay, if they or their partner either has a child who has died under 18 years old or had a stillbirth after 24 weeks of pregnancy. Further information on statutory entitlements is available from <https://www.gov.uk/parental-bereavement-pay-leave>.

Other bereavement leave

CLSB will afford employees reasonable time off if they suffer a bereavement of another close family member (spouse or partner, parent). Discretionary bereavement leave pay will be considered on a case-by-case basis.

7 Health and Safety

7.1 General

It is an employee's duty not to put at risk either themselves or others by their acts or omissions. Employees must comply with the CLSB Health and Safety Policy and any relevant health and safety arrangements that have been put in place for individuals or staff more generally. Should an employee be concerned over any health and safety aspects of their work then they should bring this to the attention of their line manager immediately.

Employees will receive additional information on health and safety and will be required to complete a self-assessment checklist.

In line with the above, employees should follow all reasonable steps to help prevent fires in their work environment. Some examples of actions to be taken are:

- Before an employee uses any electrical appliances, they must first carry out a quick check to make sure that the cables, plugs etc. are not damaged.
- An employee must not use any electrical equipment that shows signs of damage, even if they think it is only minor. The employee must report any such faults to their line manager and find an alternative appliance.

7.2 Smoking and Other Substances at Work

Legislation now exists which makes it illegal to smoke in enclosed public spaces. Smoking is therefore strictly prohibited when working in public spaces, in line with the legislation.

Drinking alcohol or using any unlawful drugs is strictly prohibited both during work time or during a period prior to work where the effects carry over to work time. Any such instances will be dealt with through disciplinary action.

7.3 Procedure in the Event of an Accident

It is the responsibility of each employee to report immediately to their line manager any accident involving personal injury or near miss occurrence (i.e. no one was injured but the incident had the potential to injure or kill) at work. The line manager will then keep a record of this.

In the event an employee suffers injury at work which results in them being away from work, or unable to do their normal work for seven days or more (not counting the day of the accident but including weekends, rest days or holidays) CLSB will notify the Health and Safety Executive using their online form.

8 Leaving CLSB

8.1 Notice Periods

By employee

Unless an employee's employment is terminated by agreement or terminates under its contractual terms (e.g. expiry of a fixed term contract, the employee must give to CLSB the written notice stated in their contract of employment.

In all cases CLSB reserves the right to enforce an employee's full notice period. Where possible, employee's full remaining annual leave entitlement should be taken during their notice period in agreement with their line manager. Exceptionally, if this is not possible, a line manager may agree to make a payment in lieu of this. If an employee leaves on any day other than the last working day of that month, that month will not count for annual leave accrual purposes.

By employer

In cases where CLSB initiates the termination of employment, CLSB will give the employee notice in line with the employee's employment contract and at all times observing the statutory minimum notice periods which are:

- at least one week's notice if employed between one month and 2 years
- one week's notice for each year if employed between 2 and 12 years
- 12 weeks' notice if employed for 12 years or more

Should an employee be dismissed for reasons of gross misconduct, their employment will be terminated immediately without the benefit of notice or payment in lieu of notice.

8.2 Payment in Lieu of Notice

CLSB reserves the right to pay an employee in lieu of notice or any remaining part of notice (PILON). Such pay will only constitute basic pay due.

8.3 Garden Leave

If deemed appropriate and as an alternative to an employee working their notice, CLSB reserves the right either to transfer the employee to other suitable duties, or carry out no duties during their notice period (garden leave).

8.4 Return of Property

If an employee is due to leave CLSB for any reason and is in possession of CLSB property (including computer files) they must make their manager aware of this and arrange how they will be handed back to CLSB.

Before leaving, an employee must hand over to their line manager all articles belonging to CLSB including any documents, equipment and computer software used at home. Documents and software include (but are not limited to) correspondence, diaries, address books, databases, files, reports, plans, records or any other medium for storing information. Employees should not retain any copies, drafts, reproductions, extracts or summaries of documents and software.

8.5 Other Conditions on Leaving

Confidentiality

An employee remains bound by the confidentiality arrangements outlined in their contract of employment during their notice period and following termination of their contract of employment. Departing employees must not use or divulge to any person, organisation or otherwise any confidential information relating to the business of CLSB.

Deductions

On leaving, CLSB will deduct from any money due to the employee any such sums the employee may owe to CLSB. These may include, but are not restricted to, any loans, relocation assistance, court orders and payment made for holidays taken in excess of entitlement.

If an employee leaves without giving notice and without CLSB agreement the employee will be in breach of their contract of employment and will forfeit some or all of any salary due to them.

After an employee has left CLSB they must not solicit or seek to entice away any CLSB employees in line with their employment contract which may also include other post termination restrictions as appropriate.

9 Disciplinary Policy and Procedure

9.1 General

CLSB is committed to treating all employees fairly and equitably, and helping them perform effectively. However, there will be occasions when it may be necessary to invoke this disciplinary procedure.

If disciplinary action should become necessary, each case will be treated fairly but consistently. Employees will be given the opportunity to provide their version of events and any extenuating circumstances will be considered. Employees' rights will be upheld at all times. They will have the right to:

- know the case against them;
- respond;
- due consideration of their case;
- be accompanied; and
- appeal.

9.2 Suspension

Suspension is not disciplinary action. The purpose of suspension is manifold and can be used when it is necessary to remove an employee from the workplace pending an investigation, for example to allow time for a 'cooling down period' for both parties, for their own or others' protection, to prevent them influencing or being influenced by others or to prevent possible interference with evidence. Only the manager in charge of that employee at that time, or their superior, has the authority to suspend an employee.

An employee suspended from duty will receive written confirmation within three days including:

- The reason for the suspension.
- The date and time from which the suspension will operate.
- The timescale of any ongoing investigation.
- The right of appeal to the immediate manager of the suspending manager, should the suspension last more than seven days.

9.3 Third Parties

CLSB reserves the right to engage an independent third party to assist at any stage of the disciplinary procedure.

9.4 Investigation

Prior to taking the decision to invoke the disciplinary procedure, a thorough investigation will always be undertaken. An investigation is a fact-finding process and may involve gathering information, carrying out witness interviews, and taking written statements. An investigation will always be carried out without unreasonable delay and concluded as soon as is reasonably

possible. If circumstances prevent this, the employee will be advised of the situation, and wherever possible, given an indication of the time it will take to conclude the investigation.

9.5 Informal Procedure

If an employee's work falls below an acceptable standard, they will be given help and guidance on how to improve. If standards of work do not improve and/or continue to fall, their line manager will hold an informal discussion with them before formal action is taken.

Similarly, if the employee's behaviour is potentially inappropriate and/or unacceptable, an informal discussion will usually take place before a formal disciplinary procedure is invoked, although this will depend on the severity and urgency of the situation.

The informal procedure may include an informal warning being issued and noted on the employee's file.

9.6 Formal Disciplinary Procedure

The formal procedure will be used in cases where misconduct or poor performance have not been successfully addressed by the informal procedure, or where it was not possible or appropriate to use the informal procedure. Under normal circumstances, the procedure will follow the steps listed below, although CLSB reserves the right to vary these if necessary, and may move directly to step two or step three if a case is sufficiently serious to warrant it.

At each step in the procedure, the employee will be invited, in writing, to a disciplinary meeting where all the facts will be considered, and any mitigating circumstances discussed. They will be given a minimum of 48 hours' notice of the meeting and have the option to have a work colleague or trade union representative present.

Following a disciplinary meeting, the employee will be advised of the outcome in writing, normally within five working days. They will also be advised of the right to appeal against a decision to take disciplinary action.

Where a warning is issued, a copy will be placed on the employee's file for the specified time period (see below). All warnings issued under this procedure will state clearly that the employee will be liable to further disciplinary action should their performance not improve or should there be further misconduct. In the event of no further misconduct occurring and/or performance improving within the relevant time period, the warning will be disregarded for disciplinary purposes.

9.7 Steps

The steps in the disciplinary procedure are as follows:

First written warning (step one)

A first written warning will be issued where the matters of concern are proven, or there are reasonable grounds to believe this is the case. A record of the first written warning will be given to the employee and a copy will be retained on their file for 6 months after which time

it will be removed unless there is a repetition or further misconduct/poor performance within this period.

Final written warning (step two)

A final written warning will be issued where the matters of concern are proven, or there are reasonable grounds to believe this is the case. A record of the final written warning will be given to the employee and a copy will be retained on their file for 12 months after which time it will be removed unless there is a repetition or further misconduct/poor performance within this period. The employee will be informed that any further misconduct or poor performance within the specified period may result in dismissal.

Dismissal or action short of dismissal (step three)

The employee may be dismissed, with notice, if they have failed to improve their performance or their conduct during the previous steps. As an alternative to dismissal, CLSB may decide that suspension without pay, demotion, or some other measures short of dismissal are appropriate.

9.8 Gross Misconduct

In the event of a gross misconduct allegation, the disciplinary process may start at step three. The outcome of a hearing, even for a one-off or first offence, could result in immediate or summary dismissal i.e. dismissal without notice or pay in lieu of notice.

The following offences are usually classed as gross misconduct:

- breaching confidentiality i.e. divulging or misusing any confidential or commercially sensitive information;
- serious breach of rules, policies, or procedures;
- insubordination, for example refusal to carry out duties or obey reasonable instructions;
- intentional sexual harassment, harassment, bullying or violent, dangerous or intimidatory conduct;
- theft, dishonesty, or fraud;
- possession or consumption of alcohol or drugs, or intoxication by reason of alcohol or drugs, which could affect work performance in any way or have an impact on other employees;
- unauthorised or inappropriate use of email, internet and/or computer systems; or
- falsification of any company records including reports, accounts, expenses claims or self-certification forms.

This list of examples is not exhaustive or exclusive, and offences of a similar nature will also be dealt with as gross misconduct under this procedure.

9.9 Appeals

At every step, the employee has the right to appeal against a decision to impose a disciplinary sanction. If an employee wishes to appeal, they should do so in writing to the person named in their outcome letter within five working days of being advised of the outcome of the hearing. The employee will then be invited to attend an appeal hearing, with someone not previously involved in the disciplinary process, without unreasonable delay. After the appeal hearing, a decision will be made on whether the disciplinary sanction imposed is to be upheld or overturned. This decision will be advised to the employee within ten working days of the appeal hearing and will be final.

10 **Grievance Procedure**

10.1 General

The grievance procedure may be used for addressing any problems or concerns employees have at work. This procedure does not replace the normal employee–line manager dialogue, but where such informal dialogue has failed to address a problem, employees may use this procedure to have the matter addressed formally.

It is accepted that when people work together there will inevitably be situations where misunderstandings, problems or concerns need to be resolved. Culture of good communication, openness, and a willingness to co-operate and listen is encouraged at CLSB, so it is envisaged that the majority of these issues or misunderstandings will be addressed informally in an efficient and effective manner. However, where such issues are unresolved, they may become grievances. In such instance, employees are encouraged to seek a resolution by using this procedure.

10.2 Third Parties

CLSB reserves the right to engage an independent third party to assist at any stage of the grievance procedure.

10.3 Procedure

This procedure will be followed as closely as possible to ensure that every complaint or problem raised receives full and careful attention and that effective and timely resolutions are found for employees' concerns. Nevertheless, CLSB reserves the right to deviate from this procedure if necessary given the facts of each case.

10.4 Using Mediation

CLSB may seek assistance from external mediators at any stage in the grievance procedure. Where both parties agree to undertake mediation, the grievance process will be suspended whilst this is carried out.

10.5 Informal Grievance Procedure

Employees are encouraged in the first instance to approach their line manager to discuss issues and attempt to resolve them informally. These types of discussions can frequently solve problems without the need for formal action or a written report. Employees can normally expect to receive an outcome from their line manager within ten working days.

If the employee is dissatisfied with the outcome of the informal procedure, they may invoke the formal grievance procedure described below.

10.6 Formal Grievance Procedure

Stage 1

The employee should raise the grievance in writing with their line manager. The grievance should explain the nature and extent of the issues and indicate the outcome they are looking for.

If the grievance relates to concerns regarding the employee's line manager, or if the nature of the grievance is such that the employee is not comfortable raising it with their line manager, the grievance may be submitted to an alternative manager or, where an alternative manager is not available, to a non-executive director who will arrange for the grievance to be investigated and heard by a third party.

Under stage one, the employee will have an initial meeting with their line manager. A minute taker may also be present if available and appropriate. The employee will have the option to have a work colleague or trade union representative present. The meeting will be used to discuss the grievance in more detail, including the desired outcome, and any documents or evidence regarding the grievance should be presented.

The line manager will then complete a full investigation into the matter. This may involve reviewing written evidence and/or holding meetings with witnesses. An investigation will always be carried out without unreasonable delay and concluded as soon as is reasonably possible. If circumstances prevent this, the employee will be advised of the situation and, wherever possible, given an indication of the time it will take to conclude the investigation.

A decision about the outcome will be taken by the line manager following the investigation and, where appropriate, this may be advised to the employee in a further meeting. The employee will receive a written response within ten working days of the investigation being concluded and will be informed of the relevant actions to take if they wish to appeal the outcome of the grievance.

Stage 2

In most instances CLSB would expect the manager's decision to be final and for the matter to come to a close. However, if the employee is not satisfied with the outcome of the grievance, the matter will be considered further by an external third party. The employee should write

to the person named in the grievance outcome letter, setting out the reasons for their dissatisfaction.

Stage two will involve a reconsideration of the matter by the external third party based on the evidence obtained at stage one, unless the nature of the employee's dissatisfaction means that further investigation is warranted. A meeting will usually be held by the external third party at which the employee will have an opportunity to go through the reasons for their dissatisfaction with the stage one outcome. The outcome of stage two will be provided to the employee within ten working days of the meeting.

There will be no further right of appeal after stage two. The decision of the external third party will be final.