



Costs Lawyer Standards Board

AGENDA

Wednesday 2 February 2022 @ 10:30am
Remotely via videoconference

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

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 October 2021) 2.2 Matters arising (20 October 2021)	Item 2.1 -	Yes	DH DH
3	Strategy 3.1 Progress against Business Plan: 2021 roundup 3.2 Annual progress against performance indicators 3.3 Education and competency	Item 3.1 Item 3.2A+B Item 3.3A-C	Yes Yes Not C (G)	KW KW KW
4	Board matters 4.1 Reappointment of Chair 4.2 Governance review	- Item 4.2A+B	Yes	SM 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: Q4 2021 5.2 Cost of living wage rise	Item 5.1 -	No (D, E)	JC KW
6	Risk management 6.1 Review of risk registers 6.2 Professional indemnity insurance	Item 6.1 Item 6.2	Yes Yes	KW KW
7	Regulatory matters 7.1 Innovation project update	Item 7.1	No (G)	HC
8	Legal Services Board (LSB) 8.1 Updated regulatory performance assessment 8.2 Consultations	Item 8.1 -	Yes	KW KW
9	Stakeholder updates² 9.1 ACL Council meeting minutes 9.2 Work updates	Item 9.1 -	Yes	KW KW
10	Operations 10.1 Practising certificate renewals data	Item 10.1A+B	Yes	JC
11	Publication 11.1 Confirmation that papers can be published	-		DH
12	AOB	-		DH
13	Next meeting Date: 19 May 2022 @ 10.30am Venue: To be agreed	-		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.

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 October 2021 at 10:30 am
Remotely by videoconference

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

In attendance: Kate Wellington (CEO and Company Secretary)
Jacqui Connelly (Operations Director)
Professor Carl Stychin (Independent Education Adviser) (Item 3.2)

1. OPENING MATTERS

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

2. MINUTES

2.1 Minutes dated 21 July 2021

The board considered the minutes of its last scheduled quarterly meeting on 21 July 2021. The board agreed the minutes as being a true record for signing.

Action: Publish approved minutes on CLSB website.

2.2 Matters arising

The board considered the matters arising from the minutes of its meeting on 21 July 2021. There were no matters arising that had not been scheduled as agenda items or otherwise dealt with.

3. STRATEGY

3.1 Progress against Business Plan: Q3 2021

The board was provided with a progress update against the 2021 Business Plan. Kate noted that three additional priorities had been achieved during Q3, meaning that eight of the 15 priorities in the plan had been achieved so far, leaving seven for completion in Q4.

The only priority at risk of noncompletion was priority 11, which involved testing the efficacy of new interim suspension powers under the Disciplinary Rules and Procedures. That priority was contingent on a suitable disciplinary case coming to light and there had been no such cases so far in 2021.

3.2 Education

Kate provided the board with updates on the various education workstreams, including:

- the review of ACL Training's governance structures being carried out by Hook Tangaza;
- resourcing plans for ACL Training due to staff absence;
- applicant numbers for the 2022 intake onto the Costs Lawyer Qualification and the timetable for ACL and ACL Training to take a decision on viability;
- reports provided by ACL Training and Hook Tangaza to address the recommendation in the CLSB's audit report for the course;
- initial feedback from the consultation on the CLSB's new Costs Lawyer Competency Statement, which closed on 18 October; and
- proposed next steps for the CLSB's work on education.

David invited Carl to canvass the CLSB's options for next steps once the Competency Statement is in place. The board discussed the options against the background of Carl's advice and the updates from Kate, with a particular focus on the principles that should drive the next stage of the CLSB's work.

The board agreed that flexibility in delivery of the qualification was paramount, provided the specified outcomes were demonstrably achieved. This encompassed flexibility for providers (allowing for different modes of delivery and promoting innovation), flexibility for students (ensuring the course could attract students from a range of backgrounds) and flexibility for the CLSB and the profession (ensuring the course and the regulations that govern it remain current and fit for purpose).

The board discussed the need to draw on good practice from others and look at the models that work well for similar organisations. There are many possible structures for progression within the qualification, and that the CLSB should be mindful of this when setting the regulatory threshold for authorisation. A modular approach would both ensure flexibility and allow the qualification to intersect with other training opportunities for lawyers and others.

Board members discussed the need to understand employers' perspectives (and, to some extent, recruiters' perspectives) alongside the perspectives of students and clients when thinking about course structure. Options for doing this were canvassed, noting the work already done with employers in developing the Competency Statement.

The board discussed the timeline for considering whether to accredit the course for the following year. Kate explained the process set out in the Protocol agreed with ACL Training in 2019. The board agreed that a decision was needed at an earlier stage than in 2020, when a decision was not communicated to the CLSB until December. Kate would continue to liaise with ACL and ACL Training to push things forward.

4. BOARD MATTERS

4.1 Staff working arrangements

David introduced this item and explained that he had already had constructive discussions with each of the board members about Kate's plans to work from Australia. He invited board members to ask questions of Kate, and Kate agreed she would absent herself from the discussion should any board member feel it was appropriate.

Board members asked about staff wellbeing, resourcing and arrangements for meetings. Kate explained the proposed approach in these areas. The board was satisfied with the arrangements and unanimously approved Kate's working from Australia for the next six months, at which point all parties would take stock to ensure the arrangements were working for everyone, including other staff.

Action: Diarise to take stock of working arrangements at the Q2 2022 board meeting.

5. FINANCE

5.1 Quarterly report: Q3 2021

Jacqui introduced the quarterly finance report, noting that savings had been made that would negate the projected deficit by the end of the year, and that the overall financial position was healthy. The board noted the financial position in the report.

5.2 Outcome of PCF application

The board was provided with the LSB's decision on the CLSB's practising certificate fee (PCF) application for 2022. Kate outlined the follow-up questions that had been asked by the LSB's financial advisers and the responses given by the CLSB, and explained that these had been considered satisfactory.

The board reflected on whether the current account surplus was still required. Jacqui explained that the surplus was currently being used to fund outgoings on the new innovation project in advance of the funds being reclaimed (in arrears) from the Regulators' Pioneer Fund. This was a good example of how the surplus ensured liquidity, and the board agreed that it remained necessary and appropriate to retain the surplus.

The board noted the LSB's recommended action for the following year's PCF application, namely to consider other ways of engaging stakeholders alongside the consultation. Kate would ensure this was taken into account for the 2023 PCF application.

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. At a general level, the board noted that there were a number of risks in the register that remained red, but these were mainly being driven by factors outside of the CLSB's control. The board therefore discussed whether there was anything more that the CLSB could do to control and mitigate those risks.

The board discussed in detail the risks to the CLSB arising out of risks to ACL and ACL Training; including by virtue of their respective structures, governance, staffing, business continuity and succession arrangements, financial resources and relationships. Those risks manifested as risks to the profession as a whole, and necessarily impacted risk OP1 (*more leave than enter the profession*) and risk OP6 (*breakdown in communication between any of ACL, ACLT and CLSB*).

The board also discussed whether risk OP2 (*organisational structure not sufficient to ensure business continuity*) was still relevant. It was agreed that the CLSB's scale meant it would always be fragile, but this was an inherent risk caused by size rather than organisational structure. It was therefore agreed that: (i) the wording of OP2 be recast to reflect this, (ii) the probability rating be reduced to 1, and (iii) the risk priority be reduced to low.

The board also agreed to:

- update the evidence of risk OP1 (*more leave than enter the profession*) to reflect that implementation of the new fixed costs regime had finally been announced;
- update the controls and status of risk OP3 (*insufficient numbers of new qualifiers*) to reflect delivery of the Competency Statement and intended next steps;
- update the priority of risk OP6 (*breakdown in communication between any of ACL, ACLT and CLSB*) to "high" from "medium" and update the evidence of risk based on the discussion; and
- update the controls for risk R1 (*our standards do not achieve positive consumer outcomes*) to reflect our new Supervision Policy and supervision frameworks, as well as our work on collecting benchmarking data around consumer outcomes.

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

7. REGULATORY MATTERS

7.1 Guidance Notes

The board was provided with drafts of: (i) an updated Guidance Note on Vulnerable Consumers, (ii) a new Guidance Note on Pro Bono Work, and (iii) additional text for the Guidance Note on Executing Legal Documents and the Right to Administer Oaths. The board considered each document and approved them for publication.

Kate noted that this concluded the review of all Guidance Notes in the Costs Lawyer Handbook, following an initial audit in late 2019. The board agreed that it had been a tremendous effort, both in terms of scale and quality improvement, and thanked the executive for their work on the project. The board agreed that wholesale changes would be less frequent going forward, so board packs should contain versions showing tracked changes against the current version.

Action: Update Costs Lawyer Handbook with approved guidance notes.

7.2 Supervision Policy and final supervision framework

Kate introduced this item and reminded the board that, in April, it approved three new supervision frameworks relating to compliance with the CPD Rules, Accredited Costs Lawyer Rules and complaints procedure guidance. A final framework, covering point-of-complaint monitoring, as well as an overarching Supervision Policy were due to come to the board in July but those items were postponed to allow time for the governance session. The board was now asked to consider and approve drafts of these documents, along with revocation of the existing Supervision Policy.

Kate also noted that the original intention had been to publish the Supervision Policy on the website and to provide the supervision frameworks only on request, as they were drafted as internal process documents. Having now prepared the Supervision Policy, which cross-refers to the frameworks, Kate felt this no longer represented a sufficiently transparent approach. The intention was now to publish all the frameworks alongside the Supervision Policy.

The board considered and approved the drafts. In relation to whether the frameworks should be published, the board asked about whether accessibility of the documents should be improved given they were drafted for internal use. It was agreed that this could be achieved by ensuring the Supervision Policy itself clearly explained the purpose and intended use of the frameworks and contained hyperlinks for easy cross-referral. Subject to this, it was agreed the frameworks should be published in the interests of transparency.

Actions: Adjust the Supervision Policy as agreed for accessibility; publish it along with the frameworks on the website.

7.3 Innovation project update

The board received a progress report on the innovation project funded by the Regulators' Pioneer Fund. Kate asked for a volunteer to join the "challenge board" that would be constituted as part of the project's governance. Stephanie and Paul both expressed an interest, although Paul had restrictions on his time due to client commitments. It was therefore agreed that Stephanie would join the challenge board, but the project team would find other ways to incorporate Paul's input.

7.4 Proposal for virtual diversity event

The board received a progress report on the CLSB's third diversity workstream, involving engagement with the regulated community. The board provided feedback on proposals for a virtual equality, diversity and inclusion (EDI) event later in the year.

It was agreed that the event should not be limited to Costs Lawyers and should extend to anyone with responsibility for, or an interest in, EDI within organisations where Costs Lawyers work. The board discussed how such individuals could be reached and agreed to send further suggestions to Kate by email.

The board felt that a focus on social mobility was particularly appropriate, as it extended beyond the protected characteristics under the Equality Act and helped to emphasise that EDI issues are relevant to a wide audience. Communications about the

event should convey that it is part of a wider programme and that activities focused on other areas would follow, so Costs Lawyers could choose which parts of the overall programme were most relevant to them.

Board members suggested possible panellists for the event and agreed to send through further suggestions by email.

Action: Board members to send Kate or Heather further suggestions for EDI event by email.

8. LEGAL SERVICES BOARD (LSB)

8.1 Proposed statutory policy statement

Kate informed the board that the LSB had launched a consultation on its draft statement of policy, aimed at improving transparency of information in legal services. She flagged some of the issues arising in the consultation and noted that the CLSB intended to respond by drawing on its consumer outcomes work. The board noted that the CLSB might need to adjust its work programme going forward to ensure it meets the expectations in the final policy statement once published.

8.2 Other workstreams

The board received updates in relation to:

- a request for information received from the LSB in relation to the next annual regulatory performance assessment;
- CLSB's membership of the new Market Transparency Coordination and Oversight Group (MTCOG), chaired by the LSB, and the recent presentation to that group on the CLSB's consumer outcomes framework.

9 STAKEHOLDER UPDATES

9.1 ACL Council meeting minutes

The board noted the minutes of ACL Council meetings held in May, June and July 2021. The board discussed an extract referring to ACL's oversight of the CLSB, and it was assumed this was a reference to ACL's residual role under the Internal Governance Rules 2019.

David noted that the CLSB had been invited to ACL's November conference in London, but that he had a prior engagement on the relevant date. Both Lay NEDs noted they could not make the date either, but the Non-Lay NEDs confirmed they would both be attending.

9.2 Work updates

The board was provided with updates in relation to:

- Kate's recent meeting with the new Legal Ombudsman, Paul McFadden, following which Kate had invited Paul to the board's March meeting so he could introduce himself;
- the CLSB's presentation at a recent Legal Services Consumer Panel meeting on its consumer outcomes work and innovation project;
- finding of LawCare's Life in the Law publication and CLSB's participation in workshops considering how regulators could address the issues identified.

The board also discussed a written update provided by the Legal Ombudsman on improvements to service standards and wait times. Board members expressed concern that the figures suggested major inroads had not yet been made.

10 OPERATIONAL MATTERS

10.1 H&S policy and risk assessment

The board was asked to approve an updated health and safety (H&S) policy and risk assessment, to bring the CLSB's policies in line with current standards set by the Health and Safety Executive. Kate explained that the policy was accompanied by a pack of materials for staff, including a H&S checklist for home working environments, which all staff had completed. The board approved the policy and risk assessment, as well as revocation of the existing policy.

Action: Adopt new policy and risk assessment into the Internal Handbook and revoke existing policy.

10.2 CPD dispensation policy

Kate reminded the board that, in 2020, it approved a CPD dispensation policy for use when a Costs Lawyer had not been able to obtain sufficient CPD points because of the coronavirus pandemic, but had been at work for the full year. Although the majority of CPD activities were still taking place online in 2021, the executive felt it was unnecessary to ask the board to approve a dispensation policy this year because:

- the CPD Rules in force since 1 January 2021 provided greater flexibility and choice for Costs Lawyers in meeting their CPD requirements;
- to date in 2021 there had been no enquiries or concerns about meeting CPD requirements from Costs Lawyers; and
- the new CPD Rules provided for the CLSB to "waive all or part of these rules if it considers that exceptional circumstances have justifiably prevented a Costs Lawyer from meeting their CPD obligations during any CPD year" (Rule 4.1).

The board discussed the proposed approach, the availability of CPD opportunities in 2021, and what might constitute "exceptional circumstances" under the Rules. It was agreed that a mechanism was needed for providing dispensation to those who had genuinely been impacted by coronavirus during 2021 in a way that was different to the general population. However, the discretion in Rule 4.1 was deemed sufficient for this purpose, and the board agreed that a standalone dispensation policy was not necessary.

The board also discussed Costs Lawyer engagement with the new CPD Rules and how the changes had been communicated throughout the year. Andrew M noted that he had seen the CLSB's introductory video pushed out recently via social media and encouraged this use of multiple channels and media.

11 PUBLICATION

11.1 Confirmation that papers can be published

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

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

12 AOB

There was no other business.

13 NEXT SCHEDULED QUARTERLY MEETING

Two board members noted a diary clash with the schedule date for the next meeting. It was agreed that a suitable alternative should be found, if possible, so that everyone could contribute.

Action: Liaise by email to find alternative next meeting date.

There being no further business, the Chair declared the meeting closed at 12:21.

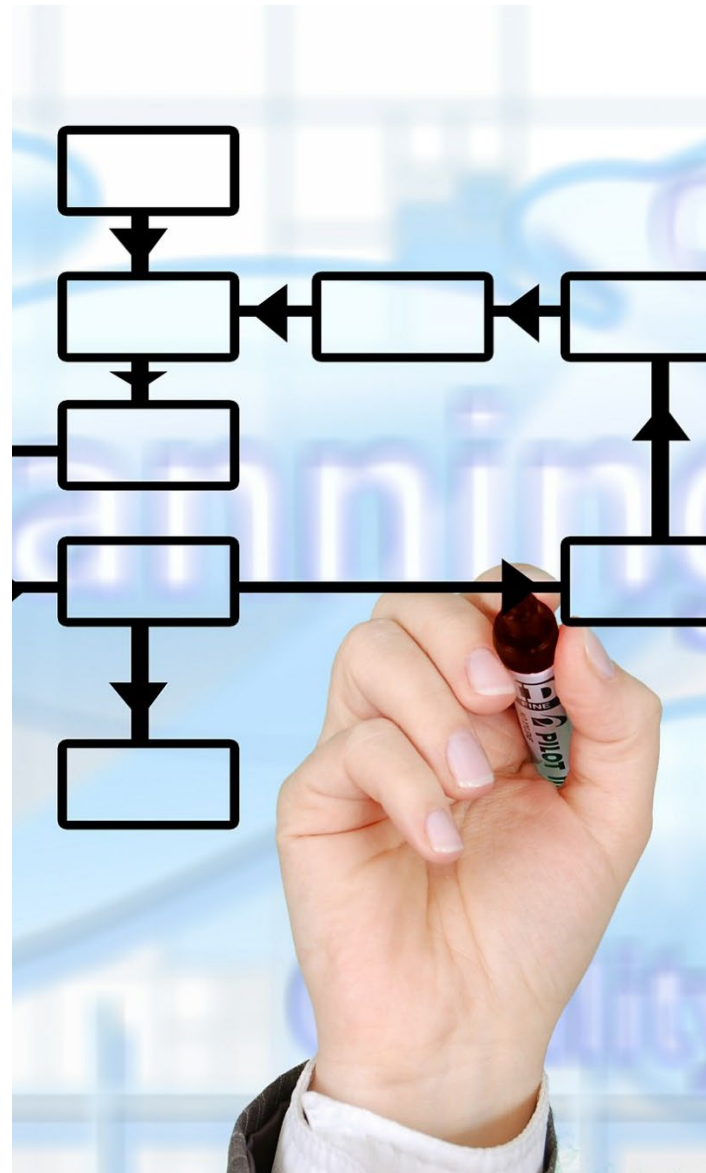
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Chair

Related documents

Item	Document	Publication location (CLSB website)
2.1	Board minutes (21 July 2021)	About ⇒ Our board
6.1	Risk registers	About ⇒ Strategy and governance
7.1	Guidance Notes	For Costs Lawyers ⇒ Costs Lawyer Handbook
7.2	Supervision Policy and frameworks	Regulatory ⇒ Supervision
7.3	Innovation project webpage	CLSB website here
11.1	Board papers	About us ⇒ Our board
Item	Document	Publication location (other)
5.2	Outcome of CLSB's PCF application	LSB website here
8.1	LSB consultation on statutory policy statement	LSB website here

Business Plan 2021

Q4 board update



February 2022

Costs Lawyer Standards Board

CLSB

Annual priorities

Improving our regulatory arrangements

	Initiative	Progress status / expected completion
1.	Work with ACL Training to consider whether improvements are required to the Training Rules, informed by learnings from the first year of the refreshed Costs Lawyer Qualification.	Achieved (Q4) <i>A consultation on the new competency statement – which will provide evidence to underpin changes to our Training Rules – closed in October. The outcome report and final version of the statement will be put to the board at this meeting. Work on a new regulatory structure for the qualification is underway, with the first draft of a new provider accreditation scheme also coming to the board at this meeting. Translation of the competency statement into learning outcomes will be a priority in the new year and consultation on the proposed changes will happen in 2022.</i> <i>This Business Plan priority became a core workstream for us in 2021; the pace of our progress accelerated far beyond what was envisaged when the Business Plan was developed.</i>
2.	Update the Guidance Notes in the Costs Lawyer Handbook that were not subject to review following the 2019 Handbook Audit.	Achieved (Q3) <i>Three updated guidance notes were approved by the board in April, another was approved between meetings in Q2 and two more in October. Implementation of the final guidance notes following the October board meeting completed this priority.</i>
3.	Develop new guidance that draws together themes identified across various aspects of our work, such as: <ul style="list-style-type: none">• guidance for unregulated employers of Costs Lawyers;• guidance on closing down a practice.	Achieved (Q2) <i>Themes for the guidance were developed in Q1 and two new guidance notes were approved by the board in July.</i>
4.	Carry out an initial evaluation of our revised approach to Continuing Professional Development (CPD) – informed by feedback and enquiries from the profession and other stakeholders –	Achieved (Q1) <i>We captured learnings from the launch of our new CPD regime by tracking email enquiries, feedback and questions raised at our Virtual Q&A session held in February. Those learnings allowed us to supplement our</i>

	and produce targeted additional support materials where a need is identified.	<i>CPD supporting materials (particularly our website FAQs) and informed our approach to developing the new supervision framework for the regime (priority 8). The next touchpoint for further evaluation will be during the first audit in 2022, which may lead to additional improvements next year.</i>
5.	Review the regime for accrediting Costs Lawyers to provide CPD training, to assess whether the accreditation criteria and the approach to implementation remain fit for purpose.	<p>Achieved (Q2)</p> <p><i>We implemented new Accredited Costs Lawyer Rules, reviewed the accreditation criteria and updated the information we seek from applicants (both when they first apply for accreditation and upon renewal). We developed a new supervision framework for the scheme, as an adjunct to our planned supervision project (priority 8). New webforms implementing the changes to the application process went live in Q2. We sought feedback from those Costs Lawyers choosing not to renew their accreditation this year and the follow-up work from that exercise has been completed. We will make routine improvements to the regime on an ongoing basis.</i></p>
6.	Consider our diversity and inclusion initiatives against the Legal Services Board's characteristics of a well-performing regulator to identify and address any gaps in our approach.	<p>Achieved (Q4)</p> <p><i>Work on this priority has been ongoing throughout the year. We launched a new diversity survey alongside the 2021 PC renewal application. We analysed and published data from that survey, including in a comparative report, and made further improvements to align our data with the sector's. We stepped up engagement with the regulators' EDI forum and liaison with the LSB and SRA on diversity. We also compiled a set of actions aimed at further improving our data and exploring particular characteristics. We assessed the merits of different regulatory interventions aimed at promoting EDI and a paper on this was considered by the board in July. We conducted an outreach project with the profession to understand how they feel about the collection of diversity data, to identify the collection method most likely to improve survey response rates, and built a targeted survey on the pay gap between men and women. We reported a summary of our progress to the LSB in November 2021.</i></p>

Protecting the interests of consumers and promoting professional standards

	Initiative	Progress status
7.	Deliver the first year of priority activities in our Consumer Engagement Strategy	<p>Achieved (Q2)</p> <p><i>We delivered a number of initiatives under the first year of the strategy, such as improving our web content, securing improvements to the costs questions in the LSCP tracker survey, and reviewing our regulatory return questions relating to client profiles. We refreshed our client survey and asked Costs Lawyers who reported having lay clients to send the survey directly to those clients, and we carried out a research project with Community Research and Panelbase. We developed and published a new policy statement on good consumer outcomes. A paper on recommendations for year 2 of the strategy was considered by the board in July and the strategy has been extended accordingly.</i></p>
8.	<p>Develop our approach to supervision by:</p> <ul style="list-style-type: none"> • planning and documenting an updated CPD audit programme under the new CPD Rules; • implementing a structured audit of complaint procedures; • formalising our “point of complaint” targeted supervision activities, drawing evidence from our new database; • updating our Supervision Policy to capture the above. 	<p>Achieved (Q3)</p> <p><i>We developed new supervision frameworks, using a consistent approach and format, for supervising compliance with the Accredited Costs Lawyer Rules, our guidance on complaints procedures, and the CPD Rules. These were approved by the board in April and are now operational. An audit of complaints procedures was carried out under the framework in Q2. A framework for point-of-complaint supervision and a new Supervision Policy describing our approach were approved by the board in October and the full suite of documents is now available on the website.</i></p>
9.	<p>Take an in-depth look at three key areas in which we have identified risks of poor consumer outcomes, namely:</p> <ul style="list-style-type: none"> • under-insurance; • handling of client money; and • communication of complaint procedures, <p>in order to:</p>	<p>Achieved (Q4)</p> <p><i>We completed our review in relation to Costs Lawyers handling client money and updated our guidance note accordingly, with the decision-making process being recorded in a published Board Decision Note.</i></p> <p><i>We looked at how complaints procedures are developed and communicated through the lens of our new audit framework and reported back to the board in July. We built a webpage communicating learnings from that</i></p>

	<ul style="list-style-type: none"> improve our understanding of the risk profile across the profession in each area, making use of our new audit and data capture processes; ensure we accurately record these risks, for transparency and monitoring purposes; assess whether our current regulatory arrangements in these areas appropriately mitigate the risks, informed by evidence from consumer complaints; consider whether there are more proportionate, targeted or innovative ways to address the risks, particularly in the context of market developments and technological change. 	<p><i>audit to mitigate risk throughout the broader regulated community.</i></p> <p><i>In Q4 we reviewed evidence of risks relating to underinsurance. A paper setting out our findings will be put to the board at this meeting, completing this priority.</i></p>
10.	Consider how we can improve consumer information in relation to the regulatory status of the organisations in which Costs Lawyers practise.	<p>In train (expected Q1 2022)</p> <p><i>We wrapped this priority into our successful bid for grant funding from the Regulators' Pioneer Fund. Work on the project commenced in Q3 and will conclude in March 2022 in accordance with the funding terms. The project challenge board met in December. An update report will be provided to the board at this meeting.</i></p>
11.	Test the efficacy of the new interim suspension order (ISO) powers in our Disciplinary Rules and Procedures, based on our early experience of disciplinary proceedings in which the imposition of an ISO was considered.	<p>Deprioritised / delayed</p> <p><i>No opportunities arose during 2021 to test the ISO power in practice. We will carry out this work when a suitable disciplinary case presents itself in future years. To ensure this workstream is not forgotten, we have embedded consideration of ISOs into a new triage process that will be put to the board for consideration at this meeting.</i></p>

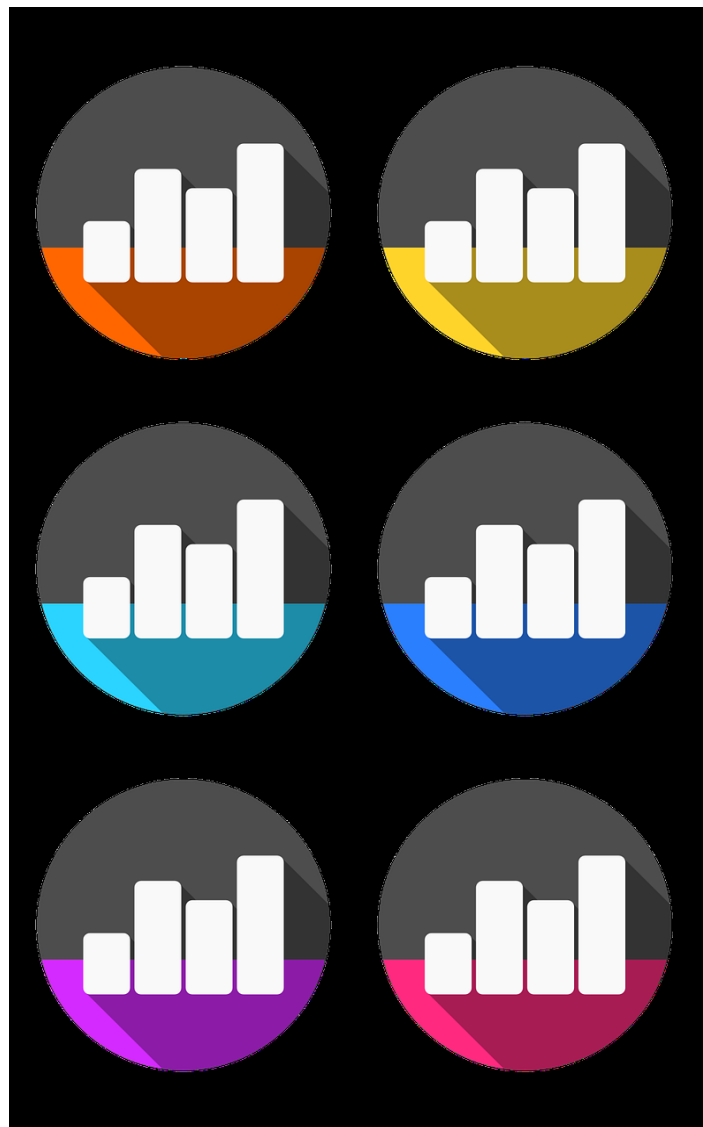
Modernising our organisation

	Initiative	Progress status
12.	Measure the success of the electronic practising certificate renewal process implemented in 2020 against five key metrics (cost; resource implications; user feedback; data security; and data quality) and identify any adjustments needed for the 2021 renewal period.	Achieved (Q1) <i>We carried out a comprehensive review of the new electronic PC renewal process against the five metrics. A report was considered by the board in January. A number of improvements to the PC application form and database have been identified through that process and a workplan has been put in place to deliver those improvements before PC renewals begin again in November.</i>
13.	Deliver the second phase of our digital workplan, including: <ul style="list-style-type: none"> • reviewing how we use IT for financial management; • creating e-forms for processes other than annual practising certificate renewals; • building add-on functionality for the Costs Lawyer database, informed by learnings from the 2020 practising certificate renewal process. 	Achieved (Q3) <i>The first version of our new financial management system has been built and is being used for financial recording and reporting. Development of the new online application forms was carried out in Q2; all our application forms are now available as updated e-forms via the website. A new client survey e-form has been successfully launched. A major upgrade of the Costs Lawyer database, with enhancements informed by learnings from the 2020 PC renewal process, has been completed and fully tested. Bug-fixes and further changes to reflect improvements to the annual PC renewals process will continue on an ongoing basis.</i>
14.	Review our governance arrangements, including our suite of governance documents, to ensure they provide a robust framework for oversight and accountability and continue to meet the standards of the Corporate Governance Code 2018.	Achieved (Q4) <i>Work on this priority began in Q3 with the governance strategy session at the July board meeting. We appointed an independent consultancy to ensure the outcome of the review reflects current best practice. The outcome of the review – a proposed new suite of governance documents and arrangements – will be put to the board for consideration at this meeting and implemented thereafter. The new documents incorporate the recommendations arising from the LSB's review of the BSB's and Faculty Office's governance arrangements, as reflected in the updated tracker document that will also be provided to the board.</i>

15.	Revisit the effectiveness of our new operating structure to identify whether and where further improvements can be made.	Achieved (Q4) <i>Ongoing review of the effectiveness of our operating structure led to the recruitment of additional policy and education resource in early 2021. Our Business Continuity and Disaster Recovery Plan was reviewed in February 2021 to take account of the changes. The constitution and remit of the board were considered as part of the governance review (priority 14) in Q4.</i>
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Performance indicators

2021 stock take



January 2022

Costs Lawyer Standards Board

CLSB



Regulatory metrics

As part of its oversight role, the Legal Services Board asks all approved regulators of legal services to provide an annual performance management dataset. The dataset for the 2020 practising year is published in our current [Performance Indicators](#) document (PID). In Q1, the PID will be updated with the statistics below for the 2021 practising year, which have recently been finalised.

AUTHORISATION

Applications

Number of authorisations processed	699
Outcomes of applications for authorised persons	699 approved
Type of application:	
Newly Qualified	10
Annual Renewal	674 (processed in 2021 for 2022 practising year)
Reinstated	15

Timeliness

From date of completed application:	(day 1 being the day of receipt)
Median time taken	1 day
Mean time taken	1.39 days
Longest time taken	22 days (next longest 7 days; next longest 3 days; 78% completed on the day of receipt; 86% completed by the following day)
Shortest time taken	1 day

Appeals

Number of appeals received and concluded	0
Number of appeals where a decision has been made to overturn the initial decision	N/A

SUPERVISION: ACCREDITATION

Accredited Costs Lawyer Application

Number of applications processed	8
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Timeliness (Accredited Costs Lawyer Application)

From date of completed application:	(day 1 being the day of receipt)
Median time taken	1.5days
Longest Time Taken	3 days
Shortest Time Taken	1 day

SUPERVISION: ENFORCEMENT

Conduct Cases

Number of cases received	0 (cases necessitating investigation)
Number of those cases concluded	N/A
Number outstanding	N/A

Timeliness

From acceptance of complaint to final decision	
Number of cases considered	0
Median time taken	N/A
Longest time taken	N/A
Shortest time taken	N/A

Decision Type

By CLSB (level 1)	0
By Conduct Committee (level 2)	0

Appeals

Number of appeals (level 1)	0
Outstanding	N/A
Where decision was overturned	N/A
Where decision was upheld	N/A
Settled by consent	N/A
Number of appeals (level 2)	0
Outstanding	N/A
Where decision was overturned	N/A
Where decision was upheld	N/A
Settled by consent	N/A

GOVERNANCE AND LEADERSHIP

Organisational Health

Board membership turnover	1
Executive employee turnover	0
Reasons for increase/decrease	Chair retired at end of term, as planned

Complaints

Number of justified complaints about the regulator	0
The subject matter of the justified complaints	N/A
Timeliness (Complaints)	
Median time taken	N/A
Longest Time Taken	N/A
Shortest Time Taken	N/A

Governance metrics

Robust management and oversight

As explained in the PID, the purpose of the metrics below is to help us identify and address any emerging risks or potential weaknesses in our governance processes. The first three columns (in blue) are taken from the PID. The fourth column (in red) provides an overview of progress in 2021 against each metric. The final column suggests possible updates to the metrics for 2022, for consideration by the board.

Oversight area	Metric	Outcome	Progress in 2021	Proposal for 2022
Sound financial management	Level of reserves	One year's operating budget as reserves by 2025	We contributed £5k to a new committed reserves pot in 2021. A risk analysis exercise showed that we could reduce our uncommitted reserves target to six months' operating budget. We have met that target.	Adjust this outcome to reflect the restructuring of our reserves in 2021 and amendments to the Reserves Policy. Having met our uncommitted reserves target, the updated outcome would involve retaining those reserves and reaching our new uncommitted reserves target.
Appropriate resourcing	Stakeholder comfort that our operating structure is sustainable and appropriate for our size	Meet the LSB's standards in the regulatory assessment under outcome WL:GL2	At the end of 2020, the LSB remained concerned about our resources and scale in the longer-term. During 2021 we improved our operating structure further and found new ways of securing resource and reducing costs. We are now assessed by the LSB as meeting outcome WL:GL2.	Retain this outcome and aim to maintain our "met" assessment in 2022. The LSB's assessment is not static and requires continued reassurance and evidence that we are properly resourced. Consider updating the outcome when the LSB's new performance framework is introduced.

Business continuity	Degree of business interruption at points of change	No material business interruption incidents arise through absence or turnover of staff or contractors	<p>In 2021, we successfully procured new policy resource and there has been no unplanned attrition. There was no material business interruption from staff absence or turnover (or otherwise).</p> <p>Web-based systems – including the ability to transfer “ownership” of the database temporarily – have improved continuity during absences.</p>	Our business continuity processes are now well-embedded. Consider whether this outcome is still relevant for 2022 (albeit keeping in mind we have not had a major change of executive staff since the PID was developed).
Risk management and mitigation	Level of impact on the organisation when risks, of which the board was or should have been aware, materialise	None of the operational, governance or strategy metrics in this document is detrimentally impacted by materialisation of one or more risks of the kind described	<p>Challenges in the relationship between ACL and ACLT arose during 2021, putting the first and last strategy metrics below (<i>collaborative relationship</i> and <i>facilitator of trust</i>) in jeopardy. This will again be an area of focus in 2022.</p> <p>Otherwise, none of the metrics in the PID has been detrimentally impacted by materialisation of the described risks.</p>	This remains an important indicator of whether our risk registers and controls are operating effectively. Retain this metric as it is in 2022.
Cultural alignment and accountability	Level of NED satisfaction with the CLSB on cultural indicators, including receptiveness to challenge, inclusivity, and openness to change	All NEDs report, in annual survey, being satisfied or very satisfied with the CLSB on cultural indicators	The survey showed that all NEDs were ‘entirely satisfied’ across each of the cultural indicators, representing an improvement on the 2021 results. The survey feedback signals an open and inclusive culture within which we can make effective progress.	Given the cultural shift within the organisation, this metric is becoming less important. We retained this outcome in 2021 given the change of Chair. Consider whether it remains a valuable indicator.

Strategy metrics

Successful implementation of our mid-term strategy

As explained in the PID, the purpose of the metrics below is to help us track progress against the goals in our mid-term strategy. If outcomes are not being achieved, this will prompt us to consider the reasons why, how we can improve, and what the consequences might be for achievement of our strategy. The fourth column in the table (in red) provides a status update at as December 2021. As these metrics are aligned to our mid-term strategy, the intention is to retain them until that strategy concludes in 2023, subject to any feedback from the board.

Strategy area	Metric	Outcome	Status at end of 2021
Collaborative relationships	Regulatory or operational developments that could not have been achieved by the CLSB acting alone	At least two significant developments in 2020, rising to at least three in 2021 and 2022, and at least four in 2023	<p>Examples of developments this year:</p> <ul style="list-style-type: none"> We leveraged the research capabilities of other organisations, such as the LSB's Public Panel, to look for consumers of Costs Lawyers' services who could tell us about their experience. We secured participation from a wide variety of stakeholders – including practitioners, academics, regulators and others – in our Competency Statement project, through interviews, focus groups and panels, enabling us to deliver a robust and validated product. We worked with the MoJ and other legal regulators as a member of the LawtechUK Regulatory Response Unit to help legal innovators navigate the regulatory landscape. <p>The biggest challenge in pursuing this metric is that the outcome relies on the priorities and willingness of others. This can mean a high time investment for an unpredictable level of impact.</p>
Robust approach to evidence	Stakeholder comfort in the way evidence is used to inform our regulatory arrangements and board level decision-making	Meet or exceed the LSB's standards in the regulatory assessment under outcomes RA3, RA4, WL:GL3 and WL:GL4	Continuing to demonstrate how our evidence base informs our decision making was a key priority for us in 2021. By the December regulatory performance assessment, the CLSB was assessed as meeting all of the LSB's standards, including RA3, RA4, WL:GL3 and WL:GL4. In 2022, we will aim to reassure the LSB that the improvements to our regulatory performance are being sustained.

Bespoke risk-based regulatory approach	Prevalence of detrimental consumer outcomes, combined with the burden imposed on Costs Lawyers by our regulatory arrangements	No detrimental consumer outcomes caused by professional conduct issues that are not resolved at first tier, combined with at least 95% of Costs Lawyers considering the CLSB to be an effective regulator	<p>We continue to actively encourage first tier resolution of complaints. All complaints were successfully resolved in that way in 2021, other than the following exceptions, none of which involved detrimental consumer outcomes:</p> <ul style="list-style-type: none"> • one complaint was investigated by the SRA, in which the Costs Lawyer was found to have no case to answer; • two ongoing matters have not yet been escalated as formal complaints to the CLSB or been resolved; • several voluntary disclosures were made, one of which prompted enquiries about detrimental consumer outcomes, but evidence was provided to show that an acceptable resolution had been reached with the affected client. <p>In 2021, 99.5% of Costs Lawyers who responded to this question in the regulatory return considered the CLSB to be an effective regulator. This was up from 97% in 2020.</p> <p>For the first time, we also included a free text box in the renewal form to capture more meaningful feedback. The responses were overwhelmingly positive and very insightful; a verbatim read-out has been provided separately to the board.</p>
Facilitator of trust	Level of integration into the regulated community	There is a sustainable route of entry into the profession, with long-term viability, by 2023	<p>The Costs Lawyer Qualification reopened in 2020 and ran again in 2021. The cycle of viability assessment, audit and accreditation proved challenging this year. In 2021 we carried out a flagship project to develop a new Competency Statement, and a new provider accreditation framework is under development. These will support new Training Rules in 2022, providing the basis to create a sustainable and viable qualification going forward.</p>

Results of satisfaction survey

For measuring progress against KPI metrics relating to cultural alignment and accountability

January 2022

Participants

The survey was completed by the four non-executive directors on the CLSB board in January 2022.

This paper contains comparisons to the results of the 2021 satisfaction survey. The survey questions were the same in both years, however the Chair of the board participated in the 2021 survey but not the 2022 survey, to ensure the NEDs' views were accurately reflected.

1. How satisfied are you that the CLSB board has the following characteristics?

Respondents could indicate that they were: not satisfied; somewhat satisfied; neither satisfied nor dissatisfied; mostly satisfied; entirely satisfied.

Characteristic	Entirely satisfied
I have the opportunity to share my views in board meetings.	100%
I feel respected and listened to by my fellow NEDs.	100%
I feel comfortable speaking up when I disagree with the Chair.	100%
I feel comfortable speaking up when I disagree with a fellow NED.	100%
The board reaches decisions through a collaborative process.	100%
The board is open to new ideas and suggestions.	100%
The board values my unique perspective, skills and traits.	100%
The CEO is open to feedback and constructive challenge.	100%
The CEO acts on the board's feedback and constructive challenge.	100%

By way of comparison, in 2021, 100% of respondents were entirely satisfied across all characteristics other than "The board is open to new ideas and suggestions" and "The board values my unique perspective, skills and traits". In relation to those two characteristics, 80% were entirely satisfied and 20% were mostly satisfied.

2. What three words would you use to describe the CLSB's culture?

Responses in 2022

Adaptable	Curious	Inclusive (again)
Ambitious	Diligent	Motivated
Assured	Efficient	Open
Connected	Inclusive	Open (again)

Responses in 2021 (for comparison)

Ambitious	Collaborative	Collegiate
Committed	Considered	Constructive
Determined	Embracing	Forward thinking
Modern	Open	Supportive
Supportive (again)	Thoughtful	Transforming

3. Are there any changes that could be made to improve the culture of the board / organisation?

I think we're in a strong place at the moment. To stay there we need to keep challenging what we're doing and why; keep looking ahead as to where we want to be and what we need to look like. Also important to reflect on where we've come from and evaluate how we've done. Lots of positive to repeat as well as tweaks to do differently another time.

Not that immediately come to mind.

END

BOARD DECISION NOTE

Costs Lawyer Standards Board

Date of Decision: 17 November 2021

Issue: Accreditation of ACL Training to provide the Costs Lawyer Qualification in 2022

Board constitution: Rt Hon David Heath CBE (Chair): Lay NED¹
Stephanie McIntosh (Vice-Chair): Lay NED
Paul McCarthy: Non-Lay NED
Andrew Harvey: Lay NED
Andrew McAulay: Non-Lay NED

1. Background information and summary of the issue

This Board Decision Note records the decision-making process in relation to accreditation by the CLSB of ACL Training (ACLT) to deliver the Costs Lawyer Qualification to existing and new students in 2022.

Background

ACLT, which is a training subsidiary of the Association of Costs Lawyers (ACL), is currently the only accredited provider of the Costs Lawyer Qualification. ACLT must be reaccruited by the CLSB in order deliver the course each year. A [separate Board Decision Note](#) dated 10 October 2019 explains the decision-making process in relation to accrediting ACLT to provide the course in 2020, following a two year period during which ACLT was not accredited to take on new students.

Audit

Accreditation is based on the outcome of an audit, under the terms of a Protocol between ACLT and the CLSB. The Protocol is published at Annex 10 of the Board Decision Note dated 10 October 2019 referred to above.

In [October 2020](#), the board was updated about ongoing collaboration with ACLT to develop a refreshed audit framework for the Costs Lawyer Qualification, for use in 2020 and beyond. The board supported the new approach, including the possibility of accrediting the course for three to five years subject to annual reporting on targeted matters.

In [January 2021](#), the board was updated on progress with ACL and ACLT toward completion of the qualification audit under the refreshed framework. The board noted that obtaining the audit materials from ACL was taking significantly longer than anticipated and that, despite earlier agreement from ACLT that the new framework would be beneficial for all parties, ACL was not in agreement. The ACL Chair and Vice Chair - who were board directors of ACLT - would not allow the CLSB to seek the required audit materials directly from ACLT; the CLSB was instructed to route all enquiries and requests through ACL and this was causing delays. The board considered whether and how the issue should be escalated and agreed that the executive should come back to the board if escalation became necessary.

¹ David Heath joined the board as Chair in March 2021. Board matters referred to in this Note that took place prior to March 2021 were overseen by the former Chair, Steve Winfield.

In [April 2021](#), the board was informed that since January progress on the audit had been slow but in mid-March, after various conversations between the CLSB executive, ACL and others, ACL had permitted the CLSB to obtain the required audit materials directly from ACLT. ACLT had provided the materials and the executive was reviewing these along with its education consultant. The board was provided with ACL's viability report for the course long with two reports of an ACL Council working party that was conducting a review of various matters relating to education.

The board discussed the implications of those developments and documents in detail, agreeing that they highlighted a number of risks of particular concern around governance structures and oversight of the course. The board discussed the need to put plans in place to safeguard students in the event of unexpected suspension of course provision for any reason.

In June 2021, the board received (by email) information about the outcome of ACL's education review, including the final report of the ACL Council working party. ACL had engaged a consultancy, Hook Tangaza, to assist with implementing governance changes following the review.

Also in Q2 2021, the CLSB completed its audit report, based on the materials provided by ACLT, making recommendations for improvements to the course. A draft action plan was prepared by ACLT in collaboration with Hook Tangaza, setting out how the audit recommendations would be addressed and the timescales for doing so. Those documents, along with a course overview paper from ACLT, were considered by the board in [July 2021](#). The board agreed that the direction of travel set out in the action plan was a good start in addressing the audit recommendations. The board was also content with the proposed timescales, given the need to align these with the milestones in Hook Tangaza's ongoing governance project. Accreditation of the course for 2022 would be linked to timely delivery of the action plan.

In [October 2021](#), the board was updated on progress with Hook Tangaza's review (which underpinned delivery of several aspects of the action plan), ACLT resourcing, and the timetable for ACL to take a decision on viability of the course for 2022. The board also considered several draft reports provided by ACLT and Hook Tangaza to address the recommendation in the CLSB's audit report and thus complete the action plan. The board discussed the timeline for determining whether to accredit the course for 2022 and agreed that the executive should continue to liaise with ACL and ACLT to push things forward and avoid delays, which could detriment students. The board agreed that a decision from ACL on whether to accept new students was needed at an earlier stage than in 2020, when a decision was not communicated to the CLSB until December.

Audit outcome

In November 2021, the executive confirmed to board members (by email) that the reports from ACLT and Hook Tangaza had been finalised and the action plan had therefore been delivered. The board was provided with the suite of documentation from ACLT as well as an updated financial viability report for the course in 2022, based on final applicant numbers. The board was also provided with a draft accreditation letter, that had been

prepared by the executive, containing a series of recommendations for the course that needed be actioned in 2022 and reported on during the next audit round.

2. Evidence considered by the Board

- Course materials provided by ACLT
- CLSB audit report and recommendations
- ACLT action plan for addressing the recommendations
- ACLT reports evidencing delivery of the action plan
- Viability report for the course in 2022

(Note: these documents contain commercial information provided by ACLT to the CLSB in confidence, and are therefore not published with this Board Decision Note. If a reader would like further information in order to understand the CLSB's decision-making process, please contact enquiries@clsb.info to discuss how that information might be safely provided.)

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

The executive recommended that ACLT be accredited to provide the Costs Lawyer Qualification training course to new and existing students in 2022, on the basis set out in the accreditation letter. The Chair recommended that the letter be sent immediately given the need to give course applicants certainty about whether new students would be accepted.

4. Other factors considered by the Board

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

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

- CLSB independence: The CLSB's independence is demonstrated through the robust approach to auditing delivery of the Costs Lawyer Qualification and objectively considering, based on evidence, the ongoing appropriateness of accrediting ACLT.
- Furtherance of the regulatory objectives / consumers: Ensuring a robust audit and accreditation process for the entry qualification is central to promoting the regulatory objectives of (i) encouraging an independent, strong, diverse and effective legal profession, and (ii) protecting and promoting the interests of consumers.
- CLSB's financial position: There are annual costs incurred by the CLSB whenever the course takes on new students. However these will be at least partially offset

by increased PCF income from new entrants into the regulated community as students qualify.

- Equality and diversity: Accrediting ACLT to enrol new students on the course will enable the CLSB to undertake initiatives to encourage diversity at the point of entry into the profession.
- Data privacy: This decision does not impact data privacy.

5. Risk assessment

The key risk in accrediting ACLT to take on new students is that insufficient student numbers over time could mean the course is not profitable and ACLT therefore cannot fully deliver the course to those enrolled. This involves risk to individual students, their employers, the reputation of the profession and the reputation of the CLSB. It also poses potential financial risks to the CLSB, should there be any suggestion that the accreditation process was not sufficiently robust. The CLSB board will only accredit ACLT where these risks are appropriately mitigated.

Mitigation of these risks is achieved via the commitments made under the Protocol between the CLSB and ACLT (particularly at paragraphs 5 and 9) that sufficient resource will be provided to see all students through to completion of the course. The viability report provided to the board establishes that ACL has sufficient capital reserves to meet that commitment, if necessary, based on projections for the course. The board considers those projections to be realistic based on the information provided.

The second key risk is that the recommendations made in the accreditation letter are not sufficiently addressed, impacting the quality of education delivery. The CLSB will work with ACLT – including its new governing board – throughout the year to understand and monitor progress. The CLSB is also developing a new accreditation scheme which will create more transparent and clear processes (such as the imposition of conditions on accreditation) for driving forward any necessary improvements.

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

ACLT was accredited to deliver the Costs Lawyer Qualification to existing and new students in 2022, via the accreditation letter dated 17 November 2021. That decision was ratified by the board at its scheduled meeting on 2 February 2022.

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

N/A

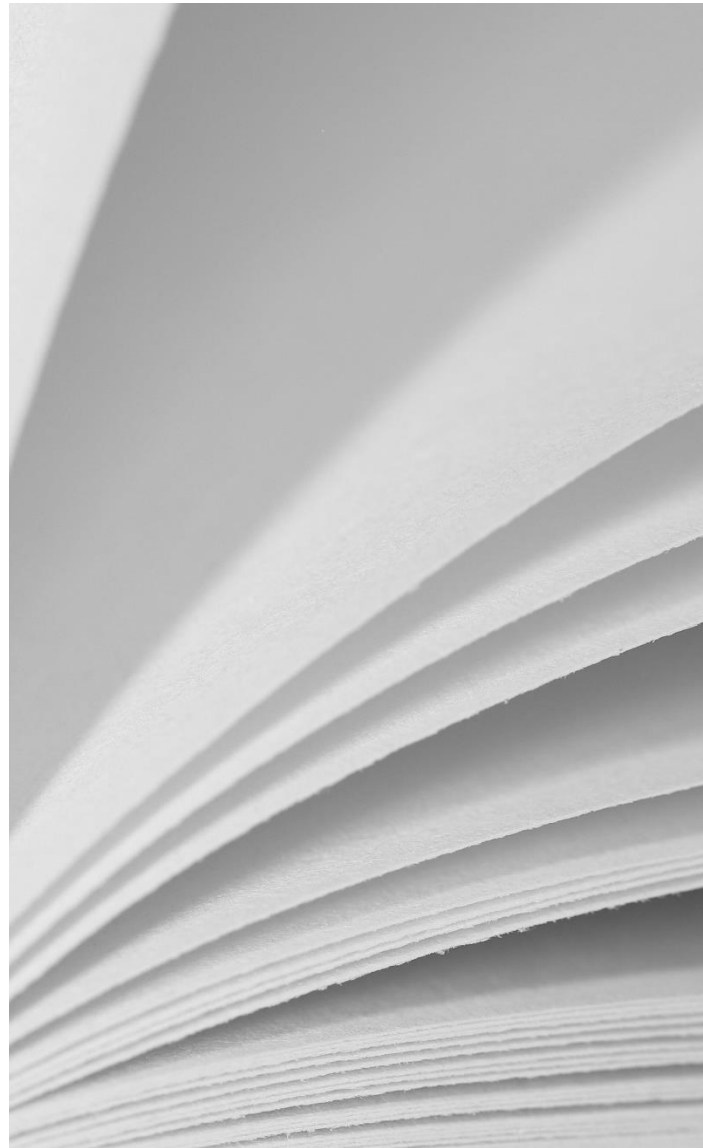
8. Provision of the Legal Services Act 2007, or other legislation, under which the decision was made

Sections 28 and 51(4)(a) of the LSA.

Board Decision Note approved by the Board on: 2 February 2022

Costs Lawyer Competency Statement

Costs Lawyer Standards Board



Overview

The Costs Lawyer Standards Board (CLSB) regulates Costs Lawyers under the framework established by the Legal Services Act 2007. Costs Lawyers must fulfil certain criteria before they can apply to the CLSB for authorisation to practise without supervision. One of those criteria is that they have completed the Costs Lawyer Qualification.

The CLSB sets parameters for the Costs Lawyer Qualification – such as entry requirements and course structure – through the [Training Rules](#) and supplementary [course documentation](#). The Qualification is then delivered to students by an Accredited Study Provider. Currently, the only such provider is ACL Training, an affiliate of the Association of Costs Lawyers (ACL). The training provider is responsible for developing a detailed syllabus, creating training materials, delivering the course to students and determining appropriate assessment methods.

In order to facilitate a clear, shared understanding of the level of competency expected of Costs Lawyers at the point they qualify into the profession, we undertook a comprehensive programme of research and engagement to develop a new Competency Statement for qualifying Costs Lawyers. We issued a [consultation on the proposed Competency Statement](#), which closed on 18 October 2021.

We received responses to the consultation from: ACL Training; ACL; the Legal Services Consumer Panel (LSCP); the Solicitors Regulation Authority (SRA); Nottingham Law School (NLS); LawCare; and an individual Costs Lawyer. We note that the views of many individual practitioners had already been incorporated at earlier stages of the project through one-to-one interviews and focus groups. Our methodology is summarised at pages 5 to 6 of the consultation document. All responses were constructive and helpful, and we would like to thank respondents for taking the time to engage with this work.

In light of the consultation responses, we intend to implement the Competency Statement, subject to amendments described in this consultation outcome report. Implementation will take place as part of a wider package of reforms to our regulatory arrangements for the Costs Lawyer Qualification, which will be subject to further consultation and prior approval of the Legal Services Board during 2022.

Responses to consultation questions

General feedback

Five respondents strongly endorsed the introduction of a Competency Statement by the CLSB, and no respondents disagreed with the proposal to introduce a Competency Statement. ACL noted a common thread in its responses to the specific consultation questions, namely that the Competency Statement will only be effective if it accurately reflects the changing needs of the profession and its clients, and thus requires ongoing review to ensure its continued relevance and fitness for purpose.

The LSCP noted its expectation that some consumers would find the Competency Statement very helpful in understanding what they can expect from a practising Costs Lawyer. While the LSCP acknowledged the variety of sources consulted in the CLSB's research, it also noted the importance of engaging with the consumers of Costs Lawyers' services to obtain a clear picture of what consumers want from the Costs Lawyers they have engaged, ensuring the consumer perspective is incorporated into the Statement.

The SRA confirmed that the proposal to introduce the Competency Statement aligned with its own regulatory approach. The SRA commented on the benefits it has realised through its 2016 Statement of Solicitor Competence, including that it provided a reference point for reflecting on ongoing competence and underpins the Solicitors Qualifying Examination, helping to make sure it is rigorous, consistent and relevant to modern legal practice. This aligns with the CLSB's objectives in developing its Competency Statement and we are grateful to the SRA for sharing learnings from its own work throughout this project.

CLSB response

We agree with ACL's observation about the need to keep the Competency Statement current over time. We had this objective in mind when developing our project methodology, particularly through the first Subject Matter Expert strategic review which aimed to identify future market developments, technological advances and consequent job specification changes over time. In light of ACL's observation, we will also develop a

review programme for the Competency Statement covering, initially, the first five years following implementation.

In relation to the LSCP's recommendation to directly investigate consumer expectations, we endeavoured to identify a group of individual (lay) consumers who we could test the Competency Statement with, but given the relatively small numbers of such clients in the market we could not generate a sufficient sample. We are separately undertaking research to better understand consumer outcomes in the context of our [consumer engagement strategy](#), and we will ensure that findings from that research are reflected in the review programme mentioned above. We are mindful of the need to ensure the Competency Statement both reflects and informs consumer expectations and welcome the LSCP's continued interest in the project.

Finally, we are conscious of the need to avoid direct inconsistency with the SRA's regulatory approach, given that around half of the regulated community of Costs Lawyers practises in organisations that are authorised by the SRA. We therefore welcome the SRA's confirmation that the approach taken in the Competency Statement is well-aligned with its own.

Consultation question 1: Is it clear from pages 3 to 5 of the Competency Statement how the document should be used and how the elements fit together? If not, what other information would be helpful?

All respondents agreed that it was clear how the elements of the Competency Statement fit together and how the document should be used, and a number of respondents commented on aspects they found particularly useful. Several respondents made suggestions for how aspects could be further improved, as follows:

- ACL Training suggested adding an explanation of the relationship between the Competency Statement and (future) educational standards and assessment of students, as well as more detail around the requirement that the Competency Statement be read in conjunction with the Costs Lawyer Handbook.

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- The LSCP suggested signposting to mechanisms for raising concerns that a particular Costs Lawyer is not operating at the minimum standard, and also clarifying (in the text on page 3 of the Competency Statement) the relationship between the minimum standard and other elements.
 - ACL suggested the status of professional attributes may be more effectively presented as “umbrella” attributes rather than elements that only come about after reaching the Minimum Standard.
 - NLS suggested referring to employers as potential users of the document as well as clarifying what happens if the minimum standard is not met following qualification. NLS also made some further suggestions in relation to how the Competency Statement informs amendments to the CLSB’s regulatory arrangements for the Costs Lawyer Qualification. These were helpful and will be taken into account in the next stages of our work, although did not necessitate changes to the Statement itself.

CLSB response

We have amended the Competency Statement to take into account the feedback above. However, we have not actioned two of the suggestions for the following reasons:

- We have not at this stage added an explanation of the relationship between the Competency Statement and (future) education and assessment standards. We see the merit in this suggestion, however new education standards will be developed during 2022 using the Competency Statement as their foundation. We do not feel it would be helpful to cross-refer to the existing course documentation at this stage, as it is not yet in line with the Competency Statement and may cause confusion. We will consider in due course whether it would also be useful to update the Competency Statement with cross-references to the new education standards, once implemented.
- We agree that the attributes could be described as “umbrella” competencies that do not come about only after a Costs Lawyer reaches the Minimum Standard. We

feel this is already well described throughout the document, particularly through references to the attributes being developed during training and beyond (i.e. before and after attainment of the Minimum Standard). While this element appears last in the diagram on page 4 of the Competency Statement, this is intended to show (as stated) that it supports all the other elements in the framework.

Consultation question 2: Does the Competency Statement reflect the knowledge you would expect a newly qualified Costs Lawyer to have? If not, which areas should be added or excluded, and why?

Four respondents answered this question. The individual Costs Lawyer agreed that the Competency Statement reflected the knowledge expected of a newly qualified practitioner. NLS noted that the detail of the knowledge elements would be important in achieving the diversity aim of the project, in terms of making the route to entry more flexible and accessible. Otherwise, NLS felt that it did not have sufficient insight into Costs Lawyers' work to provide in-depth feedback on the knowledge competencies.

The most detailed responses to this question were received from ACL and ACL Training, each of which provided helpful insights based on their perspectives and experience. ACL confirmed that it was satisfied that the knowledge areas set out in the Competency Statement were broadly accurate. It suggested that the detailed table on pages 8 and 9 of the consultation document be included in the Competency Statement itself, to enable readers to understand what knowledge categories such as "other litigation" encompass.

ACL also noted that, whilst a student could be working in a particular environment during their supervised practice, they might move into another environment where they are faced with different work types, such as legal aid or probate. ACL felt that it was important that the knowledge categories were flexible enough to reflect those circumstances.

Finally, ACL noted that the changing professional environment for Costs Lawyers is leading to a greater emphasis on advocacy at varying levels. ACL expressed its hope that

these changing trends would be monitored and incorporated into the knowledge areas as necessary.

ACL Training agreed that all nine of the identified knowledge areas should be included in the Competency Statement, but felt that some important knowledge areas might not be captured under the headings used. These included Court of Protection work and proceedings in special forums that do not involve specialist areas of law (such as the Supreme Court or arbitral tribunals).

ACL Training also felt that some knowledge areas, such as contract law, were too broad and did not sufficiently draw out on their face the specialist knowledge that differentiates Costs Lawyers from other more generalist regulated legal practitioners. ACL Training believed this could cause difficulties for practitioners wishing to cross-qualify from other professions or for lay readers of the Competency Statement who might not readily be able to discern how Costs Lawyers are distinguishable from other lawyers.

To address these issues, ACL Training suggested reorganising the knowledge categories, by retaining five of the knowledge areas (civil litigation, legal aid, contract, tort, and professional standards and ethics) and substituting the remaining areas for four new areas, namely: costs pleadings and process; quantification and assessment of costs; costs in special courts; the lawyer-client relationship and funding agreements. ACL Training set out what it felt might be included in these alternative knowledge areas and its reasoning as to why they were preferable.

ACL Training drew on existing student data to provide evidence in support of its submissions. In particular, it provided helpful statistics on the specialist areas in which students were working at the point of application to the course. This data supported a number of the CLSB's own conclusions – such as the need for all Costs Lawyers to have a general understanding of legal aid costs at the point of qualification – and also supported some of ACL's submissions, for example that students often work across different specialisms.

Finally, like ACL, ACL Training asked that we consider including the explanatory table on pages 8 and 9 of the consultation document (which states the rationale for including each knowledge area) into the Competency Statement itself.

CLSB response

The table on pages 8 and 9 of the consultation document was intended to help readers understand the rationale for the knowledge competencies, based on our research findings, so that consultation respondents could meaningfully assess whether each knowledge area should be included. We had not envisaged this forming part of the Competency Statement, however both ACL and ACL Training recommended that it be added in order to aid understanding. Given this feedback, we have incorporated the table into the Competency Statement, subject to some amendments to reflect other feedback (as described further below). We would reiterate, as set out in the consultation document, that the Competency Statement is not intended to detail the specific topics that should be covered within each area of knowledge during the Costs Lawyer Qualification. Learning outcomes for each area will be developed by the CLSB following this consultation, and those learning outcomes will be brought to life by the training provider during course design and delivery.

We carefully considered ACL Training's suggested changes to the knowledge areas in the Competency Statement. For the most part, the proposed changes are presentational – i.e. they do not seek to change the ground covered by our own categorisation – and therefore they remain consistent with our research findings. In the discrete areas where ACL Training felt that additional knowledge requirements should be included, it provided evidence for this (for example, data showing that 34% of students¹ reported undertaking Court of Protection work).

We feel it is important to cast the knowledge competencies in such a way that they do not exclude specialist knowledge that ACL Training has demonstrated is relevant to the work of at least a significant minority of qualifying Costs Lawyers, and their clients by

¹ Based on data captured from course application forms for students who enrolled on the course in 2019 and 2020, being 70 students in total.

extension. Both ACL and ACL Training emphasised the possibility of taking on different types of work following qualification – an issue we also acknowledged in the consultation document – and thus the need for an understanding of general principles in areas of possible specialism to establish a baseline level of competency. ACL Training agreed that individuals undertaking specialist work would benefit from additional training through optional modules and/or CPD, as envisaged in the Competency Statement.

Given the above, we agree that we should amend the knowledge areas in the Competency Statement to take into account the reasoned feedback received from ACL Training insofar as necessary to ensure that core knowledge areas are not excluded and to improve clarity for readers as to how a Costs Lawyer’s competencies differ from other types of legal advisers. In pursuit of this, we have recast the knowledge areas to remove four categories (other litigation, budgeting, bills of costs, and points of dispute and reply) and add three, as follows:

- We have introduced the knowledge area of “costs pleadings and process”, which draws in budgeting, bills of costs and points of dispute and reply (rather than these being standalone knowledge areas as proposed) and other technical procedural aspects of costs work as noted by ACL Training. Our intention is that the descriptor “costs process” will cover knowledge of the processes involved in the quantification and assessment of costs, which ACL Training points out is knowledge that is generally transferable between specialist areas. For this reason, we do not feel it is necessary to include a separate “qualification and assessment of costs” knowledge area as suggested by ACL Training.
- We have introduced the knowledge area of “practice and procedure in specialist forums”. This covers the knowledge of specialist legal areas (and their corresponding specialist courts and tribunals) that we had intended to include in our proposed “other litigation” category, and extends further to civil litigation in specialist forums. ACL Training had suggested presenting this area as “costs in special courts”. We feel it is wider than just courts (covering, for example, tribunals and arbitral bodies) and is wider than just costs (extending to knowledge

of the wider dispute resolution processes and substantive issues that arise in specialist forums, which are necessary to understand the costs aspects of a case).

- We have introduced the knowledge area of “the lawyer-client relationship and funding arrangements”, to draw out the advanced aspects of contract law and professional standards knowledge that are essential for advising on costs structuring and lawyer-client fee disputes.

In relation to the additional feedback from ACL:

- We acknowledge that students might switch specialism during or after qualification, and indeed might take on multiple specialisms throughout their careers. We agree with ACL that it is important for the knowledge categories to reflect this. Our research showed that a general knowledge of areas including legal aid, tort (including personal injury and clinical negligence), employment, immigration, family and criminal law would facilitate the switching of specialisms amongst Costs Lawyers and also ensure that a junior lawyer who is asked to do work in any of these areas would have a basic level of knowledge and competency that could be applied to the task, for the benefit of the client. The Competency Statement therefore requires all qualifiers to have knowledge of key concepts and general principles in these areas, alongside more detailed knowledge of core areas that are relevant to the bulk of costs work (such as contract law and general civil litigation). There is then scope and flexibility within the Competency Statement for those who specialise (or want to specialise) in a particular area to gain more detailed knowledge of that area within the framework of the course, through optional modules. Costs Lawyers who switch or acquire specialisms following qualification would be able to access relevant training through CPD courses.
- We recognise the importance of advocacy in a Costs Lawyer’s skillset, particularly given that the CLSB specifically authorises practitioners to exercise a right of audience, and thus must ensure that Costs Lawyers are competent in this area. We agree with ACL that the advocacy landscape continues to change and that the skills needed in this area, and their relative importance, should be kept under

review. During our research – particularly through the second Subject Matter Expert review – we considered at length whether competency in advocacy was best characterised as “knowledge” or as a “skill”. We concluded that the knowledge elements of advocacy – such as an understanding of procedural rules and underlying law – were already captured in the other knowledge categories. The elements that were not captured – the application of legal knowledge to the case and the forum – were better characterised as skills. This is why “advocacy” appears in the skills section of the Competency Statement, rather than the knowledge section.

Consultation question 3: Does the Competency Statement reflect the skills you would expect a newly qualified Costs Lawyer to demonstrate? If not, which skills should be added or excluded, and why?

Six respondents answered this question. All six supported the inclusion of the skills in the Competency Statement.

The LSCP said that it found the skills section particularly useful and appreciated that relationship management – including empathy and managing expectations – as well as self-management were treated as separate skills that must be learned and used on a daily basis. The LSCP provided statistics from its own research in support of the need for competency in communication and relationship management, and highlighted the impact of these skills on consumer outcomes. The LSCP also emphasised the importance of self-management as the first line of defence against lawyers becoming overwhelmed, which can in turn lead to poor performance or ethical failures that can have a devastating effect on consumers. Overall, the LSCP welcomed the CLSB’s proactive approach to fostering positive outcomes for consumers by requiring training providers to develop the identified skillsets in all Costs Lawyers before they qualify.

LawCare made helpful suggestions in relation to the wording of some of the indicative behaviours, to reflect its own learnings and research. LawCare emphasised the importance of proactively teaching emotional competence in legal education and noted that course providers can use its free resources to assist with this. It also highlighted the

need for supervisors to create an environment in which juniors feel free to speak up with concerns or admit mistakes, and thus the importance that workplace culture will have on the likely materialisation of the positive or negative behavioural indicators in the Competency Statement, especially in relation to self-management.

NLS also provided some helpful suggestions in relation to the wording of the behavioural indicators to improve clarity. In addition, NLS felt that the practical application of ethical knowledge should feature in the skills competencies, as should the ability to keep up to date and learn by reflection.

ACL said that it was generally satisfied with the skills proposed and felt that the definitions and behavioural indicators reflected what was expected of a newly qualified Costs Lawyer. ACL suggested that the “effective communication” skill be separated into “legal drafting” and “effective communication”, reflecting the distinction between clients and the court as audiences for a Costs Lawyer’s written work.

ACL Training analysed the proposed skills in the Competency Statement against the outcomes of supervised practice that are currently prescribed for qualification. Clarification was sought as to: (i) why research was included within “agile thinking”, (ii) why business awareness was not a required skill in the Competency Statement, and (iii) whether the CLSB had considered including legal drafting as a standalone skill rather than including it within “effective communication”. ACL Training also noted the likely introduction of compulsory mediation in court processes in the future and observed that ADR/mediation was mentioned only within the “negotiation” skill. ACL Training felt the Competency Statement as it stands would be sufficiently flexible to deal with compulsory mediation, but believed this highlighted the need for continual review.

CLSB response

We welcome the insightful evidence and commentary provided by the LSCP and LawCare as to the importance of the skills in the Competency Statement; it reflects our own findings from the research carried out. We have made the drafting changes suggested by those respondents as well as NLS.

Both ACL and ACL Training commented on the inclusion of legal drafting within the “effective communication” skill, rather than as a standalone skill. We gave this distinction considerable thought during the project (including through deliberation with members of our Expert Panel) since participants in our research clearly saw legal drafting as an important aspect of a newly qualified Costs Lawyer’s work.

We concluded that the practical and procedural aspects of legal drafting – for example, how to prepare a technically accurate bill of costs – are covered in the knowledge areas of the Competency Statement. The skill element of legal drafting relates to how the lawyer’s point is communicated in order to influence the audience: the persuasiveness of the language; the logic and structure of the argument; the clarity of presentation; and so on. Our findings suggested that these skills are equally relevant when a Costs Lawyer is drafting (for example) a letter to an opponent, points of dispute, a funding agreement, a note to a supervisor or an email to a client. This is the rationale for focusing on the skill of effective communication, which can be applied across a range of document types (including technical documents) in conjunction with a Costs Lawyer’s knowledge of law, practice and procedure. The consultation respondents did not provide evidence or reasoning to support splitting out legal drafting as a standalone skill in the Competency Statement. We therefore have not added legal drafting as a discrete skill.

In relation to the other two questions raised by ACL Training:

- *Why is legal research included within “agile thinking”?* Our project research – particularly the semi-structured interviews with junior and supervising Costs Lawyers – suggested that legal research is a skill that is rarely used in isolation. Rather, it needs to be demonstrated alongside other aspects of the skill we identified as “agile thinking”; legal research is inextricably linked in the workplace to identifying a problem that needs to be solved, creatively exploring different questions and answers, and drawing on a range of sources, techniques and ideas to develop a solution. One supervising Costs Lawyer encapsulated this in his interview when he said: “...[a trainee] might know the case law really well but putting that together in a practical situation is more difficult”. We therefore felt it was most appropriate for legal research to be framed as part of the wider skill of agile thinking. We have added a new behavioural indicator to help clarify this.

-
- *Why is business awareness not a required skill?* In our research, “business awareness” came through as an attribute (being commercial) rather than a skill. Being commercial will help new qualifiers apply their skills successfully to the Minimum Standard; see, for example, the fourth positive behavioural indicator for the negotiation skill (*understands the client’s motivations*) or the third negative behavioral indicator for the agile thinking skill (*does not take account of the client’s business or personal context*). In relation to business awareness of a Costs Lawyer’s own organisation, participants in our research generally felt that knowledge or skills relating to running a legal business were not essential competencies for new qualifiers, although practice and people management skills might be required at a later career stage. This is reflected in the suggested learning categories in our [CPD guidance](#).

Consultation question 4: Do you agree that the Minimum Standard is set at the appropriate level to establish the threshold for qualification (and authorisation) as a Costs Lawyer? If not, how should it be adjusted and why?

Four respondents answered this question. The individual Costs Lawyer agreed that the Minimum Standard was set at an appropriate level. ACL Training drew helpful comparisons between the Minimum Standard, the SRA’s Threshold Standard and ACL Training’s current Assessment Specification which incorporates a threshold statement. ACL Training concluded that there was consistency between the three measures and that it should therefore be relatively straightforward for ACL Training to articulate the relationship between the standards in developing its assessments for the course going forward. However, it suggested that the word “negligent” in the first limb of the Minimum Standard could cause confusion and that it might be preferable to state that work is carried out with “due care and skill”. ACL Training also suggested that, to give the standard context, we could articulate the relative standards expected of trainees and expert Costs Lawyers.

ACL agreed with our assessment that the Minimum Standard must be sufficiently high to achieve the regulatory objectives, but not excessively high as to be a barrier to entry

into the profession. ACL felt that it was not clear what a technical error (under the first limb of the Minimum Standard) would look like – noting that by its nature litigation involves the pursuit of technical points – and observed that there was no guidance within the Competency Statement in respect of who would determine whether work is technically incorrect or negligent.

NLS noted the link between the Minimum Standard and the scope of work allocated to a newly qualified lawyer, and suggested adding words such as “in straightforward cases” to the first limb. Both NLS and ACL Training supported the inclusion of the text at the end of the Minimum Standard to the effect that achieving the standard might involve seeking support or guidance from a supervisor or other legal practitioner, and NLS queried how this would be embedded in measuring attainment against the Minimum Standard in the context of the course.

CLSB response

Most of the feedback on this question related to the first limb of the Minimum Standard, namely that “work is rarely technically incorrect and is not negligent”. We agree with ACL about use of the word “technically”. The term was intended to refer to errors in routine matters, as distinct from errors of judgement or work that is arguably incorrect (but also arguably correct). However in the context of a profession that has a focus on technical litigation, we agree the phrasing is unhelpful, and we have removed this element of the first limb. This also addresses NLS’s comment about the need to state the scope of work (because, while the complexity of work might impact the risk that it is incorrect, work should never be negligent no matter the complexity).

We have retained the reference to work being “not negligent”. A key benefit of using this language is that it imports a recognised objective standard, defined in law. Practitioners (including supervisors) are accustomed to identifying negligent work in order to, for example, notify their professional indemnity insurer of potential claims. The concept is also capable of applying to a range of situations taking all the circumstances into account, by asking what a reasonable person would have done in the practitioner’s position. We are also reluctant to substitute “not negligent” for “done with due care and skill”, as suggested by ACL Training, given the potential for circularity if the “skills” in the

Competency Statement inform how “due care and skill” is to be interpreted (which, in our view, they must).

We should clarify that the purpose of the Minimum Standard is to set a threshold for assessment in order to qualify as a Costs Lawyer, not to be a disciplinary mechanism through which to sanction qualified Costs Lawyers for poor conduct. The CLSB will only (and can only) take disciplinary action where there is a breach of our regulatory rules. It is likely that carrying out work which falls short of the Minimum Standard would also constitute a breach of the [Costs Lawyer Code of Conduct](#) (see, for example, principle 4: *provide a good quality of work and service to each client*). However we would not investigate/determine whether a Costs Lawyer has been negligent, we would investigate/determine whether they complied with the Code. We have added wording to the Competency Statement to make this clear, as explained under question 1 above.

NLS asked about how this text at the end of the Minimum Standard would be embedded in the training course: *“Achieving this standard might involve seeking support or guidance from a supervisor or other legal practitioner at appropriate stages, depending on the nature and complexity of the work.”* We envisage this impacting the level at which assessments are pitched in terms of scope and complexity, impacting what is expected of students in their period of supervised practice, and communicating that students might be expected to have detailed knowledge of the costs aspects of an assessment problem or scenario, but not necessarily all other legal aspects, reflecting the working-world relationships between Costs Lawyers and their often legally qualified clients and colleagues.

Finally, in relation to the suggestion that we could articulate the relative standards expected of trainees and experts in order to give the Minimum Standard more context, we agree that this would be useful. We had limited resources for this research project and we took a conscious decision to prioritise competency at the point of qualification, in order to deliver the project within our annual budget. We plan to do more work on defining expected competencies at other career stages in future years, aligned with the [Legal Services Board’s work on ongoing competence](#). We hope to expand the Minimum Standard to incorporate other levels and roles as that work progresses.

Consultation question 5: Do you agree that development of the attributes should be encouraged, as a tool to promote competence, rather than the attributes being specifically measured/assessed at the point of qualification?

Five respondents answered this question. All agreed that development of the attributes should be encouraged. Three agreed that the attributes should not be specifically measured/assessed at the point of qualification, one (the LSCP) felt the attributes should be assessed and one (NLS) did not give a firm view but recognised the challenges of assessment.

ACL felt that the framing of the attributes as characteristics to be continually developed over time aligned well with the CLSB's new approach to CPD introduced in 2021, noting that the new emphasis on individual development would encourage the attributes to be demonstrated without the need for formal assessment.

ACL Training agreed that development of the attributes should be encouraged as a tool to promote competence rather than being specifically measured or assessed at the point of qualification. ACL Training reflected on the approaches of other legal regulators in assessing the personal qualities (other than cognitive ability) of qualifying lawyers and felt that the CLSB's approach of encompassing attributes within the Competency Statement was a welcome and proportionate advancement.

Conversely, the LSCP felt that the attributes were an important element of how Costs Lawyers conduct themselves throughout their careers and, accordingly, the LSCP would like to see some assessment of the attributes even if not done in a standalone exercise. The LSCP felt that assessors could comment on the attributes in training, especially in oral or practical exercises, in an effort to encourage students to work toward these goals, reinforcing the importance of the attributes throughout a Costs Lawyer's career.

Specifically, the LSCP noted that it would like to see some assessment of a student's ability to respond positively to feedback (being accountable), because this is a necessary element of becoming a lifelong learner who maintains ongoing professional competence. Being inclusive was also considered vital, given the lack of diversity in the

legal profession and the low level of change that has occurred over the years. The LSCP felt that providing commentary on a person’s ability to be inclusive could go a long way toward changing the culture of diversity and inclusion in the legal community.

NLS highlighted the challenges for junior lawyers, as demonstrated through examples of disciplinary cases in other parts of the legal profession, in demonstrating the “accountable” and “professional” attributes in certain work environments and suggested that training providers might use a “Giving Voice to Values” approach to developing these attributes through the course. NLS noted that some competency frameworks do include (and thus requirement assessment of) attributes of the kind included here, but acknowledged that attributes may not be easy to assess and the place for their assessment may not be a classroom context. NLS also recommended the attributes appear at the start of the Competency Statement, as precursors.

Finally, NLS said that from its perspective outside the profession, it anticipated that the Competency Statement would include a reference to numeracy, given the role of competency frameworks in identifying the special skills and requirements of different professions operating in a shared marketplace.

CLSB response

The main point of divergence between respondents related to whether the attributes should be assessed. In developing the Competency Statement, our desk research indicated that some regulators (within and outside the legal sector) seek to assess professional attributes of this kind through objective criteria, but many do not; there does not appear to us to be a clear market standard.

The detail of the LSCP’s response is informative. The type of assessment expected is described as providing commentary / commenting on a student’s demonstration of the attributes, encouraging students, and emphasising the importance of the attributes. We feel this kind of approach is in fact well-aligned with our vision for a non-assessed methodology. We would emphasise that a lack of graded assessment is not an invitation to training providers or students to ignore this aspect of the Competency Statement. As noted in the consultation document (at page 13), we would expect to see training

providers incorporating the attributes into their course design, and we will take this into account in evaluating and accrediting delivery of the course. This will allow providers the space to be creative in bringing the attributes to life for students, including potentially through a Giving Voice to Values approach as suggested by NLS. For these reasons, we consider our approach to be consistent in practice with the LSCP's suggestions, and we will ensure that having a coherent strategy for developing the attributes is a criterion for accreditation of course providers.

Also for the above reasons, we do not consider the attributes to be precursors to the other elements of the Competency Statement, as suggested by NLS. We therefore remain of the view that including them at the end of the document (rather than upfront) is appropriate.

In relation to numeracy – which, if it were to be included in the Competency Statement, we would consider a skill – we too found it interesting that mathematical proficiency did not emerge from our research as a core skill for a junior Costs Lawyer. It might be that numeracy is so fundamental that it is an assumed skill (although literacy was not an assumed skill). It might be that numeracy is a necessary component of other knowledge and skill elements, and thus already covered indirectly. Or it might be that high-functioning numeracy skills are seen as more important for other professionals, such as accountants and actuaries, while Costs Lawyers' niche skillset relates to the advocacy and advice elements of their work. These are guesses; we do not have sufficient evidence to test these propositions. Thus, while it might instinctively feel like an omission, we have no evidence from our research or otherwise to justify adding numeracy as a critical competency from a regulatory perspective.

Next steps

Annex 1 is an amended version of the Competency Statement, showing the changes that have been made to address feedback from the consultation, as described in this outcome report. A final (clean) version of the Competency Statement will be published [on our website](#).

Page 13 of the consultation document summarises how we expect the Competency Statement to be used going forward. The next stage of our work is to use the

Competency Statement to develop new education standards and learning outcomes for the Costs Lawyer Qualification. Alongside that, we will develop a new training provider accreditation scheme to ensure consistency and transparency in the accreditation process.

We may consult again on those documents if necessary, following which we will apply to the Legal Services Board for approval of revisions to our Training Rules and course documentation. The Competency Statement will form part of, and provide evidence for, that approval process. For the avoidance of doubt, we do not expect training providers or students to formally adopt and use the Competency Statement until that process is complete (and an implementation period has elapsed). However we encourage continued engagement from all stakeholders as the next stage of our work progresses.

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About the Competency Statement

How to use this document

The CLSB regulates Costs Lawyers in England and Wales. The requirements for practising as a Costs Lawyer are set out in the CLSB's Practising Rules. Practising Rule 1.1 establishes that, in order to practise as a Costs Lawyer, a person must first qualify as a Costs Lawyer in accordance with the CLSB's Training Rules. Once a person has qualified in this way, they can apply to the CLSB for a practising certificate.

This document describes the level of competency that a Costs Lawyer is expected to have at the point of qualification, when they are first eligible to apply for a practising certificate. It sets out:

- The categories of legal and technical **knowledge** that a Costs Lawyer will possess at the point of qualification
- The **skills** that a Costs Lawyer will demonstrate
- The **Minimum Standard** to which the ~~Costs Lawyer's~~above knowledge and skills will be applied
- The **professional attributes** that will help a Costs Lawyer meet the Minimum Standard and progress successfully beyond qualification

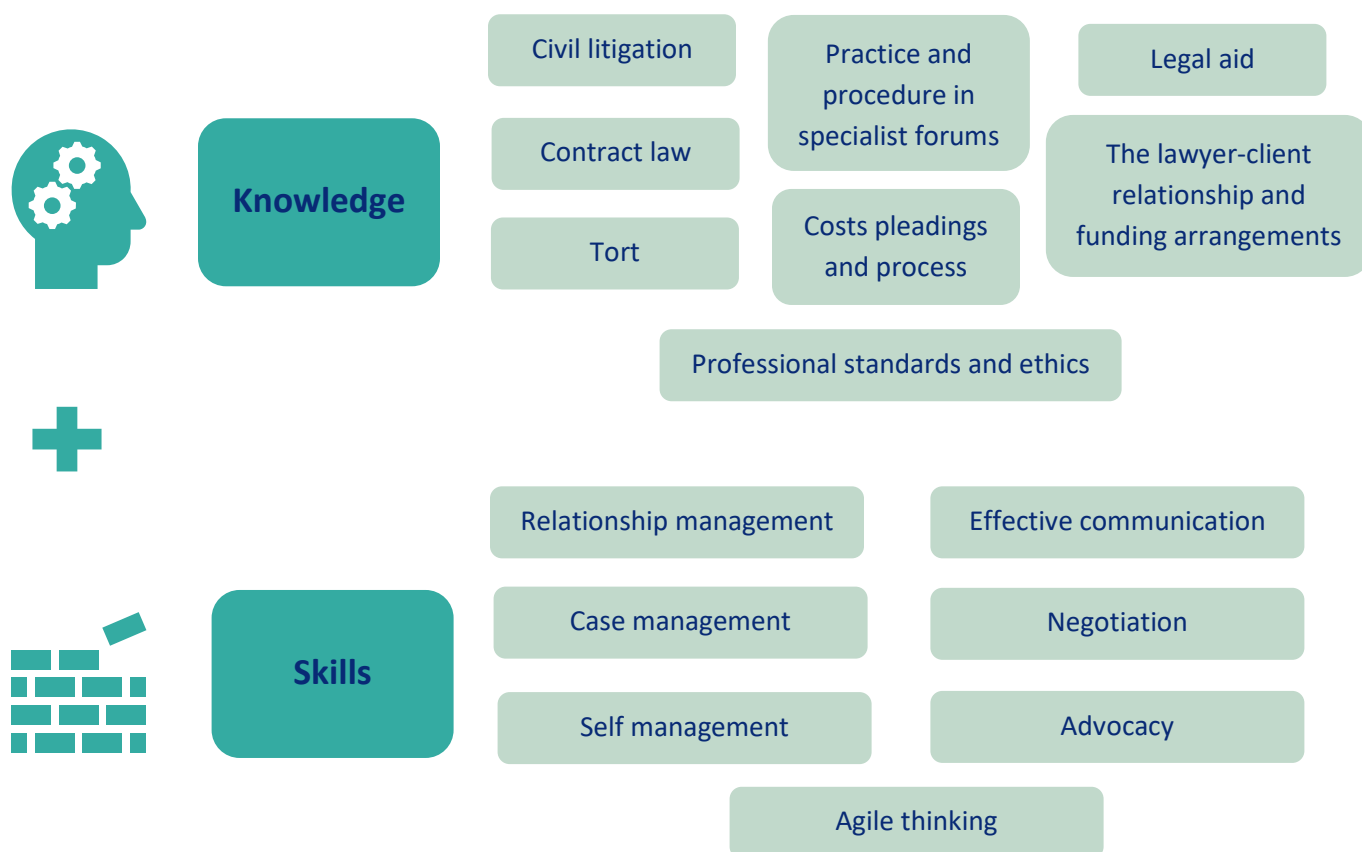
The Minimum Standard is described on page 5, followed by the expected knowledge and skills. These elements of the Competency Statement set a threshold or baseline standard that all newly qualified Costs Lawyers will meet. Many individual Costs Lawyers will exceed this standard; they might have additional skills or knowledge that they bring to the role, or they might apply their skills and knowledge at a level above the Minimum Standard. But in all cases, the minimum requirements set out in this Competency Statement must be met.

The purpose of the professional attributes is different. Our research identified eight attributes that are particularly important for enabling Costs Lawyers to apply their skills and knowledge in a way that meets or exceeds the Minimum Standard. These attributes should be nurtured during a Costs Lawyer's training and continually developed throughout their career. However, the CLSB does not require newly qualified Costs Lawyers to demonstrate the attributes to any kind of defined minimum standard.

This Competency Statement should be read in conjunction with the Costs Lawyer Handbook, including the Code of Conduct, which applies to all Costs Lawyers including new qualifiers. In particular, the Competency Statement forms an integral part of the service requirements set out in the Code of Conduct, especially under Principle 4 (requiring Costs Lawyers to provide a good quality of work and service to each client). Failure to meet the requirements of the Code of Conduct could result in disciplinary action.

How the elements fit together

The relationship between the elements of the Competency Statement is summarised below.



Knowledge and skills are applied to the level of the Minimum Standard



Minimum Standard

"A Costs Lawyer will apply the knowledge and skills set out in this Competency Statement in a way that means their work will meet or exceed the following standard..."

Supported by the development of professional attributes, during training and beyond



Professional attributes

Curious

Proactive

Professional

Commercial

Inclusive

Who should use this document

This document is for use by:

- **Prospective Costs Lawyers** – To allow those who are training to become a Costs Lawyer, or are considering becoming a Costs Lawyer, to better understand what they will learn during their training and assess whether the profession is a good fit for them.
- **Training providers** – To allow organisations that deliver, or that are interested in delivering, elements of the Costs Lawyer Qualification to develop valid and relevant course programmes, materials and assessments.
- **The public, clients and courts** – To help those who interact with the profession to understand what they can expect from a Costs Lawyer at the point of qualification.
- **Employers** – To guide internal training and supervision programmes, and create opportunities for employees to develop and build on the competencies.
- **The CLSB** – To facilitate the development of rules and regulations in relation to the Costs Lawyer Qualification that are targeted at ensuring the level of competency described in this Statement.

The Minimum Standard

At the point of qualification, a Costs Lawyer will apply the knowledge and skills set out in this Competency Statement in a way that means their work will meet or exceed the following standard:

1. Work is ~~rarely technically incorrect and is~~ not negligent.
2. If work involves the exercise of professional judgement, that judgement is reasoned and defensible.

3. Work demonstrably assists the client and puts the client in a better position than if the work had not been carried out.
4. Work is fit for, and appropriate to, its purpose.
5. Work is performed to this standard within a reasonable timeframe.

Achieving this standard might involve seeking support or guidance from a supervisor or other legal practitioner at appropriate stages, depending on the nature and complexity of the work.

Legal and technical knowledge

Newly qualified Costs Lawyers will demonstrate a sound understanding of at least the following nine areas of legal knowledge. The specific topics that they should be familiar with in each area of knowledge will change over time, in line with changes to law and practice.

Details of the specific topics that are currently prescribed by the CLSB can be found in the course documentation. An indication of the relative depth and breadth of knowledge required in each area is included in the table below.

	Depth and breadth of knowledge required		
	Key concepts and general principles	Detailed knowledge and understanding	Optional additional knowledge, depending on intended practice area
Civil litigation	✓	✓	
Other litigation <u>Practice and procedure in specialist forums</u>	✓		✓
Legal aid	✓		✓
Contract law	✓	✓	
Tort	✓		✓

Budgeting <u>Costs pleadings and process</u>	✓	✓	
Bills of costs	✓	✓	
Points of dispute and replies <u>The lawyer-client relationship and funding arrangements</u>	✓	✓	
Professional standards and ethics	✓	✓	

The table below summarises why an understanding of each knowledge area, by all newly qualified Costs Lawyers, is considered important.

Civil litigation	This informs most cases and is fundamental to the job, including knowledge and understanding of the Civil Procedure Act 1997 and the Civil Procedure Rules. This area includes the knowledge required to be a competent advocate.
Other litigation <u>Practice and procedure in specialist forums</u>	A general understanding of the rules and procedure for employment, immigration, family and criminal litigation is necessary, given that Costs Lawyers may practise in any costs specialism once qualified, <u>as is an understanding of the rules and procedure of the Supreme Court, Court of Protection and arbitral tribunals</u> . Those specialising in these types of these areas will benefit from additional training through optional modules and/or CPD.
Legal aid	The complexity of the legal aid process (and infrequency of cases for non-specialists) makes this area difficult for newly qualified Costs Lawyers, and yet economics dictate that junior lawyers often run these files.
Contract law	This is frequently relevant to understanding the underlying case as well as the legal obligations that govern costs liability, such as solicitor retainers, cost indemnities and contingent fee agreements .
Tort	A general knowledge of tort is relevant to understanding the underlying case in personal injury and clinical negligence claims. Those specialising in

	these areas will benefit from additional training through optional modules and/or CPD.
<u>Budgeting Costs pleadings and process</u>	This is a <u>The quantification and assessment of costs are</u> core, routine areas for junior Costs Lawyers, requiring unique technical and strategic understanding <u>applied across different areas of law. Preparing documents such as budgets, bills of costs and points of dispute and reply are tasks that are often carried out without close supervision at an early stage of a Costs Lawyer's career, and may require complex analysis and skillful presentation.</u>
Bills of costs	This is a core, routine area for junior Costs Lawyers that is often carried out without close supervision at an early stage of their career.
Points of dispute and replies <u>The lawyer-client relationship and funding arrangements</u>	This is a core, routine area for junior Costs Lawyers which can be complex and requires skillful presentation. <u>Specialist knowledge of the arrangements that govern costs in legal proceedings (such as solicitor retainers, costs indemnities and funding agreements) as well as knowledge of the Solicitors Act 1974 enables Costs Lawyers to advise on costs structuring and to act in lawyer-client fee disputes.</u>
Professional standards and ethics	This is necessary to preserve the reputation of the profession, retain an individual's regulated status, <u>and</u> protect the interests of clients <u>and the wider public</u> , and act in lawyer-client disputes (including knowledge of the Solicitors Act 1974).

Skills

Newly qualified Costs Lawyers will demonstrate the skills set out below in carrying out their role. For each skill, behavioural indicators have been used to provide examples of what it looks like when someone displays the skill (positive indicators) or lacks the skill (negative indicators).

The behavioural indicators are designed to help trainee Costs Lawyers understand what is expected of them, and help training providers and supervisors know what to look for when assessing whether a skill is being demonstrated. Inevitably, some skill areas overlap and one behaviour might indicate a number of skills. Equally, the indicators are not exhaustive; a skill can be demonstrated in many ways and the indicators should be taken as a guide.

Relationship management	What is it?	The ability to build and manage constructive relationships with stakeholders of all kinds.	
	Why is it important?	Costs Lawyer work requires regular interaction and engagement with clients (sometimes lay clients), colleagues and other members of the wider legal profession. Building and maintaining good working relationships establishes trust and influence, and requires empathy, collaboration and good communication skills.	
	How does it help?	People who demonstrate this skill will be sensitive to how the frequency and content of their oral and written communications impact others and manifest in outcomes.	
	Positive behavioural indicators	Negative behavioural indicators	
	<ol style="list-style-type: none"> 1. Is empathetic to the needs and motivations of those they interact with —provides support beyond explanation of legal issues 2. Manages <u>client</u> expectations – explains process, cost and timeframe, including factors that could affect these, and updates as necessary 3. Develops good working relationships with colleagues 4. Engages with opponents in a professional and constructive manner, regardless of how others conduct themselves 5. <u>Recognises that colleagues and clients may have different attitudes and perspectives and can manage these effectively</u>Deals effectively with different personalities 	<ol style="list-style-type: none"> 1. Communicates to clients a lack of interest in, or time for, their matter (e.g. by openly prioritising one client over another) 2. Does not keep other team members informed of critical issues, new work coming in or their caseload generally 3. Does not share know-how with the group 4. Lacks self-awareness and allows own emotions to impact negatively on relationships with others 	
Case management	What is it?	The ability to anticipate, respond to and proactively drive the progress of all cases the Costs Lawyer is working on.	
	Why is it important?	Following qualification, Costs Lawyers are expected to manage their own caseload, albeit usually supervised, and seek input when and where necessary. Using technology to help organise tasks, as well as employing good organisational skills, ensures important dates and details are not overlooked.	
	How does it help?	People who demonstrate this skill will be able to prioritise tasks and juggle cases at different stages of completion.	
	Positive behavioural indicators	Negative behavioural indicators	

	<ol style="list-style-type: none"> 1. Applies legal knowledge and skills to all cases effectively 2. Keeps to schedule – sticks to agreed processes for ongoing file review, diarises and meets important deadlines 3. Understands the value of process and abides by it, even if routine/repetitive 4. Plans ahead for work involved on a file – estimates time involved and considers impact on existing caseload and other members of the team 5. Regularly informs stakeholders of ongoing costs and file progress as well as potential issues and problems 6. Liaises with the client on routine matters and, where appropriate, more substantive technical issues 7. Is able to work without constant supervision 	<ol style="list-style-type: none"> 1. Persistently underestimates the time involved in tasks 2. Demonstrates lack of preparation or organisation 3. Displays poor time recording practices when charging on an hourly basis 4. Presents supervisors with problems without first thinking through potential solutions 5. Fails to properly onboard clients – works without an adequate retainer or fails to provide the client with prescribed/regulatory information 6. Fails to seek client instructions or otherwise clarify client instructions before proceeding 7. Does not follow court procedure (e.g. misses filing deadlines or important procedural steps)
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Self management	What is it?	The ability of a Costs Lawyer to recognise their own emotions, limitations and doubts, understand how these could influence their conduct, and manage their behaviour accordingly.	
	Why is it important?	Costs Lawyers typically work on cases that are demanding on personal resource – cognitive, emotional and physical. They engage with diverse clients ranging from those expert in adversarial communications to distressed individuals unfamiliar with the law. Being able to effectively manage oneself and the demands of others helps protect <u>personal mental</u> wellbeing, and maintains expected quality of work output <u>and avoid ethical failings</u> .	
	How does it help?	People who demonstrate this skill will be able to balance competing demands on their personal resources, <u>act with integrity</u> and seek help and support when required.	
	Positive behavioural indicators	Negative behavioural indicators	
	<ol style="list-style-type: none"> 1. Takes responsibility for own professional decisions and notifies supervisors of mistakes quickly 2. Maintains a professional distance from clients' emotions <u>boundary with clients</u> 3. Is able to motivate to work alone, albeit with supervision, on long projects 4. Recognises when to seek help and guidance <u>(e.g. when working beyond competence or having difficulty managing workload)</u> 5. Is confident to say when they do not agree or challenge something they do not understand 6. Is able to deal with situations involving another's negligence or dishonesty (e.g. on the part of an instructing lawyer) 6.7. <u>Reflects on their own performance and takes action where needed</u> 	<ol style="list-style-type: none"> 1. Reacts negatively to perceived criticism 2. Covers up mistakes and tries to avoid consequences 3. Lacks confidence in work output or decisions – risks spending too much time on a matter or avoiding tasks 4. Takes on too much work, at risk to themselves and their work 4.5. <u>Turns a blind eye to unethical behaviour</u> 	

Agile thinking	What is it?	The ability of a Costs Lawyer to adapt their approach depending on the circumstances and apply knowledge, ideas and technologies to novel situations.	
	Why is it important?	Costs Lawyers will inevitably face issues with which they are unfamiliar either because of changes in the law or due to a lack of experience. Agile thinking is demonstrated by finding new ways of using existing knowledge and resources as well as undertaking legal research to further a client's case. Knowing how to undertake and apply legal research helps to create confidence in relationships with clients and supervisors and requires a knowledge of available resources and good verbal reasoning skills.	
	How does it help?	People who demonstrate this skill will display a willingness to take on varied work and find alternative solutions.	
	Positive behavioural indicators	Negative behavioural indicators	
	<ol style="list-style-type: none"> 1. Deploys legal research resources efficiently and effectively 2. Proactively keeps own legal knowledge and skills up to date 3. Uses initiative to research a point and present it to their supervisor 4. Recommends a range of options to the client 5. Is able to identify new ways of approaching an issue which might be beneficial to the client or practice (e.g. the application of an innovative technology) 6. <u>Draws on a range of sources, techniques and ideas to develop solutions to problems</u> 6.7. <u>Can tackle large problems by breaking them down into constituent parts</u> 7.8. <u>Seeks the input of colleagues on new approaches</u> 8.9. <u>Can adapt approach in a tight timescale</u> 	<ol style="list-style-type: none"> 1. Does not fit legal arguments with the facts of the case 2. Is slavish to the text of existing precedents 3. Does not take account of the client's business or personal context 4. Tends to refuse work that is unfamiliar or challenging 5. <u>Rejects ideas and innovations simply because they are untried</u> 5.6. <u>Fails to recognise and tackle an ethical dilemma</u> 	

Effective communication	What is it?	The ability to identify and use a method of communication that is appropriate for the circumstances in order to convey relevant information clearly.	
	Why is it important?	Costs Lawyers are required to communicate concisely and accurately when advising clients – orally and in writing – and when working with colleagues. They are also required to draft formal legal documents including bills of costs, points of dispute, replies and skeleton arguments. Adopting an effective, contextualised form and style of communication is critical in ensuring a positive outcome for the client.	
	How does it help?	People who demonstrate this skill will have a good command of the English and/or Welsh languages and will structure their communications to ensure they are both accessible to and appropriate for the intended audience and situation.	
	Positive behavioural indicators		Negative behavioural indicators
	<ol style="list-style-type: none"> 1. Explains the complicated simply 2. Uses plain language and avoids jargon and abbreviated terms 3. Plans and structures drafting to aid the reader's understanding 4. Is able to engage supervisors and colleagues on technical issues and provide sufficient and salient information for them to give helpful advice and feedback 5. Understands when and how to engage with different methods of communication 6. Adapts communication style to suit the situation and audience 		<ol style="list-style-type: none"> 1. Gives poorly structured advice where the point is lost or obscured 2. Displays poor presentation, grammar or spelling 3. Fails to <u>listen-take account of others' views</u> (e.g. to of a client, instructing solicitor, supervisor, judge) 4. Produces something 'academic' which is accurate but not helpful to a court or client in practice 5. Does not know or does not apply drafting conventions for formal documents

Negotiation	What is it?	The ability to identify what motivates people and then interact constructively with others to find solutions to problems that align with those motivations.	
	Why is it important?	Newly qualified Costs Lawyers will regularly settle their cases out of court, through exchange of correspondence as well as calls and meetings. Being able to negotiate with other Costs Lawyers and mediate between parties can lead to better outcomes for clients in terms of time and costs.	
	How does it help?	People who demonstrate this skill will understand the principles of mediation, the different methods and styles of negotiation and how best to adapt their own preferred, or default, style to the situation.	
	Positive behavioural indicators		Negative behavioural indicators
	<ol style="list-style-type: none"> 1. Is able to recognise the approach being taken by the other side and respond accordingly 2. Identifies the most appropriate forum for settlement depending on the case, issues, client and opponent 3. Can spot irrelevant issues and deal with them appropriately 4. Understands the client's motivations – agrees a negotiating strategy with the client that is aligned to that client's individual needs 5. Can employ basic mediation skills and recognises when to instruct a professional mediator or other third party 		<ol style="list-style-type: none"> 1. Becomes too emotionally or personally involved with a point or approach 2. Aims to achieve an objectively 'good' outcome, without understanding what the client actually wants 3. Implements a negotiation strategy that does not account for strengths or weaknesses of the client's or opponent's position 4. Ignores indications of an opponent's motivation or strategy 5. 'Wages war' with the other side in a way that damages the client's prospects of successful settlement

Advocacy	What is it?	The ability to present orally a reasoned argument that conveys the strengths of a client's case within the framework of the forum's rules.	
	Why is it important?	Costs Lawyers have a right of audience on matters relating to costs. They are expected to have advocacy skills which they can deploy in assisting counsel or making submissions and applications themselves, <u>while upholding their duty to the court in the administration of justice.</u>	
	How does it help?	People who demonstrate this skill will be able to apply costs rules and procedure, determine relevance and admissibility of evidence and arguments, think on their feet and deliver with confidence, <u>always within the bounds of their ethical duties.</u>	
	Positive behavioural indicators		Negative behavioural indicators
	<ol style="list-style-type: none"> 1. Applies relevant knowledge of civil and other litigation effectively 2. Is rigorous in knowing all key issues in a case and the parties' arguments in relation to them 3. Draws out the strengths and weaknesses of each party's case 4. Is able to think on their feet and respond to opposing arguments and questions 5. Presents arguments in a structured and accessible manner, <u>making use of relevant evidence, but can also pivot between different points</u> 6. Knows when to seek advice from or instruct counsel 7. Is professional and courteous, and <u>understands acts in accordance with the</u> etiquette of the particular forum 8. Takes instructions from the client during proceedings if novel issues arise 9. Recognises the boundaries of their rights of audience relating to costs 		<ol style="list-style-type: none"> 1. Is unable to switch from a pre-prepared approach, either in terms of style of delivery or the order in which points are made 2. Uses inappropriate or aggressive language 3. Fails to appreciate the wider context (i.e. non-cost elements) of the case 4. Fails to cite legal authorities, materials or procedural rules appropriately 5. Fails to recognise and <u>challenge inappropriate use of evidence by an opponent</u> 4-6. <u>Allows the court to be misled</u>

Professional attributes

We have identified eight attributes that are particularly important for enabling Costs Lawyers to apply their skills and knowledge in a way that meets or exceeds the Minimum Standard.

While the CLSB does not require newly qualified Costs Lawyers to demonstrate these attributes to a particular standard – and does not require training providers to specifically assess the attributes – a newly qualified Costs Lawyer will find it easier to meet the level of competency expected of them (and to meet the expectations of their employer) if they have developed these attributes during their training.

Attribute	A new qualifier with this attribute is more likely to:
Self-sufficient	Work independently and manage own caseload
Diligent	Pay attention to detail and use the rigour of process
Accountable	Advocate for and own decisions, identify areas for self-improvement and respond positively to feedback
Curious	Investigate legal issues, identify innovative solutions and apply different approaches in daily practice
Proactive	Seek out and analyse solutions before asking for guidance on their application or possible alternatives
Professional	Recognise and do the right thing, even when challenged, and respectfully support others to do the same
Commercial	Deal effectively with ambiguity and uncertainty, contextualise advice and provide risk assessment that extends beyond pure legal analysis
Inclusive	Be open to and learn from different perspectives, and foster equality and diversity within the profession and beyond

A black office chair with a high back, armrests, and a five-point base with casters. The chair is shown from a three-quarter view against a white background.

CLSB

1. Defined terms

In this Board Governance Policy, including all appendices, unless context requires otherwise:

“Articles” means the Articles of Association of the Company as altered from time to time;

“ACL” means the Association of Costs Lawyers;

“Board” means the board of Directors of the Company;

“CEO” means the Chief Executive Officer of the Company;

“Chair” means the chair of the Board;

“Code” means the UK Corporate Governance Code;

“Company” or “CLSB” means Costs Lawyer Standards Board Limited;

“Director” means a director of the Company, and includes any person occupying the position of director, by whatever name called;

“lay person” is as defined in Schedule 1 to the LSA;

“LSA” means the Legal Services Act 2007;

“LSB” means the Legal Services Board;

“non-lay person” means anyone who is not a lay person; and

“Vice-Chair” means the vice-chair of the Board.

2. Purpose

The CLSB is a wholly owned subsidiary of ACL. ACL is named in the LSA as the approved regulator of the Costs Lawyer profession and, since 31 October 2011, ACL has delegated its regulatory functions to the CLSB. The CLSB authorises and regulates Costs Lawyers to undertake the following reserved legal activities under the LSA:

- a. the exercise of a right of audience;
- b. the conduct of litigation; and
- c. the administration of oaths.

The Board is the governing body of the CLSB. The Code provides that every corporation should be led by an effective board, which is collectively responsible for the long-term success of the organisation.

The Board sets the Company’s strategic aims and ensures that the necessary financial and human resources are in place for the Company to meet its strategic and statutory objectives. The Board will take decisions with the primary aim of promoting the regulatory objectives in section 1 of the LSA, as follows:

- a. Protecting and promoting the public interest;
- b. Supporting the constitutional principle of the rule of law;
- c. Improving access to justice;
- d. Protecting and promoting the interests of consumers;
- e. Promoting completion in the provision of services;
- f. Encouraging an independent, strong, diverse and effective legal profession;
- g. Increasing public understanding of the citizen’s legal rights and duties; and
- h. Promoting and maintaining adherence to the profession principles.

This Board Governance Policy (together with its appendices) outlines the Board’s responsibilities, authority, organisation and composition. It is aligned to UK good

practice standards, the Articles, the LSB's rules and guidance, and other relevant statutory and regulatory requirements.

3. Separation of regulatory and representative functions

It is a requirement under the LSA that the functions of regulation and representation (undertaken by the ACL) are separate. The Board will oversee that the CLSB has in place arrangements that comply with the Internal Governance Rules 2019 issued by the LSB that in particular:

- a. observe and respect the principle that ACL, in its representative function, must not exert, or be permitted to exert, undue influence or control over the performance of the regulatory function delegated to the CLSB;
- b. ensure that the regulatory function is not prejudiced by the representative function and interest of ACL;
- c. ensure the exercise of the regulatory function is, so far as is reasonably practicable, independent of the representative function of ACL; and
- d. ensure that any person on the Board is able to notify the LSB where they consider that their independence or effectiveness is being prejudiced.

4. Membership

The Board will at all times be made up of three lay person non-executive Directors, one being the Chair, and two non-lay person non-executive Directors. The composition of the Board should provide a complementary balance of skills and expertise.

All Directors, including the Chair and the Vice-Chair, shall be appointed in accordance with the Articles and the Board Appointment Policy (**Appendix 4**).

5. Board proceedings

The Board should meet at least four times a year at appropriate intervals in the financial reporting cycle and as otherwise required. All Board meetings and decisions should be taken in accordance with the Articles. Whilst only members of the Board and the Company Secretary (if a separate person) have the right to attend and only members of the Board can vote at Board meetings, the CEO will be invited to attend each meeting unless the Board decides otherwise and communicates this to the CEO. Other employees and third parties may also be requested to attend by invitation as deemed appropriate by the Board.

In the event the Chair is unable to attend a Board meeting, the Vice-Chair will assume that role and will have the casting vote rights of the Chair in accordance with the Articles.

Responsibility for the day-to-day operation of the CLSB is delegated to the CLSB's executive team, overseen by the CEO. The executive takes a range of routine decisions that are necessary for fulfilling its role and it reports to the Board as appropriate. The executive will assist the Board by providing evidence (including contextual information, data, analysis and stakeholder views), in the form of source documents or via a written or oral report. The executive also assists the Board by making recommendations that can be used as a basis for discussion, by answering questions and by gathering additional evidence or information that the Board requires.

6. Matters reserved for the Board

This section sets out the matters reserved for the Board and not delegated to the Company's executive team. The list contains some matters which the Board cannot, as a matter of law, or which it has otherwise chosen not to, delegate. The Board may, however, appoint committees as it thinks fit to exercise certain of its powers. Specific areas of delegation are set out in the terms of reference of such committees, although the final decision on these matters will be taken by the whole Board unless otherwise specified.

Strategy and management

- a. Responsibility for the overall leadership of the CLSB and setting the CLSB's vision and standards.
- b. Approval of the CLSB's strategic aims and objectives.
- c. Approval of the annual operating and capital expenditure budget and any material changes to them.
- d. Oversight of the CLSB's operations ensuring:
 - (i) competent and prudent management;
 - (ii) sound planning;
 - (iii) maintenance of sound management and internal control systems;
 - (iv) adequate accounting and other records; and
 - (v) compliance with statutory and regulatory obligations.
- e. Review of performance in light of the CLSB's strategic objectives, business plans and budgets, as well as the CLSB's assessment of the CLSB's regulatory performance, and ensuring that any necessary corrective action is taken.
- f. Extension of the CLSB's activities into new business.
- g. Any decision to cease to operate all or any material part of the CLSB's business.

Structure and capital

- a. Any changes relating to the CLSB's capital structure, including:
 - (i) the issue of shares or of securities conferring rights of subscription for or conversion into shares in CLSB;
 - (ii) calls on or forfeiture of shares; and
 - (iii) purchases or redemptions of shares or any reductions of capital by CLSB including the use of treasury shares.
- b. Material changes to the CLSB's management and control structure.

Financial items

- a. Approval of the annual business plan, budget and accounts.
- b. Approval of any significant changes in accounting policies or practices.
- c. Approval of treasury policies including foreign currency exposure and the use of financial derivatives.
- d. Approval of unbudgeted capital or operating expenditures amounting to more than 10% of total annual budgeted expenditure.
- e. Approval of the CLSB's policy on accumulating and using financial reserves and any contribution to financial reserves.

Internal controls

- a. Ensuring maintenance of a sound system of internal controls and risk management including:
 - (i) receiving reports on, and reviewing the effectiveness of, the CLSB's risk and control processes to support its strategy and objectives, including through maintenance of the CLSB's risk registers; and
 - (ii) approving procedures for the detection of fraud and the prevention of bribery.

Contracts

- a. Approval of any contract to be entered into by the CLSB which is not in the ordinary course of business, for example loans, foreign currency transactions, or major acquisitions or disposals.

Communication

- a. Ensuring a satisfactory dialogue with key stakeholders, including shareholders and the LSB, based on the mutual understanding of objectives.
- b. Approval of resolutions and corresponding documentation to be put forward to shareholders at a general meeting.
- c. Approval of press releases that refer specifically to the Board or its individual members.

Board membership and other appointments

- a. Changes to the structure, size and composition of the Board of the CLSB and any subsidiary company.
- b. Ensuring adequate succession planning for the Board, CEO and senior management so as to maintain an appropriate balance of skills and experience within the company and on the Board.
- c. Selection, appointment and re-appointment of all Directors and the CEO in accordance with the Board Appointment Policy (**Appendix 4**).
- d. Removal from office of any director at any time, subject to the law, the Articles and their letter of appointment.
- e. Appointment or removal of the Company Secretary.

Remuneration

- a. Determining the remuneration policy for the Directors, Company Secretary and CEO, subject to the Articles.

Delegation of authority

- a. Approval of any delegated levels of authority that may be introduced or amended, including the CEO's authority limits.

- b. Establishing Board committees, including their membership and chairship, and approving their terms of reference and any material changes thereto.

Corporate governance matters

- a. Annual review of its own performance, that of its committees and individual Directors, and the division of responsibilities.
- a. Review of the CLSB's overall corporate governance arrangements.
- b. Responding to the views of ACL that are given in ACL's capacity as sole shareholder of the CLSB.
- c. Authorising conflicts of interest, where appropriate and permitted by the Articles.

Other

- a. Approval of key corporate policies, such as this Board Governance Policy, the Data Protection Manual and the Disaster Recovery and Business Continuity Policy.
- b. Approval of regulatory arrangements, such as rules and guidance, prior to publication or prior to consultation, as applicable.
- c. Approval of the prosecution, commencement, defence or settlement of litigation, or an alternative dispute resolution mechanism, involving potential liability (including legal costs) of more than £10,000 or that is otherwise material to the interests of the CLSB.
- d. Approval of any materials changes to the overall levels of insurance for the CLSB, including directors' and officers' liability insurance, and indemnification of Directors.
- e. Any decision likely to have a significant impact on the Company from any perspective, including financial, operational, strategic or reputational.
- f. This schedule of matters reserved for Board decisions.

7. Record of Board decisions

All Board meetings – whether scheduled or convened on an ad hoc basis – are minuted by the Company Secretary. A draft version of the minutes is approved by the Chair following the meeting and is published on the CLSB's website. The minutes are then approved by the whole Board at its next scheduled meeting and the final version is published on the CLSB's website, replacing the draft.

For certain types of decisions, such as a significant policy or strategic change, it will be appropriate for a more detailed account of the issue, the decision, and the reasoning behind the decision to be recorded. This is achieved using a Board Decision Note. Board Decision Notes enable the CLSB to:

- a. be transparent with stakeholders as to how a Board decision is reached and why;
- b. keep an historical record of the rationale for decisions, allowing regulatory arrangements and internal policies to be continually re-evaluated against prevailing best practice; and
- c. demonstrate good governance and be confident that the Board has turned its mind to all relevant factors in making its decisions.

It is for the Board to consider on a case-by-case basis whether a particular decision should be recorded in a Board Decision Note and Board Decision Notes will only be prepared in relation to final decisions of the Board. Any interim decisions, deliberations or requests for further information that were made in reaching a final decision will be documented in the Board Decision Note. Board Decision Notes will not usually be prepared in relation to issues that are the subject of public consultation where a response to the consultation is published by the CLSB.

Where a Board Decision Note has been produced, this is noted in the minutes of the Board meeting at which the note was approved. A copy of the Board Decision Note is published on the CLSB website alongside the minutes.

8. Publication

Information about Board matters will be published on the CLSB website, at the times and for the purposes described in the table below.

Information	Purpose	Timing
Dates of scheduled Board meetings	To allow stakeholders and members of the public to contact the Company in advance if they feel a particular issue should be considered	As soon as the meeting dates are set, usually at least six months in advance
Dates of extraordinary Board meetings	To give notice to stakeholders that an extraordinary meeting has been called at which the Board will discuss an urgent, discrete issue	As soon as the meeting is called
Agendas for scheduled Board meetings	To help people determine whether the Board will be discussing anything of interest to them, so they can monitor the outcome	Prior to the Board meeting
Papers for scheduled Board meetings	To ensure transparency around the evidence put to the Board and to help people understand the decisions that are made	Within 14 days of the Board meeting
Minutes of all Board meetings	To record deliberations of the Board and explain the basis on which any decisions have been taken	Draft approved by Chair: within 14 days of the Board meeting

Final version:
upon approval
at next Board
meeting

Board Decision Notes	To draw together various aspects of the deliberation process and evidence base behind certain types of significant Board decisions	Upon approval at a Board meeting
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The Board will aim, as its starting point, to publish all the information described in the table above. Rarely, information may be withheld from publication if there is a good reason to do so. The Board may withhold a document (or information contained in a document, such as part of the minutes, through redaction) where publication would:

- a. amount to processing personal data in a way that is not permitted by data protection laws or is contrary to best practice;
- b. breach an obligation of confidentiality owed to a third party;
- c. breach any other legal obligation;
- d. disclose commercially sensitive information;
- e. disclose legal or other professional advice in relation to confidential matters;
- f. exacerbate a risk under consideration; or
- g. disclose emerging strategy or policy, where this could cause uncertainty or undermine the policy intention.

The method of publication will allow readers to understand the reason(s) why information has been withheld and will provide a point of contact for raising any queries about publication. No information will be withheld from publication without approval of the Board.

9. Appendices

1	Board Decision Note Template	Page 9
2	Remuneration Committee Terms of Reference	Page 11
3	Board Code of Conduct	Page 14
4	Board Appointment Policy	Page 18
5	Board Performance Appraisal Policy	Page 20
5A	Performance Appraisal Record Template	Page 22
6	Board Additional Remuneration Policy	Page 24

10. Version control

Version	Review type	Nature of changes	Board approval
1	First adoption	Policy and appendices adopted by the Board	2 February 2022

Appendix 1: Board Decision Note Template

Costs Lawyer Standards Board [Date of decision]

Board constitution: [Name] (Chair): Lay NED
[Name] (Vice-Chair): Lay NED
[Name]: Lay NED
[Name]: Non-Lay NED
[Name]: Non-Lay NED

1. Background information and summary of the issue

2. Evidence considered by the Board

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

4. Summary of deliberations

5. Other factors considered by the Board

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

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

6. Risk assessment

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

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

9. Provision of the Legal Services Act 2007, or other legislation, under which the decision was made

Board Decision Note approved by the Board on: [Date]

Appendix 2: Remuneration Committee Terms of Reference

- 1. Role**

The Remuneration Committee (the “Committee”) is a committee of the Board, from which it derives its authority and to which it reports on matters related to remuneration policy.
- 2. Membership**

The Committee shall comprise of at least two members, at least one of whom shall be a lay person non-executive Director. The Board shall appoint one member of the Committee to act as chair (the “Committee Chair”). The Committee Chair shall be a lay person non-executive Director

The Chair of the Board may also serve on the Committee as an additional member if approved by the Board, but may not be Committee Chair.

Appointments to the Committee are made by the Board in consultation with the Committee Chair (once appointed), and shall be for a period of up to three years which may be extended for up to two additional periods of up to three years each.

In the absence of the Committee Chair and/or an appointed deputy, the remaining members present shall elect one of themselves to chair the meeting who would qualify under these terms of reference to be appointed to that position by the Board. If there is no such member present, the Committee shall not convene until such time as it can be constituted in accordance with these terms of reference.
- 3. Secretary**

The Company Secretary will act as Secretary to the Committee.
- 4. Attendees**

Only members of the Committee have the right to attend Committee meetings. However, other individuals such as the CEO, senior management and external advisers may be invited to attend for all or part of any meeting, as and when appropriate.
- 5. Quorum**

Two members of the Committee shall constitute a quorum.
- 6. Frequency**

The Committee will normally meet once a year at an appropriate time in the annual cycle and otherwise as required.
- 7. Notice of meetings**

Meetings of the Committee will be called by the Secretary of the Committee at the request of any of its members. The Secretary will ensure Committee members receive information and any papers in a timely manner to enable full and proper consideration to be given to the issues.
- 8. Minutes of meetings**

Draft minutes of Committee meetings will be circulated promptly to all members. Draft minutes may also be circulated to other members of the Board at the discretion of the Committee Chair. Committee minutes will be approved by the Committee at its next scheduled meeting or earlier by email.

9. Written resolutions The Committee may pass a resolution in writing provided that the written resolution has the unanimous consent of all members of the Committee. Consent may be given in any written form, including electronically, for example by email.

10. Responsibilities Paying due regard to all relevant statutory, regulatory and good practice requirements, the Committee will carry out the following duties below for the CLSB and any major subsidiary undertakings as appropriate:

- a. develop any remuneration policies and practices as the Committee deems appropriate, and recommend these to the Board for approval;
- b. design its remuneration policies and practices in such a way as to support strategy and promote long term sustainable success of the Company, with remuneration being aligned to the CLSB's purpose and objectives;
- c. design its remuneration policies and practices in a way that is likely to attract, retain and motivate individuals of the quality required to run the CLSB successfully without paying more than is necessary, having regard to the views of stakeholders as appropriate;
- d. when designing remuneration policies and practices, consider the Code requirements for clarity, simplicity, risk mitigation, predictability, proportionality and alignment to culture;
- e. review the ongoing appropriateness and relevance of its remuneration policies and practices;
- f. within the terms of all policies and practices approved by the Board, determine the remuneration of the CEO, Company Secretary, Chair and Directors;
- g. approve the design of, and determine targets for, any performance related pay schemes;
- h. consult with the CEO, Chair, executive and/or such other parties as the Committee deems appropriate in exercising its responsibilities;
- i. review any workforce remuneration and related policies; and
- j. work and liaise as necessary with other Board committees.

In carrying out its responsibilities, the Committee shall be mindful of the confidential and potentially sensitive nature of remuneration matters, including the CLSB's obligations under personal data protection legislation.

11. Independence No Director shall be involved in any decision as to their own remuneration outcome. However, where the Committee determines that there should be a single decision as to the remuneration of a group of three or more Directors, a Director who is part of that group may be involved in a decision about the group members' remuneration.

12. Reporting The Committee Chair will report to the Board on the Committee's proceedings after each meeting. A report may be made to the Board at a scheduled Board meeting or in

writing, including by email.

The Committee shall make whatever recommendations to the Board it deems appropriate on any area within its remit where action or improvement is needed.

13. Other matters

The Committee shall ensure the periodic evaluation of the Committee's own performance is carried out.

Appendix 3: Board Code of Conduct

1. Purpose

This Code of Conduct provides the Directors with guidelines as to the standards and behaviours that the CLSB expects from members of its Board (individually and collectively) when acting on behalf of, or representing, the CLSB. This Code of Conduct should be read in conjunction with:

- a. the Board Governance Policy and all of its appendices;
- b. any other relevant CLSB policies; and
- c. the Articles.

This Code of Conduct applies to all Directors and some of its requirements – for example the requirement to respect the confidentiality of the CLSB’s information – will continue to apply after termination of appointment.

2. Duties

Directors must act in accordance with all laws, rules and regulations that affect them as individuals or that affect the CLSB, including the LSA. Each Director must have regard to their legal duties as a Director, including:

- a. ensuring they are eligible to serve as a Director;
- b. complying with the Articles;
- c. contributing to the work of the Board in order for it to fulfil its role and functions;
- d. acting in the CLSB’s best interests, promoting its success whilst having regard to the factors set out in section 172(1) of the Companies Act 2006;
- e. managing the CLSB’s resources responsibly;
- f. acting with reasonable care and skill, taking professional advice where necessary;
- g. exercising independent judgement;
- h. avoiding conflicts of interest;
- i. accepting no bribes of any type and taking all reasonable steps to prevent bribery and corruption within the CLSB;
- j. maintaining high standards of practice in all areas of corporate governance;
- k. ensuring the CLSB’s risks are appropriate, understood, and well-managed; and
- l. ensuring the CLSB has appropriate financial management systems and procedures in place, including annual budgeting and planning, and ensuring the CLSB complies with all corporate and financial obligations.

In addition to their legal duties, the CLSB requires Directors to:

- a. consider and promote the regulatory objectives in section 1 of the LSA in all of their work for the CLSB;
- b. act in accordance with the Memorandum of Understanding between the CLSB and ACL, as well as the CLSB’s Internal Governance Rules, to ensure that the CLSB is independent of ACL and does not carry out representative functions; and

- c. comply with all prevailing CLSB policies and procedures which are readily available via the CLSB's website or from the CEO, including the Board Governance Policy and its appendices.

3. Standards of conduct

Directors are required to adhere to the highest standards of conduct in the performance of their duties. Failure to maintain such standards may result in damage to the reputations of both the CLSB and the relevant individual. Directors must:

- a. commit to being an active member of the Board and get to know the functions of the CLSB and the way it operates;
- b. conduct themselves in such a way that their honesty and integrity are beyond reproach, and not knowingly make false or misleading claims or irresponsible statements;
- c. act with independence and consider all relevant facts objectively when making decisions;
- d. not misuse or abuse powers, including for personal gain;
- e. act in a way that promotes equality, diversity and inclusion; and
- f. respect other people and foster a culture that is free from intimidation and bullying.

4. Meetings

Directors have a responsibility to attend meetings of the Board. When this is not possible, they should submit an apology to the Chair and/or the Company Secretary in advance of the meeting. Board members are expected to attend for the duration of each meeting.

Repeated absence from Board meetings without good reason established to the satisfaction of the Board, or non-attendance for a period of six months or more, could result in the individual Director being removed from office in accordance with the Articles and section 10 of this Code of Conduct.

In relation to meetings, Directors should:

- a. adequately prepare for meetings, including by considering any papers provided in advance;
- b. offer reasoned views and opinions when debating an issue;
- c. consider issues completely, taking into account all relevant information and evidence, and seeking additional information where necessary;
- d. ensure they do not present misleading information to the Board or behave in a way designed to mislead the Board;
- e. understand the opportunities and risks facing the CLSB and take these into consideration when reaching decisions;
- f. provide constructive challenge to the executive; and
- g. listen to and respect the views of others and avoid behaviour that could be considered aggressive or intimidating.

5. Conflicts of interest

Directors have a legal obligation to act in the best interests of the CLSB and to avoid or manage situations where there may be a potential, real or perceived conflict of interest.

Directors should not exert any influence to garner any preferential treatment for themselves or their family, or other connected persons or organisations, through their role. Directors should be aware of, and act in accordance with, the following arrangements for identifying and managing conflicts of interest.

Upon appointment, and at least annually, Directors are required to complete a declaration of interests form. This document must be updated when a material change occurs. A register of interests will be maintained by the Company Secretary and will be presented to the Board annually. The annual declaration of interests does not relieve Directors of their responsibility to update the Company Secretary when their interests change. Changes should be notified to the Company Secretary promptly and will be communicated to the Chair.

6. Gifts and hospitality

The offer of gifts and hospitality exceeding a cumulative value of £50 over the course of any 12 month period from any third party should be reported to the Chair and CEO and, if of any significant value, should be declined.

Directors should be aware that gifts and favours of any kind, whether for themselves or for members of their families, may influence or be perceived to influence decision making.

7. Use of information

All Directors are required to respect the confidentiality of the information to which they are exposed as a result of their membership of the Board. All Directors, when dealing with difficult and confidential issues, are required to act with discretion and care in the performance of their role. This duty of confidentiality continues after an individual's directorship has terminated. A Director is required to:

- a. only use information gained as a director for the purposes intended by the Board and for purposes that are in the interests of the CLSB as determined by the Board;
- b. be aware that information and documents might be legally privileged and take all steps necessary to retain that privilege;
- c. handle personal data in line with data protection legislation and the CLSB's Data Protection Manual;
- d. never communicate official or confidential information without the Board's permission; and
- e. never seek to gain undue benefit from any party from information gained as a Director.

8. Financial matters

The Board has responsibility for the financial affairs of the CLSB and must act prudently and lawfully in relation to all financial matters. A Director is required to:

- a. understand the CLSB's annual financial accounts, quarterly financial reports and general financial position, and raise questions in relation to any uncertainty;
- b. ensure the CLSB's systems for financial management and oversight are adequate; and
- c. not support a Board decision that has financial implications that they consider imprudent or not sufficiently clear.

9. Leadership and stewardship

The Chair leads the Board and is responsible for its overall effectiveness in directing the Company. The Chair should promote a culture of openness and debate, facilitating constructive board relations and the effective contribution of all Directors. The Chair is also responsible for ensuring that Directors receive accurate, timely and clear information.

The Chair is required to:

- a. ensure the Board meets in accordance with its constitution;
- b. represent accurately and professionally the collective views of the Board;
- c. ensure that the regulatory objectives, professional principles and permitted purposes set out in the LSA underpin all Board decision making;
- d. ensure the Board uses its time effectively, with sufficient focus on strategic matters and reflection; and
- e. monitor the Board's performance and address any indications that the Board or an individual member is not performing as expected.

10. Misconduct by a Director

A Director's conduct may be considered to be unsatisfactory when a breach of this Code of Conduct, the Director's letter of engagement, a CLSB policy or any legal obligation has occurred.

Where misconduct is suspected, the Chair (or where the conduct involves the Chair, the Vice-Chair) shall take such action as may be immediately required. This may include exclusion of the relevant Director from one or more meetings whilst the matter is, as swiftly as possible without compromising the quality of the investigation, investigated and resolved. The following process will be followed:

- a. The Chair (or Vice-Chair as appropriate) will invite the CEO and one other Director to form a panel, which will arrange an investigation of the suspected misconduct and assess what action should be taken.
- b. The panel will make a recommendation to the Board (other than the Director who is suspected of misconduct) as to what action should be taken based on the evidence gathered during the investigation.
- c. The Board (in the absence of the Director who is suspected of misconduct) will decide what action should be taken and will implement that action in accordance with the Director's letter of engagement, the Articles and any applicable laws. In making its decision, the Board will take into account, but will not be bound by, the recommendation of the panel.

11. Personal liability of a Director

The CLSB will indemnify a Director against liability incurred in connection with claims or proceedings brought against them in relation to anything done or omitted to be done in the discharge of their duties as a Director. This indemnity is not available where the actions or omissions of the Director are:

- a. done or omitted to be done in bad faith;
- b. wilful or culpably negligent; or
- c. outside the scope of or inconsistent with the responsibilities of the Director.

Appendix 4: Board Appointment Policy

- 1. Purpose**

This policy seeks to safeguard the independence of the regulatory functions of the CLSB, acting as an approved regulator under the LSA, in accordance with the LSB's Internal Governance Rules.

This policy also aims to ensure orderly succession to the Board and sets out a transparent and fair selection and appointment process, promoting equality and diversity.
- 2. Constitution of the Board**

In accordance with the Articles, the Board shall comprise of five Directors, including the Chair, three of whom shall be lay persons and two of whom shall be non-lay persons. The Chair shall be a lay person Director.
- 3. Board composition and succession**

The CLSB is committed to the principle that its Board should broadly reflect its regulated community and the consumers of Costs Lawyers' services. The Board will regularly review the structure, size and composition (including the skills, knowledge, experience and diversity) of the Board to ensure that this principle is maintained, taking into account the size of the Board.

When considering Board recruitment and appointments, regard will be given to the desirability of ensuring Board members (between them) have experience or knowledge of the areas listed in schedule 1, paragraph 3 of the LSA and of issues relevant to the Board's role arising in both the English and Welsh legal jurisdictions.

The Board should ensure that plans are in place for orderly succession to Board, CEO and senior management positions, and oversee the development of a diverse pipeline for succession, taking into account the challenges and opportunities facing the CLSB, and the skills and expertise likely to be needed on the Board in the future.
- 4. Initial appointment process**

Before any appointment of a Director ("New Appointment") is made by the Board, an evaluation of the current balance of skills, knowledge, experience and diversity on the Board will be undertaken. In light of this evaluation, a description of the capabilities and characteristics required for the New Appointment will be prepared. In identifying suitable candidates the Board will:

 - a. use open advertising and/or the services of external advisers to facilitate recruitment;
 - b. actively encouraging applications from a diverse candidate pool; and
 - c. consider all candidates on merit and against objective criteria.

When appointing a new Director other than the Chair, the Chair and CEO will agree a shortlist of candidates for interview and the Board will convene an interview panel comprising the CEO, the Chair and one other Director. When appointing a new Chair, the Vice-Chair and CEO will agree a shortlist of candidates for interview and the Board will convene an interview panel comprising the CEO, one lay person Director and one

non-lay person Director.

The interview panel will make a recommendation to the Board in relation to the appointment, which could include a recommendation to readvertise the role if no suitable candidate is found. The Board will take into account, but will not be bound by, the Panel's recommendation in deciding whether to make a New Appointment.

Where the Board's decision on a New Appointment is made outside of a meeting (for example, through the exchange of emails) the decision will be minuted at the Board's next scheduled meeting.

On appointment to the Board, Directors will receive a letter of appointment, setting out clearly what is expected of them, as well as a new starter pack containing key information and policies.

5. Eligibility

Any Director who has previously been appointed to the Board will not be eligible to apply for a New Appointment.

A person who has served on the ACL Council may not apply for a New Appointment unless a period of two years has elapsed between the date of their resignation or retirement from the ACL Council and the published closing date for applying for the New Appointment.

6. Term of office and re-appointment

A Director's term of office shall not exceed three years, after which time they shall retire from office. A term of office shorter than three years may be agreed upon by the Board on appointment or re-appointment of a Director.

A retiring Director may offer himself or herself for re-appointment by the Board, by notification to the Company Secretary. That Director's re-appointment shall be considered and determined by the Board (other than the Director who is seeking re-appointment) at a scheduled meeting prior to the Director's retirement date.

A Director that is re-appointed in accordance with the Articles and sections 6 and 7 of this policy will be treated as continuing in office without a break. The Director will receive an updated letter of appointment confirming the period of their re-appointment. After their initial appointment, a Director may be re-appointed for up to two further periods of up to three years each, but will not serve for a total period in excess of seven years.

7. Appraisal process

Each Director will have an annual appraisal in accordance with the Board Performance Appraisal Policy (**Appendix 5**) and this will inform any decision as to whether to re-appoint a Director at the end of their term of office.

Appendix 5: Board Performance Appraisal Policy

1. Statement of intent

The CLSB is committed to supporting each Director to reach their potential and achieve their personal objectives, which will in turn assist the Board and the CLSB in achieving their objectives.

This policy sets out a process centred on an annual performance appraisal meeting/discussion of each Director with their relevant Appraiser, as set out in the table below, to reflect on the previous year and to agree priorities for the following year. These should align each Director's development objectives with the CLSB's organisational strategy and the regulatory objectives in the LSA.

Appraisee	Appraiser	Views to be obtained
Director	Chair	CEO
Chair	Vice-Chair	CEO, Directors and any key external stakeholders (if felt appropriate by the CEO and Vice-Chair)

The purpose of an appraisal is to review and celebrate achievement, encourage the Directors in their role and identify any areas for development.

2. Annual performance appraisal process

The process will be conducted annually and will be facilitated by the executive upon the instruction of the Chair.

The Appraiser will canvass views from the individuals set out in the table above on the Appraisee's overall performance, strengths, weaknesses and any development needs. These views will be fed back to the Appraisee in the appraisal discussion.

The appraisal discussion will be arranged at a mutually convenient time between the Appraiser and Appraisee and may be held in person, by videoconference or by phone.

The Appraiser will give the Appraisee constructive, timely and honest feedback on their performance. The Appraiser should aim to generate a positive dialogue focused on ensuring the Appraisee has the relevant knowledge, skills and competencies to perform their role. The Appraiser and Appraisee will agree any professional development activities for the Appraisee for the following year, and the Appraiser and CEO will support the Appraisee in carrying out those activities.

Following the appraisal discussion, the Appraiser will complete a Performance Appraisal Record (**Appendix 5A**) and provide this to the CEO for the Appraisee's personnel file. The Appraisee may request a copy of the Performance Appraisal Record at any time. The appraisal discussion will be held in private and the Performance Appraisal Record will be kept confidential and handled in accordance with the CLSB's privacy policy.

3. Rating

The Appraiser will give the Appraisee's performance an indicative rating, which will be recorded in the Performance Appraisal Record. The rating is intended to give the Appraisee a clear indication of whether they are meeting expectations in their role. Ratings that demonstrate consistent underperformance or unaddressed development needs will also act as an indicator that further intervention may be warranted.

Rating	Description	Understanding
1	Excellent	Consistently exceeds expectations
2	Very good	Exceeds expectation in some areas
3	Good	Meets most expectations but development needs in some areas
4	Below expected standards	Numerous development needs

Appendix 5A: Performance Appraisal Record Template

Appraisee (name and role):

Date of appraisal discussion:

Appraiser (name and role):

Rating	Description	Understanding	Overall Outcome
1	Excellent	Consistently exceeds expectations	<input type="checkbox"/>
2	Very good	Exceeds expectation in some areas	<input type="checkbox"/>
3	Good	Meets most expectations but development needs in some areas	<input type="checkbox"/>
4	Below expected standards	Numerous development needs	<input type="checkbox"/>

Appraisal area	Rating	Comments of Appraiser, or other feedback, in support of rating
Contribution to strategic direction		
Communication skills		
Working relationships with others		
Promotion of the regulatory objectives		

Other comments, including any observations from the appraisal discussion or issues raised by the Appraisee

Any development needs identified and/or objectives agreed for the following year

[illegible]

Appendix 6: Board Additional Remuneration Policy

1. Purpose

This policy sets out guidelines for remunerating Directors when they carry out tasks, as requested by the CLSB from time to time, over and above their responsibilities as a Director. It is intended to ensure that the remuneration of Directors is fair, consistent and transparent.

The CLSB's only contractual obligation to remunerate a Director for their services is as set out in the Director's letter of engagement, the terms of which prevail over this policy in the event of any inconsistency.

2. Approved additional activity

The CLSB will pay a Director, at its discretion, additional remuneration when the following criteria are satisfied:

- a. the additional activity is considered sufficiently substantial in nature by the CEO or the Chair;
- b. the CEO or the Chair has indicated to the Director in writing (including by email) the amount the CLSB will pay for that additional activity; and
- c. this has been accepted by the Director.

Examples of substantial additional activities might include:

- a. participating in an interview panel;
- b. participating in a committee of the Board;
- c. undertaking a discrete project.

In the event of approved additional activities, the CLSB will offer remuneration based on a rate of £357 per day, or such other rate as approved by the Remuneration Committee and published on the CLSB website from time to time.

3. Travel and subsistence

The CLSB will reimburse Directors promptly for expenses necessarily incurred when travelling on approved CLSB business.

Expenses claims must be made within three months of the expense being incurred. They should be submitted to the CLSB Operations Director on a CLSB expense claim form, with documentary evidence of all disbursements attached.

Travel by road

CLSB will reimburse a Director for use of their own transport at the following rates:

Car:	45p per mile
Motorcycle:	24p per mile
Pedal cycle:	20p per mile

The distance claimed must be no more than the distance from and back to the Director's home address.

Mileage claims will only be paid in respect of private vehicles which are both roadworthy and insured for the relevant use. By submitting a mileage claim, the Director is confirming to the CLSB that both these criteria have been met.

Travel by rail

A Director may, at their discretion, claim for first class travel when attending a Board meeting (in acknowledgement of preparation being done during transit) provided the Director has used reasonable endeavours to secure the best possible price. This includes booking in advance with stated travel times where appropriate.

The Chair may, at their discretion, claim for first class travel in the event the journey is in excess of an hour and a half each way. As above, the Chair should use reasonable endeavours to secure the best possible price.

Travel by taxi

Travel by taxi will be reimbursed provided the cost does not exceed £50 per journey. Where the cost would exceed this amount, public transport should be used.

Travel by air

Air travel (economy class) may be claimed where it is evidenced to be more cost effective than any other form of transport for the business journey in question.

Hotel accommodation

The cost of accommodation and breakfast will be reimbursed where an overnight stay is unavoidable up to £180 per night.

If overnight accommodation is taken with a friend or relative, then £50 per night may be claimed.

Subsistence

Subsistence may be claimed when away from home as follows:

Breakfast:	Up to £8
Lunch:	Up to £10
Dinner:	Up to £25

A receipt showing the actual expense incurred must be submitted with the claim.

4. Discretion

If a Director would incur lower costs by departing from the terms of this policy, the Operations Director may approve a departure from the policy on a case-by-case basis in the interests of saving resource. An example of such a scenario would be where a first class ticket on a circuitous route is available more cheaply than a standard ticket on a direct route, and the Director would prefer the former option.

In the event that a Director cannot comply with a term of this policy, for example because they require special assistance or because a transportation method is unavailable, the CEO may approve a departure from the policy.

A Director who wishes to depart from this policy should seek approval from the Operations Director or CEO, as applicable, in advance of the expense being incurred and provide evidence to support their request.

The CLSB is open to sharing the cost of travel and subsistence with other organisations where a Director is able to save resource by travelling for two or more purposes in a single journey. A Director who wishes to make such an arrangement should discuss this with the CEO in advance of the expense being incurred.

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

Internal tracker – as at 27 January 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. 	Compete (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 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. 	In train (expected H1 2022) <ul style="list-style-type: none"> To be covered in a new consultation process document.

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>Pending (expected H1 2022)</p> <ul style="list-style-type: none"> This is a standalone task that needs attention in early 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>In train (expected H1 2022)</p> <ul style="list-style-type: none"> To be covered in a new consultation process document.
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.

COSTS LAWYER STANDARDS BOARD LTD

RISK REGISTERS

As at 20 October 2021

1. RISK SCORING

(i) Nature of risk

Our operational risks are categorised as:

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

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

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

(ii) Gross risk: Impact x Probability

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

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

(iii) Adequacy of controls

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

2. OPERATIONAL RISK REGISTER

Logged by board: 6/4/2011	Reference: OP1	Risk score: I(5) x P(4) = 20
Risk to operation	Changes to the profession impact CLSB viability as more leave than enter the profession	
Nature	Financial, operational continuity	
Evidence of risk	<ul style="list-style-type: none"> • Increase in fixed costs (from September 2021): MOJ confirmation that it will expand fixed costs regime. • Coronavirus (from May 2020 and April 2021): Results of our first coronavirus impact survey suggested a significant minority of Costs Lawyers were concerned about their ability to carry on practising, while the outlook from our second survey was more optimistic, other than for legal aid practitioners. • Whiplash reforms (from January 2021): could reduce work in low value PI claims, but may also increase complexity of instructions. • Link to OP3 in terms of numbers entering the profession. • Actual net attrition of 12 practitioners over 2020. 	
Controls	<ul style="list-style-type: none"> • Monitor impact on the profession via impact assessment surveys, including coronavirus impact surveys in Q2 2020 and Q1 2021. • Respond to proposals/consultations to help stakeholders understand the Costs Lawyer market and ensure policy developments are in the public interest. • Implement regulatory arrangements that support safe innovation and diversification, to promote ongoing competition and choice. • Pursue recommendations in the Mayson report for expansion of costs regulation. • Mitigate risks around route to entry – see OP3. • Review of historic termination and reinstatement data carried out in 2020 and new processes put in place for communicating with potential returners. • Retain six months' operating budget as reserves. 	
Control adequacy	4	
Priority area of risk	High	
Actions/status	Monitor reasons for leaving the profession at PC renewal and respond to new factors. Impact of coronavirus on regulated numbers being kept under close review.	

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

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

	<ul style="list-style-type: none"> Coronavirus may impact the number of new qualifiers, due to assessment delays and reduced employer funding.
Controls	<ul style="list-style-type: none"> Flagship project in 2021 to create a new competency statement, providing a basis upon which to modernise regulatory requirements for the qualification. Work within the parameters of the new Protocol agreed with ACLT. 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"> Ongoing course audit. Final delivery of competency statement project and consequential rule changes.
Commentary	Establishing a stable, modern, flexible qualification is the CLSB's highest priority for the short and medium term.

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

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

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

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

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

3. REGULATORY RISK REGISTER

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

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	

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

Logged by board: 20/10/2020	Reference: R5	Risk score: I(4) x P(3) = 12
Risk	CLSB cannot promote all aspects of diversity within the profession given the small size of the regulated community and trainee population	
Risk to objectives	Regulatory objective: Encouraging an independent, strong, diverse and effective legal profession.	
Evidence of risk	<ul style="list-style-type: none"> • There is only one route of entry into the profession and, in some years, there may be no new students accepted through that route (linked to OP3). • Statistically the size of the profession makes it more difficult to strive for a composition that is reflective of wider society. • The LSB has provisionally assessed existing data that we capture on the diversity of the profession as insufficient. 	
Controls	<ul style="list-style-type: none"> • New diversity and inclusion survey developed for roll out with practising certificate applications in Q4 2020. • New reporting framework for the Costs Lawyer Qualification being agreed with ACL Training. 	

	<ul style="list-style-type: none"> • Targeted diversity initiatives planned for 2021. • 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 2021
Priority area of risk	Medium, so long as we are able to deliver planned initiatives
Actions/status	Assess impact of new data capture methodology in early 2021. Delivery of controls during 2021.

Board paper

Professional indemnity insurance and Costs Lawyers

2 February 2022

In our 2021 Business Plan we said that we would look at the risk of under-insurance in order to improve our understanding of the risk profile across the profession.

Summary of findings

In a sample of Costs Lawyers we looked at, most appeared to have adequate insurance in terms of monetary cover per claim. But some – two in our sample of fifteen – had low insurance limits per claim compared to their turnover.

There are reasons why this may not be of great concern, including that very few Costs Lawyers are likely to have individuals as clients and many are likely to be working via other professionals or, even when self-employed, as consultants in law and other types of firms.

The area of highest risk is likely to be in firms of Costs Lawyers that are not regulated by the SRA - one of these in our sample had low insurance cover per claim compared to its turnover.

It is possible that very few Costs Lawyers have obtained specific insurance against cyber risks. Whether or not this is of concern depends on the risks of each particular lawyer, that is, whether their clients are in any event covered by insurance held by a firm the lawyer is working in or for, and what safeguards they have in place.

Recommendations

Our policy is that Costs Lawyers have the responsibility to assess the risks of their business and secure adequate insurance. We believe this remains a proportionate and appropriate approach.

The area of highest risk is likely to lie in firms of Costs Lawyers that are not regulated by the SRA. These are all likely to be identified by our RPF funded project, and in 2022 we intend to follow up with these firms and ask them about the adequacy of their insurance cover, prompting those who need to do so to increase their cover, and at the same time make enquiries about the issue of cyber risks and the need for specific insurance.

Separately, and in addition, we will promote via our own newsletters and further dialogue with ACL the need for Costs Lawyers to consider the need for specific insurance against

cyber risks, and continue to work with the National Cyber Security Centre on promoting awareness of risks within our regulated community.

Annex one: professional indemnity insurance: more detail

Regulatory requirements for indemnity insurance

CLSB requires Costs Lawyers to have a minimum liability cover of £100k for any one claim.

The SRA requires firms to have at least £3m for any one claim, sole practitioners and partnership firms at least £2m for any one claim.

The SRA (and some other regulators) have prescriptive rules in place that specify minimum terms and conditions for professional indemnity insurance. The SRA also [maintains a list of participating insurers](#) that have agreed to offer policies which meet the SRA's minimum terms and conditions.

The CLSB has said that it has an open market policy with regard to Costs Lawyers choosing an insurer, that is, Costs Lawyers have the responsibility to check that their PII is adequate and CLSB guidance states that Costs Lawyers are best placed to assess the risks associated with their individual practice.

Insurance cover for Costs Lawyers: a sample

We looked at a sample of 15 Costs Lawyers who had sent us policy documents as part of their recent practising certificate applications. We do not routinely ask for policy documents, but some sent them regardless.

Some Costs Lawyers sent us the details of professional indemnity insurance taken out by the firms they worked in or for, rather than cover that was specific to themselves as individuals.

Three in our sample had the minimum £100k cover for any one claim as specified by the CLSB. Two of these were sole practitioners, one had a turnover of £45k and the turnover of the other was unknown¹. The third was the owner of a limited company with 2 employees and a turnover of £23k.

One in our sample had the SRA specified £3m per claim cover. This was a firm of Costs Lawyers with employees, and a turnover of £420k.

All the others in our sample had insurance cover in the range of £250k to £1m per claim, with (where known) turnovers in the range £75k to £550k.

All but two in our sample had claim limit to turnover² ratios that were greater than two. Of the two who had lower ratios, one was a sole practitioner with cover of £250k per claim and

¹ We did not have turnover information for all of the sample - turnover was typically only shown on policy documents where the insurance had been bought via a broker.

² Where turnover was known.

a turnover of £220k. The other was a firm of Costs Lawyers with cover of £250k and a turnover of £550k.

What might be an adequate insurance cover per claim for Costs Lawyer?

It isn't possible for us to know for any particular Costs Lawyer what an adequate level of insurance might be - this would depend on the nature and risks of their work, the average value of an instruction, and the nature of their clients.

Turnover, as an indication of the average value of an instruction, is the only measure where we have some information readily available.

There are some reasons why we could be less concerned than the SRA about specifying a requirement for a higher limit per claim than we currently do, and these include that our:

- recent survey on pay and earnings showed that Costs Lawyers who described themselves as “self employed or the owner of a business where you are the only employee”³ earn between £14k and £120k, with only one saying s/he earned more than £78k;
- work on the RPF project has emerging findings that there is a trend for many sole practitioner Costs Lawyers to be working in law firms as consultants; and there are very few Costs Lawyers who have individuals as clients.

These factors point to the conclusions that:

- a minimum limit of £100k per claim may not be out of step with the typical turnover of a self employed Costs Lawyer;
- Costs Lawyers working in SRA regulated firms are likely to be covered by insurance that meets the SRA's requirements;
- the clients of Costs Lawyers may be sophisticated buyers and/or other professionals, able to make decisions about what insurance their suppliers are required to carry.

It may, however, be worthwhile making further enquiries about insurance cover per claim for firms of Costs Lawyers who are not regulated by the SRA.

Cover for cyber risks

Of the sample we looked at where we had policy documents, Costs Lawyers had insurance from:

Insurance company	No. of Costs Lawyers
Tokio Marine HCC - professional risks	9
American International Group UK Limited	2

³ And who answered the question on earnings.

AXA	2
Aqueous Underwriting	1
QBE European Operations	1

Last year, we raised an issue relating to cyber cover with ACL. We explained that the PRA [had asked insurance companies](#) to identify, quantify and manage cyber insurance underwriting risk due to concerns that some insurance policies, including PII, are not specific enough. Since the policies are not clear about exactly what cyber related losses are or are not covered the PRA was concerned that insurers could not be properly pricing these risks.

The PRA describes cyber risk as: cyber-related losses resulting from malicious acts (eg cyber attack, infection of an IT system with malicious code) and non-malicious acts (eg loss of data, accidental acts or omissions) involving both tangible and intangible assets.

In response to the PRA, Lloyd's of London, who manage syndicates operated by insurers, [mandated that](#) all relevant policies must change to either expressly include or exclude risks relating to cyber events.

We asked ACL to alert its members to this issue and revert back to us if it received any reports that Costs Lawyers were having difficulty obtaining cover for cyber risks. We did not hear back from ACL about any problems.

Tokio Marine HCC, the most commonly bought policy in our sample, does not appear on the SRA list of approved insurers. While the policies (that we have seen) do include the loss of documents, they exclude cover for events involving a computer virus, and specific cyber cover is available from Tokio Marine HCC that is separate from its Professional Risks insurance. We saw no policies where cyber cover was explicitly included. One AIG policy we looked at specifically excluded cover for cyber events.

Since our regulatory requirements do not mention cyber insurance cover it is possible that Costs Lawyers didn't send us details of their insurance against cyber risks, but we think this is unlikely. So it seems fair to say that, with the Tokio Marine HCC policies excluding events due to computer viruses and the availability of separate Cyber cover available from Tokio Marine HCC, most policies we looked at did not cover cyber risk.

Costs Lawyers, and firms of Costs Lawyers, are unlikely to be big enough to be obvious targets for sophisticated bespoke ransomware attacks, and also have few individual clients where scams diverting transfers of money from clients may be a particular concern. On the other hand any business can be a victim, and smaller firms may have fewer IT safeguards in place than larger ones.

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

Kate Wellington
Chief Executive
Costs Lawyer Standards Board
By e-mail only: ceokw@clsb.info



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

T 020 7271 0050

www.legalservicesboard.org.uk

21 December 2021

Dear Kate

Regulatory Performance Assessment 2021 – CLSB

We are now in the closing stages of this year's performance assessment exercise and we are preparing to publish our report.

I would like to thank you for responding to our request to fact-check your draft assessment and confirming its accuracy. The final version of your assessment is attached below and in Annex B of the attached report. We will continue to monitor CLSB's performance against all the outcomes through our relationship management work and other activities in the coming year.

In line with our general practice, please find attached an **embargoed** copy of the LSB's Annual Regulatory Performance Assessment Report for 2021. Please treat the report as **confidential** ahead of its publication. We intend to publish the report at Noon on 22 December 2021, after which you are welcome to share it publicly.

The report follows a similar format to previous years. One point to highlight is that our concerns about regulatory bodies having appropriate resources to properly carry out their functions have endured this year, and we will continue to focus on this during 2022 through our performance assessment and Practising Certificate Fee approval process. We would like to note CLSB's achievement of meeting all 27 outcomes as an example of how being a smaller regulator with relatively limited resources need not be a barrier to high performance. Again we encourage regulatory bodies to collaborate, combine their expertise, learn from each other and pool their resources to overcome any resource and capability challenges they may face.

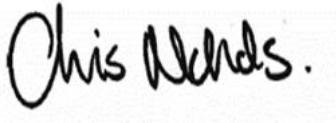
You will note that the report mentions that subject to the conclusion of our consultation on our draft Business Plan for 2022/23, we intend to undertake work on regulatory bodies' disciplinary and enforcement processes and the principles which should underpin them, so they ensure outcomes that build public confidence, deliver fairness for professionals and uphold proper standards of conduct and competence.

We will also continue our focus on transparency from last year and you will see from the attached report that this has resulted in reassessments of regulatory bodies' performance against WL3 (Transparency of decision-making and performance).

Our work on revising the regulatory framework is progressing and we plan to begin our consultation on our proposals in March 2022. Thank you for your assistance with this work so far. It is our intention to have the revised framework in place for the start of 2023. I confirm that how we transition from the current framework to the revised one is a matter to which we are giving serious consideration.

Again, we thank you for your cooperation over the past year, and we look forward to working with you in 2022.

Yours sincerely

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

Chris Nichols
Director, Policy and Regulation

Costs Lawyer Standards Board (CLSB)

Overview

REGULATORY APPROACH					AUTHORISATION					SUPERVISION				ENFORCEMENT						WELL-LED						
1	2	3	4	5	1	2	3	4	5	1	2	3	4	1	2	3	4	5	6	1	2	3	4	5	6	7

Met		Not met – action being taken		Not met – action required	
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The last regulatory performance assessment of the CLSB was published in May 2021. At that time we had received updates from CLSB on the four remaining not met outcomes (RA3, RA4, WL2, WL4). As a result of the progress made, we were satisfied that outcomes RA3, WL2 and WL4 were now *met*. This just left RA4 as *not met – action being taken*. Considerable progress had already been made towards meeting outcome RA4 at that time.

Our updated assessment confirms that CLSB has now evidenced that it currently meets outcome RA4. This is the culmination of CLSB's turnaround from a total of nine *not met* outcomes, to now meeting all the outcomes contained within the LSB's regulatory performance framework. This is a significant achievement for which the CLSB and its leadership is to be commended. The improvement in CLSB's performance is the result of substantial ongoing work. In order to maintain its current assessment, we expect CLSB to sustain its focus on regulatory performance by demonstrating further improvements against each of the outcomes over time.

The continued work by CLSB demonstrates its commitment to becoming an effective regulator. This is seen not only in its efforts to meet each of the outcomes but also in its innovative approaches to its work. A good example of this is its recent success in obtaining funding from the Regulators' Pioneer Fund to run a research project looking at whether Costs Lawyers could bring about downward pressure on the cost of legal services. This type of innovation has the potential to provide significant benefits for consumers and shows the work CLSB is doing in order to make positive change within the sector.

We expect CLSB to continue its good work in developing its evidence base and, as set out above, improving its performance against each of the outcomes with a clear focus on the regulatory objectives.

Outcome		RA4: Regulatory arrangements and associated guidance documentation are informed by learning gathered from all of the regulator's work including its risk assessment and enforcement work.
November 2021	LSB assessment	<p>We set an action for CLSB to demonstrate continued use of its consumer engagement strategy, in particular, its consumer outcomes framework, once it was in operation. We set an expectation to receive evidence of the impact made by the framework over time and to be updated on further progress against its 2021 business plan priorities for improving its regulatory arrangements.</p> <p>The update from CLSB shows that it has taken steps to obtain evidence directly from individual consumers of legal services from Costs Lawyers. Additionally, CLSB has made use of its consumer outcomes framework when considering and setting its business plan for 2022.</p> <p>CLSB has also been able to provide evidence that it has progressed its improvements to regulatory arrangements actively, not least through its work developing a new competency statement for costs lawyers and its updates to regulatory guidance notes.</p> <p>We are satisfied that CLSB has demonstrated its ongoing work making use of its learning over time.</p>
	Action needed	N/A
	Timing	N/A

Council members present: Claire Green, Chair (CG), Francis Kendall, Vice-Chairman (FK) David Cooper (DC), Adam Grant (AG), Kris Kilsby (KK), Victoria Morrison-Hughes (VMH), John Pennington-Jones (JPJ), Jack Ridgway (JR), David Bailey-Vella (DBV), Ian Curtis-Nye (ICN)

Also present: Diane Pattenden (DP)

Apologies: Richie Young (RW)

The meeting started at 2pm

Item	
1	Welcome and apologies
1.1	CG welcomed all to the meeting.
1.2	Apologies from RY were accepted.
2	Minutes of the council meeting held on 23 July 2021
2.1	The question of whether point 3.3 should be treated as confidential was discussed but council agreed that this was not necessary given that the discussions had taken place.
2.2	Subject to adding to 1.1 that NS sent her apologies ahead of the meeting but subsequently (22 July) resigned from council, the minutes of the meeting were agreed as being an accurate account and were approved for publication.
2.3	Item 6.3 –Discussion took place on whether the ACL council should respond to the CLSB consultation on the practising fee. It was agreed that a response would not be provided on the basis that the increase was very small. It was further agreed that CG will voice her concerns, in her capacity as a Costs Lawyer, to the CEO of the CLSB.
3	Actions arising from the council meeting held on 23 July 2021
3.1	Item 1 - It was noted that the CLSB's consultation on the competency statement has been issued and that the deadline is 18 October.
3.2	Item 2 - DC has reviewed the entry on the Law Society website with regard to the categories of fee earners. He observed that there was some contradiction between the entry and the guide and will prepare a communication to the Law Society to seek clarification.
4	Education report
4.1	JR reported that the education committee's recent focus had been to prepare a response to the CLSB audit. This is on track and will be finalised in good time.
4.2	The deadline for the positions of Chair and Board member has been extended.
4.3	Discussion took place regarding the level of remuneration for the position of Chair of ACLT. It was agreed that the steering committee will discuss this with Hook Tangaza. VMH will ask Hook Tangaza for guidance.

5	Policy report
	AG reported that the competency statement consultation is a key task. He agreed to format the draft report but felt that the substance of the report should be written by the Education Committee.
6	Finance Report
	CG invited comments on the ACL and ACLT 2020 accounts. A discussion followed regarding the amount shown under the heading of debtors and it was agreed that DP would seek clarification from the accountant.
7	PR and Marketing Report
	It was confirmed that Senior had provided a quote for developing the online Costs Lawyer Journal and that a meeting had been held with Rebecca Rose (RR) of Black Letter, DP and Senior's account manager. A further meeting had been scheduled to discuss and finalise the details. It was agreed that if the quote provided was competitive and if RR was content with working with Senior, the quote should be accepted.
8	Operations Report
8.1	CG reported that she was delighted to confirm that the Master of the Rolls had accepted the invitation to make the key note address at the London Annual Conference on 25 November.
8.2	DP confirmed that she would be visiting the proposed venue in the following few weeks.
8.3	It was confirmed that the event would not be screened live and the maximum capacity at the venue is 120 (including speakers).
9	Email received from a member regarding status under GHRs
9.1	DC referred to his experience as a member of the committee looking into guideline hourly rates and stated that whilst on the committee he raised the point that ACL would like to have costs lawyers included within the categories in the guide. His understanding was that costs lawyers' rates would be available at B and C grades, subject to the complexity of the work and they are not entitled per se to grade B or C status just based on their experience or length of qualification.
9.2	DC reported that he felt it unlikely that Costs Lawyers could be noted on the N260.
9.3	DC agreed to reply to the email from the ACL member.
10	Email from a member re SRA Professional Conduct Rules
	The content of the email was discussed and it was agreed that FK will email to seek clarification on some of the points raised in the email and provide a response.
11	Any other business
11.1	Ahead of the meeting, confirmation of the terms of office for each council member was circulated. CG stressed the importance of succession planning and a discussion followed.
11.2	FK confirmed that it was his intention to step down in November but he would be flexible on timing if needed.
11.3	AG said that whilst he would be prepared to be co-opted for a specific purpose he would not put himself forward for a further term. CG stressed that it was particularly important that a plan was in place in order to satisfy the LSB.
11.4	DC confirmed that whilst he would be happy to provide assistance to the council once his term ends as he would not hold a practising certificate in 2022 and would therefore not be eligible to stand for election as a full council member.
11.5	The question of when to seek nominations for the position of Chairman was raised and it was

11.6	agreed to carry this forward and add to the agenda for the October council meeting. Discussion took place regarding whether the ACL articles, which have not been changed for 10 years, should be reviewed to see if they are still fit for purpose. AG expressed caution about reviewing articles so close to the appointment of a new Chairman in 2022. It was therefore agreed that the articles should be reviewed at a further date.
11.7	DC referred to an email from Hook Tangaza regarding the draft articles for ACLT and said there was a fundamental issue with the objects, which were finely defined. He observed that the objects effectively meant that ACLT could not do anything other than running the course and questioned if the intention was to be so restrictive. JR clarified that once the Board was in place, they could draw up a business plan for sanction by ACL. JR made the point that the articles needed to be voted on within 28 days. It was agreed that JR would make initial amends for circulation in turn to all council members.
12	Date of future council meetings
	Thursday 7 October 11am Friday 5 November 11am 10 December – in person (London) The meeting finished at 4.10pm



Council members present: Claire Green, Chair (CG), Francis Kendall, Vice-Chair (FK), David Cooper (DC), Adam Grant (AG), Kris Kilsby (KK), Jack Ridgway (JR), David Bailey-Vella (DBV)

Also present: Diane Pattenden (DP)

Apologies: Victoria Morrison-Hughes (VMH), Ian Curtis-Nye (ICN), John Pennington-Jones (JPJ)

The meeting started at 11.am

Item	
1	Welcome and apologies
1.1	Apologies were accepted from VMH, ICN and JPJ.
2	Minutes of the council meeting held on 6 September 2021
	Subject to deleting reference in 9.2 to drafting a letter and inserting the word 'be' after 'would' in 11.4, the minutes were agreed for publication.
2	Actions
2.1	Item 5. DP to circulate the article to all council members. FK to send the agreed copy of the article to Neil Rose (NR).
2.2	Item 2. DC confirmed that the letter to the Law Society had been drafted.
2.3	Item 18. JR has made changes to the draft ACLT articles. It was agreed that once approved, ACL would arrange for the articles to be filed at Companies House. CG asked all council members to review the document and confirm their acceptance. JR emphasised that there were three points that needed advising on; two by the ACL accountant and one by a company lawyer. CG will forward the draft articles to a company lawyer for comment.
3	Nominations for position of Chair
3.1	It was agreed that CG should make an announcement at the London Conference that her term of office ends in May 2022 to try to create interest in the role. Members will be emailed in December with a view to having a Chair elect in place by January.
3.2	AG acknowledged that his term of office ends on 19 October 2021. He reported that at a recent meeting the LSB were keen for a smooth transition with regard to a replacement policy officer. AG has advised the LSB that he is happy to be co-opted to May 2022 and will work towards finding a replacement by January to work alongside him until May. AG will discuss the role with KK and ICN to decide who will take over.
4	Education Update
	Due to the confidential nature of this item, the text for item 4 has been redacted.

5	Policy Report
5.1	The CLSB Costs Lawyer competency statement consultation was discussed. AG expressed concern that ACLT could be significantly impacted by the consultation. He went on to say that he was prepared to help format the response but could not contribute substantially to the content.
5.2	It was agreed that council members should respond to AG on all 5 questions. CG and AG will put together a draft response.
5.3	AG reported that he has advised the LSB that the governance structure for ACLT has been updated. AG has also made the LSB aware of the work that Hook Tangaza is undertaking for ACL.
5.4	It was agreed to add an agenda item for the November meeting to discuss and make a decision as to whether the 2022 training course will run.
6	Finance Report
6.1	CG asked FK and JPJ to meet to consider the ACL/ACLT accounts. She went on to say that she felt that the accounts were not easy to understand and suggested an overview of the presentation of the accounts.
6.2	It was agreed that management accounts should be made available ahead of each council meeting.
6.3	It was agreed that the Hook Tangaza invoice should be paid once the Board is in place.
7	PR and Marketing Report
	DP, Neil Rose (NR) and Rebecca Rose have a meeting with Senior on 11 October to look at the mock ups of the new format Costs Lawyer. DBV will join the meeting if he is able.
8	Operations Report
8.1	DP reported that she had visited the conference venue and should be signing the contract for 25 November within the next week.
8.2	It was agreed that a council meeting would not be held on the night before the conference.
8.3	Council members were asked to let DP know if they need accommodation on the 24 th /25 th . Depending on the rate available for the conference hotel, alternative accommodation will be considered.
8.4	Certificates will be presented at the end of the conference to recently qualified students.
9	2022 Membership renewal
	It was agreed to keep the membership rates the same as for 2021.
10	Date of future council meetings
	Friday 5 November 11am (via video conference) 10 December – in person (London)
11	Any other business
	There being no further business the meeting finished at 1.05pm

Council members present: Claire Green, Chair (CG), Francis Kendall, Vice-Chair (FK), David Bailey-Vella (DBV), David Cooper (DC), Ian Curtis-Nye (ICN), Adam Grant (AG), Kris Kilsby (KK), Victoria Morrison-Hughes (VMH), John Pennington-Jones (JPJ), Jack Ridgway (JR),

Also present: Diane Pattenden (DP)

The meeting started at 11.am

Item	
1	Welcome and apologies
1.1	CG welcomed all to the meeting.
1.2	JPJ apologised for having to leave the meeting early and left at item 5.8
1.3	VMH apologised for having to leave the meeting early and left at item 6.2
2	Minutes of the council meeting held on 7 October 2021
	The minutes were approved as being an accurate account of the meeting. Redactions, prior to publication were agreed.
3	Actions
	The actions arising from the council meeting on 7 October were reviewed and updated.
4	Education Update
4.1	Items 4.1 – 4.4 have been redacted due to the discussion being of a sensitive and confidential nature.
4.5	After a full discussion and consideration of the risks, it was agreed unanimously that the viability report to the CLSB should be approved and there should be an intake of students for all units of the course in 2022.
5	Policy Report
5.1	AG thanked council members for their input into the CLSB competency consultation response.
5.2	AG reminded council that his term of office ended on 18 October and that as previously confirmed he was agreeable to being co-opted to May 2022 in order to ensure a smooth handover. Council members voted unanimously in favour of AG being co-opted.
5.3	AG confirmed that progress is being made with the policy manual.
5.4	AG suggested that a cloud based database for centrally holding and working on documents should be investigated.
5.5	AG raised the issue of whether separate ACL email addresses should be used by all council members. AG/ICN will meet with DP to discuss a number of things including information sharing and the use of 2 factor authentication for council members not using an ACL email

5.6	address.
5.7	AG will arrange a meeting with CG/ICN/CLSB regarding pro bono
5.8	AG advised council members that the CEO of the CLSB had recently set up a company (Home Insurance Consumer Action) and asked if there was a potential conflict to consider. It was assumed that there would not be any conflict but agreed that CG would make an informal approach to KW.
5.8	CG reported that the CLSB have recently engaged the services of Hook Tangaza to undertake some work which should be completed by March 2022.
6	Finance Report
6.1	FK advised that the finance committee would meet with the ACL accountants and the ACL investment adviser in the next two weeks.
6.2	It was agreed to continue to circulate management accounts, to council members on a confidential basis, ahead of each council meeting.
6.3	FK confirmed that he would be standing down from council at the end of November 2021.
6.4	It was agreed that nominations should be sought to replace FK and for the current vacant position on council.
7	PR and Marketing Report
7.1	FK confirmed that BlackLetter were preparing a questionnaire for distribution at the conference.
7.2	KJ/NR have asked to meet with CG in January. CG will speak to KJ to see if this can be brought forward.
7.3	DP confirmed that Senior were currently in the process of finalising templates based on the visuals agreed with Black Letter and that these should be available via the administration site of the website within a few weeks.
8	Operations Report
8.1	DP reported that the conference was sold out and gave a breakdown of the categories of attendees.
8.2	A discussion took place regarding whether the 2021 student cup should be awarded at the conference. It was agreed that the student cup for 2021 would be presented at the spring conference.
8.3	DP reported that membership renewal notices would be sent out mid-November.
8.4	Redacted due to confidentiality.
9	Date of future council meetings
	Friday 10 December – 11am by conference call
10	Any other business
	FK confirmed that District Judge Besford's and District Judge Lethem's term of office as honorary vice president s originally ended in 2019 but were extended for a further 3 years to May 2022.
	There being no further business the meeting ended at 1.20pm

Board report

Review of the 2022 practising certificates renewal process

19 January 2022

Summary

This was the second year of using the online renewal system. During 2021 the system was improved on the basis of our experience in the first year.

- The improvements made to the renewals system ahead of the second renewals process, together with the new accounting package, saved a lot of administrative time. In November-December 2020 I worked 62 additional hours. This was almost halved in 2021 to 33 hours. The additional staff costs allowance (£2000) in the 2021 budget was therefore not needed.
- There were far less minor IT issues this year. However, some individual Costs Lawyers had problems which was obviously frustrating for them. Some of these are due to their internal IT set up (for example, being unable to open the formatted link to the application form or emails being held up/ delivered to spam), others are by design (2 CLs lost the data they'd entered to date due to leaving the form for longer than 20 mins), and a small minority are just inexplicable technology blips.
- Most significantly a minority of CLs say they are still not receiving the emails sent from the Sendgrid mailing system. We upgraded to get a better view of what's happening, and some of these people who said they had not received the email had actually opened it. However, some are not delivered to inboxes due to IT set up (these should gradually decrease as they learn how to make CLSB a safe sender) and others for inexplicable technology blips.
- There are further improvements that we can make for the future. For example, 4 CLs completed the 2020 application form (presumably having searched for an email from CLSB and finding the old one). We couldn't remove these from the website once the renewals process was underway, but next year everything will be removed prior to the 2023 renewals process.
- The most time consuming aspect of the process remains chasing late applications and fees and missing/incorrect documents. As shown in table 1 only 632 CLs (90%) had applied by the deadline (and of these only 435 had paid). At time of writing there is one application and three payments still outstanding. Historic documents show late payments and fees have always been an issue.

Statistics

Regulated numbers

As a starting point for interpreting the statistics below:

- There were 702 CLs on the Register on 31 December 2021.
- There was 1 reinstatement and 1 new qualifier added to the register from 1 January 2022.
- There was 1 early termination at end March 2021 due to retirement.

- This gives us a high-watermark of 705 CLs against which we can measure renewals and terminations.
- As Table 1 below shows **there were 674 regulated Costs Lawyers at the start of the 2022 practising year.**

Regulated numbers (Previous year in brackets)	Renewals/reinstatements/ new qualifiers	Terminations	Total
By end Nov ¹	632 (640)	14 (22)	646 (662)
By end Dec	655	24	679
At end of process	674 (675)	31 (32)	705 (707)

Table 1: Regulated numbers

- Due to the restructuring of the Costs Lawyer qualification (with exams sat in September, December and February as opposed to June and September) we had less new qualifiers regulating in 2021 than in previous years. There were 13, as opposed to 16, 26, 67 and 104 the previous 4 years. In 2022 we expect the bulk of the new qualifiers to regulate before the 1 April census date. (I have recently sent 9 Costs Lawyers who qualified on 11 January applications for their first practising certificate.) We therefore anticipate that when we report the number of regulated Costs Lawyers to LSB for the levy calculations on 1 April 2022 that the number will be the highest ever (previous highest total 684 in 2019).

Renewals

	Parental Fee Remission	CPD Remission	CPD Dispensation (special circumstances)	Hard copy PC	Hard copy application
2022 PC App	14 ²	36	2	15	2 ³
2021 PC App	5	47	4	16	1.5

Table 2: Renewals data

CPD Remission	Furlough	Newly qualified	Reinstatement	Parental leave	Sick leave
2022 application	2	4	6	20	4
2021 application	12	13	3	16	3

Table 3: CPD remission breakdown

Terminations

Terminations	2021	2020	2019	2018	2017	2016
Total	33	32	47	58	61	43

Table 4: termination numbers

Termination reasons	COVID related	Retirement	Left profession	Parental leave	Other	Not known	No response
31.12.2021		4	3	6	11		8
31.12.2000	7	2	4	5	7	2	5

Table 5: Termination reasons

¹ Renewals complete or received in part.

² Average fee after remission was £122.

³ One actual hard copy, and one using the Word version of the form rather than the online system.

Terminations for other reasons at the end of 2020 were mainly unemployment and ill health. Reasons given for terminations at the end of 2022 include several which are more noteworthy for the Board:

- Also regulated as a Solicitor
- Deals mainly with Legal Aid work (did not respond to follow ups)
- Reduction of work and income (also resulting in insufficient CPD) – 2
- Unhappy with CLSB, PCF and renewal process
- To do a Masters degree
- Childcare issues after furlough
- Unemployment – 2
- Ill health – 2

Other data

Other data from the regulatory return will be reported in the *Costs Lawyer Profession in 2021* report which will be provided for the next Board meeting. However, I thought the Board would be interested in the response to a new question added this year.

CLs with another legal regulator	Chartered Legal Executive	Solicitor	Other
Total - 27	12	13	1 ⁴

Table 6: CLs regulated by another legal regulator

Diversity

As we did last year we asked CLs to complete a diversity survey alongside their application for a practising certificate – using a link at the end of the application form. This year's survey was not a full diversity survey, but rather concentrated on the differences in pay and earnings between men and women, data we do not currently have.

To encourage more people to respond to the survey we offered a free draw for 60 minutes of CPD which we secured for free from Datalaw. 263 people clicked the link to the survey, but there were only 240 submitted responses. This is a response rate of 35.6%. This is significantly down on the response rate of 43.6% (but still up on the previous response rates of 28% in 2014, 32% in 2016 and 23% in 2019).

More information about the survey results can be found in Heather's separate paper.

Update to last year's assessment of the new process against the five key metrics (cost, resource implications, user feedback, data security, data quality)

Metric 1: Cost

The additional costs of running the renewals process with hard copy application in 2019 was £7330. The additional costs in 2021 were about £125 – for additional server capacity for the period and a temporary upgrade to our bulk email sending system.

In addition we spent £6800 on the IT developer through the year, but this included migrating our five other application forms to the online system, and some website development. The improvements and

⁴ Law Society of Scotland as a foreign lawyer

upgrades made this year are not one-off costs, like printing and postage, but will be used for future years and also improve the quality of the data we hold.

Metric 2: Resource implications

As stated above I worked 33 hours over and above the contracted 16 hours per week, rather than 62 in the previous year. All these additional hours were covered within my contracted time for the year taken as a whole, meaning no additional salary payment was required this year.

Chasing individual CLs and firms at the end of the process is unavoidably time consuming, but there will be some additional time savings in future due to parental leave fee remissions being calculated by the system and, if possible, the use of invoices.

Metric 3: User experience

There were less positive comments about the system this year, presumably because it was not novel, and because people expect such processes to be done online. The benefit of email in 'closing the gap' between CLSB and regulated CLs and promoting good relationships was still evident. (This is particularly valuable when dealing with people who have had difficult circumstances – this year such as bereavement, ill-health and unemployment.)

For the minority of CLs who had issues with the system this was obviously frustrating. But the use of email means that any problems can be dealt with quickly. Inexplicable technology blips are annoying for both them and me, but most people are realistic about such things. All of the minor issues we had last year (e.g. people not submitting properly, Google auto-fill overwriting data, being unable to enter CPD dates) were resolved for this year.

About 3 people asked about credit card payments. As third party processors such as Paypal take 2.9% this is not something we need to consider with such low demand.

There are still some CLs who think that they have to get all their CPD points before submitting their application, and are not happy about this, even though the form clearly says this is not the case. Although we deliberately slimmed down the cover email that went out with the application form link, this is one message we need to reinstate for next year.

We still send a hard copy practising certificate to those who request it (15 in this round). One application was received by post – with each page of the online form printed out and filled in by hand. There were multiple issues with the application and after extensive email discussions this CL will submit online next year. One CL was unable to access the online form, due to not wishing to use the IT. They used the Word version which is available for anyone unable to use the online version.

Metric 4: Data security

The implementation of the online system last year significantly improved our data security and we did not identify any improvements needed.

To protect personal data online forms are wiped if there has been no data entry for 20 minutes. Introductory notes explain that CLs should have all the information to hand before they begin, but 2 or 3 people said their data was wiped. They claimed not to have left the form for 20 minutes, but the developer says the data cannot be wiped for any other reason. This is an issue we have to live with to keep personal data secure.

A login system would avoid having to wipe data, and we are considering this as a future development. The downside is that CLSB loses oversight of the data, and (seeing how some CLs complete their form – all lower case, all capitals, different formatting for postcodes and telephone

numbers) there would inevitably be issues with the quality and consistency of information on the Register of Costs Lawyers.

Metric 5: Data quality

Data quality improved significantly after the first online renewals. After the second round more CLs have provided an alternate email address (useful if they move firm and do not notify CLSB).

I am still finding errors in the “Organisation type” that in the past CLs have selected (e.g. someone thinks their firm is SRA regulated when it is not). These are corrected as they are found. This data is now entered by CLSB not individual CLs.

Although CLs are asked to update us with any changes to their data renewals is frequently the first time we hear of changes of organisation that have taken place earlier in the year.

The new accounting package implemented last year has both improved the quality of financial information, including PC fee income, as well as reduced the time this takes to input, as I can export directly from the bank to the accounts package via an app which is part of the database.

Major technical developments scheduled for 2021

After two years of use the online renewals system is working well. There is scope to polish and refine it in places, but the vast majority of the functionality is complete.

Following the 2021 renewal process, and in line with our 2022 Business Plan, our priorities for further developments to the online application system in 2022 are therefore as follows:

- Capturing additional organisation information for CLs who practice in more than one organisation. This is important to ensure employed/ contracted CLs doing some independent work have PI insurance and a complaints procedure to cover this.
- Upgrading the renewal application so that it calculates any maternity fee remission. This is currently done manually. The more recently developed reinstatement application form does this calculation, and we will update the renewal form to do the same. Note: this is likely to result in more CLs claiming fee remission following maternity leave. We need to do some further analysis to see if it is possible to predict how this may impact on future income.
- Upgrading the database to store data on new initiatives, such as the complaints procedure audit.
- Consider the pros and cons of moving from a Fee Note to an Invoice. (After dealing with maternity leave remission enquiries, dealing with requests for invoices is the next most time consuming issue.)
- Consider if it is possible to have a single application form (and invoice/Fee Note) for the three different types of practising certificate application (renewal, first PC, reinstatement). This would save a lot of time when changes need to be made to the questions and layout of the form – both developer time, and admin testing time.

Jacqui Connelly

Board report

2021/22 diversity survey – response rate and highlights

2 February 2022

For our 2021/22 diversity survey we decided to focus on differences in pay and earnings between men and women. We are, as far as we know, the first legal regulator to branch out and do more than run a standard set of diversity questions so this was somewhat of an experiment.

The full results will take some time to analyse but this paper gives a brief read out of the response rate and headline results that are available immediately.

Response rate

240 Costs Lawyers responded to the survey, which represents a response rate of 35%, down from 43.5% for our previous diversity survey.

Disappointingly, around 40% of respondents did not give us pay and earning data either skipping the question or ticking prefer not to say. But we still do have pay and earnings data from 144 Costs Lawyers, and it is possible that this will be sufficient for us to draw some conclusions.

Highlights (raw data)

We cannot draw any conclusions in terms of comparisons between men and women from the pay and earning data without adjusting it for variations in income in different regions in the UK and for part time working and reductions due to sickness, maternity or paternity leave and so on. This analysis will take some time but some other highlights in terms of interesting results from the raw data is shown in the annex.

Storing data for future diversity surveys

We also asked Costs Lawyers about storing diversity data from future surveys. Most (62%) prefer us not to store diversity data.

The CLSB needs diversity data to fulfil its legal and regulatory responsibilities. We're considering how to run future diversity surveys to maximise responses. Surveys are likely to take place every 2 years. Would you prefer:

Adding your name to the survey so we can store your data (solely for diversity monitoring purposes), meaning you only need to tell us when things change. (Note: It would be optional, not compulsory, to add your name to the survey.)	22%
That we didn't store your data, meaning that you would answer the same or similar survey questions every 2 years.	62%
Prefer not to say	16%

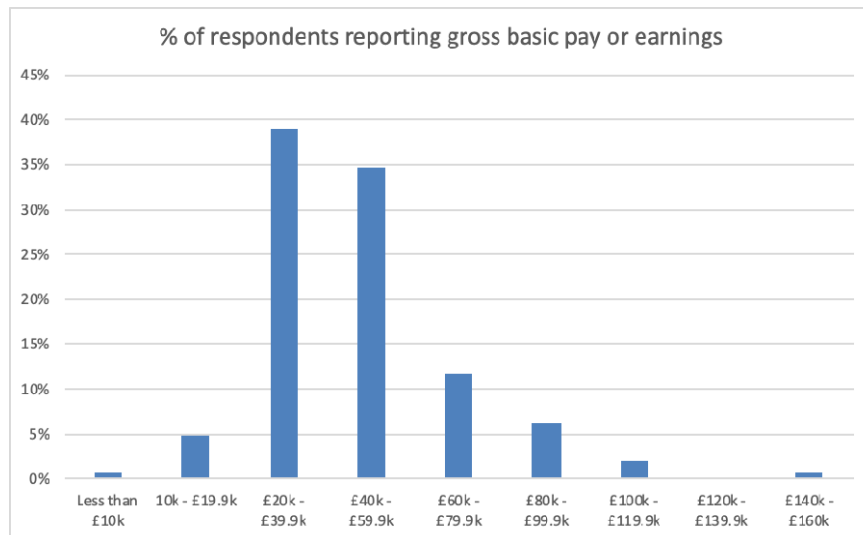
Our preliminary view, based on these results, is that we should not store diversity data. If we undermine practitioners' trust in the way that we handle diversity data, we are likely to push survey response rates down further and hamper our efforts to engage with the regulated community on EDI issues. We will communicate this to the LSB – as they are interested in our response rates – and will continue to look for other creative ways of improving response rates going forward.

We would welcome the board's views on this proposed approach.

Heather Clayton

Annex one: diversity survey highlights (raw data)

In the last year, what was your gross basic pay or earnings? This includes dividend payments and equity distributions, but EXCLUDES overtime payments, bonuses, salary sacrifices, employer pension contributions and benefits in kind.



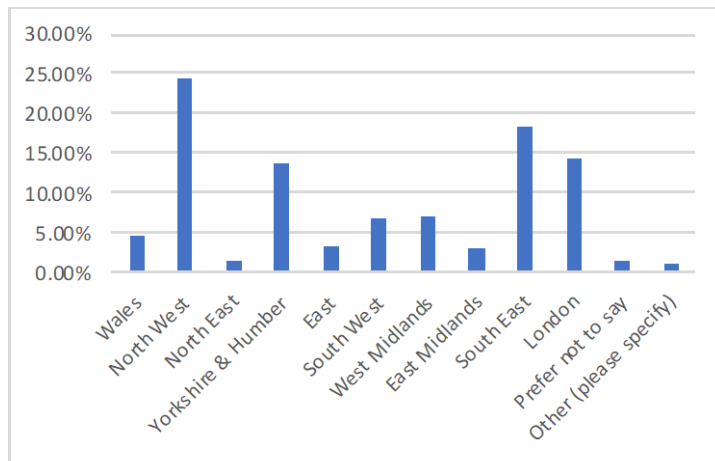
75% of respondents (who answered this question) said their basic pay or earnings fell in the range £20k - £60K.

For the last year, what best describes your employment status? (If more than one, please choose your main employment status during the year.)

Self employed or the owner of a business where you are the only employee	10.92%
Employed by someone else	73.95%
The owner of a business employing other people (including a joint or co-owner)	12.18%
Looking for work, or not working for another reason	0.00%
Prefer not to say	1.68%
Other (please specify)	1.26%

Most respondents (74%) said they were employed by someone else, 11% report being self employed or a sole proprietor.

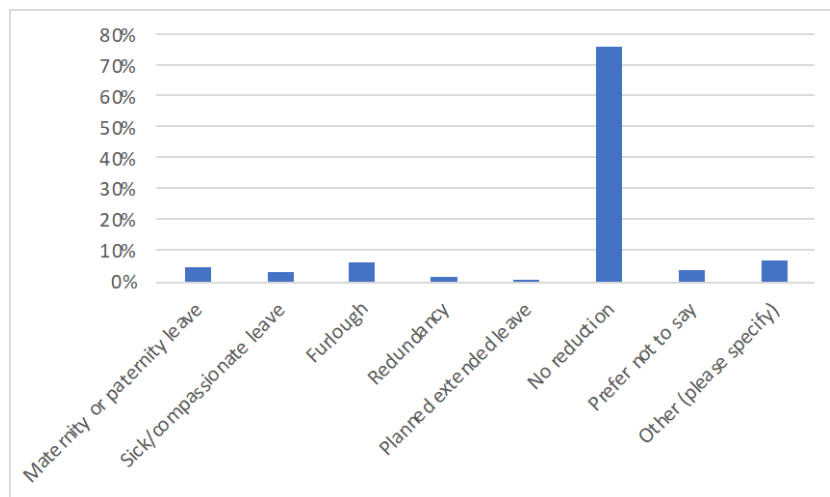
In the last year, in which region did you work? (If more than one, please choose the place where you spent most of your working time.)



36% of respondents say they work in the three regions with the highest median earnings per week (London, South East, East).

20% work in the three regions with the lowest incomes (Wales, Yorkshire and Humber, North East).

In the last year, were your earnings significantly reduced due to (tick all that apply):



25% of respondents said their earnings were reduced in the last year (11% for furlough or with a mention of impact of Covid in *Other* – most mentions the need to home school children)