



Costs Lawyer Standards Board

AGENDA

Tuesday 23 April 2024 @ 10:30am
Remotely via videocall

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

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 (30 January 2024) 2.2 Matters arising (30 January 2024)	Item 2.1 -	Yes	DH DH
3	Strategy 3.1 Progress against Business Plan: Q1 2024 3.2 Performance indicators for new strategy 3.3 Communications strategy: risk appetite statements	Item 3.1 Item 3.2 Item 3.3	Yes Yes Yes	KW KW KW
4	Board matters 4.1 Consolidated register of interests 4.2 Remuneration Committee report	Item 4.1 Item 4.2	Yes No (A)	DH AH

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

5	Finance 5.1 Quarterly report: Q1 2024 5.2 Finance Authorisation Policy	Item 5.1 Item 5.2	No (D, E) Yes	JC KW
6	Risk management 6.1 Review of risk register 6.2 Annual Risk Outlook (second edition)	Item 6.1 Item 6.2	Yes Yes	DH KW
7	Regulatory matters 7.1 Code of Conduct implementation 7.2 Annual complaints look-across 7.3 MoJ submission on judicial appointments 7.4 2023 diversity report 7.5 Economic crime regulatory objective	- Item 7.2 Item 7.3 Item 7.4 Item 7.5	 Yes Yes Yes Yes	KW KW/JC KW/LF KW/LF KW/LF
8	Legal Services Board (LSB) 8.1 Work updates	-		DH/KW
9	Stakeholder updates² 9.1 ACL Council meeting minutes 9.2 Work updates	Item 9.1 -	Yes 	KW KW
10	Operations 10.1 Outcome of 2023 CPD audit	Item 10.1	Yes	JC
11	Publication 11.1 Confirmation that papers can be published	-		DH
12	AOB	-		DH
13	Next meeting Date: 16 - 17 July 2024 Venue: London	-		DH

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

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
Tuesday 30 January 2024 at 10:30 am
Remotely via Teams

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

1. OPENING MATTERS

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

2. MINUTES

2.1 Minutes dated 23 October 2023

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

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

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

2.2 Matters arising

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

3. STRATEGY

3.1 Progress against Business Plan: Q4 2023

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

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

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

Action: Consider options for an informal annual report.

3.2 Annual report against performance indicators

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

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

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

3.3 Communications strategy: stage 1

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

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

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

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

3.4 Costs Lawyer Apprenticeship update

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

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

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

4. BOARD MATTERS

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

5. FINANCE

5.1 Quarterly report: Q4 2023

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

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

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

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

6. RISK MANAGEMENT

6.1 Review of risk register

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

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

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

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

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

7. REGULATORY MATTERS

7.1 Ongoing competency framework

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

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

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

7.2 Project proposal for future of regulation

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

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

Action: Adopt project plan and begin implementation in Q1.

7.3 Code of Conduct rule change application

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

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

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

7.4 New economic crime regulatory objective

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

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

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

7.5 Judicial appointments update

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

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

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

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

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

7.6 Costs Lawyer profession in 2023 report

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

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

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

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

8. LEGAL SERVICES BOARD (LSB)

8.1 Work updates

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

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

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

8.2 2023 regulatory performance assessment

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

9 STAKEHOLDER UPDATES

9.1 ACL Council meeting minutes

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

9.2 Work updates

The board received updates in relation to:

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

10 OPERATIONS

10.1 Practising certificate renewals data

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

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

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

11 PUBLICATION

11.1 Confirmation that papers can be published

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

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

12 AOB

There was no other business.

13 NEXT SCHEDULED QUARTERLY MEETING

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

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

.....

Chair

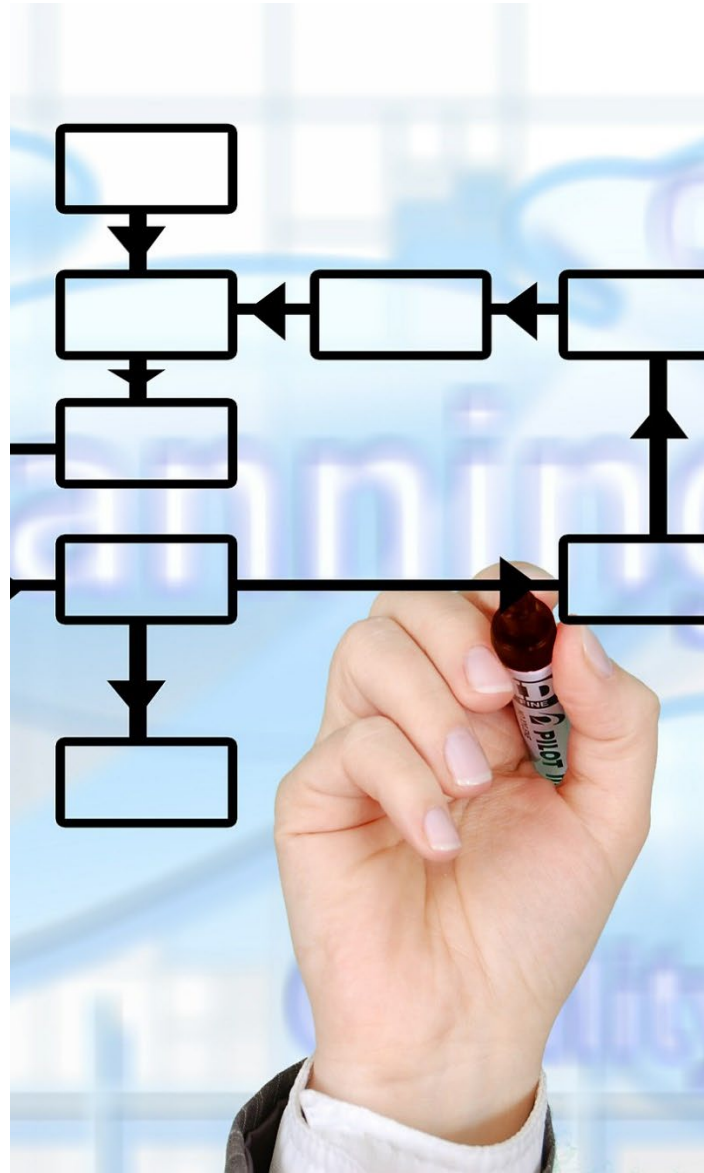
Related documents

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

Business Plan 2024 Q1 board update

April 2024

Costs Lawyer Standards Board

CLSB


Annual priorities

Improving our regulatory arrangements

	Initiative	Progress status / expected completion
1.	<p>In collaboration with ACL Training, oversee the first year of delivery of the new Costs Lawyer Qualification, including by:</p> <ul style="list-style-type: none"> • carrying out the first annual monitoring process under the Accredited Study Provider Scheme Handbook; • developing additional guidance and materials on the regulatory aspects of qualifying, based on student feedback; • communicating the responsibilities and benefits of regulation to new student cohorts. 	<p>In train (expected Q4)</p> <p><i>Achieved: We have now processed several Qualifying Experience applications and responded to enquiries about students' individual circumstances. This has allowed us to augment our guidance around the transitional arrangements and FAQs, and update the form fields. The CLSB has been integrated into the induction process for students, through a presentation on the mechanics and purpose of regulation. Jacqui will deliver our first presentation on ethics and the new Code of Conduct as part of the professional ethics module in Q2.</i></p> <p><i>Outstanding: The first annual monitoring event for the course will take place in H2, once the initial cohort of students completes their first year.</i></p>
2.	<p>Deliver a project to capture anecdotal evidence of poor consumer outcomes in the unregulated part of the costs market and report to stakeholders on themes and trends. Explore avenues that are available under the existing legislative framework to tackle poor practice and promote the regulatory objectives outside the immediate scope of regulation.</p>	<p>In train (expected Q4)</p> <p><i>Achieved: We have begun a review of our enquiries logs and case studies to consider whether we have sufficient evidence for publication. We have been liaising with ACL to share information.</i></p> <p><i>Outstanding: Develop materials into a report for publication (if sufficient) and consider phase 2 in relation to options available for tackling detriment.</i></p>
3.	<p>Develop and begin to implement a comprehensive, long-term communications strategy, aimed at supporting each of the five strategic goals in our new mid-term organisational strategy in a cohesive and systematic way.</p>	<p>In train (expected Q4)</p> <p><i>Achieved: We kicked off this worksteam at the January board meeting, with the board articulating the purpose and scope of the project. At this meeting, the board will consider a series of appetite statements relating to communication risks.</i></p>

		Outstanding: <i>Delivery of project steps 2 and 3 will continue throughout the year.</i>
4.	Embed the B2C regulatory framework with the group of Costs Lawyers that deliver services directly to consumers.	<p>In train (expected Q3)</p> <p><i>Achieved: We have analysed the data about Costs Lawyers' clients captured during the 2024 PC renewal round. This gives us an understanding of which practitioners to target through this workstream.</i></p> <p><i>Outstanding: We will improve the accessibility of our guidance during Q2/3 to turn it into web content in time for the next PC renewal round. Once that work is complete, we will send individual communications to the Costs Lawyers involved highlighting their obligations and inviting a dialogue.</i></p>
5.	Publish the second annual Risk Outlook for the profession and assess the impact and future direction of this initiative.	<p>Achieved (Q1)</p> <p><i>We commissioned the research underlying the next annual Risk Outlook in Q1. That research has been analysed to produce a publishable version, which will be put to the board for approval at this meeting.</i></p>
6.	Implement changes to the Costs Lawyer Code of Conduct, including by reviewing all published regulatory arrangements, guidance, policies and web content to ensure alignment with the new Code.	<p>Achieved (Q1)</p> <p><i>The new Code of Conduct was implemented in Q1, following liaison with the LSB. All published guidance, policy statements and regulatory arrangements were reviewed, and updated versions have been published that correctly cross-refer to the new version of the Code. References to the Code in the Disciplinary Rules and Procedures – which form part of our regulatory arrangements – have been amended by exemption in line with the LSB's ED181. That completes this priority. Work will continue throughout the year on developing additional support resources for the new Code, including the ethics hub.</i></p>
7.	Carry out the next two-year review of changes to the Disciplinary Rules and Procedures, looking at second tier complaints handled during the review period as well as any good practice examples or learnings from our or other regulators' work.	<p>Pending (expected Q4)</p> <p><i>This priority is scheduled for H2, to align with the timing of the LSB's work on developing common principles for effective disciplinary and enforcement processes.</i></p>
8.	Carry out the first phase of evaluation activities relating to the new	Pending (expected Q4)

	framework for qualifying as a Costs Lawyer.	<i>This priority is scheduled for H2, following completion of the current cohort's first year and the first annual monitoring event.</i>
9.	Align our work on ongoing competency – including the expanded Competency Statement – with our existing framework for continuing professional development (CPD) and develop additional resources for practitioners where appropriate.	Achieved (Q1) <i>The new Ongoing Competency Framework was launched in Q1, in line with our commitments to the LSB. Our CPD resources, including our forms and guidance, have been updated to integrate the new Framework. We have liaised with ACL and ACL Training to identify and create training opportunities aligned to developing the skills in the Framework and this engagement will continue on an ongoing basis.</i>
10.	Develop new guidance to address risks identified in the following areas: <ul style="list-style-type: none"> • setting up a new practice; and • expectations on (unregulated) costs firms. 	Pending (expected Q3) <i>This priority is scheduled for Q2/Q3.</i>
11.	Develop the next phase of our diversity and inclusion workplan by reference to the new mid-term strategy.	In train (expected Q4) <i>Achieved: We have analysed the results of our 2023 diversity survey and a report on the data will be presented to the board at this meeting.</i> <i>Outstanding: Implementation of targeted initiatives to act on the data we collected in our two most recent diversity surveys is ongoing.</i>
12.	Investigate whether a new supervision framework for client care letters is warranted based on evidence of client outcomes.	Pending (expected Q3) <i>A plan for this priority has been developed for kick-off in Q2.</i>
13.	Modernise the way we track enquiries from external sources to facilitate reporting and trend analysis.	Achieved (Q1) <i>A new process was implemented in Q1 allowing us to check previous advice to ensure consistency across different practitioners, spot trends and report on particular issues. The tracker has been used in developing materials for the new ethics hub and to provide real-world (anonymised) examples in presentations to students. It has also been supplemented by an additional project to better track our communications with/requests to Costs Lawyers and their areas of regulatory interest.</i>

14.	Systematically document all key internal processes and workflows to promote business continuity as well as compliance with internal policies and external regulatory and legal requirements.	<p>In train (expected Q3)</p> <p><i>Achieved: We have made significant progress in developing an Operations Manual to document key processes. We have also developed the first version of flowcharts for the journey through our online forms.</i></p> <p><i>Outstanding: Further work on the Operations Manual to include all key processes will continue throughout Q2 and Q3. We also need to update the flowcharts to account for amendments to the forms that will be made in 2024 and consider any other documentation required.</i></p>
15.	Review our data protection arrangements to ensure they remain robust and fit for purpose following extensive improvements to our digital operations.	<p>Pending (expected Q3)</p> <p><i>This priority is scheduled for Q2/Q3.</i></p>
16.	<p>Deliver the next phase of our digital workplan by:</p> <ul style="list-style-type: none"> Continuing to develop our suite of application forms and their interface with the CLSB database, in line with our principles of ease of use, security of data, utility of reports, consistency of approach. In particular: <ul style="list-style-type: none"> standardise the wording, content and layout of forms; begin work on standardising the underlying code to facilitate easier updates; introduce functionality to automate annual updates. Developing the CLSB database by: <ul style="list-style-type: none"> enhancing security to provide unique access keys for each user; 	<p>In train (expected Q3)</p> <p><i>Achieved: A workplan has been agreed with our IT consultant covering all these areas and work is underway.</i></p> <p><i>Outstanding: Delivery of all aspects of this priority will occur by Q3 in time to test the system for PC renewals in November.</i></p>

	<ul style="list-style-type: none">- reviewing the read-only version of the database to improve ease of use and utility.	
--	---	--

CLSB

Operational metrics

Service standards

The CLSB publishes an annual performance dataset, allowing stakeholders to assess whether the CLSB is providing acceptable levels of service. We do not set targets for our service standards; the relatively small scope of our operations means that a single activity (one complaint, one appeal and so on) could have a significant impact on the reported average. Rather, we ensure the performance dataset and is made publicly available and is scrutinised annually by the CLSB board to identify and remedy any deterioration in performance. The metrics published in the performance dataset are set out below. Full performance datasets for recent years are available [on our website](#).

AUTHORISATION: PRACTISING CERTIFICATES

Applications	Reporting year	Previous year
Number of authorisations processed		
Outcomes of applications	[Approved/declined]	
Type of application:		
Newly Qualified (in reporting year)		
Annual Renewal (processed in reporting year for the following practising year)		
Reinstated (in reporting year)		

Timeliness

From date of completed application:	(day 1 being the day of receipt)
Median time taken	[Number of days] <ul style="list-style-type: none">• [% of PCs sent out on same day as the complete application was received, compared to previous year]• [% of PCs sent out by the end of the following working day, compared to previous year]
Mean time taken	[Number of days, compared to previous year]
Longest time taken	
Shortest time taken	

Appeals

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

AUTHORISATION: QUALIFYING EXPERIENCE

Qualifying Experience Applications

Number of applications processed	
Outcomes of applications	[Approved/declined]

Timeliness

From date of completed application:	(day 1 being the day of receipt)
Median time taken	
Mean time taken	
Longest time taken	
Shortest time taken	

SUPERVISION: ACCREDITATION

Accredited Costs Lawyer Applications

Number of applications processed	
Outcomes of applications	[Approved/declined]

Timeliness

From date of completed application:	(day 1 being the day of receipt)
Median time taken	
Mean time taken	
Longest time taken	
Shortest time taken	

SUPERVISION: ENFORCEMENT

Conduct Cases

Number of cases received	[Cases necessitating formal investigation]
Number of those cases concluded	
Number outstanding	

Timeliness

From acceptance of complaint to final decision	
Number of cases considered	
Mean time taken	
Longest time taken	
Shortest time taken	

Decision Type

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

Appeals

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

GOVERNANCE AND LEADERSHIP

Organisational Health

Board membership turnover	
Executive employee turnover	

Complaints

Number of complaints about the regulator	
Outcome of complaints about the regulator	
Subject matter of any upheld complaints	
Median time taken	
Longest time taken	
Shortest time taken	

Governance metrics

Robust management and oversight

The CLSB's board has ultimate responsibility for ensuring the CLSB delivers effective regulation that furthers the regulatory objectives set out in the Legal Services Act 2007, at proportionate cost. The board has identified several oversight areas that are crucial for delivery of the CLSB's [mid-term strategy](#).

We track performance against five metrics linked to those oversight areas, to help us identify and address any emerging risks or potential weaknesses in our key governance processes. Our performance against these metrics on an annual basis is summarised in a report that is available [on our website](#) (see the papers for the first CLSB board meeting of each year for a report on the previous year).

Oversight area	Metric	Outcome
Sound financial management	Level of reserves (as governed by the Reserves Policy)	Retain uncommitted reserves at target level, and reach target level of committed reserves by the end of the strategy cycle
Appropriate resourcing	Stakeholder comfort that our operating structure is sustainable and appropriate for our size	Meet the LSB's regulatory performance expectations under Standard 1 (well led), characteristic 6 (resourcing)
Business continuity	Degree of business interruption at points of change	No material business interruption incidents arise through absence or turnover of staff or contractors
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
Continuous improvement	Degree of NED engagement and reflection on organisational and own performance	Personal and organisational areas for improvement identified through annual NED survey and appraisals
Transparency	Stakeholder ability to scrutinise decision-making, performance and processes on an ongoing basis	Meet the LSB's regulatory performance expectations under Standard 1 (well led), characteristic 5 (transparency)

Strategy metrics

Successful implementation of our mid-term strategy

Our [mid-term strategy](#) sets out the CLSB's vision for 2027, along with key goals that are central to realising that vision. To help us track progress against our goals we have developed the metrics below, building on the "indicators of success" identified in our mid-term strategy. As mentioned above in relation to the governance metrics, an annual report on our performance against these metrics is available on our website.

Achieving the outcomes below will demonstrate sustained improvements in the way we operate. If outcomes are not being met at any stage, this will prompt us to consider the reasons why, how we can improve, and what the consequences might be for achievement of our strategy. In this way, the metrics are an important tool in the ongoing process of prioritising our resources and accounting to our stakeholders.

Strategy area	Metric	Outcome
Nurturing our relationships	Collaboration or market leadership in new areas and with new contacts	At least two new examples of this activity in each year of the strategy, from 2024 to 2027
Proactively adding value and communicating that value	Increased recognition of the CLSB and understanding of its role and purpose	Improved brand awareness / message recognition across key audiences in 2025, 2026 and 2027
Raising standards in the unregulated part of the market	Improved attractiveness of opting in to regulation amongst individuals working in costs	The number and diversity of new entrants to the profession increases year on year
Uniquely suited regulatory model	We meet the expectations of our oversight regulator in a way that does not disproportionately burden those who choose to be regulated	Meet or exceed the LSB's regulatory performance expectations under Standard 2 (effective approach to regulation), while maintaining high satisfaction scores amongst the regulated community
Organisational robustness and resilience, for us and the profession	Costs Lawyers recognise, assess and mitigate risks to their business and clients	There are no market events or failures that would have been prevented by better risk management within the profession

Communications strategy

Draft risk appetite statements for board discussion

23 April 2024

At its January meeting the board noted that, as an interim step in developing the CLSB's communications strategy, it would be helpful to articulate our appetite for the different risks that can arise when we publish communications.

The table on the following page sets out a series of risk statements relating to communications. The board is invited to discuss and agree its appetite for these risks, along with any others risk that board members identify.

Ways of articulating our risk appetite might include, for example, that the CLSB:

- has no appetite for the risk;
- is willing to accept the risk in certain situations (with those situations being specified, where possible);
- is willing to accept the risk where this is necessary to mitigate another risk for which the CLSB has less appetite;
- accepts the risk, but takes opportunities to mitigate the risk where possible.

It would be useful to articulate any key factors affecting / reasons for the organisation's risk appetite. By way of hypothetical example: "CLSB is willing to accept the risk of publishing a defamatory communication where there is a tangible benefit to doing so, because legal expenses insurance is in place to mitigate the financial impact of that risk."

It would also be useful to articulate whether the risk appetite differs depending on the audience or the type of communication. While we can't cover every scenario with this exercise, and we should aim for simple and succinct statements, a discussion around these issue will help test whether our appetite statements are universally accurate.

The agreed risk appetite statements will be incorporated into the communications strategy and referred to when progressing stage 2 of the project plan.

Risk area	Risk description	Risk appetite [for discussion]
Accuracy risk	The risk of publishing a communication that is based on an incorrect fact, that draws unsubstantiated conclusions, that is out of date, or that gives a misleading impression, negatively impacting the CLSB's reputation.	
Relationship risk	The risk of publishing a negative communication about a stakeholder – such as a Costs Lawyer, ACL or ACL Training, the LSB, the government or another regulator – that could lead to a breakdown in the relationship and possible retaliation.	
Defamation risk	The risk of publishing a libelous communication that gives a third party grounds to bring legal action against the CLSB.	
Confidentiality risk	The risk of publishing a communication that contains confidential material, such as information that is commercial in confidence or under embargo.	
Other legal risk	The risk of publishing a communication that breaches a legal obligation, including generally applicable obligations (such as data protection laws) and organisation-specific obligations (under our governing legislation or the regulatory framework).	
Transparency risk	The risk of withholding information from communication where this could give the impression of secrecy or a lack of integrity.	
Timeliness risk	The risk of publishing a communication, particularly an opinion or comment, after other commentators have covered the issue making the CLSB's position less impactful.	
Coverage risk	The risk of not making any communication, or making a narrow/limited communication, about an issue that falls within our remit.	
Oversight risk	The risk of making inconsistent or off-brand communications due to a lack of oversight or coordination of all CLSB messaging.	
Audience risk	The risk of communications not reaching their intended audience, or audiences receiving CLSB communications that are not relevant to them.	

Consolidated Register of Interests

At 23 April 2024

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

Name	Stephanie McIntosh, Vice Chair
Employment in last year	<ul style="list-style-type: none"> The Parole Board of England & Wales Judicial Appointments Commission Bar Tribunal & Adjudication Service Royal College of Veterinary Surgeons
Businesses in which partner or sole proprietor	
Company Directorships	
Charity Trusteeships	

Memberships (with control or management)	
Immediate family declarations of interest	
Breach of CLSB Board Code of Conduct?	No
ACL decision-making role?	No
Gifts or hospitality from external bodies?	No
Any other personal or professional interests	No

Name	Andrew Harvey
Employment in last year	<ul style="list-style-type: none"> • General Pharmaceutical Council - Deputy Chair, Investigating Committee • Judicial Appointments Commission - Independent Selection Panel Member and Chair • Nursing and Midwifery Council - Chair, Fitness to Practise Committee • Registers of Scotland - Non-Executive Director and Chair, Audit and Risk Committee • Recruitment and Employment Confederation - Chair, Remuneration and Appointments Committee • General Osteopathic Council - Chair, Professional Conduct Committee • Institute of Chartered Accountants of England and Wales - Chair, Disciplinary Committee • First Tier Tribunal, Health and Social Entitlement Chamber (Mental Health) - Specialist Member and Judicial Assessor • Civil Nuclear Policy Authority - Non-Executive Director • Legal Practitioners Disciplinary Tribunal (Ireland) – Tribunal Member and Chair
Businesses in which partner or sole proprietor	<ul style="list-style-type: none"> • Sole trader as governance and communications consultant (no legal service regulation clients)
Company Directorships	
Charity Trusteeships	

Memberships (with control or management)	
Immediate family declarations of interest	<ul style="list-style-type: none"> • Spouse, employed by Smart Multi Academy • Daughter, employed by Derbyshire County Council • Son, employed by West Northamptonshire Council • Son, employed by The Chartered Institute of Environmental Health • Brother, employed by NatWest Group plc
Breach of CLSB Board Code of Conduct?	No
ACL decision-making role?	No
Gifts or hospitality from external bodies?	No
Any other personal or professional interests	No

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

Name	Paul McCarthy
Employment in last year	Horwich Farrelly Limited
Businesses in which partner or sole proprietor	
Company Directorships	
Charity Trusteeships	
Memberships (with control or management)	
Immediate family declarations of interest	
Breach of CLSB Board Code of Conduct?	No
ACL decision-making role?	No
Gifts or hospitality from external bodies?	No
Any other personal or professional interests	No

Name	Kate Wellington, CEO
Employment in last year	<ul style="list-style-type: none"> Chartered Insurance Institute - Independent Member of the Professional Standards Committee
Businesses in which partner or sole proprietor	<ul style="list-style-type: none"> Ad Tech Collective Action LLP
Company Directorships	<ul style="list-style-type: none"> Director of Class Representatives Network CIC Director of Data Protection Foundation CIC
Charity Trusteeships	<ul style="list-style-type: none"> Citizens Advice Bureau (WA)
Memberships (with control or management)	<ul style="list-style-type: none"> Ombudsman Association - Independent Member of the Validation Committee
Immediate family declarations of interest	<ul style="list-style-type: none"> Spouse, Partner at Norton Rose Fulbright
Breach of CLSB Board Code of Conduct?	N/A
ACL decision-making role?	No
Gifts or hospitality from external bodies?	No
Any other personal or professional interests	No

FINANCE AUTHORISATION POLICY

Costs Lawyer Standards Board

Effective Date: ~~2312~~ April 202416

Purpose of this policy

1. This policy sets out, ~~for the purpose of transparency,~~ the level of authority of the Chief Executive (CEO) and Operations Director (OD) of the Costs Lawyer Standards Board (CLSB) to authorise and make ~~spend~~ expenditure of CLSB funds, including entering into contracts that commit the CLSB to a financial outlay (an "expenditure"). A series of expenditures relating to the same item or contract will be treated as a single expenditure for the purposes of this policy.
2. The authorisations take into account ~~herein are based on the:~~
 - (i) ~~knowledge of the CEO~~ the matters reserved for the board in the CLSB's Board Governance Policy; and
 - (ii) ~~responsibility of the CEO~~ the requirement for the CEO's expenses to be approved by the Chair of the board and for the OD's expenses to be approved by the CEO; and
 - (iii) ~~CEO providing to the CLSB that the~~ board is provided at each quarterly meeting a finance report showing budgeted, actual and projected expenditure across agreed categories as well as information about the CLSB's financial position; spend under the headings of, at a minimum, salaries, tax & NI, travel & subsistence, rent, phone, admin, equipment, services, misc.
 - (iv) ~~CEO providing to the CLSB board at each quarterly meeting the book keeping records which shows each individual item of spend for board scrutiny~~ access of the Chair of the board to the CLSB's bank accounts as an authorised signatory, in the event that independent verification of expenditure is required.

Authorisations

3. The CEO may, ~~from the effective date:~~
 - ~~(i) Make a single spend on behalf of the CLSB up to the value of £1,000 but subject to a maximum of £3,000 to any one payee in any one calendar month.~~
 - ~~(i) make an expenditure on any item up to the amount specified for that item in the annual budget (as approved by the board);~~
 - ~~(ii) make an unbudgeted capital or operating expenditure amounting to no more than 10% of total annual budgeted expenditure~~ Contract the CLSB up to a single or annual value of £1,500 save in the event of instructing a Solicitor or Barrister on a matter of law whereby the contract value shall be £5,000.
4. The OD may make expenditures on the following items up to the amount specified for each item in the annual budget (as approved by the board), or as approved by the CEO in writing in accordance with the CEO's authorisations under this policy, or as otherwise approved by the board or one of its sub-committees:
 - ~~(i) salaries;~~
 - ~~(ii) tax, pension and national insurance contributions;~~

- (iii) the CLSB's insurance portfolio;
- (iv) accountancy fees;
- (v) Panel Member fees;
- (vi) IT consultancy fees;
- (vii) investigator fees;
- (viii) the Legal Services Board statutory levy;
- (ix) the Legal Ombudsman statutory levy;
- (x) the Legal Choices funding contribution.

5. The above authorisations do not permit the CEO or OD to make an unbudgeted expenditure which is not in the ordinary course of business, such as entering into a loan agreement, foreign currency exchange, or major acquisition or disposal. These are matters reserved for the board.

Secondary approval

6. For any ~~single spend or new contract~~ expenditure exceeding the authorisations above, the CEO will seek ~~written approval by email of the Chair~~ from the CLSB board at a meeting or by email if the expenditure is urgent.

Exclusions

~~The following standard annual spends are exempt from secondary approval.~~

- ~~(i) Salaries.~~
- ~~(ii) Tax & NI.~~
- ~~(iii) Insurance portfolio.~~
- ~~(iv) Accountant fee.~~
- ~~(v) Education auditor fee.~~
- ~~(vi) Legal Services Board levy.~~
- ~~(vii) Legal Ombudsman levy.~~
- ~~(viii) Postage costs on annual practising certificate application project.~~
- ~~(ix) Printing costs on annual practising certificate application project.~~

Review of this policy

7. This policy will be reviewed by the CLSB board on a needs be basis.

FINANCE AUTHORISATION POLICY

Costs Lawyer Standards Board

Effective Date: 23 April 2024

Purpose of this policy

1. This policy sets out the level of authority of the Chief Executive (CEO) and Operations Director (OD) of the Costs Lawyer Standards Board (CLSB) to authorise and make expenditure of CLSB funds, including entering into contracts that commit the CLSB to a financial outlay (an “expenditure”). A series of expenditures relating to the same item or contract will be treated as a single expenditure for the purposes of this policy.
2. The authorisations take into account:
 - (i) the matters reserved for the board in the CLSB’s Board Governance Policy;
 - (ii) the requirement for the CEO’s expenses to be approved by the Chair of the board and for the OD’s expenses to be approved by the CEO;
 - (iii) that the board is provided at each quarterly meeting a finance report showing budgeted, actual and projected expenditure across agreed categories as well as information about the CLSB’s financial position;
 - (iv) access of the Chair of the board to the CLSB’s bank accounts as an authorised signatory, in the event that independent verification of expenditure is required.

Authorisations

3. The CEO may:
 - (i) make an expenditure on any item up to the amount specified for that item in the annual budget (as approved by the board);
 - (ii) make an unbudgeted capital or operating expenditure amounting to no more than 10% of total annual budgeted expenditure.
4. The OD may make expenditures on the following items up to the amount specified for each item in the annual budget (as approved by the board), or as approved by the CEO in writing in accordance with the CEO’s authorisations under this policy, or as otherwise approved by the board or one of its sub-committees:
 - (i) salaries;
 - (ii) tax, pension and national insurance contributions;
 - (iii) the CLSB’s insurance portfolio;
 - (iv) accountancy fees;
 - (v) Panel Member fees;
 - (vi) IT consultancy fees;
 - (vii) investigator fees;
 - (viii) the Legal Services Board statutory levy;
 - (ix) the Legal Ombudsman statutory levy;
 - (x) the Legal Choices funding contribution.
5. The above authorisations do not permit the CEO or OD to make an unbudgeted expenditure which is not in the ordinary course of business, such as entering into a loan

agreement, foreign currency exchange, or major acquisition or disposal. These are matters reserved for the board.

Secondary approval

6. For any expenditure exceeding the authorisations above, the CEO will seek approval from the CLSB board at a meeting or by email if the expenditure is urgent.

Review of this policy

7. This policy will be reviewed by the CLSB board on a needs be basis.

Draft



Costs Lawyer Standards Board

ANNUAL RISK OUTLOOK

A tool to help Costs Lawyers recognise and
mitigate emerging market risks that could
impact their business

May 2024



ABOUT THIS REPORT

This report takes a high-level look at some of the drivers of change in the world today that could present risks – and opportunities – for organisations and individuals working in legal costs. Not all of these drivers will have equal significance for you or your business, but our aim is to help you think critically about what’s coming down the track and plan strategically for the future.

The sources of risk identified in this report have been grouped into three broad categories: political, economic, and social. For the most part, these sources of risk mould and shape the costs law market from the outside. Sometimes referred to as “system risks”, these sorts of market drivers are unlikely to be curtailed or otherwise materially impacted by any one firm, practitioner or regulator. Rather, businesses, individuals and regulators all need to consider the likely impact of these drivers on their activities, and put measures in place to mitigate any negative impacts that might arise.

It is for this reason that the sources of risk highlighted in this report do not fall within the types of regulatory risk that the CLSB attempts to mitigate on behalf of the profession. Such risks are explored in our own internal risk register with a focus on addressing public detriment, such as poor client outcomes, unmet legal need or the stifling of innovation. This outlook report does not focus on regulatory risks of that kind.

Rather, this report is about drivers of change that are outside the CLSB’s control, but which may impact on Costs Lawyers’ ability to deliver services to clients in a way that meets their needs. These are risks for you to take into account, being mindful of your own practising arrangements, specialist areas and existing competencies. There will no doubt be other factors and risks that could impact your specific practice; we hope this report gets you thinking about what those might be.

This is the second annual risk outlook published by the CLSB, updating the 2023 version. We would welcome feedback from readers to help us refine our approach in future years. Please send any comments to us at enquiries@clsb.info.

Kate Wellington
CEO, CLSB

POLITICAL DRIVERS OF RISK

The political and regulatory issues facing the costs law market operate at many levels and interact closely with the economics of the sector.



Geopolitical risk

Last year we highlighted how deteriorating geopolitical relationships could impact on the demand for high value costs work in the future, whilst also potentially creating new threads of work relating to anti-money laundering, the international sanctions regime and strategic litigation against public participation (SLAPPs).

What has changed?

Last year, the focus was mainly on the war between Russia and Ukraine, including the wider impact of this conflict on litigation business in London. In 2024, risk areas have spread to include the Middle East and crucial international trade routes such as the Suez canal. These conditions are undermining confidence and holding back international cooperation on vital issues such as climate change and global trade deals.

2024 will also see an unprecedented number of important elections taking place around the world and these are widely expected to return increasingly authoritarian and nationalistic governments.¹

What could this mean for Costs Lawyers?

Political uncertainty and the global shift to nationalism may not adversely affect (and may even contribute to) the stream of international litigation into London in the short run, but the longer term outlook suggests that London's role as the world's premier centre for international disputes will be in relative decline. This is encouraging the Commercial Court and bar to focus on the development of new areas of litigation demand, such as environmental and AI/technology disputes. Costs Lawyers wishing to serve this end of the market will benefit from a more specialist understanding of these sectors.

POLITICAL DRIVERS OF RISK



Reform of the Legal Services Act 2007

There are well known difficulties with the regulatory framework for the legal sector in England and Wales, as established by the Legal Services Act 2007 (LSA).² Last year we noted that there was little likelihood of wholesale change to this regulatory framework in the short term, given lack of political appetite and other pressing issues within the Ministry of Justice's portfolio.

What has changed?

Although there is still no imminent amendment expected to the LSA, in a recent letter to the Lord Chancellor the Chair of the Justice Select Committee noted that the Act “*does not appear to provide a stable long-term framework for the regulation of the legal professions*” and that “*it is undeniable that the case for re-examination of the legislative framework underpinning regulation is growing stronger and stronger*”.³

Although the Committee fell short of recommending an immediate review of the LSA, it did recommend a review of the role of the Legal Services Board and floated the idea of a rethink of lawyer titles in any future legislation, prompted by the proposed change of title of Chartered Legal Executive to Chartered or CILEX Lawyer.

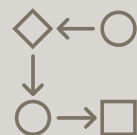
Meanwhile, the proposed redelegation by CILEX of its regulatory powers from its bespoke regulator, CILEX Regulation, to the Solicitors Regulation Authority (SRA) continues to move ahead, albeit slowly. In late March 2024, the SRA launched a consultation on the extension of its regulation to cover non-authorised individuals.⁴ Although the SRA has previously regulated students undertaking their professional qualification (and ceased to do so not long ago), the move to regulate CILEX paralegals is a significant extension of its regulatory reach outside of owners and managers of SRA regulated firms.

What could this mean for Costs Lawyers?

The redelegation of CILEX's regulatory powers to the SRA is likely to have far reaching consequences and may accelerate any review of LSA.

As Costs Lawyers are relatively few in number, there is a risk that the profession is treated as an afterthought in developing the future shape of legal regulation, including how this might impact on titles and reserved activities of Costs Lawyers. It is important for the CLSB, ACL and the wider profession of Costs Lawyers to be ready to articulate what an improved regulatory regime in England and Wales might look like from the costs perspective.

POLITICAL DRIVERS OF RISK



Wider legislative change

Last year we referenced various pieces of legislation that were in the pipeline and that could impact the work of Costs Lawyers.

What has changed?

This year, the UK legislative cycle is likely to be dominated by the general election, which must be held by January 2025.⁵ Current odds suggest an October election which would require an election to be called in early September 2024, soon after MPs return from the summer recess. This leaves very little remaining legislative time in 2024 and means that some current and planned legislative proposals may be lost. Political attention will also increasingly be focused on the drawing up of party manifestos.

What could this mean for Costs Lawyers?

The election poses risks to legislation going through the parliamentary pipeline; some important proposals such as the Leasehold and Freehold Reform Bill⁶ may need to be rushed through their final stages in order for them to pass during this parliament, creating the potential for poor legislation that is uncertain or open to challenge. This may open up new avenues for litigation in the future.

On the other hand, the Litigation Funding Agreements (Enforceability) Bill, which was introduced into the House of Lords in March,⁷ intends to create certainty by restoring the legislative interpretation of litigation funding agreements to the position prior to the Supreme Court's so-called PACCAR decision.⁸ This Bill is being fast-tracked and should become law before the summer recess.

Difficulties in securing parliamentary time could also impact the CLSB's efforts to make Costs Lawyers eligible for judicial appointment. While the Ministry of Justice is supportive of the proposals and will assist with tabling the necessary statutory instrument, a debate and vote in parliament will be required, and this is unlikely to happen in the short-term after a general election.



POLITICAL DRIVERS OF RISK



The legal aid budget

In 2023 we noted the ongoing decline in the number of solicitors undertaking legal aid work, but observed that the need for Costs Lawyers to assist solicitors in maximising their recovery from the legal aid budget should persist regardless.

What has changed?

The deteriorating conditions around the provision of legal aid have persisted, despite the findings of the Bellamy Criminal Legal Aid Independent Review.⁹ The failure of the Lord Chancellor to implement the minimum increases recommended by the review led the Law Society to initiate a judicial review. The court found in favour of the Law Society and issued a declaration to the effect that the Lord Chancellor had failed in his duty by making unreasonable and insufficiently researched policy proposals in relation to criminal legal aid.¹⁰

What could this mean for Costs Lawyers?

Despite the publicity around the Law Society's judicial review and government announcements of increased investment in court infrastructure and budgetary allocations to legal aid, this area of legal work remains in rapid structural decline.

POLITICAL DRIVERS OF RISK



Other legal sector regulation

The regulation of the solicitor market in England and Wales has been driven in 2023 by a series of significant market events.

What has changed?

2023 was the year in which Axiom Ince finally imploded, leaving a large hole in the compensation fund and the prospect that the profession will need to reprovise it through significantly increased contributions in future.

The Post Office scandal (considered further on page 8) also shone a light on the regulation of in-house lawyers and of wider concerns about the ethical environment in which solicitors (both in-house and in private practice) are operating.

What could this mean for Costs Lawyers?

Developments in solicitor regulation in 2024 are likely to lead to increased compliance costs and may therefore create both risks and opportunities for Costs Lawyers.

The regulatory fallout from the Post Office scandal raises an important question around the ethical framework applying to Costs Lawyers and reinforces the need for further emphasis on the independence of Costs Lawyers and their wider duties to the end client and justice, as underlined by the CLSB in its recent amendments to the Costs Lawyer Code of Conduct.

POLITICAL DRIVERS OF RISK



New developments

Extension of the fixed recoverable costs regime

The introduction of the new fixed costs regime for claims up to £100,000 finally came into force in October 2023. This extends fixed costs across civil claims but the exceptions and caveats to these rules mean that costs considerations may drive litigation strategy at a much earlier stage than previously.

The regime creates a growing need for Costs Lawyers to be strategic in the advice they are giving in relation to proceedings. This creates the possibility for Costs Lawyers to demonstrate greater value added to clients and to become involved in cases earlier on.

The Post Office inquiry

Although the Post Office inquiry has been ongoing since 2020, we have added this as a new risk in 2024 because of the heightened profile it has gained with the mainstream press and general public as a result of the ITV Drama, *Mr Bates v The Post Office*.

As the Post Office inquiry moves towards its final phase in autumn 2024, the high-profile nature of the remaining witnesses is likely to continue to shine a light on the Post Office's litigation against sub-postmasters. This in turn will raise questions about the costs of this litigation and the impact of these costs on victims' compensation. There is both a risk and opportunity in this for the costs world to consider.

ECONOMIC DRIVERS OF RISK

Economic forces create both pressures and opportunities in the costs law market, from the changing nature of supply and demand for Costs Lawyers' services to the emergence of substitutes along with new products and business models.



General economic outlook

In 2023, we highlighted the gloomy economic outlook with high rates of inflation and a tight job market, expected to impact on the supply and demand for Costs Lawyer services over the next few years.

What has changed?

Although UK economic performance is flatlining in 2024 and not expected to improve until 2026, inflationary pressures have come down significantly with Bank of England forecasts for inflation at around 2-3% by the autumn. This may permit the Bank to begin cutting interest rates although indications point to a cautious approach, given talk of government pre-election tax cuts.

What could this mean for Costs Lawyers?

The legal sector generally lags the overall economy, so a depressed economy will be felt in the legal sector slightly later than other areas of activity. This appears to be borne out by significant numbers of covid legacy disputes working through the courts.¹¹ Cost law firms may want to factor the prospect of a slower market for contentious services into their forward planning, as post-covid disputes are resolved, and consider developing counter-cyclical services (such as support for better management of legal spend by in-house legal departments or improved management of WVIP by law firms).

ECONOMIC DRIVERS OF RISK



The international legal market

In 2023 we highlighted the impact that US law firms were having on the London litigation market and the possible implications for demand for Costs Lawyer services.

What has changed?

A major development in late 2023 was the announcement of a merger between Allen and Overy (A&O) and US law firm Shearman and Sterling.¹² Views are mixed on the extent to which this is likely to trigger copycat mergers by other large UK players and the expectation is that the A&O Shearman merger will have greater impact on A&O's operations in the US than on the UK market.¹³

What could this mean for Costs Lawyers?

Although the focus of the A&O Shearman merger is on the US market, this development is likely to keep the UK market high on the radar of a wider spectrum of US firms and not just those seeking major transatlantic mergers. This points to a continuing stream of work for Costs Lawyers from US law firms in London.

ECONOMIC DRIVERS OF RISK



The national legal market

In 2023 we noted that the tighter economic environment had created a greater focus on costs management and that this had encouraged new players into the market to support such developments (for example, providers of contract workflow and e-billing software).

What has changed?

The UK legal market is forecast to grow in 2024 but at a slowing rate, when compared to 2023.¹⁴ The market is also becoming more competitive for solicitor firms, with the growth of platform law firms and alternative legal service providers (ALSPs). These new players are having an impact on, amongst other things, how law firms charge for their services. Lexis Nexis, Bloomberg Law and others have reported regularly over the past year on the growth of alternative fee arrangements (AFAs) such as project fees, capped fees, phased fees and blended rates.¹⁵

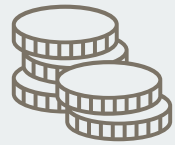
We also saw ongoing consolidation amongst national costs firms in 2023, with acquisitive organisations such as Frenkel Topping announcing further joint ventures with partner firms.

What could this mean for Costs Lawyers?

The growing influence of new players in the legal market will impact mid-tier corporate work in particular. Greater awareness of costs and planning of legal work are likely to become more commonplace within the legal market leading to a change in the nature of demand for the services of Costs Lawyers.

Market consolidation will have an impact on the nature of competition for costs law work while also creating economies of scale and potentially making room for increased innovation, generating both risks and opportunities for smaller players.

ECONOMIC DRIVERS OF RISK



The litigation market

What has changed?

There have been several developments in the litigation market in 2023 that presage longer term impacts. The litigation funding market faced a temporary period of uncertainty following the Supreme Court's judgment in PACCAR.¹⁶ Although this created challenges, which the government has now moved to dispel (see page 5), it also created interesting reactions from funders who have, in some cases, moved to direct lending to law firms, with a £33 million facility agreed between Harbour Litigation Funding and Slater and Gordon¹⁷ as a leading example.

2023 also saw a rise to greater prominence of class actions, with cases in areas including environmental disasters, product liability, consumer protection, competition infringements and personal injury leading the charge. In December, the High Court took the decision to consolidate the case management of various group actions in relation to diesel emissions which will have an impact on the costs management of those claims.

There has also been evidence for some time, in both the UK and US, of a trend towards specialist litigation firms. In the UK, 2023 appears to have been a year in which these boutiques broke through into top tier disputes.¹⁸

Finally, the Court of Appeal determined at the end of November 2023 that the court could lawfully stay proceedings in order to allow for mandatory alternative dispute resolution (ADR), provided this does not undermine the claimant's right to return to a court-based proceeding and that the costs and time involved in engaging in ADR are proportionate.¹⁹ This opens the door to more frequent use of ADR in higher value claims.

What could this mean for Costs Lawyers?

Reactions to the PACCAR judgment from litigation funders was a strong indication that this would not divert them from continued expansion in the UK market. If anything, it may have increased the likelihood that the Association of Litigation Funders will seek to become a regulated body, in order to gain certainty for the sector. This underlines the importance of costs firms building relationships with litigation funders as well as law firms.

The growing success of boutique litigation firms is a positive development for independent costs law firms and brings new opportunities for Costs Lawyers outside employment in traditional or full-service solicitor firms.

There are also opportunities for Costs Lawyers in the field of ADR, notably in judging whether the costs associated with ADR would be "proportionate".

ECONOMIC DRIVERS OF RISK



Growth areas for litigation

In 2023 we highlighted areas of potential growth in disputes – including through expected litigation responses to legislative developments – and the opportunities and risks for Costs Lawyers in those areas.

What has changed?

In 2024, emerging trends in litigation are expected to revolve around insolvency, fraud and enforcement cases, with the latter two areas being driven by the Economic Crime and Corporate Transparency Act 2023 and the government's fraud strategy.

Alongside ongoing product liability claims, legacy covid disputes and sanctions related work, new work could be driven by environmental and AI related claims (see pages 14 and 18), as well as legislation such as the Building Safety Act 2022 (the post-Grenfell legislation that significantly extends the limitation period for claims against homebuilders from 6 years to 30 years).

What could this mean for Costs Lawyers?

The range and complexity of litigation and the growth and scale of class actions now being handled by the courts should create opportunities for experienced and specialist Costs Lawyers.

However, growing complexity at the higher-value end and diminishing “bread and butter” costs work could change the nature of the profession and the knowledge and skills needed to succeed. Costs firms and large costs departments will need to address the issue of how best to build competence among new Costs Lawyers. The CLSB will need to support and encourage these efforts through the regulatory framework, including through the qualification requirements, Competency Statement and Ongoing Competency Framework.

ECONOMIC DRIVERS OF RISK



Environmental issues

Last year we highlighted the growing interest in ESG (environmental, social and governance) issues in the legal sector.

What has changed?

2023 was a year in which environmental litigation took off in a major way, with strategic claims progressing through the UK courts.

Although the High Court refused to grant ClientEarth Aarhus costs protection for its attempt to launch a judicial review of the Financial Conduct Authority's approval of Ithaca Energy's prospectus, this shows little sign of deterring ClientEarth from undertaking similar actions in future (see, for example, the ClientEarth reaction to the European Court of Human Rights judgment in *Verein Klimaseniorinnen Schweiz and Others v Switzerland*).^{20, 21}

What could this mean for Costs Lawyers?

Costs Lawyers should be aware of this rapidly expanding area of activity, ranging from ESG related litigation through to mass compensation claims for environmental disasters such as the Mariana dam disaster.

The costs dimensions of such actions are likely to become increasingly contentious and used as a mechanism to deter litigation. The growth of crowdfunding as a tool to support public interest litigation may reduce the chilling effect of such decisions. However, this generates new risks relating to how funds are sourced, and Costs Lawyers will need to be wary of facilitating money laundering or other types of economic crime when dealing with crowdfunded costs.

SOCIAL DRIVERS OF RISK

Risks arising from social trends and developments tend to be harder to pinpoint than economic or political/regulatory risks – often because they evolve slowly and the ultimate extent of their influence can be difficult to predict – but their impact can be transformative.



Consumers and legal services

Last year we noted that there was some evidence that the covid pandemic had encouraged consumers to engage with online legal services.

What has changed?

The cost of living crisis peaked in 2023 as energy prices, food prices, mortgage rates and rental costs all rose dramatically thanks to Russia's invasion of Ukraine, post-pandemic supply shortages and post-Brexit trade effects. The impact on consumer debt was significant and of a more serious nature than pre-pandemic, being focused on arrears in council tax, rent and utility bills rather than credit card spend.²² The publication of a letter in March 2024 by utilities and financial services regulators warning the debt sector about insufficient attention being paid to consumer vulnerabilities is a harbinger of a wider approach that is likely to increasingly characterise business and public sector interactions with consumers.²³

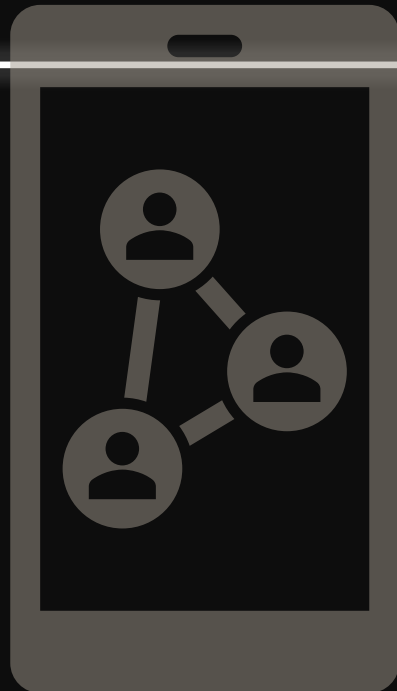
The Legal Services Board (the oversight regulator for the legal services sector) has also indicated in its 2024/25 business plan that it will be addressing similar issues in the legal market, looking at how consumer vulnerability is addressed in the sector and how consumers are dealt with throughout their engagement with legal advisers and the justice system.²⁴

What could this mean for Costs Lawyers?

Although many Costs Lawyers do not have direct engagement with consumers, those that do (or those that deal with consumers indirectly through their involvement in areas of law like personal injury) should be conscious of the increasing focus on:

- consumer vulnerabilities;
- transparency and certainty around the cost of legal action; and
- the potential impact of adverse costs awards on individuals.

SOCIAL DRIVERS OF RISK



Diversity and inclusion

Last year we highlighted the potential impact of the growth in solicitor apprenticeships on Costs Lawyer training.

What has changed?

The qualification regime for solicitors is still in a transitional phase from the Legal Practice Course (LPC) / training contract regime to the new Solicitors Qualifying Examination (SQE) regime. Although the introduction of the SQE was supposed to open up routes to qualification for a wider range of candidates, the SQE assessments are proving to be controversial and particularly challenging for those unpractised in high stakes examinations, with failure rates in the SQE 1 assessment of around 50%.

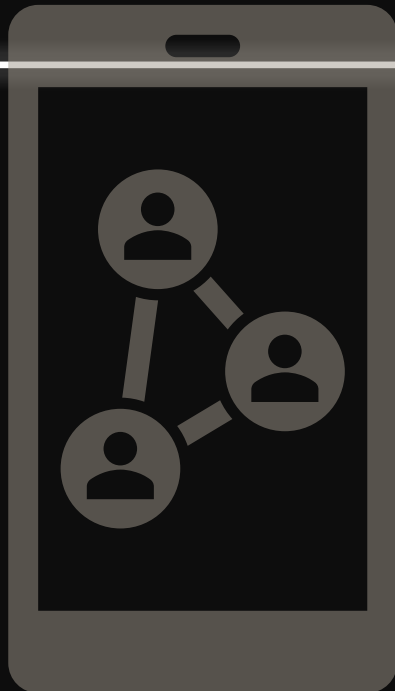
Meanwhile, interest in solicitor apprenticeships has been given further impetus by the launch of City Century,²⁵ an initiative by the City of London Law Society that sets a target for city law firms of appointing 100 partners who have come through the apprenticeship route by 2040.

What could this mean for Costs Lawyers?

The challenging nature of the SQE 1 assessment is encouraging candidates to look around at alternative legal careers, including costs law.

The CLSB and ACL Training are working with a Costs Lawyer Trailblazer Group of employer firms, under the auspices of the Institute for Apprenticeships and Technical Education, to create an apprenticeship pathway into the Costs Lawyer profession in the near future. This will help the profession seize the opportunities for expansion that are being created by fallout from the SQE, and help aspiring Costs Lawyers from diverse socioeconomic backgrounds afford the training needed to qualify.

SOCIAL DRIVERS OF RISK



Technological change – Digital courts

Last year we highlighted HMCTS's agenda to digitalise the courts and the potential impact this could have over time on the demand for Costs Lawyer services.

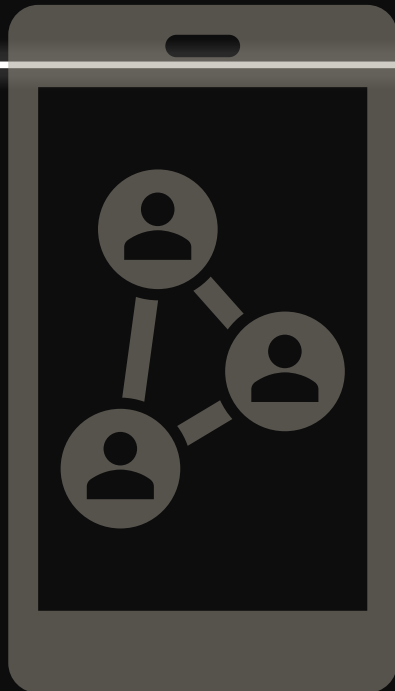
What has changed?

In June 2023 the Public Accounts Committee published a critical report of the reform programme for the digitisation of the courts and the way in which this has been managed by HMCTS and the Ministry of Justice following on from a National Audit Office report.^{26,27}

What could this mean for Costs Lawyers?

Although the vaunted benefits of digitisation of the courts have not been realised to the extent originally expected, non-professional users of HMCTS systems are reportedly more satisfied with the access and engagement with court processes than legal professionals. Despite mixed views on the success and value for money of the HMCTS reform programme, the direction of travel appears set and Costs Lawyers will need to become increasingly familiar with using different digital platforms as well as preparing for a world in which a growing proportion of more straightforward disputes are managed entirely online.

SOCIAL DRIVERS OF RISK



Technological change – Artificial intelligence

Last year we highlighted technology developments in general, but 2023 was dominated by an explosion of interest in AI, driven by the launch of ChatGPT and breakthroughs in the capability and availability of large language models (LLMs).

What has changed?

The AI revolution is just beginning and it is important to distinguish between the different strands of AI and their different uses. 2023 was characterised by a focus on LLMs and the ChatGPT platform provided by OpenAI. This sparked a debate about hallucination when early adopters found that the technology was capable of making up citations and conflating legislation and judgments with commentary. This led some commentators to dismiss AI or call for tighter regulation.²⁸

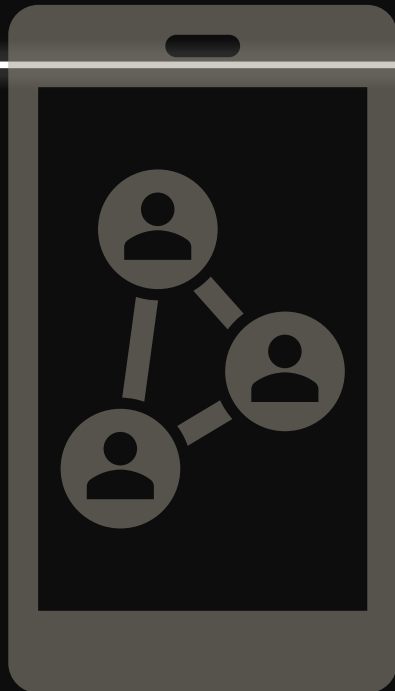
It is clear however that the journey towards greater adoption of AI is still nascent, and whether or not firms make a conscious effort to engage with it, they will find that it plays an increasing role as a result of its growing incorporation into the day-to-day software tools used by lawyers.

What could this mean for Costs Lawyers?

The rise of AI and legal tech presents a transformative opportunity for Costs Lawyers, and a corresponding risk for those who choose to ignore it.

AI technologies will certainly influence the costs of litigation in future. AI could also help to improve billing processes and time recording²⁹ as well as the accuracy of costs predictions and budgeting based on indicative data. These developments set the stage for Costs Lawyers to focus on the provision of expert advice. All Costs Lawyers should be including an understanding of AI in their ongoing competence efforts.

SOCIAL DRIVERS OF RISK



Technological change – Cyber crime

Last year we highlighted the risks around growing cyber threats.

What has changed?

The risk of cyber threats continues, exacerbated by the shift towards remote working and the growing reliance on digital platforms. The increasing digitisation of legal services and the storage of sensitive client information in the cloud naturally elevates the risk of failures in cybersecurity. Legal practices, including those of Costs Lawyers, are prime targets for cyberattacks due to the valuable data they hold.

According to a World Economic Forum report prepared by Accenture, 41% of organizations that suffered a material incident in the past year say it was caused by a third party. A further 54% of organisations responding to Accenture's survey stated that they had an insufficient understanding of cyber vulnerabilities in their supply chains.³⁰ The growing concerns around this issue are likely to lead to greater client demand for external verification of supplier systems against cyber threats.

What could this mean for Costs Lawyers?

All Costs Lawyers need to be aware of and conscious of how to protect against cyber threats. Costs law firms should have some external cyber assurance certification in place and Costs Lawyers will need to consider whether their professional indemnity insurance extends to cyber related risks.

COMPETENCY RISK



Emerging gaps in competency

This report demonstrates that a variety of political, economic and social developments are driving changes in the costs law market, from the type of services Costs Lawyers provide to the type of clients they act for, and the ways in which they work and organise themselves. Costs Lawyers should consider – when setting their annual CPD objectives or otherwise – what knowledge and skills they need to respond to the changing landscape to ensure they remain competent to do the job.

Examples of possible competency gaps that could arise from the drivers set out in this report include:

- Understanding how to use new technologies and systems, and the risks associated with them
- Appreciating the changing needs of clients and how to address them
- Adapting organisational management to changing workplace expectations
- Grasping how new regulatory and ethical obligations apply to specific practising arrangements
- Having sufficient technical knowledge of emerging work areas to spot issues, give sound advice and build a relevant specialism

The CLSB's [Ongoing Competency Framework](#) highlights other skills that Costs Lawyers will need to build throughout their career.

REFERENCE LINKS

1. [Why 2024 is a record year for elections around the world | World Economic Forum](#)
2. See for example [Reforming legal services: Regulation beyond the echo chambers | Professor Stephen Mayson](#) (final report of the Independent Review of Legal Services Regulation)
3. <https://committees.parliament.uk/publications/44017/documents/218057/default/>
4. [Arrangements for regulating non-authorised CILEX members | Solicitors Regulation Authority](#)
5. [General election: When is the next one and who decides? | BBC News](#)
6. [Leasehold and Freehold Reform Bill: Where are we now? | Charles Russell Speechlys](#)
7. <https://www.gov.uk/government/publications/litigation-funding-agreements-enforceability-bill-2024>
8. <https://www.supremecourt.uk/cases/uksc-2021-0078.html>
9. <https://www.gov.uk/government/groups/independent-review-of-criminal-legal-aid>
10. <https://www.bailii.org/ew/cases/EWHC/Admin/2018/2094.html>
11. [The Commercial Court Report 2022–2023 | HMCTS](#)
12. [A&O Shearman merger approved | Allen and Overy](#)
13. [A&O Shearman merger would be a blockbuster, but maybe not a harbinger | Reuters](#)
14. [LexisNexis Gross Legal Product \(GLP\) Index 2024](#)
15. [Firms moving away from billable hours | Law Gazette](#)

REFERENCE LINKS

16. [PACCAR and litigation funding | Linklaters](#)
17. [Slater and Gordon agree £33m committed facility with Harbour | Harbour Litigation Funding](#)
18. [Dispute resolution: Five litigation trends to look out for in 2024 | Law Gazette](#)
19. [Courts can compel parties to engage in ADR: Court of Appeal finds comments to the contrary in Halsey not binding | Herbert Smith Freehills ADR Notes](#)
20. [Verein Klimaseniorinnen Schweiz and Others v Switzerland](#)
21. [Media reaction: Court ruling 'a European first for climate litigation' | ClientEarth](#)
22. [Consumer debt in the UK is down 10%. The bad news? Utility bill arrears are up | The Guardian](#)
23. [Joint Debt Collection Statement | UKRN](#)
24. [Business Plan 2024-25 | Legal Services Board](#)
25. [citycentury.co.uk](#)
26. [Progress on the courts and tribunals reform programme | National Audit Office](#)
27. <https://publications.parliament.uk/pa/cm5803/cmselect/cmpubacc/1002/summary.html>
28. [Law Society makes regulation recommendations ahead of AI Safety Summit | The Law Society](#)
29. [Analysis: AI to help in-house counsel manage spend, fees in 2024 | Bloomberg Law](#)
30. [Global Cybersecurity Outlook 2024 | World Economic Forum](#)

CLSB Risk Register

Last reviewed: 30 January 2024

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

This risk register is divided into four sections:

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

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

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

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

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

B. Risk areas for ongoing monitoring

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

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

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

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

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

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

C. Key risk areas for mitigation

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

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

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

D. Risk areas for longer-term structural reform

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

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

Conduct complaints received by CLSB in 2023

Board report

7 March 2024

Introduction

There has been an increase in both the number and complexity of complaints about the conduct of Costs Lawyers received by the CLSB over the last couple of years. This has in turn meant an increase in consultancy payments for the investigation of complaints. We intend to report a summary of complaints to the Board annually. This report is the first such summary.

This report excludes complaints received by the CLSB about the conduct of unregulated costs advisers.

Complaint handling process

On receipt of a complaint in writing, the disciplinary triage process is completed to ascertain that CLSB has jurisdiction to investigate, and undertake standard point of complaint monitoring (including looking at any conditions on practising, disclosures, previous complaints and compliance with Rules).

Investigations are usually handled by an external consultant, a solicitor advocate. Due to the increasing complexity and volume of complaints they are often referred to the consultant for an initial review prior to opening any formal investigation.

Complaints received in 2023

	Date received	Complainant type	Costs Lawyer	Complainant's case	Handling	Outcome	Formal investigation	Cost
1	Apr 2023	Lay client	Large costs law firm	CL charged in excess of fee agreed and failed to provide clear and accurate fee information; failed to attend hearing, and instructed counsel; and failed to provide complaints procedure. Complainant now being pursued by firm for unpaid invoices.	Consultant	No grounds for complaints other than failure to provide complaints procedure at outset. CL advised to do so in future. (18 April – 2 May)	No	£1020
2	Jun 2023	Lay client	Sole practitioner	CL sent sensitive data outside encrypted email system.	Executive	No evidence of misconduct. (13 June – 10 July)	No	
3	Jun 2023	CL on opposing	Costs law firm	Preparation of intentionally misleading bills of	Executive	No jurisdiction to investigate - bills drafted by unregulated adviser, or follow up with CLs	No	

		side of proceedings		costs for SRA regulated firm (8 bills over 9 month).		there as adviser has since left the firm. Complainant very unhappy with outcome and raised this in relation to effectiveness of CLSB at renewals. (6 June – 10 July)		
4	Jun 2023	Lay person	SRA firm	Fraud/ property theft and fictitious forfeiture action and statements	Consultant	No breach of principle - complaint entirely misconceived (29 June – 4 September)	Yes	£1219
5	Sep 2023	Lay client	Costs law firm	Increase in agreed fees, delays in completing bill of costs, failure to be sent complaints procedure at start of instructions.	Consultant	Initial complaint was about the firm and in particular an unregulated adviser – whom CLSB has no jurisdiction to investigate. Consultant considered if one CL involved failed to deal with the case in a timely manner or in accordance with the promised timescale. He found the allegation was not well founded. Consultant considered if a second CL (Managing Director of the firm) failed to comply with the firm's complaints procedure. He found the allegation was not well founded.	Yes	£1380

						Consultant advised the second CL to ensure employees provide the firm's complaints procedure to clients on receipt of instructions. (21 September – 27 October)		
6	Nov 2023	Lay client, registered disabled	Costs law firm	First contacted CLSB in Nov 22. Medical negligence case. LIP costs sent to former solicitor incorrectly. Costs firm deducted £7-8k for interest due to time taken to secure costs.	Consultant	Complaint primarily about unregulated adviser, so no jurisdiction to investigate. Consultant considered if there was a case for complaint about regulated CL referred to by complainant. Found situation had arisen due to complainant's misunderstandings and complaint is misconceived. (17 November – 13 December)	No	£444 ¹
7	Dec 2023	Retired solicitor	Costs law firm	Failure to comply with undertakings given, especially return of papers, over which he had lien, to another party which seriously	Consultant	CL was acting for an SRA firm. The firm was in dispute with the former partner of one of two firms that merged to create the firm. CL required papers held by former partner to complete bill and gave	Yes Complaint upheld	£1972 ²

¹ Part paid in 2024

² Paid in 2024

				prejudiced complainant.		<p>an undertaking to return the papers to him.</p> <p>Instead CL returned papers to the firm. The investigation found that in so doing the CL breached Principle 1.1 and 1.7 in that he did not act with integrity in all his dealings in his professional life, and allowed himself to be compromised. By doing so he acted in a way which was likely to diminish the trust the public placed in him.</p> <p>Warning letter sent to advise should not give an undertaking you may not be in a position to fulfil, and seek client's instructions before giving such an undertaking. Where an undertaking is given must act in accordance with it.</p> <p>(4 December – 6 March 2024)</p>		
8	Dec 2023	Lay person	In-house	<p>Range of conduct complaints.</p> <p>No further details received to date.</p>	Executive to date	<p>No further details provided to date.</p> <p>(5 December -)</p>	No	
							Total	£6035

Summary

Complaints handled:	8
Complaints upheld & sanction given ³ :	1

Source of complaints in 2023:

Another Costs Lawyer:	1
Another legal professional:	1
Lay client/person	6

Complaints handled by consultant:	5 (2 in 2022)
-----------------------------------	---------------

Complaints upheld

The number of complaints upheld against Costs Lawyers, who then receive a sanction, remains low (as well as the total number of complaints received about Costs Lawyers). Over the last 5 years the number of sanctions given are:

2023: 1

2022: 1

2021: 0

2020: 0

2019: 1

Notably both complaints upheld in the last two years have ultimately been as a result of a Costs Lawyer prioritising the instructions of their client above their duty to the administration of justice. Following publication of the new Code of Conduct we shall be developing a set of ethical conduct resources for our website which will, amongst other matters, address this issue.

³ For this report the number of sanctions is the total number given as a result of complaints made in a given year. If the complaint was received in one year, and the sanction imposed in the following year, then the numbers in this report will not match the disciplinary outcomes as reported on the CLSB website, although the overall total will be the same.

Evidence submission

Costs Lawyers and eligibility for judicial appointment

FOR BOARD APPROVAL: 23 April 2024

a) Introduction

1. This evidence base is intended to demonstrate the case for amending the relevant legislation to enable Costs Lawyers to become eligible for judicial appointment. It sets out:
 - Evidence of Costs Lawyers' interest in judicial appointment;
 - Information about Costs Lawyers' specialist expertise and transferable skills that make them well-equipped for judicial appointment; and
 - Diversity data on the Costs Lawyer profession.

b) Background

2. Costs Lawyers are qualified legal professionals specialising in the law and practice of legal costs. Costs Lawyers are authorised to carry out three reserved legal activities (assuming those activities relate to legal costs): they have the right to conduct litigation, represent their clients in court and administer oaths. They are regulated by the Costs Lawyer Standards Board ('CLSB').
3. Eligibility for judicial roles was historically limited, largely, to solicitors and barristers. In 2008 and 2013¹, eligibility for certain judicial roles was extended to chartered legal executives and, in 2014, extended to registered patent attorneys and registered trade mark attorneys for specific roles relating to their expertise.² In June 2023, eligibility was expanded further to enable chartered legal executives to become Records and Upper Tribunal judges.
4. The CLSB is keen to see the current statutory eligibility requirements for judicial appointment expanded to include regulated Costs Lawyers. Costs Lawyers have deep expertise that would be valuable to the judiciary, not just in specialist roles such as Costs Judges, but across a range of judicial appointments. As well as making a positive contribution to the administration of justice, such a change is likely to have a similar impact on the Costs Lawyer profession, deepening its experience and increasing its attractiveness as a career. Further information about Costs Lawyers' expertise and skills can be found in section (c) of this submission.

¹ Judicial Appointments Order 2008 and Judicial Appointments (Amendments) Order 2013.

² Judicial Appointments (Amendment) Order 2014.

5. An initial exploratory conversation was held with the Ministry of Justice ('MoJ') in mid-October 2023. MoJ is actively looking at barriers to 'non-traditional' lawyers (i.e. not solicitors and barristers) entering the judiciary and one of its key objectives is to improve judicial diversity. The ability of Costs Lawyers to take up judicial roles would help the MoJ achieve both of these policy objectives.
6. MoJ advised that, to move this piece of work forward, Ministers would need evidence that Costs Lawyers would be interested in judicial appointment, alongside data on the diversity of the profession and further information about Costs Lawyers' skills and expertise. This information is set out in this document, alongside other evidence that supports the case for legislative amendment.

c) *Costs Lawyers' transferable skills and expertise*

i) *About Costs Lawyers*

7. Costs Lawyers are qualified legal professionals regulated by the CLSB.
8. Costs Lawyers specialise in the law and practice of legal costs. Examples of services that Costs Lawyers provide include:
 - Advocacy in costs matters, including representing clients in costs hearings and detailed assessment hearings.
 - Advising on the charging and recovery of legal costs and disbursements (such as fees paid to an expert, for example).
 - Advising on litigation funding.
 - Preparing costs budgets.
 - Preparing discussion documents to inform the court on budget issues.
 - Preparing schedules of costs.
 - Preparing bills of costs for provisional/detailed assessment by the court.
 - Preparing points of dispute on a bill of costs and replies.
 - Representing individuals in negotiations aimed at settling disputes about costs without the need for a court hearing, including mediation and arbitration.
 - Acting as an expert witness on legal costs matters.
 - Advising on legal aid costs.
 - Project management of legal spend.
 - Advise on retainers and fee arrangements between clients and their legal advisors.
9. Costs Lawyers are authorised to carry out three reserved legal activities (assuming those activities relate to legal costs): they have the right to conduct litigation, represent their clients in court and administer oaths.
10. Costs Lawyers are regulated by the CLSB and must comply with our regulatory rules and professional standards at all times. They must also follow our Code of Conduct for ethical behaviour, be covered by appropriate insurance and have a complaints procedure in place.

Clients of Costs Lawyers have the right to escalate a complaint to the Legal Ombudsman. The CLSB also has the power to take disciplinary action, through a fitness to practise regime, against Costs Lawyers who do not meet their professional obligations.

11. Costs Lawyers work for all types of clients, including individuals, small businesses, large businesses and other professionals. Individuals don't need to go through a solicitor or barrister to instruct a Costs Lawyer.
12. Costs Lawyers often work closely with solicitors and barristers. An individual might have already instructed a solicitor or barrister to conduct litigation, but a Costs Lawyer can assist where specialist costs advice is needed.
13. Some Costs Lawyers work as sole practitioners. Others work for costs law firms (i.e. firms specialising in costs law and practice) or in firms of solicitors. A small number of Costs Lawyers work in companies or government departments and advise their employer (rather than external clients) on costs matters.

ii) *Costs Lawyers' transferable skills and expertise*

14. Although the Costs Lawyer profession represents a small proportion of the legal profession in England and Wales, Costs Lawyers have a range of specialist and transferable skills that make them strong candidates for judicial appointment.³ Many of these skills and attributes align directly with the JAC's competency framework and the judicial skills and abilities framework, as shown in Annex 1.

Rights of audience

15. Costs Lawyers have rights of audience that are higher than those of solicitors and chartered legal executives without higher rights of audience. Provided that they are instructed to deal only with matters that relate to costs, Costs Lawyers may conduct proceedings and represent clients in any court or tribunal, including any criminal court or courts martial, the Supreme Court or the Privy Council where:
 - the proceedings are at first instance; or
 - the proceedings include an appeal below the level of the Court of Appeal or Upper Tribunal, are on a first appeal (other than in the Court of Appeal) and the appeal itself relates to costs; or
 - the proceedings do not fall within either of the categories above, but their instructions are limited to dealing with the costs of the proceedings; or
 - the court or tribunal grants permission for a Costs Lawyer to conduct proceedings or to represent a client (or both).

³ As of January 2024, there were 697 regulated Costs Lawyers on the CLSB register. This compares to around 160,000 solicitors, 17,000 barristers and around 21,000 CILEx lawyers, legal executives and other regulated legal professionals.

Specialist knowledge

16. In line with the [CLSB Competency Statement](#), regulated Costs Lawyers are expected to demonstrate sound understanding of the following:
- Civil litigation, including knowledge and understanding of the Civil Procedure Act 1997 and the Civil Procedure Rules.
 - Contract law.
 - Practice and procedure in specialist forums.
 - Legal aid.
 - Tort law.
 - Costs pleadings and process.
 - Lawyer-client relationship and funding arrangements, including specialist knowledge of the arrangements that govern costs in legal proceedings (such as solicitor retainers, costs indemnities and funding agreements, as well as the Solicitors Act 1974).
 - Professional standards and ethics.
17. Costs Lawyers also have specialist knowledge of other areas of law, depending on their individual practice areas. Costs Lawyers are also required to have a general understanding of the rules and procedure for employment, immigration, family and criminal litigation, given that Costs Lawyers may practise in any costs specialism once qualified. They are also required to have an understanding of the rules and procedure of the Supreme Court, Court of Protection and arbitral tribunals.
18. Costs Lawyers must also undertake ongoing continuing professional development, in line with the CLSB [CPD Rules](#) and [CPD guidance](#).
19. Costs Lawyers also provide costs training to other legal professionals, which demonstrates that they are regarded as experts in this specialist area by their peers in different branches of the profession.

Transferable skills

20. The [CLSB Competency Statement](#) requires Costs Lawyers to obtain and demonstrate the following skills, all of which are directly applicable and transferable to judicial appointment, as shown in Annex 1.
- **Advocacy.** 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, while upholding their duty to the court in the administration of justice. Costs Lawyers skill will be able to apply rules and procedure, determine relevance and admissibility of evidence and arguments, think on their feet and deliver with confidence, always within the bounds of their ethical duties.

- **Relationship management.** Costs Lawyers must have the ability to build and manage constructive relationships with stakeholders of all kinds, as their work requires regular interaction and engagement with clients (including lay clients), colleagues and other members of the wider legal profession.
- **Case management.** Costs Lawyers are expected to manage their own caseload, prioritising tasks and managing cases at different stages of completion.
- **Self management.** 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. Costs Lawyers are adept at being able to effectively manage oneself and the demands of others to protect mental wellbeing, maintain expected quality of work output and avoid ethical failings.
- **Agile thinking.** 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. Like other legal professionals, Costs Lawyers adapt their approach depending on the circumstances and apply knowledge, ideas and technologies to novel situations. They are skilled at finding new ways of using existing knowledge and resources as well as undertaking legal research to further a client's case. This skills helps to create confidence in relationships with clients and supervisors and requires a knowledge of available resources and good verbal reasoning skills.
- **Effective communication.** Costs Lawyers are required to communicate concisely and accurately when advising clients – orally and in writing – and when working with colleagues. They must also adopt an effective, contextualised form and style of communication. They are also required to draft formal legal documents including bills of costs, points of dispute, replies and skeleton arguments.
- **Negotiation.** Costs Lawyers will regularly settle their cases out of court, through exchange of correspondence as well as calls and meetings. Costs Lawyers understand the principles of mediation, the different methods and styles of negotiation. They are skilled at identifying what motivates people and interacting constructively with others to find solutions to problems that align with those motivations, whilst adapting their own preferred, or default, style to the situation.

Professional attributes

21. In addition to the above skills and expertise, Costs Lawyers must also develop the following eight professional attributes:

- **Self-sufficient** - Work independently and manage their 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.

d) Case for legislative amendment

i) *Positive impact on judicial diversity*

Making Costs Lawyers eligible to apply for judicial roles would meet the government, Judicial Appointments Commission and judiciary's objective of increasing judicial diversity, as well as the regulatory objective set out in the Legal Services Act 2007 of "encouraging an independent, strong, diverse and effective legal profession."

22. Expanding eligibility to include Costs Lawyers would contribute towards:

- The Judicial Appointment Commission's [strategic aim 2](#): 'Attract well-evidenced applications from the widest range of high calibre candidates, supporting greater judicial diversity.'⁴
- The JAC's statutory duty to 'have regard to the need to encourage diversity in the range of persons available for judicial selection'.⁵
- Priority area 3 of the [Judicial Diversity Forum Action Plan](#), specifically the action for MoJ to 'work to review the barriers faced by professional groups such as legal academics and those regulated legal professions who are not currently eligible for judicial office.'⁶

23. The tables below show the diversity of the Costs Lawyer profession as at February 2024,⁷ and include comparison to the diversity of the solicitor,⁸ barrister⁹ and CILEx¹⁰ professions. Given the limitations of some of the available data, caution should be taken when making comparisons across the different professions. However, overall the figures show that the diversity of the regulated Costs Lawyer profession compares favourably with that of solicitors, barristers and chartered legal executives. By way of example:

⁴ [Judicial Appointments Commission Strategy 2020-23, Business Plan 2022-23](#).

⁵ [Constitutional Reform Act 2005](#), section 64.

⁶ [Judicial Diversity Forum – Priorities and Actions for 2024](#), published 11 January 2024.

⁷ These figures reflect 242 respondents, which represents 35% of the regulated Costs Lawyer profession.

⁸ Diversity in law firms' workforce, Solicitors Regulation Authority, updated 10 January 2024. <https://www.sra.org.uk/sra/equality-diversity/diversity-profession/diverse-legal-profession/>

⁹ [Diversity at the Bar Report 2023](#), Bar Standards Board, January 2024.

¹⁰ [CILEx Regulation Diversity Report 2021](#).

- 8.7% of Costs Lawyers report having a disability, compared to 6% of solicitors, 5.1% of barristers and 4.4% of CILEx lawyers;
- 8.3% of Costs Lawyers report being non-heterosexual, compared to 4% of solicitors, 4.4% of barristers and 3.2% of CILEx lawyers;
- 86% of Costs Lawyers report attending a state school, compared to 64% of solicitors and 34% of barristers;
- 44% of Costs Lawyers report being the first in their family to attend university, compared to 30% of barristers and 29.9% of CILEx lawyers;

Gender

Category	Costs Lawyers	Solicitors	Barristers	CILEx
Female	52.0%	53%	39.2%	76.9%
Male	44.6%	45%	57.3%	22.3%
Non-binary or other gender identity	2.7%	0.1%	-	-
Prefer not to say	1.2%	2%	1.3%	-

Note: No information on gender was available for 2.2% of barristers.

Disability

Category	Costs Lawyers	Solicitors	Barristers	CILEx
Disability	8.7%	6%	5.1%	4.4%
No disability	90.9%	90%	57.4%	90.4%
Prefer not to say	0.4%	4%	2.2%	5.2%

Note: No information on disability was available for 35.3% of barristers.

Sexual orientation

Category	Costs Lawyers	Solicitors	Barristers	CILEx
Heterosexual	88.0%	89.2%	52.9%	88.4%
Non-heterosexual	8.3%	4%	4.4%	3.2%
Prefer not to say	3.7%	6.3%	4.7%	8.3%

Note: No information on sexual orientation was available for 37.9% of barristers and 0.1% of legal executives.

School background

Type of school

Category	Costs Lawyers	Solicitors	Barristers	CILEx
State-run or state-funded: selective on academic, faith or other grounds	20.7%	20%	34.0% attended a UK state school.	12.0%
State-run or state-funded: non-selective	65.3%	44%		73.3%
Independent or fee-paying school: bursary	4.1%	3%	19.4% attended a UK independent school.	1.6%
Independent or fee-paying school: no bursary	5.0%	18%		4.8%
Other type of school or attended school outside of the UK	3.3%	9%	5.0%	5.4%
Prefer not to say	1.6%	6%	3.2%	-

Note: No information on type of school attended was available for 38.1% of barristers and 0.1% of legal executives.

First in family to go to university

Category	Costs Lawyers	Solicitors	Barristers	CILEx
Yes	44.0%	-	30.0%	29.9%
No	18.4%	-	25.3%	21.3%
Did not attend university	34.2%	-	-	43.4%
Don't know	1.7%	-	0.2%	-
Prefer not to say	1.7%	-	2.6%	5.4%

Notes: Information on the proportion of solicitors who were the first in their family to go to university was not available. No information on parental university background was available for 41.9% of barristers and 0.1% of legal executives.

ii) Costs Lawyers' interest in judicial appointment

24. The CLSB ran a survey of the profession to gauge Costs Lawyers' interest in judicial appointment. The survey was open from 13 December 2023 to 12 January 2024. The survey was publicised through the CLSB newsletter and on social media. It was also shared by the Association of Costs Lawyers ('ACL') in its newsletter and on its social media channels.

25. There were 85 responses to the survey. In summary:

- **85.9% (73 individuals) of respondents were practising Costs Lawyers regulated by the CLSB.** 7.0% (6 individuals) were practising costs advisors/draftspeople unregulated by the CLSB, 2.4% (2 individuals) were students and 4.7% (4 individuals) gave their practising status as 'other'.
- **97.7% of respondents (83 individuals) thought that Costs Lawyers should be eligible for judicial appointment.** 2.4% (2 individuals) did not think that Costs Lawyers should be eligible.
 - Respondents in favour cited Costs Lawyers' specialist and unique technical expertise, advocacy experience, transferable skills, the diversity of the profession, and enthusiasm for costs law as a practice area.
 - The two respondents who were not in favour were concerned that Costs Lawyers' with insufficient knowledge in areas of law other than costs would find transferring to the judiciary too challenging.
- Regarding interest in particular judicial roles, **80.1% of respondents (68 individuals) were interested in Costs Judge roles, the highest of any answer option.**
- 77.4% (65 individuals) were interested in part-time roles, 64.3% (54 individuals) in full time roles, and 54.8% (46 individuals) in Deputy District Judge roles. More respondents were interested in court roles than tribunal roles (51.2% (43 individuals) to 30.9% (26 individuals) respectively), which might reflect the current trend of Costs Lawyers having more exposure to court work than tribunal work under existing practice models.
- When asked about what support they would like to see for prospective applicants, respondents frequently cited:
 - Training;
 - Professional networking opportunities (including with current judges);
 - Help with the application process;
 - Support from existing members of the judiciary (for example, work shadowing or mentoring).
- When asked about potential barriers or obstacles, respondents referred to:
 - Unconscious bias;
 - Prejudice/misperceptions of Costs Lawyers' experience or ability to carry out the role;
 - Lack of awareness of Costs Lawyers' skills and expertise;
 - Competition for roles from solicitors and barristers;
 - Academic and social barriers (e.g. lack of professional network or relevant post-qualification experience);
 - Lack of preparation for the application process.

Whilst the CLSB acknowledges that these barriers – or perceived barriers – may represent hurdles to appointment, we are also confident that many of them could be overcome through targeted, consistent and impactful communications to the profession about the opportunities available, 'mythbusting' activity to break down

perceptions about careers in the judiciary and the application process, and support for aspiring applicants. This kind of work is currently underway in other parts of the profession, for example through initiatives aimed at CILEx lawyers, and there are opportunities for sector collaboration here. Equally, the JAC is well-versed in managing communications that will encourage a wider diversity of applicants for judicial office, which would provide clear opportunities for partnership working.

e) Steps to success

26. As mentioned above, in our survey of regulated Costs Lawyers, when asked about what support they would like to see for prospective applicants for judicial roles, respondents most frequently cited:

- Training;
- Professional networking opportunities (including with current judges);
- Help with the application process;
- Support from existing members of the judiciary (for example, work shadowing or mentoring).

27. The CLSB's proposal has the full support of the ACL, which is the representative body and training provider for regulated Costs Lawyers. If Costs Lawyers become eligible for judicial appointments, the CLSB and ACL will work to deliver support for aspiring applicants.

28. The CLSB and ACL both have strong relationships with other approved regulators and representative bodies across the legal sector, which will help us to build a network of support for prospective applicants. We are well-placed to carry out activities such as: advertising suitable judicial vacancies in our regular newsletters for the profession; organising networking events for Costs Lawyers, to help them understand what a judicial career involves; sharing information from the Judicial Appointments Commission about the appointments process to enable Costs Lawyers to thoroughly prepare for making an application; and collaborating on existing initiatives.

29. In addition, because Costs Lawyers are under-represented as a profession within the judiciary, and given the diversity of regulated Costs Lawyers themselves, we would recommend that Costs Lawyers become eligible to apply to take part in the [Pre-application Judicial Education Programme](#) and [Judicial Work Shadowing Scheme](#). This would enable Costs Lawyers to further develop their understanding of the role and skills required of a judge, and help to level the playing field across all applicants.

f) Next steps

30. The CLSB believes that this evidence base makes a strong case for amending the relevant legislation to enable Costs Lawyers to be eligible for judicial appointment. We would welcome the opportunity to discuss next steps with the Ministry of Justice team.

g) Contact

Lori Frecker

Director of Policy - Costs Lawyer Standards Board

policy@clsb.info

Draft

Annex 1 – Comparison of Costs Lawyers’ required knowledge and skills, with the requirements of the JAC Competency Framework and Judicial Skills and Abilities Framework

Costs Lawyers’ knowledge and skills ¹¹	Judicial Appointments Commission Competency Framework ¹²	Judicial Skills and Abilities Framework
<p>Knowledge</p> <ul style="list-style-type: none"> - Sound understanding of the key concepts and general principles of civil litigation, practice and procedure in specialist forums, legal aid, contract law, tort law, costs pleadings and process, lawyer-client relationship and funding arrangements, and professional standards and ethics. - Detailed knowledge and understanding of civil litigation, contract law, costs pleadings and process, lawyer-client relationship and funding arrangements, and professional standards and ethics. - General understanding of the rules and procedure for employment, immigration, family and criminal litigation. - Understanding of the rules and procedure of the Supreme Court, Court of Protection and arbitral tribunals. - Specialist knowledge of individual practice areas. 	<p>Possessing and Building Knowledge:</p> <p>Possesses a detailed knowledge of own field of law and practice. Demonstrates an ability and willingness to learn new areas of law and procedure when required and develop professionally.</p> <ul style="list-style-type: none"> - Demonstrates a detailed knowledge of law and procedure in own field. - Demonstrates an ability to acquire further knowledge quickly, especially of unfamiliar or complex subject matter, by effectively using different information sources. - Keeps abreast of changes in law and new processes and procedures. - Pursues continuous learning and professional development, sharing relevant information and knowledge with others where possible. 	<p>Possessing and Building Knowledge:</p> <p>Possesses a detailed knowledge of a relevant jurisdiction, law and practice and demonstrates an ability and willingness to learn and develop professionally.</p> <ul style="list-style-type: none"> - Possesses a high level of expertise in chosen area or profession. - Possesses an appropriate and up to date knowledge of the relevant law and its underlying principles and procedure. - Shows an ability and willingness to learn and develop.

¹¹ CLSB Competency Statement, February 2022: <https://clsb.info/wp-content/uploads/2022/02/Competency-Statement-2-February-2022.pdf>

¹² JAC Competency Framework example <https://judicialappointments.gov.uk/wp-content/uploads/2021/06/Competency-Framework-example.pdf>

<ul style="list-style-type: none"> - Ongoing continuing professional development, in line with the CLSB CPD Rules and CPD guidance. 		
<p>Advocacy: 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.</p> <ul style="list-style-type: none"> - Applies relevant knowledge of civil and other litigation effectively. - Is rigorous in knowing all key issues in a case and the parties' arguments in relation to them. - Draws out the strengths and weaknesses of each party's case. - Is able to think on their feet and respond to opposing arguments and questions. - Presents arguments in a structured and accessible manner, making use of relevant evidence. - Knows when to seek advice from or instruct counsel. - Is professional and courteous, and acts in accordance with the etiquette of the particular forum. - Takes instructions from the client during proceedings if novel issues arise. - Recognises the boundaries of their rights of audience relating to costs. - 	<p>Exercising Judgement: Demonstrates integrity and applies independence of mind to make incisive, fair and legally sound decisions.</p> <ul style="list-style-type: none"> • Quickly identifies and applies the relevant law and procedure correctly in deciding and progressing the case. • Demonstrates independence of mind. • Makes decisions clearly and in a considered and confident way, especially in challenging complex situations. • Ensures fairness; demonstrates integrity and acts without bias or prejudice. 	<p>Exercising Judgement: Demonstrates integrity and applies independence of mind to make incisive, fair and legally sound decisions.</p> <ul style="list-style-type: none"> - Makes timely and appropriate decisions. - Exercises sound judgement and common sense. - Reaches clear, reasoned decisions objectively, based on relevant law and findings of fact. - Demonstrates integrity and independence of mind. - Does not exercise bias or prejudice.
<p>Relationship management: The ability to build and manage constructive relationships with stakeholders of all kinds.</p>	<p>Working and Communicating with Others: Values diversity and shows sensitivity to the different needs of individuals, groups and</p>	<p>Working with Others: Conducts proceedings appropriately, values diversity and shows</p>

<ul style="list-style-type: none"> - Is empathetic to the needs and motivations of those they interact with. - Manages client expectations – explains process, cost and timeframe, including factors that could affect these, and updates as necessary. - Develops good working relationships with colleagues. - Engages with opponents in a professional and constructive manner, regardless of how others conduct themselves. - Recognises that colleagues and clients may have different attitudes and perspectives and can manage these effectively. 	<p>communities. Demonstrates effective communication skills and builds rapport effectively.</p> <ul style="list-style-type: none"> - Establishes authority and demonstrates courtesy, inspiring respect and confidence in others, while providing direction and appropriate strategies to maintain control and defuse tension, encouraging parties to reach agreement where appropriate. - Listens attentively to ensure a fair opportunity to all parties to present their case whilst ensuring the efficient disposal of the proceedings. - Shows an awareness of the importance of diversity, takes an anti-discriminatory approach and demonstrates sensitivity to the particular needs of different individuals, communities and groups. - Communicates effectively and succinctly both orally and in writing in a manner that ensures understanding by other. 	<p>empathy and sensitivity in building relationships.</p> <ul style="list-style-type: none"> - Manages hearings through fair and objective direction and intervention. - Has an awareness of the diversity of the communities which the courts and tribunals serve. - Works constructively with others to encourage co-operation and collaboration when needed. - Treats people with respect, sensitivity and in a fair manner without discrimination; ensuring the requirements of those with differing needs are properly met. - Maintains effective relationships, demonstrating the appropriate balance between formality and informality in hearings and with all contacts. - Is able to recognise and deal appropriately with actual or potential conflicts of interest. <p>Communicating Effectively: Demonstrates good oral and written communication skills and authority.</p> <ul style="list-style-type: none"> - Establishes authority and inspires respect and confidence. - Remains calm and authoritative even when challenged. - Explains relevant legal or procedural information in language that is succinct, clear and readily understood by all.
---	---	---

		<ul style="list-style-type: none"> - Asks clear, concise, relevant and understandable questions. - Willing to listen with patience and courtesy.
<p>Case management. The ability to anticipate, respond to and proactively drive the progress of all cases the Costs Lawyer is working on.</p> <ul style="list-style-type: none"> - Applies legal knowledge and skills to all cases effectively. - Keeps to schedule – sticks to agreed processes for ongoing file review, diarises and meets important deadlines. - Understands the value of process and abides by it, even if routine/repetitive. - Plans ahead for work involved on a file – estimates time involved and considers impact on existing caseload and other members of the team. - Regularly informs stakeholders of ongoing costs and file progress as well as potential issues and problems. - Liaises with the client on routine matters and, where appropriate, more substantive technical issues. - Is able to work without constant supervision. 	<p>Managing work efficiently: Works and plans effectively to make the best use of resources available.</p> <ul style="list-style-type: none"> - Effectively manages time and other resources, prioritising tasks and obligations to ensure efficient completion of workload, both in and out of court. - Takes responsibility for own workload, resolving problems independently but seeking advice and offering assistance to others when appropriate. - Demonstrates resilience, responding calmly and flexibly to changing circumstances and pressure. - Utilises available resources, including the latest technology, to carry out the role in the most efficient way. 	<p>Managing Work Efficiently: Works effectively and plans to make the best use of resources available.</p> <ul style="list-style-type: none"> - Runs trials/hearings effectively to facilitate a fair and efficient conclusion. - Prioritises effectively and minimises delays and irrelevancies. - Shows ability to work at speed and under pressure. - Deals effectively with case management. - Undertakes necessary preparatory work.
<p>Self management - 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.</p>	<p>Working and Communicating with Others: Values diversity and shows sensitivity to the different needs of individuals, groups and communities. Demonstrates effective</p>	<p>Working with Others: Conducts proceedings appropriately, values diversity and shows empathy and sensitivity in building relationships.</p>

<ul style="list-style-type: none"> - Takes responsibility for own professional decisions and notifies supervisors of mistakes quickly. - Maintains a professional boundary with clients. - Is able to motivate to work alone, albeit with supervision, on long projects. - Recognises when to seek help and guidance (e.g. when working beyond competence or having difficulty managing workload). - Is confident to say when they do not agree or challenge something they do not understand. - Is able to deal with situations involving another's negligence or dishonesty (e.g. on the part of an instructing lawyer). - Reflects on their own performance and takes action where needed. 	<p>communication skills and builds rapport effectively.</p> <ul style="list-style-type: none"> - Establishes authority and demonstrates courtesy, inspiring respect and confidence in others, while providing direction and appropriate strategies to maintain control and defuse tension, encouraging parties to reach agreement where appropriate. - Listens attentively to ensure a fair opportunity to all parties to present their case whilst ensuring the efficient disposal of the proceedings. - Shows an awareness of the importance of diversity, takes an anti-discriminatory approach and demonstrates sensitivity to the particular needs of different individuals, communities and groups. - Communicates effectively and succinctly both orally and in writing in a manner that ensures understanding by others. 	<ul style="list-style-type: none"> - Manages hearings through fair and objective direction and intervention - Has an awareness of the diversity of the communities which the courts and tribunals serve - Works constructively with others to encourage co-operation and collaboration when needed. - Treats people with respect, sensitivity and in a fair manner without discrimination; ensuring the requirements of those with differing needs are properly met. - Maintains effective relationships, demonstrating the appropriate balance between formality and informality in hearings and with all contacts. - Is able to recognise and deal appropriately with actual or potential conflicts of interest. <p>Communicating Effectively: Demonstrates good oral and written communication skills and authority.</p> <ul style="list-style-type: none"> - Establishes authority and inspires respect and confidence. - Remains calm and authoritative even when challenged. - Explains relevant legal or procedural information in language that is succinct, clear and readily understood by all. - Asks clear, concise, relevant and understandable questions.
--	--	--

		<ul style="list-style-type: none"> - Willing to listen with patience and courtesy.
<p>Agile thinking: The ability of a Costs Lawyer to adapt their approach depending on the circumstances and apply knowledge, ideas and technologies to novel situations.</p> <ul style="list-style-type: none"> - Deploys legal research resources efficiently and effectively. - Proactively keeps own legal knowledge and skills up to date. - Uses initiative to research a point and present it to their supervisor. - Recommends a range of options to the client. - 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). - Draws on a range of sources, techniques and ideas to develop solutions to problems. - Can tackle large problems by breaking them down into constituent parts. - Seeks the input of colleagues on new approaches. - Can adapt approach in a tight timescale 	<p>Exercising Judgement: Demonstrates integrity and applies independence of mind to make incisive, fair and legally sound decisions</p> <ul style="list-style-type: none"> - Quickly identifies and applies the relevant law and procedure correctly in deciding and progressing the case. - Demonstrates independence of mind. - Makes decisions clearly and in a considered and confident way, especially in challenging complex situations. - Ensures fairness; demonstrates integrity and acts without bias or prejudice. <p>Assimilating and Clarifying Information Quickly assimilates information to identify essential issues, develops a clear understanding and clarifies uncertainty where necessary.</p> <ul style="list-style-type: none"> - Identifies, and ensures the focus remains on, the relevant issues. - Effectively assimilates and processes large amounts of information from multiple sources. - Critically analyses information and applies appropriate weight to it in order to reach a reasoned decision. - Clarifies own understanding and information. 	<p>Exercising Judgement: Demonstrates integrity and applies independence of mind to make incisive, fair and legally sound decisions.</p> <ul style="list-style-type: none"> - Makes timely and appropriate decisions. - Exercises sound judgement and common sense. - Reaches clear, reasoned decisions objectively, based on relevant law and findings of fact. - Demonstrates integrity and independence of mind. - Does not exercise bias or prejudice. <p>Assimilating and Clarifying Information Quickly assimilates information to identify essential issues, develops a clear understanding and clarifies uncertainty through eliciting and exploring information.</p> <ul style="list-style-type: none"> - Possesses the ability to quickly absorb, recall and analyse information, facts and legal argument. - Identifies and focuses on the real issues; is not lost in irrelevant detail. - Properly applies appropriate legal rules and principles to the relevant facts. - Is able to weigh evidence in order to decide the facts of a case.

<p>Effective communication: The ability to identify and use a method of communication that is appropriate for the circumstances in order to convey relevant information clearly.</p> <ul style="list-style-type: none"> - Explains the complicated simply. - Uses plain language and avoids jargon and abbreviated terms. - Plans and structures drafting to aid the reader's understanding. - Is able to engage supervisors and colleagues on technical issues and provide sufficient and salient information for them to give helpful advice and feedback. - Understands when and how to engage with different methods of communication. - Adapts communication style to suit the situation and audience. 	<p>Working and Communicating with Others: Values diversity and shows sensitivity to the different needs of individuals, groups and communities. Demonstrates effective communication skills and builds rapport effectively.</p> <ul style="list-style-type: none"> - Establishes authority and demonstrates courtesy, inspiring respect and confidence in others, while providing direction and appropriate strategies to maintain control and defuse tension, encouraging parties to reach agreement where appropriate. - Listens attentively to ensure a fair opportunity to all parties to present their case whilst ensuring the efficient disposal of the proceedings. - Shows an awareness of the importance of diversity, takes an anti-discriminatory approach and demonstrates sensitivity to the particular needs of different individuals, communities and groups. - Communicates effectively and succinctly both orally and in writing in a manner that ensures understanding by others. 	<p>Working with Others: Conducts proceedings appropriately, values diversity and shows empathy and sensitivity in building relationships.</p> <ul style="list-style-type: none"> - Manages hearings through fair and objective direction and intervention. - Has an awareness of the diversity of the communities which the courts and tribunals serve. - Works constructively with others to encourage co-operation and collaboration when needed. - Treats people with respect, sensitivity and in a fair manner without discrimination; ensuring the requirements of those with differing needs are properly met. - Maintains effective relationships, demonstrating the appropriate balance between formality and informality in hearings and with all contacts. - Is able to recognise and deal appropriately with actual or potential conflicts of interest. <p>Communicating Effectively: Demonstrates good oral and written communication skills and authority.</p> <ul style="list-style-type: none"> - Establishes authority and inspires respect and confidence.

		<ul style="list-style-type: none"> - Remains calm and authoritative even when challenged. - Explains relevant legal or procedural information in language that is succinct, clear and readily understood by all. - Asks clear, concise, relevant and understandable questions. - Willing to listen with patience and courtesy.
<p>Negotiation - The ability to identify what motivates people and then interact constructively with others to find solutions to problems that align with those motivations.</p> <ul style="list-style-type: none"> - Is able to recognise the approach being taken by the other side and respond accordingly. - Identifies the most appropriate forum for settlement depending on the case, issues, client and opponent. - Can spot irrelevant issues and deal with them appropriately. - Understands the client's motivations – agrees a negotiating strategy with the client that is aligned to that client's individual needs. - Can employ basic mediation skills and recognises when to instruct a professional mediator or other third party. 	<p>Exercising Judgement Demonstrates integrity and applies independence of mind to make incisive, fair and legally sound decisions</p> <ul style="list-style-type: none"> - Quickly identifies and applies the relevant law and procedure correctly in deciding and progressing the case. - Demonstrates independence of mind. - Makes decisions clearly and in a considered and confident way, especially in challenging complex situations. - Ensures fairness; demonstrates integrity and acts without bias or prejudice. <p>Assimilating and Clarifying Information Quickly assimilates information to identify essential issues, develops a clear understanding and clarifies uncertainty where necessary.</p> <ul style="list-style-type: none"> - Identifies, and ensures the focus remains on, the relevant issues. 	<p>Exercising Judgement: Demonstrates integrity and applies independence of mind to make incisive, fair and legally sound decisions.</p> <ul style="list-style-type: none"> - Makes timely and appropriate decisions. - Exercises sound judgement and common sense. - Reaches clear, reasoned decisions. objectively, based on relevant law and findings of fact. - Demonstrates integrity and independence of mind. - Does not exercise bias or prejudice. <p>Assimilating and Clarifying Information Quickly assimilates information to identify essential issues, develops a clear understanding and clarifies uncertainty through eliciting and exploring information.</p> <ul style="list-style-type: none"> - Possesses the ability to quickly absorb, recall and analyse information, facts and legal argument. - Identifies and focuses on the real issues; is not lost in irrelevant detail.

	<ul style="list-style-type: none"> - Effectively assimilates and processes large amounts of information from multiple sources. - Critically analyses information and applies appropriate weight to it in order to reach a reasoned decision. - Clarifies own understanding and information. 	<ul style="list-style-type: none"> - Properly applies appropriate legal rules and principles to the relevant facts. - Is able to weigh evidence in order to decide the facts of a case.
--	--	---

Costs Lawyers: Diversity in the profession 2023

23 April 2024

Costs Lawyer Standards Board

CLSB


In this report

Introduction.....	3
Diversity categories	3
1. Age	3
2. Gender.....	4
2.1 Gender identity.....	5
3. Sexual orientation.....	6
4. Ethnicity.....	7
5. Disability	9
6. Religion and belief	10
7. Caring responsibilities.....	11
7.1 Family, friends or neighbours.....	11
7.2 Children	13
8. Social mobility	13
8.1 Type of school attended between ages 11 and 16.....	14
8.2 Eligibility for free school meals	15
8.3 Social mobility by parental level of education.....	16
8.4 First in family to go to university.....	17
9. Professional background	18
9.1 Number of years practising.....	18
9.2 Number of years practising by gender	19
9.3 Current job level	20
9.4 Current job level by gender.....	21
Notes and next steps	22
About the data	22
Declarations	22
Comparative data.....	22
Comparisons to the Solicitors Regulation Authority's (SRA's) data	23
Next steps	23

Introduction

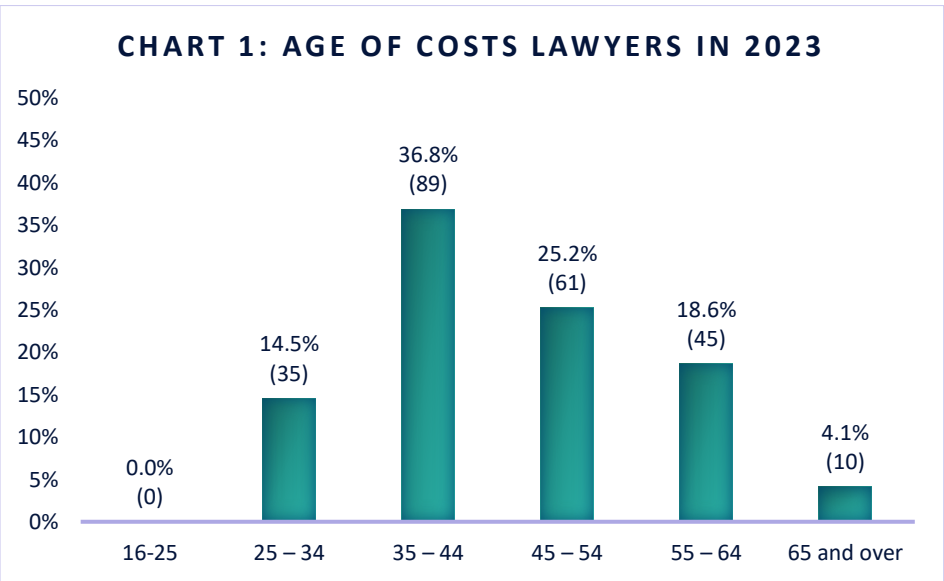
The Costs Lawyer Standards Board, or CLSB, is the regulator of Costs Lawyers in England and Wales. We exist to serve the public interest by setting and maintaining the standards of professional conduct by which Costs Lawyers must abide.

As a regulator, we have a statutory objective to “encourage an independent, strong, diverse and effective legal profession” under the Legal Services Act 2007. We do this in various ways, including by monitoring the diversity of the profession in order to identify areas of under-representation and consider action that could be taken to address these.

This diversity report provides data on the diversity of the regulated Costs Lawyer profession as at the end of 2023.

Diversity categories

1. Age



In 2023, the majority of respondents were aged 35 to 44 (36.8%, 89 individuals). When taken together with the proportion in the 25 to 34 bracket, this means that just over half of respondents were aged 44 years old or younger. The majority of lawyers in SRA-regulated firms are also aged 44 or younger (59%). Table 1 below shows a comparison of age brackets between Costs Lawyer respondents and lawyers in SRA-regulated firms.

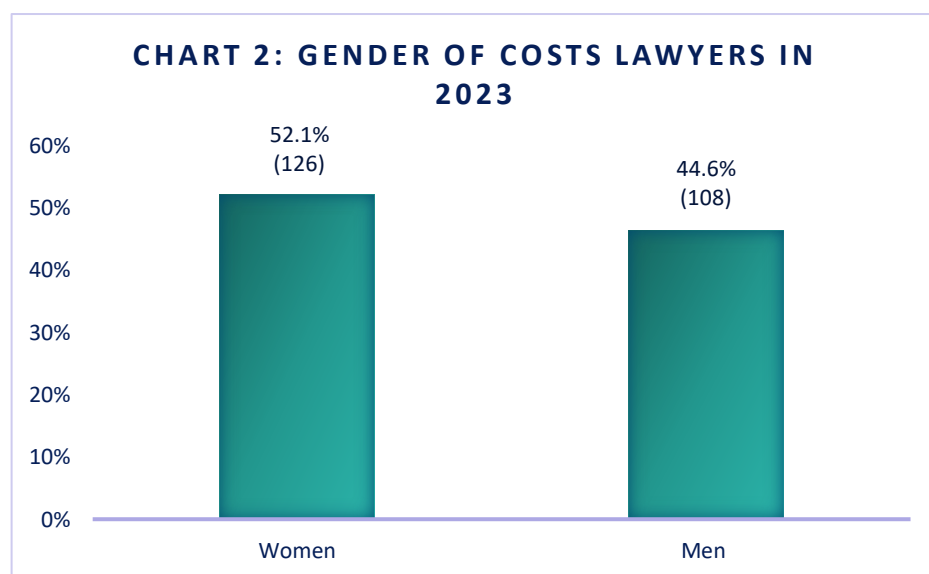
Table 1 – Age, comparative data

Category	Costs Lawyers	Lawyers in SRA-regulated firms ¹
16 – 25	0%	0%
25 – 34	14.5%	30%
35 – 44	36.8%	29%
45 – 54	25.2%	22%
55 – 64	18.6%	13%
65 and over	4.1%	4%
Prefer not to say	0.8%	2%

Comparative data for the population of England and Wales is not included in Table 1 as the age categories used for the Census 2021 were slightly different to the age categories used for the CLSB and SRA diversity monitoring surveys. However, according to the Census 2021:²

- 17.4% of the population (10.4 million) in England and Wales was under 15 years old;
- 64.1% (38.2 million) was aged 15 to 64 years; and
- 18.6% (11.1 million) was aged 65 and over.

2. Gender



¹ [Diversity in law firms' workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

² [Population and household estimates, England and Wales: Census 2021](#), Office for National Statistics, published 28 June 2022.

In 2023, 52.1% of respondents were women (126 individuals) and 44.6% were men (108 individuals).

As Table 2a shows, the proportions of Costs Lawyers who are women and men are broadly similar to those of lawyers in SRA-regulated firms, but slightly higher than the proportions in the population of England and Wales.

Table 2a – gender, comparative data

Category	Costs Lawyers	Lawyers in SRA-regulated firms ³	Population of England and Wales ⁴
Women	52.1%	53%	51%
Men	44.6%	45%	49%

The number of Costs Lawyer respondents who identified as non-binary or gender fluid, and the number of respondents who preferred not to say, were each below 5. Consequently that data has not been included in this report.

2.1 Gender identity

We asked respondents whether the gender they identify with is the same as their sex registered at birth. 98.8% of respondents (239 individuals) said that their gender was the same as their sex registered at birth. This is higher than the proportion of lawyers working in SRA-regulated firms, and the proportion of the England and Wales population that said the gender they identify with is the same as their sex registered at birth, as shown in Table 2b.

The number of Costs Lawyer respondents who answered that their gender was different to their sex registered at birth, and the number who preferred not to say, were both less than 5 and therefore this data has not been included in the report.

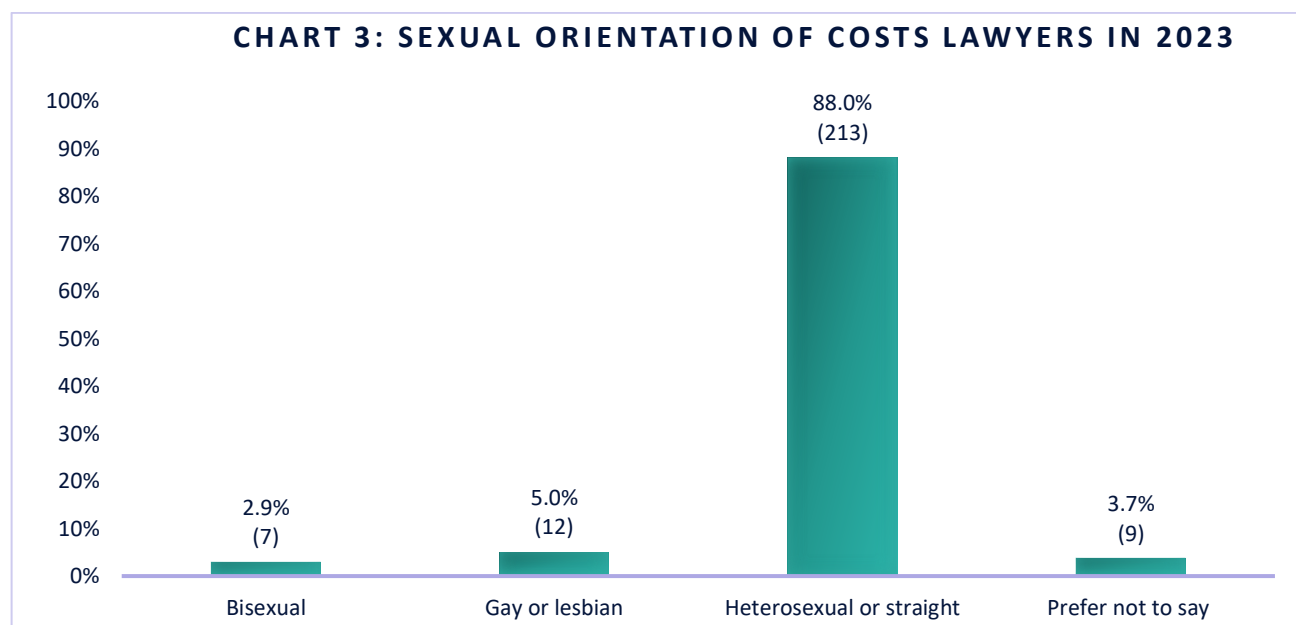
³ [Diversity in law firms' workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

⁴ [Population and household estimates, England and Wales: Census 2021](#), Office for National Statistics, published 28 June 2022.

Table 2b – gender identity, comparative data

Category	Costs Lawyers	Lawyers in SRA-regulated firms ⁵	Population of England and Wales ⁶
Gender identity same as sex registered at birth	98.8%	96%	93.5%
Gender identity different to sex registered at birth	-	0%	0.5%
Prefer not to say	-	3%	6.0%

3. Sexual orientation



In 2023, 2.9% of respondents (7 individuals) identified as bisexual and 5.0% (12 individuals) as gay or lesbian. This is slightly higher than the proportions of bisexual and gay or lesbian lawyers in SRA-regulated firms, and the proportions of bisexual, gay and lesbian individuals in the population of England and Wales, as shown in Table 3. However, as the figures for lawyers in SRA-regulated firms and population of England and Wales are based on larger samples of people and higher response rates, caution should be taking when making comparisons between these datasets.

⁵ [Diversity in law firms' workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

⁶ [Gender identity, England and Wales: Census 2021](#), Office for National Statistics, published 6 January 2023

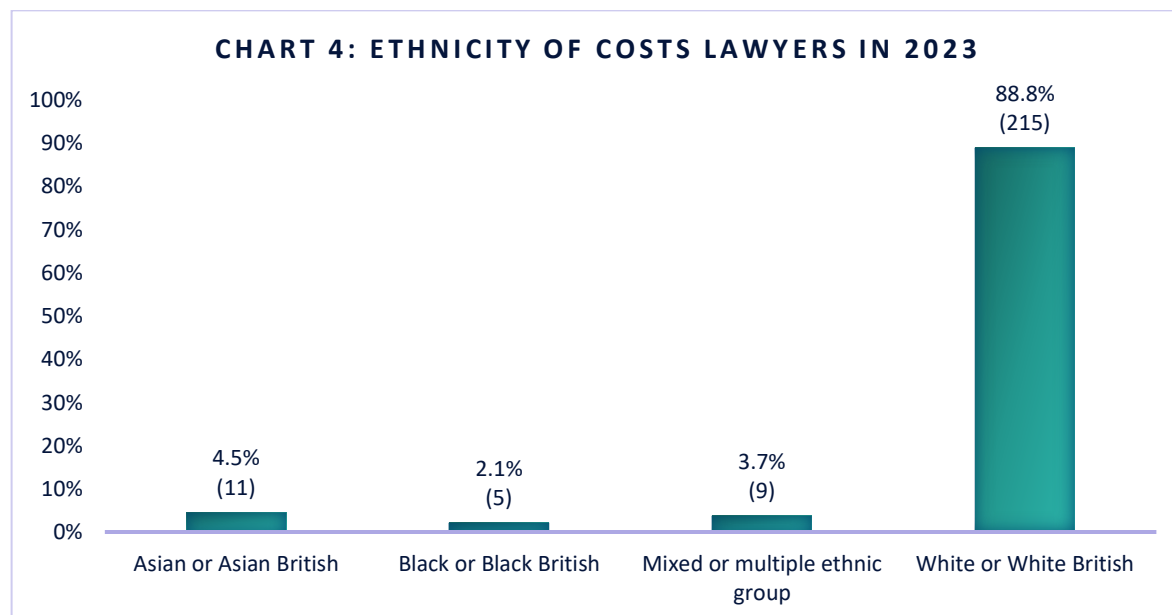
88.0% of Costs Lawyer respondents identified as heterosexual or straight (213 individuals) in 2023. This is slightly lower than the proportion of lawyers in SRA-regulated firms, and the proportion of the England and Wales population that identifies as heterosexual.

3.7% (9 individuals) of respondents preferred not to say their sexual orientation. The number of respondents who described their sexual orientation differently was less than 5 and has therefore not been included in this report.

Table 3 – sexual orientation, comparative data

Category	Costs Lawyers	Lawyers in SRA-regulated firms ⁷	Population of England and Wales ^{8,9}
Bisexual	2.9%	1%	1.3%
Gay or lesbian	5.0%	3%	6%
Heterosexual	88.0%	89%	89.4%
Prefer not to say	3.7%	6%	N/A

4. Ethnicity



⁷ [Diversity in law firms' workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

⁸ [Sexual orientation, England and Wales: Census 2021](#), Office for National Statistics, published 6 January 2023.

⁹ According to the 2021 Census, 89.4% of the population aged 16 years and over in England and Wales identified as heterosexual or straight (43.4 million). 1.3% of the population described themselves as bisexual (624,000 individuals), 1.5% as gay or lesbian (748,000 individuals) and 0.3% described themselves as 'other sexual orientation' (165,000 individuals). The overall proportion of the population in England and Wales aged 16 and over who identified with an LGB+ orientation was 3.2% (1.5 million people).

In 2023, 10.3% of respondents identified as Black, Asian, Mixed or multiple ethnic backgrounds (25 individuals). This is the lower than the proportion of lawyers in SRA-regulated firms from Black, Asian and minority ethnic backgrounds (19%), and the proportion of people from Black, Asian and minority ethnic backgrounds in the England and Wales population (18.3%).

In 2023, 4.5% (11 individuals) of Costs Lawyer respondents identified as Asian or Asian British, 2.1% (5 individuals) as Black or Black British, and 3.7% (9 individuals) as mixed or multiple ethnic groups. Table 4 shows how this compares to lawyers in SRA-regulated firms and the population of England and Wales. However, as the figures for lawyers in SRA-regulated firms and the population of England and Wales are based on larger samples of people and higher response rates, caution should be taking when making comparisons with the Costs Lawyer profession.

In 2023, 88.8% of Costs Lawyer respondents identified as White or White British (215 respondents), which is higher than the proportion of lawyers in SRA-regulated firms who identified as from these groups. It is also higher than the proportion of the population of England and Wales who identified as White or White British.

Fewer than 5 Costs Lawyer respondents preferred not to provide their ethnicity and therefore that data has not been included in this report.

Table 4 – ethnicity, comparative data

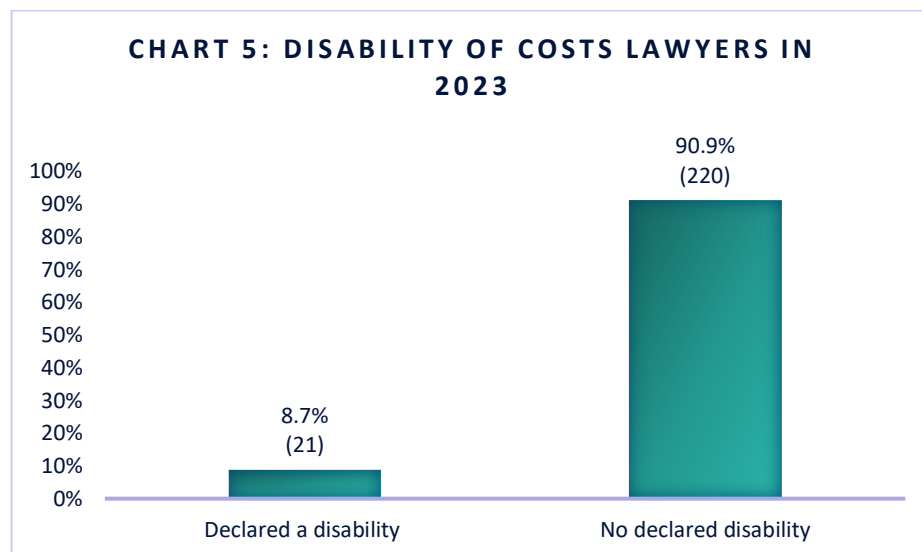
Category	Costs Lawyers	Lawyers in SRA-regulated firms ¹⁰	Population of England and Wales ^{11, 12}
Black, Asian and minority ethnic backgrounds combined	10.3%	19%	18.3%
Asian	4.5%	12%	9.3%
Black	2.1%	3%	4.0%
Mixed or multiple ethnic backgrounds	3.7%	3%	2.9%
Other ethnic group	0%	1%	2.1%
White backgrounds	88.8%	77%	81.7%

¹⁰ [Diversity in law firms' workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

¹¹ [Ethnic group, England and Wales: Census 2021](#), Office for National Statistics, published 29 November 2022.

¹² According to the 2021 Census, 9.3% (5.5 million) of the population of England Wales identified as Asian, 4.0% (2.4 million) as Black, 2.9% (1.7 million) as mixed or multiple ethnic groups and 2.1% (1.3 million) as other ethnic groups. 81.7% (48.7 million) identified as White.

5. Disability



In 2023, 8.7% of respondents said they had a disability (21 individuals). This is higher than the proportion of lawyers in SRA-regulated firms who declared a disability in 2023, but lower than the proportion of disabled people in the working age population, as shown in Table 5.

In 2023, 90.9% of Costs Lawyer respondents said they did not have a disability (220 individuals), almost the same as the proportion of lawyers in SRA-regulated firms who said they did not have a disability.

Table 5 – disability, comparative data

Category	Costs Lawyers	Lawyers in SRA-regulated firms ¹³	Working age population ¹⁴
Declared a disability	8.7%	6%	24%
No declared disability	90.9%	90%	-

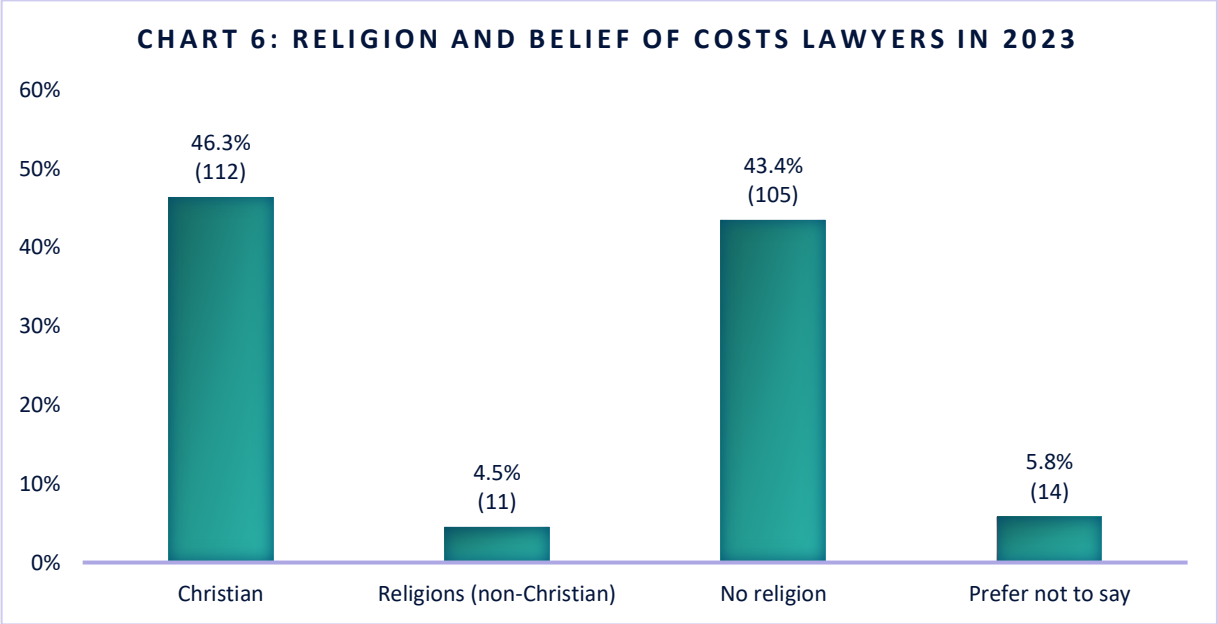
Of those respondents who said they had a disability, 52% had a physical disability (13 individuals) and 28% had a social disability, mental health condition, learning difference or neurodivergence (7 individuals). The remaining respondents preferred not to provide information about their disability, or had a different kind of disability. In both of the latter cases,

¹³ [Diversity in law firms' workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

¹⁴ [Disabled People in Employment](#), House of Commons Research Briefing, published 18 March 2024. According to the Office for National Statistics, 24% (10.21 million) of the working-age population (people aged 16 to 64) was disabled in October to December 2023.

the number of respondents in each category was less than 5 and has therefore not been included in this report.

6. Religion and belief



In 2023, the majority of Costs Lawyer respondents identified as Christian (46.3%, 112 individuals). This is higher than the proportion of lawyers in SRA-regulated firms who identified as Christian, but similar to the proportion of Christians in the population of England and Wales, as shown in Table 6.

The second highest proportion of Costs Lawyer respondents identified as ‘no religion’ in 2023 (43.4%, 105 individuals). This is higher than the proportion of lawyers in SRA-regulated firms who identified as having no religion in 2023, and higher than the proportion of the population of England and Wales who identified as such.

In 2023, 4.5% (11 individuals) identified as non-Christian religions including Buddhist, Jewish, Muslim, Hindu and Sikh, however, the number of respondents in each individual category was below 5 and therefore too small to report on separately. This is lower than the proportion of lawyers in SRA-regulated firms, and the proportion of people in England and Wales, who identify with non-Christian religions.

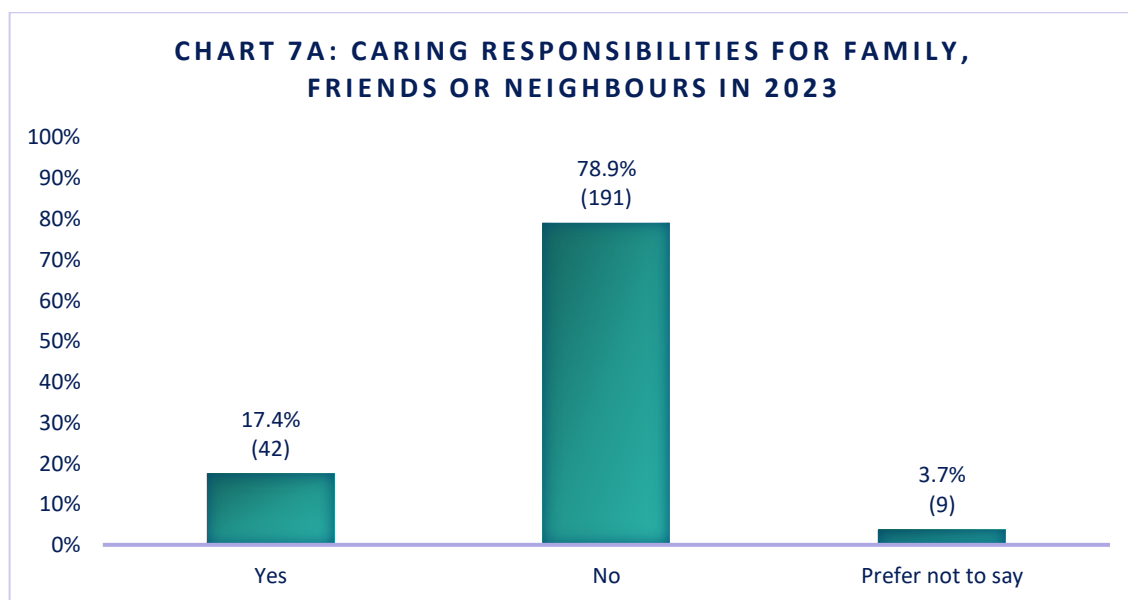
5.8% (14 individuals) preferred not to provide information about their religion and belief.

Table 6 – religion and belief, comparative data

Category	Costs Lawyers	Lawyers in SRA-regulated firms ¹⁵	Population of England and Wales ¹⁶
Christian	46.3%	41%	46.2%
Other religions	4.5%	15%	10.6%
No religion	43.4%	36%	37.2%
Prefer not to say	5.8%	8%	6.0%

7. Caring responsibilities

7.1 Family, friends or neighbours



In 2023, 17.4% of respondents (42 individuals) said they looked after, helped or supported a family member, friend or neighbour with long-term health needs or problems related to old age on an unpaid basis. This compares to 8% of lawyers in SRA-regulated firms and 9% of the population of England and Wales, as shown in Table 7(a).

¹⁵ [Diversity in law firms' workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

¹⁶ [Religion, England and Wales: Census 2021](#), Office for National Statistics, published 29 November 2022. According to the 2021 Census, 46.2% (27.5 million) of the population in England Wales were Christian, 37.2% (22.2 million) had no religion and 6.5% (3.9 million) were Muslim. 1.7% (1.0 million) of the population in England and Wales was Hindu, 0.9% (524,000) Sikh, 0.5% Jewish (271,000) and 0.5% Buddhist (273,000). 0.6% (348,000) of the England and Wales population identified with other religions, and 6.0% (3.6 million) did not answer the question.

Table 7(a) – adult caring responsibilities, comparative data

Category	Costs Lawyers	Lawyers in SRA-regulated firms ¹⁷	Population of England and Wales ¹⁸
Caring responsibility for family, friends or neighbours	17.4%	8%	9%
No caring responsibility for family, friends or neighbours	78.9%	87%	-
Prefer not to say	3.7%	5%	-

In 2023, 12% (29 individuals) provided support for less than 20 hours per week and 3.7%% (9 individuals) provided support for between 20 and 50 hours per week. The number of Costs Lawyer respondents who said they provided support for over 50 hours per week was below 5 and therefore has not been included in this report. Table 7(b) shows how this compares to lawyers in SRA-regulated firms and the population in England and Wales.

Table 7(b) – number of hours of adult caring responsibilities, comparative data

Category	Costs Lawyers	Lawyers in SRA-regulated law firms ¹⁹	Population of England and Wales ²⁰
Less than 20 hours of care per week	12%	6%	4.4%
Between 20 and 50 hours of care per week	3.7%	1%	1.9%
Over 50 hours of care per week	-	1%	2.8%

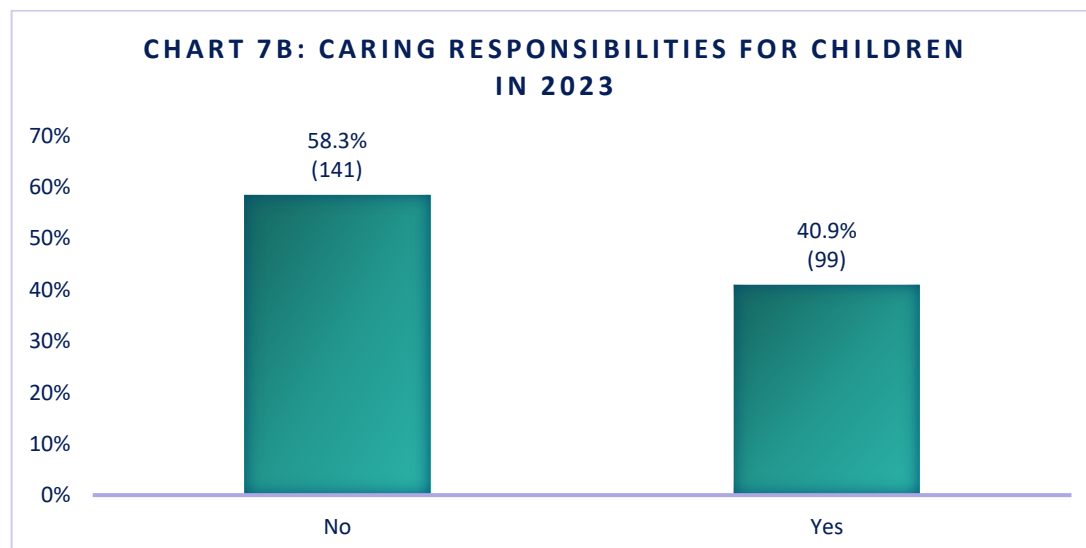
¹⁷ [Diversity in law firms' workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

¹⁸ [Unpaid care, England and Wales: Census 2021, Office for National Statistics, published 19 January 2023](#). According to the 2021 Census, 9% (5 million) of people in England and Wales provided unpaid care in 2021 relating to an adult.

¹⁹ [Diversity in law firms' workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

²⁰ [Unpaid care, England and Wales: Census 2021, Office for National Statistics, published 19 January 2023](#). According to the 2021 Census, 9% (5 million) of people in England and Wales provided unpaid care in 2021 relating to an adult.

7.2 Children



In 2023, 40.9% of respondents (99 individuals) said they are the primary carer for a child or children aged under 18, compared to 58.3% of respondents who said they are not (141 individuals). This compares to 35% of lawyers in SRA-regulated firms who said they have caring responsibilities for a child, and 61% who said they did not. ²¹

The number of respondents who preferred not to say was less than 5 and has therefore not been included in this report.

8. Social mobility

The Social Mobility Commission ('SMC') describes social mobility as the link between an individual's income and occupation and the income and occupation of their parents. Ensuring that people from different socio-economic backgrounds are able to join and progress in the profession is an important aspect of improving diversity and inclusion in the legal sector.

In this year's diversity survey, we asked Costs Lawyers about the following, which the SMC identifies as indicators of economic, cultural and social advantage:

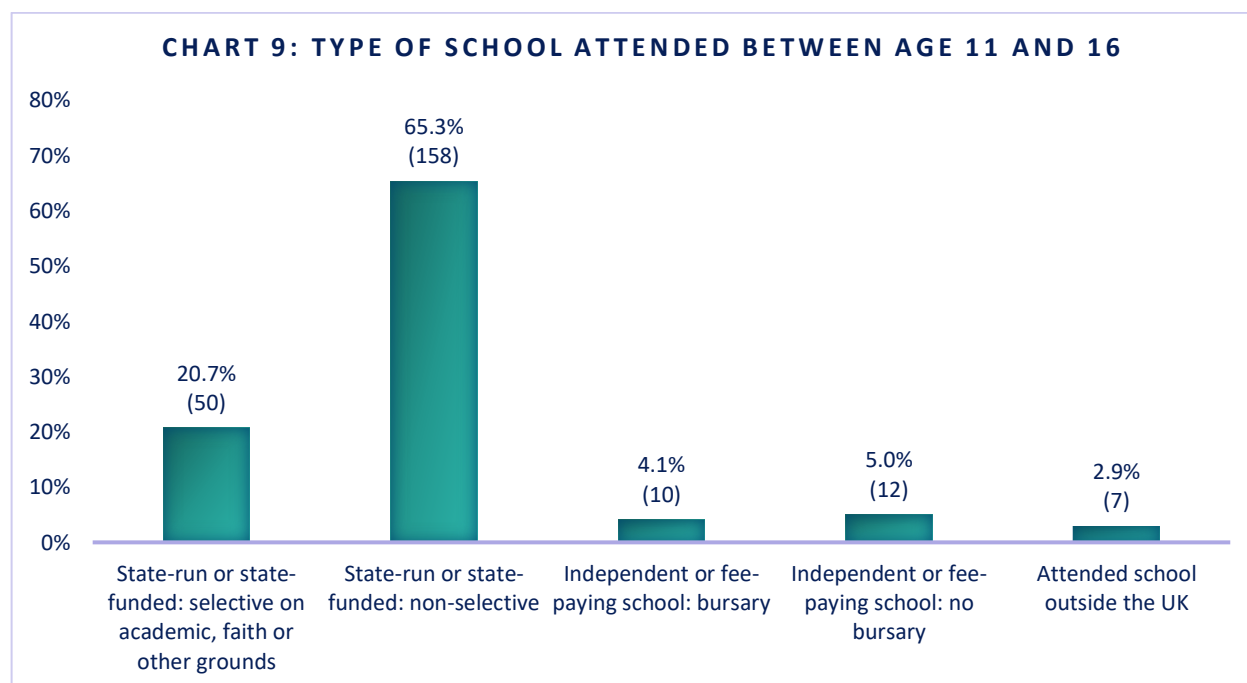
- The type of school they attended between the ages of 11 and 16.
- Whether either of their parents attended university

²¹ [Diversity in law firms' workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

- Whether they were the ‘first in family’ to go to university;
- Whether they were eligible for free school meals.

Further information about social mobility in the Costs Lawyer profession can be found in our [diversity survey for 2022](#), which focused on social mobility.

8.1 Type of school attended between ages 11 and 16



In 2023, 86% of Costs Lawyer respondents had attended a state school (208 individuals), compared to 64% of lawyers working in SRA-regulated law firms.

In 2023, 9.1% of Costs Lawyer respondents (22 individuals) had attended an independent or fee-paying school. This is lower than the proportion of lawyers in SRA-regulated firms who had attended an independent or fee-paying school (21%), but higher than the proportion of UK schoolchildren who attend independent schools (5.9%).²²

2.9% of Costs Lawyer respondents (7 individuals) had attended school outside of the UK, compared to 9% of lawyers working in SRA-regulated firms.

²² [Independent Schools Council](#) website, as at 4 April 2024.

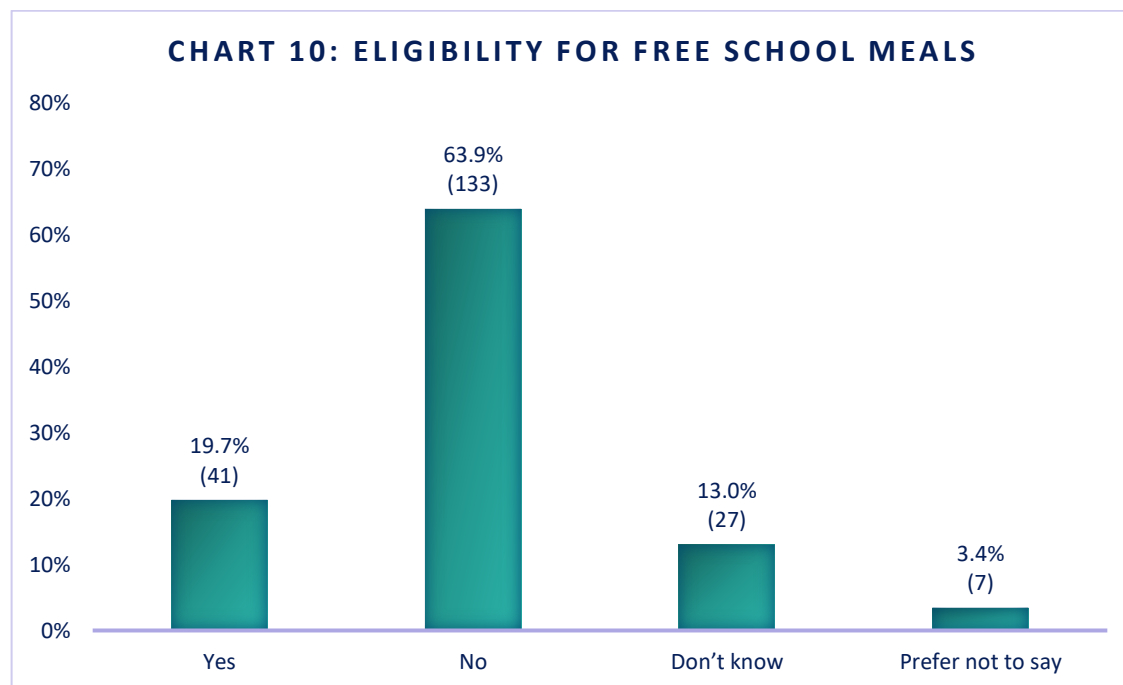
The number of Costs Lawyer respondents who had attended another type of school, and the number who preferred not to say, were each below 5 and have therefore not been included in this report.

Table 8 shows a detailed comparison of Costs Lawyer respondents and lawyers working in SRA-regulated firms.

Table 8 – type of school attended

Category	Costs Lawyers	Lawyers in SRA-regulated firms ²³
State school	86%	64%
- Selective state school	20.7%	20%
- Non-selective state school	65.3%	44%
Independent school	9.1%	21%
- With a bursary	4.1%	3%
- Without a bursary	5.0%	18%
Attended school outside the UK	2.9%	9%

8.2 Eligibility for free school meals

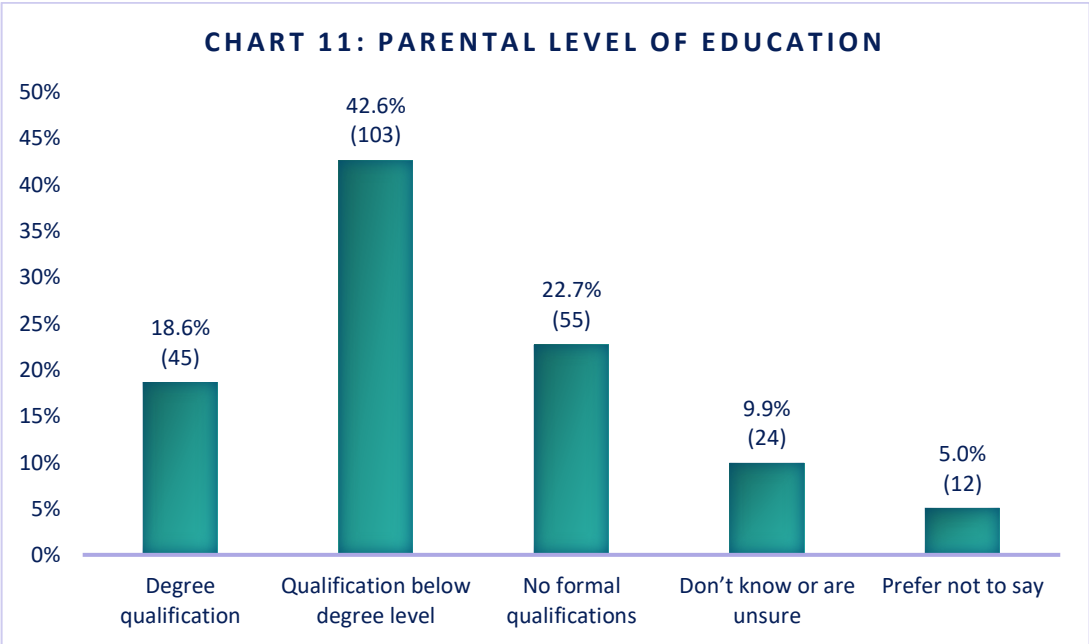


²³ [Diversity in law firms' workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

In 2023, 63.9% of respondents (133 individuals) said they had not been eligible for free school meals while in education, compared to 19.7% (41 individuals) who said they are were. For comparative context, in 2023, 23.8% of pupils were eligible for free school meals (over 2 million pupils).²⁴

13.0% (27 individuals) said they didn't know if they had been eligible for free school meals, and 3.4% (7 individuals) preferred not to say.

8.3 Social mobility by parental level of education



In 2023, the majority of respondents said their parents' highest level of education was a qualification below degree level, for example, vocational qualifications or A Levels (42.6%, 103 individuals).

18.6% (45 individuals) said one or more of their parents had a degree qualification. This compares to 42% of lawyers working in SRA-regulated firms who had one or more parents with a degree qualification.

22.7% (55 individuals) said their parents had no formal qualifications. 9.9% (24 individuals) didn't know or were unsure about their parents' level of education, and 5.0% (12 individuals)

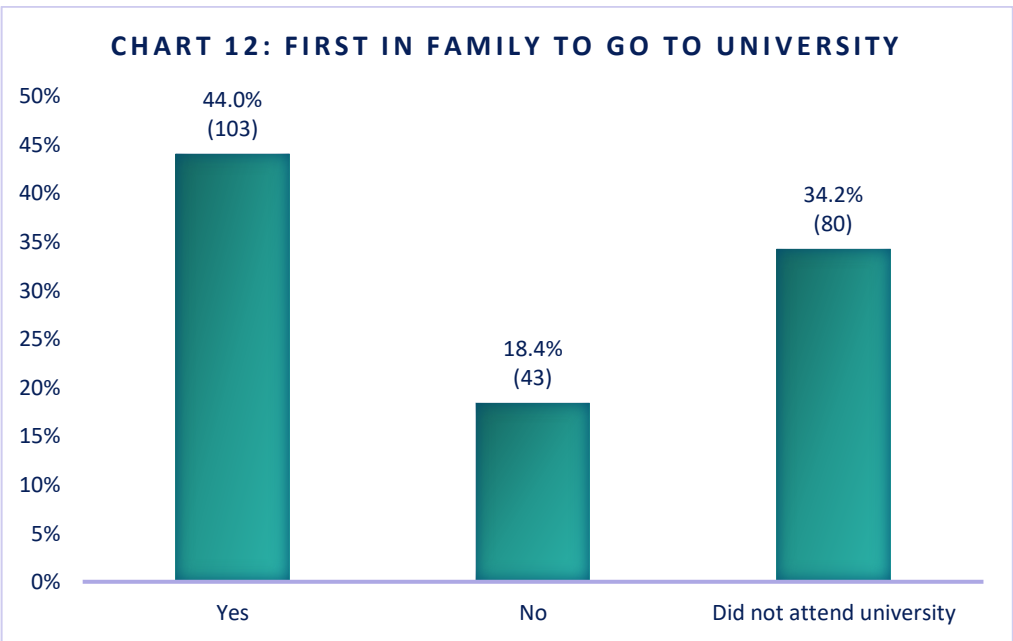
²⁴ Department for Education, [Schools, pupils and their characteristics - academic year 2022/23](#), published 8 June 2023.

preferred not to say. As fewer than 5 respondents described their parents level of education as ‘other’, this data has not been included in this report.

The SRA reported on parental level of education based on whether one or more parents attended university in 2023. It also reported on parental professional background in 2023.²⁵ Whilst this latter data is not directly comparable to the data above, it has been included here for general context.

In 2023, 57% of lawyers working in SRA-regulated firms had parents with professional occupations, 13% had parents with intermediate occupations, and 18% parents with lower socio-economic occupations.²⁶ 9% of lawyers preferred not to declare information about parental occupation.

8.4 First in family to go to university



²⁵ [Diversity in law firms’ workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

²⁶ The professional (higher) socio-economic category is made up of modern and traditional professional occupations and senior, middle or junior managers or administrators. The intermediate socio-economic category is made up of clerical and intermediate occupations and small business owners who employ fewer than 25 people. The lower socio-economic (working class) category is made up of technical and craft occupations and long-term unemployed.

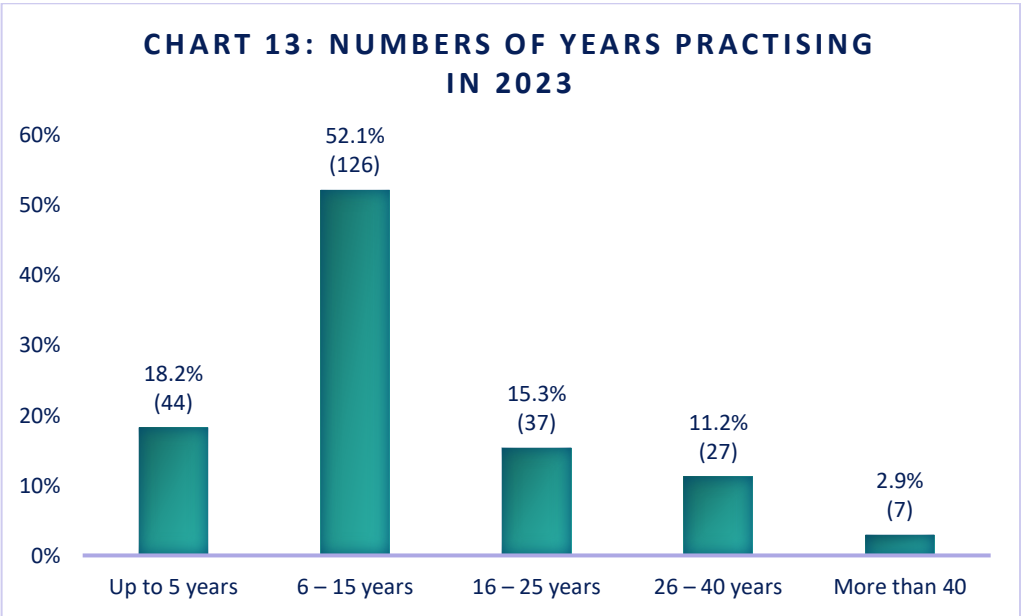
In 2023, 44% of respondents (103 individuals) were the first generation in their family to go to university. This compares to 52% of lawyers working in SRA-regulated firms who did not have parents who went to university.²⁷

18.4% of respondents (43 individuals) were not the first generation in their family to go to university. This compares to 42% of lawyers in SRA-regulated firms who had one or more parents who had gone to university.

In 2023, 34.2% (80 individuals) of Costs Lawyer respondents did not attend university. The number of respondents who answered ‘I don’t know’ or preferred not to say was less than 5 and has therefore not been included in this report.

9. Professional background

9.1 Number of years practising



In 2023, the majority of respondents had been practising for between 6 and 15 years (52.1%, 126 individuals).

²⁷ [Diversity in law firms’ workforce](#), Solicitors Regulation Authority, updated 10 January 2024.

18.2% (44 individuals) of respondents had been practising for up to 5 years, and 15.3% (37 individuals) for between 16 and 25 years. 11.2% (27 individuals) had been practising for between 26 and 40 years, and 2.9% (7 individuals) for more than 40 years.

The number of respondents who preferred not to say was less than 5 and has therefore not been included in this report.

9.2 Number of years practising by gender

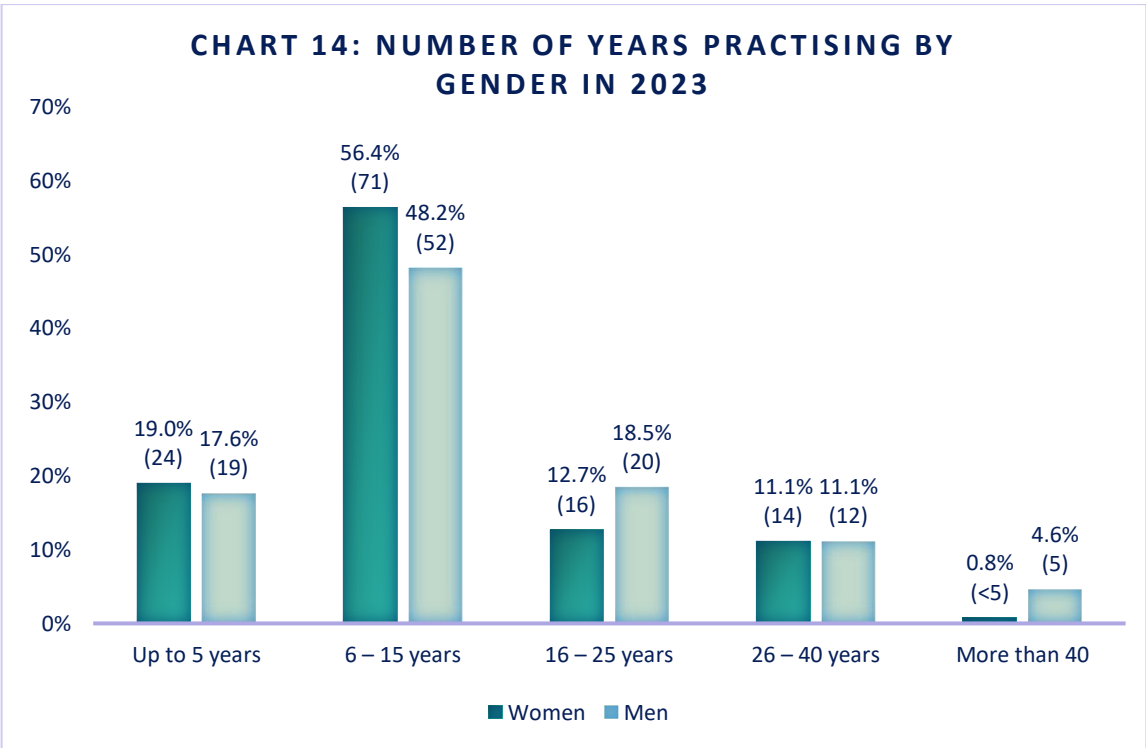
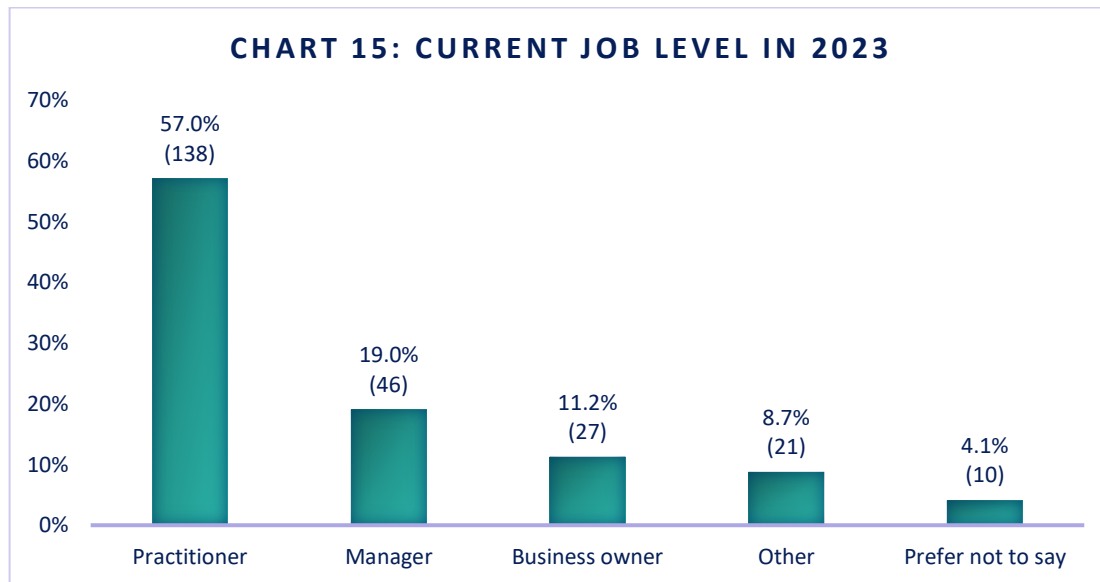


Chart 14 shows the difference in number of years practising by gender in 2023. It shows the proportion of women is higher than of men for up to 15 years of practice, after which point the proportion of men becomes higher than that of women. Specifically:

- A higher proportion of respondents practising for up to 5 years were women (19.0% women compared to 17.6% men).
- A higher proportion of respondents practising for between 6 and 15 years were women (56.4% women compared to 48.2% men).
- A higher proportion of respondents practising for between 16 and 25 years were men compared to women (18.5% men compared to 12.7% women).
- The proportion of respondents practising for between 26 and 40 years was 11.1% for both men and women.

- A higher proportion of male respondents had been practising for more than 40 years (4.6% men compared to 0.8% women).

9.3 Current job level



In 2023, the majority of respondents were practitioners (57.0%, 138 individuals). 19.0% (46 individuals) were managers and 11.2% (27 individuals) were business owners. 8.7% (21 individuals) described their current job level as 'Other' and 4.1% (10 individuals) preferred not to say.

9.4 Current job level by gender

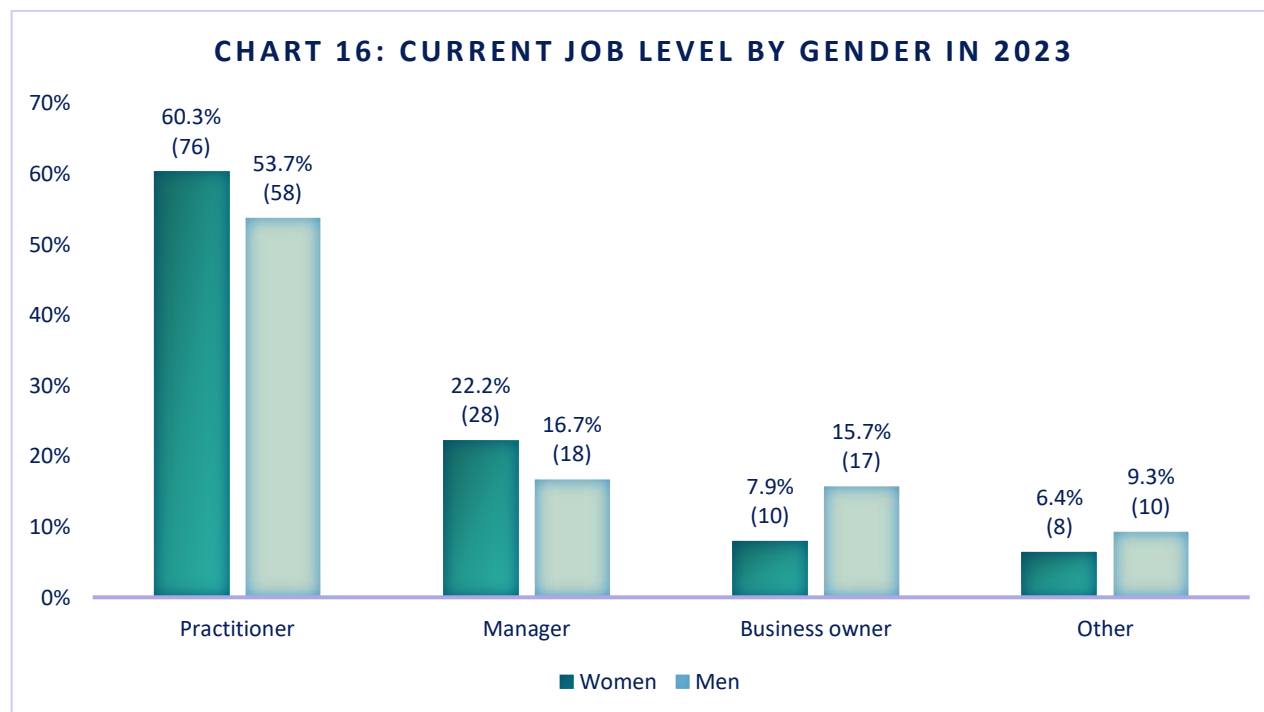


Chart 16 shows the difference in current job level by gender in 2023. It shows that:

- The proportion of women practitioners is higher than that of men (60.3% women compared to 53.7% men).
- The proportion of women managers is higher than that of men (22.2% women compared to 16.7% men).
- A higher proportion of business owners are men compared to women (15.7% men compared to 7.9% women).
- A higher proportion of men declared their current job level as 'other' (9.3% men compared to 6.4% women).

As the chart reflects only 35% of the Costs Lawyer profession, care must be taken when drawing conclusions from the data. However, the higher proportion of male business owners may be linked to the fact that a higher proportion of male Costs Lawyers have been practising for 15 years or over compared to women.

Notes and next steps

About the data

The data on Costs Lawyers in this report was collected in a survey carried out in November to December 2023 alongside the annual practising certificate renewal process. We collect diversity data from practitioners on a voluntary basis; completing the diversity survey was not mandatory.

A total of 687 practitioners were contacted, of whom 242 responded, representing 35% of the profession. As the data in this report does not reflect the entire regulated Costs Lawyer profession, caution should be taken when drawing conclusions from the data and/or making comparisons with other data sets.

Declarations

The contents of this report are based on data that is explicitly and voluntarily declared by respondents.

All questions on the survey contained an option of 'prefer not to say' and not all respondents chose to provide their diversity information.

In the instances where a data set is too small to be meaningfully representative (i.e. fewer than five respondents) or there is the risk that an individual might be identifiable from the data, it has been excluded from the report.

Regarding ethnicity, we followed the approach adopted by the UK Census 2021 and used the following aggregate categories: Asian or Asian British, Black, Black British, Caribbean or African, Mixed or multiple ethnic groups, White, Other ethnic group.

Comparative data

Surveys were carried out every three years by the CLSB up to 2019. The data in this report is not directly comparable to that collected in previous surveys. However, to give context to the data, we have included comparative diversity data for the solicitor profession, as published by the Solicitors Regulation Authority, and the general population of England Wales based on the 2021 Census.

Comparisons to the Solicitors Regulation Authority's (SRA's) data

The SRA's data, collected in summer 2023 and published in January 2024, can be found in its publication, [Diversity in law firms' workforce](#).

The SRA collects diversity data from the law firms it regulates in England and Wales every two years. 99% of law firms reported their data in the SRA's latest survey, covering more than 203,000 people working in 9,276 firms. This higher response rate means the SRA's data is more representative of the total target population than that collected by the CLSB. However, we believe the broad comparisons we have presented in this report remain valid in providing useful context.

Next steps

We will continue our work on improving our data collection, with a particular focus on improving the response rate and understanding more about the Cost Lawyer profession in Wales specifically.

Since the publication of our last full diversity report in 2020, we have published focused data on social mobility, and pay and earnings in the profession. We will continue to collect, analyse and publish data on discrete aspects of diversity, in line with our mid-term strategy and business plan.

Compliance with economic sanctions and prevention of economic crime

Costs Lawyer risk chart

Current at: ~~October~~ April 2024

	Activities potentially carried out on behalf of a sanctioned entity (a client), <u>or that relate to risk of economic crime</u>	Risk profile
1	Receiving costs from a paying party on behalf of a client	Costs Lawyers are prohibited from handling client money under Principle 3.6 of the Code of Conduct. A project carried out in 2021, taking a deeper look at risks around Costs Lawyers handling client money, found no evidence of non-compliance with this regulatory requirement and encouraged the use of third party managed accounts (TPMAs) to allow Costs Lawyers to more readily facilitate client transactions. The use of TPMAs is now expressly permitted under the Costs Lawyer Code of Conduct, updated in April 2024. TPMA providers are regulated by the Financial Conduct Authority (FCA) and institute full KYC checks.
2	Passing funds from a client who is a paying party to the receiving party	Even when using a TPMA there is some residual risk of economic crime. Criminals may attempt to use legal transactions as a way of moving criminal property from one individual to another without attracting the attention of law enforcement. Costs Lawyers should be alert to any attempt to pay funds into, or out of, a TPMA account without a genuine reason or underlying transaction, and ensure they are familiar with the CLSB's economic crime guidance note [guidance note to be updated].
3	Taking money on account of fees and disbursements	<p>Increasing and more sophisticated use of technology by criminals presents risks. Criminals could use weak cyber-security to gain access to Costs Lawyer client systems and data for the purposes of laundering criminal property. Costs Lawyers should ensure that their TPMA account provider is sufficiently defended against risks such as ransomware and cyber attacks.</p> <p>The use of cryptocurrencies to make payment, or the use of crowdfunding to cover litigation costs, can also be vehicles for masking the true source of funds. Costs Lawyers should consult the guidance note for advice on extra checks that may be warranted where these risks are present.</p>

4	Advising or advocating for a client on costs matters, upon instruction from another professional (solicitor, legal executive etc)	Findings from our recent-2022 innovation project show that the vast majority of Costs Lawyers' instructions are received through a professional intermediary. While the CLSB does not regulate entities (firms), in such cases the solicitors' firm acting as the intermediary will be subject to the Solicitors Regulation Authority's (SRA's) Code of Conduct for Firms, anti-money laundering regime and any sanction enforcement interventions.
5	Advising a client on sanctions issues, upon instruction from another professional (solicitor, legal executive etc)	Note that foreign legal professionals might themselves be subject to sanctions. Costs Lawyers should proceed as set out in the box below when dealing with foreign lawyers.
6	Advising or advocating for a client on costs matters, upon direct instruction from the client	<p><u>Sanctions compliance</u></p> <p>While the volume of such instructions is low, we identified this as the highest risk area for non-compliance with sanctions due to the lack of entity oversight (e.g. by the FCA or SRA).</p> <p><u>In 2022, when economic sanctions against Russia and Belarus had recently been implemented by the UK,</u> we therefore contacted each individual Costs Lawyer working in an organisation that is not regulated by the SRA to: (i) provide information and resources about sanctions, (ii) seek assurance that they were familiar with their sanction obligations, and (iii) check whether they had any clients with a Russian nexus and/or had applied for a licence. We received the requisite assurance and no new risks or areas for intervention were identified through this process.</p> <p><u>Money laundering risks</u></p> <p><u>Instructions in this area may present risks associated with economic crime, including money laundering, proliferation financing and terrorist financing. The 2020 National Risk Assessment carried out by HM Treasury and the Home Office (NRA) identified the risk of legal services being abused for money laundering purposes as high overall, with conveyancing as well as trust and corporate services providers identified as the areas of highest risk.</u></p> <p><u>The ordinary course of litigation does not in itself attract money laundering risks. However, NRA highlighted that sham litigation (i.e. litigation or settlement negotiations created for the purpose of laundering criminal property, or claims of loss fabricated to launder criminal property) is an area of risk for legal professionals. For example, criminals may agree to sue each other in English courts and use the payment of damages to launder criminal proceeds. The same risk could arise in relation to the payment of adverse costs.</u></p>
7	Advising a client on sanctions issues, upon direct instruction from the client	

		<p>The CLSB's economic crime guidance note sets out Costs Lawyers' obligations in this area. Costs Lawyers should familiarise themselves with that guidance note, and the Legal Sector Affinity Group guidance for the legal sector, which includes advice on assessing the risk of proliferation finance and terrorist financing (see further below).</p> <p><i>Proliferation and terrorist financing risks</i></p> <p>Many of the risk indicators of proliferation financing are similar to those of money laundering. For this reason, Costs Lawyers will be able to assess their proliferation financing risk as part of their anti-money laundering risk assessments. The NRA rated the legal sector as being low-risk for terrorist financing and found no evidence of legal services being abused for terrorist financing purposes. Consequently, we consider the risk of Costs Lawyers being used to facilitate proliferation financing and terrorist financing to be extremely low.</p> <p>Regardless of the low risk, Costs Lawyers should familiarise themselves with the CLSB's economic crime guidance note, which touches upon this issue, as well as the Legal Sector Affinity Group guidance for the legal sector, which includes advice on assessing the risk of proliferation finance and terrorist financing.</p>
8	Advising a sanctioned employer as an in-house lawyer	<p>Our data confirms that no Costs Lawyers work in-house in entities that have any nexus to Russia or sanctioned entities. Employers include the UK government, global insurance conglomerates and so on.</p>

Minutes of the ACL Council Meeting
held on 28th November 2023
in person at Clarion Solicitors, Leeds



Council members present: Jack Ridgway (JR), David Bailey-Vella (DBV), Stephen Averill (SA), Kris Kilsby (KK), Victoria Morrison-Hughes (VMH), & Amy Dunkley (AD)

Also present: Carol Calver (CC) Head of Operations

The meeting started at 11:00

Item	
1	Welcome and apologies
1.1	Apologies were received from Laura Rees and Julian Caddick. JR welcomed all to the meeting.
2	Minutes of the council meeting held on 19 October 2023
2.1	It was unanimously agreed that the draft minutes of 19 October were an accurate reflection of the meeting. It was agreed that item 7.2 should be partially redacted before publishing on the website.
3	Actions arising from the council meeting held on 23 September 2023
3.1	Actions were reviewed and updated.
4	Chairman's Report
4.1	LexisNexis have invited a member of the ACL Council to sit on an upcoming event panel for 'Law firm pricing strategies in the age of AI'. SA, VMH & DBV will consider once further details and date have been provided, otherwise JR will attend.
5	PR & Marketing Committee Report
5.1	DBV reviewed the London Conference evaluation and reported back an overall positive response. Future evaluations will allow for respondents to detail area's of interest for relevancy of response. Items for improvement were discussed along with a review of sponsor packages to allow more flexibility in speakers and topics & breakout sessions to be included in main conference programme.
5.2	Council discussed a proposed 15% increase in fees for services provided by Black Letter, the increase was deemed acceptable as is the first increase for over 5 years. ACL will take the opportunity to request an update to the template of the eBulletin and will discuss split of future accessibility of all articles on the new website (member or public access)
6	Policy Committee Report
6.1	KK provided a summary of the CLSB 2023 operational protocol shared with the ACL. Council discussed the areas of focus during 2023 and plans for 2024 and are satisfied with the priorities identified.
6.2	KK shared with Council the CLSB intention to work with the MoJ to explore the possibility of expanding the current statutory eligibility requirements for judicial appointments to include regulated Costs Lawyers. The ACL will survey members to provide feedback to the CLSB.

6.3	VMH detailed a recent discussion with the Legal Ombudsman regarding a lack of Costs Qualification within the LeO and that this is not currently outsourced. Council will work with the CLSB in 2024 to review and discuss with the LeO.
6.4	KK provided a summary of recent and anticipated upcoming Policy Committee involvement in FRC (Low Value Clin Neg), MoJ Court Fee Increase, GHR rates Increase and RoCLA for the ACL Legal Aid group.
7	Education Committee Report
7.1	VMH provided feedback following an ACLT Budget 2024 meeting, detailing responses to initial queries raised by the Council. Further explanation is required on certain expenditure, JR will discuss with Sarah H directly to resolve.
7.2	Council discussed the renewal of the ACLT Chair contract for 2024. Council voted unanimously in favour of retaining current Chair, Sarah Hutchinson for the coming 2024 year.
8	Finance & Internal Policy Committee Report
8.1	SA confirmed the transfer/sale of underperforming funds had been completed successfully. This, along with ongoing economic instability resulted in a temporary dip of fund value, which was quickly rebalanced - <i>redacted due to confidentiality</i> .
8.2	SA confirmed he has set up an annual renewal with Nucleus in review of the fund and will report to Council quarterly going forward.
8.3	CC provided an initial 2024 budget for Council to consider, with an explanation of increases and decreases as anticipated for 2024. The budget will be reviewed formally and signed off in January 2024 following completion of membership renewals.
9	Operations Report
9.1	CC provided an update of the website re-design, asking for Council to assist in testing of the new site early in 2024.
9.2	CC detailed to Council a discounted subscription proposal from Costs Law Reports to offer to members from March 2024. Council were happy with the offer, however the limitation of 50 members signing up should not be conditional for the initial year to encourage and simplify uptake.
10	Any other business
	n/a
12	Date of next meeting
12.1	There being no further business the meeting ended at 15:15 Next meeting is scheduled for 30 th January 2024 10:00 to 12:00 via Teams.

Minutes of the ACL Council Meeting
held on 30th January 2024
 via Teams



Council members present: Jack Ridgway (JR), David Bailey-Vella (DBV), Stephen Averill (SA), Kris Kilsby (KK), Julian Caddick (JC), Laura Rees (LR) & Amy Dunkley (AD)

Also present: Carol Calver (CC) Head of Operations

The meeting started at 10:00

Item	
1	Welcome and apologies
1.1	Apologies were received from Victoria Morrison-Hughes and Julian Caddick (JC joined the meeting at 10:40) JR welcomed all to the meeting.
1.2	Alan Edwards (external) provided Council with a presentation on Shieldpay.
2	Minutes of the council meeting held on 28 November 2023
2.1	It was unanimously agreed that the draft minutes of 28 November 2023 were an accurate reflection of the meeting. It was agreed that item 8.1 should be partially redacted before publishing on the website.
3	Actions arising from the council meeting held on 28 November 2023
3.1	Actions were reviewed and updated.
4	Chairman's Report
4.1	JR advised Council that the review of the Association Articles & Bye-Laws would take place at the February Council meeting ready for final consultation with the membership which should coincide with AGM.
4.2	AGM scheduled for Thursday March 14 th – over lunch on Teams. JR and Sub-Committees to draft 2024 Business Plan ready for AGM discussion.
5	PR & Marketing Committee Report
5.1	DBV informed Council of acceptance of price increase of Black Letter services, agreed update to eBulletin template and closer article management on new website.
5.2	DBV fed back on sponsorship of WiC event, very well received and have been asked to sponsor next and provide a speaker.
5.3	DBV supporting the ACL Training induction sessions, promoting the membership benefits of the ACL.
5.4	DBV confirmed that Master McCloud will provide the Keynote address at the Manchester Conference in April, with additional speakers confirmed as Tom Mason, Sarah Robson, Toby Brown and Paula Walkden. The venue is confirmed as The Lowry Theatre, Quayside, Manchester. Council discussed the breakout sessions and Operations will liaise with the SiGs

	for suggestions.
5.5	AD detailed the next CiTC event for 28 February.
6	Policy Committee Report
6.1	KK updated Council on the LSB Business Plan consultation – suggesting a brief consultation response.
6.2	JC confirmed he is attending the LSB first tier complaints roundtable event on 15/02
6.3	KK is supporting the LAG on evidence for RoCLA review.
7	Education Committee Report
7.1	LR updated Council on enrollment numbers for the CLPQ, Sept 23 and Feb 24. New student numbers are slightly down on budget. <i>Redacted due to confidentiality.</i>
8	Finance & Internal Policy Committee Report
8.1	SA provided an update on investment fund values following a reconfiguration of policies. <i>Redacted due to confidentiality.</i> Enable have been bought out by AFH, no change to contacts or investments.
8.2	Council agreed the draft 2024 budget as proposed by Operations including variations, increases and 2024 salary reviews. JR suggested a role and responsibilities review in December for Operations to ensure alignment between role and salary.
8.3	SA highlighted to Council the need to review Membership subscription fees going forward in line with the current economic situation, turnover and investment value. Council discussed implications of a subscription increase and determined the importance of encouraging more members over a linear subscription increase.
9	Operations Report
9.1	CC updated Council on the final Costs Law Reports benefits offer, now likely to be offered late 2024 as CLR need time to formalise. DBV/AD volunteered to check the documents for CLR prior to launch.
9.2	CC reported final renewal numbers for CL members for 2024, detailing a further slowing of reduction of membership levels. JR suggested we incorporate returning member figures when reviewing figures in December each year.
9.3	CC summarised to Council the Conditional Practicing Certificate being issued by the CLSB for Qualified Costs Lawyers who had yet to complete their qualifying experience and asked confirmation that the CLSB issue of PC, albeit with conditions, sufficient basis to offer ACL Membership - Council agreed.
9.4	Council agreed date for London Costs Conference of 11 th October 2024.
10	Any other business
10.1	CC detailed to Council a training session organised with the Access to Justice Foundation on Pro Bono Costs orders, to be offered free to members and non-members, online over lunch early February.

11	Date of next meeting
11.1	There being no further business the meeting ended at 12:15 Next meeting is scheduled for 27 th February in person, in Cardiff.

Council members present: Jack Ridgway (JR), David Bailey-Vella (DBV), Stephen Averill (SA), Kris Kilsby (KK), Julian Caddick (JC), Victoria Morrison-Hughes (VMH), Laura Rees (LR) & Amy Dunkley (AD)

Also present: Carol Calver (CC) Head of Operations, Neil Rose (NR) & Kerry Jack (KJ) from Black Letter Communications

The meeting started at 11:00

Item	
1	Welcome and apologies
1.1	JR welcomed all to the meeting.
1.2	Black Letter provided Council with a presentation covering a review of 2023 and recommendations / plans for 2024.
	Agreed plans for 2024: <ul style="list-style-type: none"> – Roundtable event in May – 25th Anniversary of CPR – Promotion of career of a Costs Lawyer – roundtable, apprenticeship support. – Council profiles (after 12 months in post) – Member profiles (regional host, case relevant or of particular interest) – Content to target membership growth (collage of best read, biggest articles or an in conversation event with NR & Senior CJ/SCCO – possibly November?)
2	Minutes of the council meeting held on 30 January 2024
2.1	It was unanimously agreed that the draft minutes of 30 January 2024 were an accurate reflection of the meeting. It was agreed that items 7.1 & 8.1 should be partially redacted before publishing on the website.
3	Actions arising from the council meeting held on 30 January 2024
3.1	Actions were reviewed and updated.
4	Chairman's Report
4.1	JR and Council discussed the proposed 2024 Business Plan. Final changes to be made then issued as part of AGM pack, ahead of AGM on 14/03.
5	PR & Marketing Committee Report
5.1	DBV confirmed Dr Victoria McCloud as keynote speaker at Manchester conference. CC also confirmed further speakers; Matthew Smith from Kings (main sponsor), Tom Mason from Hailsham, Dominic Regan and Sarah Robson from Alpha Court Chambers.
6	Policy Committee Report
6.1	KK confirmed the submission of the ACL response to LSB Business Plan consultation and the LAG RoCLA call for evidence.

6.2	JC confirmed his attendance at the LSB First Tier Complaints roundtable meeting – potential for the ACL to provide further advice and training on this.
7	Education Committee Report
7.1 7.2	<i>Items 7.1 and 7.2 redacted due to confidentiality.</i>
8	Finance & Internal Policy Committee Report
8.1	SA updated Council on a replacement Credit Card account, moving from Lloyds to Barclaycard.
8.2	Investment funds remain stable.
9	Operations Report
9.1	CC updated council on successful relaunch of new website. Some items remain outstanding which will be rectified in coming weeks.
9.2	CC asked Council to agree the renewal of the Croner HR. Operations to better promote the offering to SMEs members as well as larger firms. Members might want to investigate an HR / employment issue before taking any action officially.
9.3	CC asked advice of Council of how to build CPD library. Council suggested working with Chambers to host or link to their own webinars and working with extracted list of CLSB accredited trainers to provide bespoke, ACL sessions and seminars. KK suggested 5min videos of key case reviews for Social Media. PR-AM to work to ensure these are unbiased, fair and timely.
10	Any other business
10.1	DBV suggested a revival of the ACL Gala Dinner, not linked to conference necessarily and only for significant events – perhaps outgoing chair. Council suggested the evening before conference or coinciding with AGM and perhaps the creation of Costs Lawyer Awards – for further discussion...
11	Date of next meeting
11.1	There being no further business the meeting ended at 14:25 Next meeting is scheduled for 26 th March at 10am, online, via Teams.

Audit of 2023 CPD – Report to the Board

10 April 2024

Introduction

This report provides the Board with an overview of the audit of 2023 CPD which was undertaken March-April 2024. This was the third audit of CPD undertaken under the new CPD Rules effective from 1 January 2021.

Process

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

The audit comprised of 18 randomly selected Costs Lawyers, and two Cost Lawyers who failed the audit last year. All were asked to provide evidence of both their individual CPD activities in 2023, as well as their written CPD record identifying their training needs, setting CPD objectives and evaluating the effectiveness of their CPD ("Full CPD Records"), as required by the new Rules. Their Full CPD Records were assessed using the Audit Checklist in the [Supervision Framework for CPD Audit](#).

Outcomes

1. 17 of the 20 Costs Lawyers audited passed the audit. 3 failed.¹
2. Most but not all those audited used the CLSB example template for planning and recording their CPD.
3. Approximately half of the Full CPD Records demonstrated a high level of engagement with planning, recording and evaluating CPD.
4. Most others complied sufficiently to pass the audit, but 3 Costs Lawyers failed the audit as they had not kept a written record of their CPD. They have been given advice and told they will be reaudited next year.
5. The new framework for CPD is continuing to have a positive impact on the planning of CPD, as shown in the following extracts from the Full CPD Records submitted:
"Planning my objectives and needs throughout the year helped me be more selective and organized with the CPD activities I attended. I didn't have to fit in activities in the final months and I was able to target the seminars I attended."

¹ 3 also failed last year.

“I had identified gaps in my knowledge... that had developed due to an absence of practice in the area. Identifying such at the outset of the year and consciously looking to address it has assisted greatly ensuring the objective was achieved.”

“Assessing my needs and planning my CPD throughout the year helped me structure my training needs. This was especially so for departmental specialisms as opposed to costs specific training.”

“As I had such a mixture of courses attended, I found the template examples really helpful to focus the objective of each course, and how they relate to the Principles. It also meant that after attending each course there was an opportunity to reflect on learning and how that applies to my role and responsibilities. I think this is something that we often can forget to do and having the record to complete gets you into a good routine to reflect.”

6. The focus of the CPD audit continues to be on education rather than sanction, and Costs Lawyers whose Records were lacking in specific objectives or detail were encouraged to address this in future years.
7. We did not take disciplinary action against any of the Costs Lawyers who did not pass this year's audit, particularly given that the Costs Lawyers cooperated with our requests and there were no aggravating circumstances in individual cases (such as previous audit failures or competency concerns raised through complaints). We believe that providing guidance on the Rules, and following up with certain individuals through a further audit is a proportionate approach that is most likely to yield positive compliance outcomes in the longer term.
8. The audit provides a snapshot of CPD activities each year. In 2023 a common theme was preparing for the introduction of fixed costs.

Actions

9. In 2023 we made a lot of changes to the suggested template for planning and recording CPD and the worked example to try and clarify the requirements and disseminate good practice. This included showing how CLs might evidence CPD points coming from reading and research. We also updated regular communications with CPD reminders. Overall these updates have worked well, although some CLs are still not very specific in their CPD objectives. Therefore the actions for 2024 are:
10. Tweak the suggested template further to make the requirement to set specific CPD objectives more clear.
11. The [Lessons learned](#) webpage has already been updated following the outcome of the audit.

12. Include a Spotlight article on the benefits of planning and recording CPD effectively, in particular the importance of setting specific and measurable objectives, in a 2024 newsletter.