



Costs Lawyer Standards Board

AGENDA

Wednesday 28 June 2023 @ 9:30am
Gatehouse Chambers, London

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

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 (29 March 2023) 2.2 Matters arising (29 March 2023)	Item 2.1 Item 2.2	Yes Yes	DH DH
3	Strategy 3.1 Progress against Business Plan: Q2 2023 3.2 Entity regulation next steps 3.3 2024 Business Plan	Item 3.1 Item 3.2 Item 3.3	Yes No (G) Yes	KW KW KW
4	Board matters 4.1 2024 board dates 4.2 Tenure renewals and succession planning	- -		DH DH
5	Finance 5.1 Quarterly report: Q2 2023	Item 5.1	No (D, E)	JC

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.

	5.2 2022 accounts 5.3 2024 budget and PCF consultation	Item 5.2 Item 5.3A-E	No (D, E) Not B (D, E)	KW/JC KW
6	Risk management 6.1 Review of risk register	Item 6.1	Yes	KW
7	Regulatory matters 7.1 Education – Accreditation 7.2 Education – Qualifying Experience update 7.3 Progress against ongoing competency action plan 7.4 Feedback from social mobility event 7.5 Draft cease and desist letter templates	Item 7.1 Item 7.2A+B Item 7.3A+B - Item 7.5	Yes Yes Yes - No (E)	KW KW KW DH/JC KW
8	Legal Services Board (LSB) 8.1 Work updates 8.2 Feedback from Q2 meetings	Item 8.1 -	Yes	KW DH
9	Stakeholder updates² 9.1 ACL Council meeting minutes 9.2 CILEx re-delegation 9.3 Annual review of MOU and OP with ACL	Item 9.1 - -	Yes	KW KW KW
10	Operations 10.1 Outcome of 2023 complaints procedure audit	Item 10.1	Yes	JC
11	Publication 11.1 Confirmation that papers can be published	-		DH
12	AOB	-		DH
13	Next meeting Date: 20 September 2023 Venue: Remotely via videocall	-		DH

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

Company number: 04608905

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

MINUTES
Costs Lawyer Standards Board Ltd
Wednesday 29 March 2023 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

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 31 January 2023

The board considered the minutes of its last scheduled quarterly meeting on 31 January 2023. The board agreed the minutes as being a true record for signing.

Action: Publish approved minutes on CLSB website.

2.2 Matters arising

The board considered the matters arising from the minutes of its meeting on 31 January 2023. Kate explained that the following matters were outstanding due to competing priorities in Q1:

- Item 6.2: Develop first annual risk review for publication.
- Item 7.4: Develop and issue consultation on changes to Code of Conduct.

Neither project was time critical and both would be completed in Q2.

3. STRATEGY

3.1 Progress against Business Plan: Q1 2023

The board was provided with a progress update against the 2023 Business Plan for Q1. Kate explained that eight of the 12 priorities were already well underway. The board considered progress to date and noted the executive's proposed strategic priorities for Q2.

3.2 Discussion session: Options for entity regulation

Kate introduced this item and presented a paper setting out different models of entity regulation that the CLSB could implement, ranging from a full statutory scheme to a light-touch approach. The board discussed the opportunities and risks presented by each option in detail.

Board members considered:

- the nature of the regulatory framework and enforcement mechanisms that would be required under each option;
- how entity regulation could further the regulatory objectives and the positive impacts of the different options;
- resource implications and the distinction between front-end and ongoing costs;
- analogies to models used in other sectors, such as the voluntary scheme adopted by the Association of Litigation Funders for its members;
- the risk of compliance being viewed as an issue to be dealt with by entities, undermining the personal responsibility of individual practitioners for their own ethical standards and conduct;
- reputational risk, and the potential for consumer confusion, where a voluntary scheme for entities offers less protection to clients than the existing statutory scheme for the regulation of individuals;
- whether there is market appetite for entity regulation and, if so, what kind and from whom;
- the interplay with existing forms of statutory entity regulation – particularly where Costs Lawyers work in regulated firms – and the need to complement existing schemes/other regulators;
- opportunities to raise standards in the unregulated part of the costs law market.

Overall, the board felt there was limited merit in the option of a light-touch entity regulation scheme but were interested in exploring the other options in more detail. Kate agreed to take initial steps to scope market appetite and costings for the board to consider at its next meeting.

Actions: Carry out scoping next steps and report to board in June.

4. BOARD MATTERS

4.1 Remuneration Committee minutes (31 January 2023)

The board noted the minutes of the Remuneration Committee's meeting on 31 January 2023.

4.2 Annual review of register of interests

The board was provided with an updated register of interests. The board agreed that no real or perceived risk of a conflict of interests arose from the register and thus no mitigating action was required. Board members were also asked to confirm that their own interests and declarations were correct for publication.

Action: Publish updated register on CLSB website.

5. FINANCE

5.1 Quarterly report: Q1 2023

Jacqui introduced the quarterly finance report. The board noted the financial position, including a current projected budget shortfall, the reasons for this and plans for budget management (particularly deploying the budget surplus from 2022 for consultancy services). The board also noted that a higher than expected number of reinstatements and new qualifiers meant that income for 2023 was now on track to hit budget.

6. RISK MANAGEMENT

6.1 Review of risk registers: New framework

At its last meeting, the board had considered a paper on the CLSB's approach to monitoring and managing risk. Taking account of the board's feedback on that paper, a draft risk register was tabled for the board's consideration. The new approach would make the risk register a more meaningful tool, facilitating the board's consideration of developments in the market and landscape, the impacts of those developments, and whether they give rise to risks that are within the CLSB's control to manage.

Kate explained that the draft risk register did not yet include the actions being taken to manage risk, as there was an opportunity to use the risk register to inform the board's strategy session in June, allowing it to take account of medium-term risks in strategic planning for the next four years and then map mitigating actions accordingly.

The board discussed the draft. Board members agreed that when the old risk register was created it had met the needs of the organisation at that time, but that progress over the last three years meant a more sophisticated approach was warranted. The new risk register would assist the board in making sound strategic decisions linked to managing risks to the regulatory objectives. The structure of the register would prompt the board to be curious and think widely about sources of risk.

The board agreed that it was worth mapping the risk mitigations in section C of the register in advance of the strategy session. Kate agreed to do this and circulate an updated version of the register for consideration in June.

Action: Publish the new risk framework on the CLSB website.

7. REGULATORY MATTERS

7.1 Education update

The board was provided with an update on:

- the successful outcome of the CLSB's application to the Legal Services Board to amend its Training Rules;
- progress in considering ACL Training's application for accreditation to provide a new Costs Lawyer Qualification course in 2023; and
- implementation of processes for the CLSB to assess trainees' evidence of Qualifying Experience from 2023 onward.

In relation to Qualifying Experience, during March the board had considered by email and approved for publication a pack of materials including a new Guidance Note, template forms and web FAQs. The board confirmed its approval of these documents

and agreed that no further amendments were necessary. David thanked the board for giving this matter attention promptly between meetings. Board members also acknowledged the significant work that had been undertaken by the executive during Q1 in developing fair, reasonable and robust new processes.

In relation to accreditation, the board discussed the key areas of risk identified by the Accreditation Panel so far. These included the heavy reliance by ACL Training on a single external provider for both institutional knowledge and day-to-day resourcing. Board members agreed that the primary issues for the CLSB in this regard were to: (i) understand the arrangements in place and the allocation of responsibility between the parties; (ii) obtain assurance of business/education continuity for learners; and (iii) ensure that students and members of the public could understand which organisation they were dealing with. Members of the Accreditation Panel (Andrew M and Kate) would ensure the Panel took these views into account.

7.2 Diversity survey report

The board was provided with an update on:

- recent changes to EDI resource within the team;
- an emerging work programme on social mobility, including results of the 2022 diversity survey covering this topic; and
- an EDI information request from the LSB to which a response was required in April.

The board noted that, overall, the survey report indicated there would be merit in exploring ways to further social mobility within the profession. Kate explained that the CLSB was putting together a panel session hosted by a Costs Lawyer who is active in this space and the board discussed potential panellists and topics.

Board members considered the findings in the report and discussed the potential differences in social mobility across the regulated and unregulated parts of the market. They also considered the specific questions in the survey and how they compared to those used previously and to good practice across the market.

Board members gave feedback on the approach to responding to the LSB's information request and David offered to help with the initiatives scheduled for Q2.

Action: Publish 2022 diversity survey report on CLSB website and commence communications and follow up actions.

8. LEGAL SERVICES BOARD (LSB)

8.1 Work updates

The board received updates in relation to:

- appointment of a new Chair of the LSB;
- a communication from the Chair of the LSB to all the legal regulators in relation to plans for implementing the new regulatory performance framework; and
- a recent decision of the Legal Services Board that it has found insufficient evidence of detriment to warrant a full/formal review of the list of reserved legal activities in the Legal Services Act 2007 at the current time.

David also provided feedback from a recent LSB meeting on the role of the rule of law in the regulatory objectives, including discussion around what the rule of law means in this context and how that meaning can be applied consistently by the regulators.

9 STAKEHOLDER UPDATES

9.1 ACL Council meeting minutes

The board noted the minutes of ACL Council meetings held in November 2022 and January 2023, including that ACL was developing its next Business Plan and the CLSB had been invited to provide input. Board members also noted an increase in the amount of content that was being redacted from the minutes as confidential.

9.2 Work updates

The board received updates in relation to:

- the outcome of the Legal Ombudsman’s consultation on its 2023/24 Business Plan and budget; and
- changes in the senior leadership team at CILEx Regulation.

10 OPERATIONS

10.1 2022 CPD audit report

Jacqui introduced this report and provided an overview of engagement with the audit, which had generally been very positive.

The board noted the report, including the proposed next steps and amendments to the supporting materials on CPD to take account of the audit outcomes. Board members were encouraged by practitioners’ understanding of the new CPD regime and emphasised the importance of the work being done to provide feedback from the audit to the wider profession.

Action: Proceed with next steps noted in the report.

10.2 Digital workplan progress report

The board was provided with a report on progress against the digital workplan for 2023. Jacqui explained that this was being brought to the board’s attention early in the year, as a number of decisions had been taken in Q1 which would have resource/budget implications, but which were important for maintaining data quality and user experience.

The board discussed the lifespan of the existing database and the point at which a full upgrade would be more efficient than ongoing improvements. It was agreed that the lifespan of the current system was still being prolonged successfully, but that committed reserves were available for a full upgrade when necessary, and the executive should inform the board when it was the right time to discuss other options.

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 27 and 28 June in London. The board received an update on logistics for the meeting, including that board members from IPReg would be joining part of the session on 27 June for a roundtable discussion. It was agreed that the session on 27 June should start at 2pm.

There being no further business, the Chair declared the meeting closed at 12:13.

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Chair

Related documents

Item	Document	Publication location (CLSB website)
2.1	Board minutes	About ⇒ Our board
3.1	Business Plan	About ⇒ Strategy and governance
4.2	Register of interests	About ⇒ Our board
6.1	Risk register	About ⇒ Strategy and governance
7.1	Resources for Qualifying Experience	Qualify ⇒ How to become a Costs Lawyer
11.1	Board papers	About ⇒ Our board
Item	Document	Publication location (other)
7.1	LSB Decision Notice on application to amend the Training Rules	LSB website here



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 2023



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 first annual risk outlook published by the CLSB. 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

The world of costs has been affected by a growth in litigation – and high-cost complex litigation in London in particular – in recent decades. The global outlook for London as a dispute resolution hub will undoubtedly be influenced by chilling geopolitical relations with Russia, China and Saudi Arabia, not to mention greater strategic competition from other legal centres in Europe and Asia. This may mean lower demand for high-value costs work over the medium to longer term.

Geopolitical issues also factor into costs work through the continually evolving anti-money laundering regime, the impact of sanctions, and gradually tightening guidance (and possible regulation) around SLAPPs.¹ Costs recovery could be increasingly caught up in political debates such as these, with capping of recoverable costs used as an instrument to attempt to dissuade malicious litigation or compensate for any underlying inequality of arms.

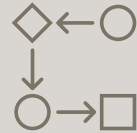


Reform of the Legal Services Act 2007

There are well known difficulties with the regulatory framework for the legal sector established by the Legal Services Act 2007.² At a national level, all UK political parties are preparing for a general election in 2024. Even if current polls are expected to narrow over the coming year, there is a high probability of a change in governing political party, which raises the prospect of domestic constitutional change on a scale last seen in the 1997-2001 parliament. This further suggests that any proposals for major legislative change effecting legal sector reforms would be unlikely for at least the next five years, and more likely the next decade.

The implication is that any efforts towards reform of the regulation of the legal sector will need to be achieved within the framework of the existing Legal Services Act.

POLITICAL DRIVERS OF RISK



Wider legislative change

Meanwhile, other legislation, court reforms and changes to the Civil Procedure Rules – such as extension of fixed costs, whiplash reform, changes to judicial review, and possible regulation of the litigation funding market – will continue to evolve with varying (and not always predictable) consequences for the costs law market. The introduction of novel legislation could create new areas of demand (see the next section on economic drivers).



The legal aid budget

The ongoing controversy around the legal aid budget remains as much a political as an economic issue. Costs Lawyer services should be in higher demand to maximise recovery from a limited budget but the number of solicitors' firms offering legal aid is also likely to continue to shrink.



Scotland and Wales

Scotland's legal reform process may also become relevant as regulators in England and Wales consider options presented by the Scottish Executive for reform north of the border and incorporate them into the debate around reforms that can be implemented here without legislative change. Of particular interest in the costs law market is the proposal for two-tier regulation of B2B services and consumer facing services.³

The further development of a potential separate Welsh jurisdiction in future, although not imminent, is worth watching as it could impact on the demand for costs law services in Wales.

POLITICAL DRIVERS OF RISK



Legal sector regulation

As far as the regulation of the legal sector is concerned, unless there is a significant change of direction under the new chair⁴ of the Legal Services Board (the sector's oversight regulator), the current strategic course set until 2030 – with its emphasis on consumers, reducing costs in the sector and improving diversity – is likely to be maintained, shaping expectations for regulatory priorities within the costs law market.

Solicitors Regulation Authority (SRA)

Around half of all regulated Costs Lawyers work in SRA regulated businesses, so changes in SRA rules may impact Costs Lawyers either directly (for example, changes in accounts rules) or indirectly by impacting how the CLSB regulates (for example, through the need to avoid a conflict in rules that would increase the compliance burden unnecessarily).

Chartered Institute of Legal Executives (CILEx)

The politics between legal regulators may become more of an issue as the consequences of the move by CILEx to re-designate its regulatory powers from CILEx Regulation to the SRA⁵ opens up the potential for a move towards a single legal regulator and could increase interest in regulatory shopping.⁶ Given that around half of all Costs Lawyers work in solicitors' firms, the view of solicitor employers of the net benefit of hiring Costs Lawyers, as opposed to other forms of regulated lawyers, may become more relevant.

Association of Costs Lawyers (ACL) and others

The relationships between the stakeholders involved in the regulation, representation and training of Costs Lawyers – most notably the CLSB, ACL, ACL Training and the Legal Services Board – are currently on a positive footing. This is not always guaranteed, particularly given the bilateral oversight and monitoring roles that are central to many of these relationships. Any gaps in oversight, or failure to collaborate constructively, could impact the viability and reputation of the profession.

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.



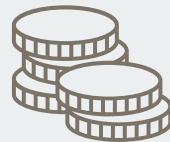
General economic outlook

The outlook for the UK economy over the next 3 years is not encouraging. Price pressures are coming down but inflation remains above 10% and is predicted to fall slowly over the course of 2023 and 2024.⁷ At the same time there will be tightness in the jobs market and prevailing uncertainty creating caution in investment and job hiring.⁸ All of which will feed into both the demand for legal services and the supply-side for both Costs Lawyers and their employers.



International competitiveness

Although the UK is forecast to lose international competitiveness over the next few years, on the basis of the current policy course, there are no immediate signs that this is deterring US litigation firms from entering the UK market. This is potentially important for the demand for Costs Lawyers' services, as our recent research project⁹ found evidence that US firms are becoming a relevant source of demand for Costs Lawyers, particularly at an earlier stage of proceedings and litigation planning.



Increased emphasis on costs management

The growth of supply-side attempts to manage costs more effectively may reduce, or at least change, the demand for Costs Lawyers. Examples of these supply-side measures include an ongoing interest in legal project management from law firms, the entrance of new suppliers aiming to get clients to focus on costs at an earlier stage (see the section on social drivers of risk), roll out of e-billing beyond pilot stage and the extension of fixed costs.

ECONOMIC DRIVERS OF RISK



Growth areas for litigation

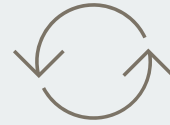
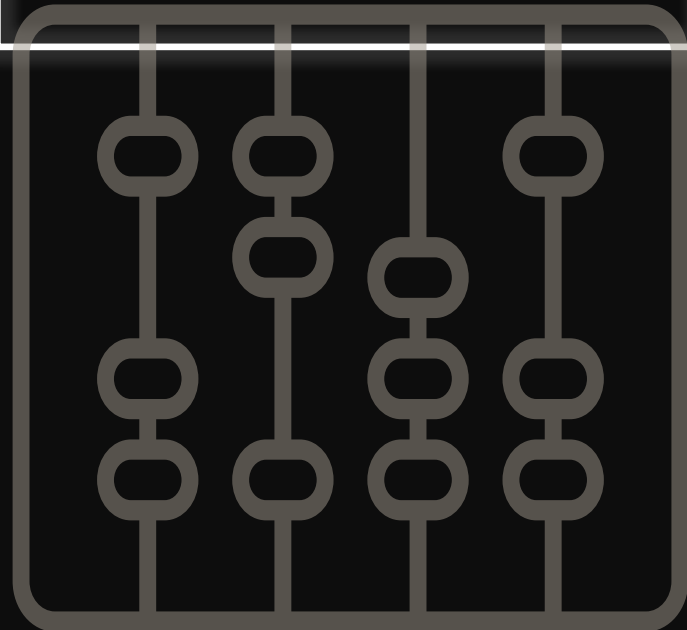
While traditional sources of litigation work for Costs Lawyers may have been in areas like high value commercial disputes and large-scale personal injury claims, market analysts see plenty of new growth areas for litigation over the next few years¹⁰ including, most relevantly:

- Areas of regulatory uncertainty, for example in the food sector (around insects and cannabidiol (CBD)), carbon neutrality claims and shareholder activism, healthcare litigation and business crime.
- Intellectual property and data protection disputes as the complexity of Brexit begins to set in.
- Ongoing post-Grenfell litigation relating to building regulations and cladding, including insurance aspects.
- An increasing number of investigations and public enquiries, particularly managing the costs of such enquiries for the various parties to them.
- An anticipated explosion of consumer debt as a result of the cost of living crisis.
- New growth in third party funding and innovation in how firms want to fund cases, coupled with new entrants into the funding market.¹¹

Key challenges for the costs market will be:

- i. Whether there is a sufficient number of Costs Lawyers to contribute meaningfully to these developments.
- ii. Whether existing Costs Lawyers are sufficiently specialist/flexible to adapt to these new demands. If not, there may be a risk that unregulated costs advisers fill the void, notably around consumer debt issues.

ECONOMIC DRIVERS OF RISK



Interplay with the solicitors' profession

There is a supply-side risk posed to the costs law market from the collapse of certain types of firms regulated by the SRA (such as Pure Costs¹²) that are employers of significant numbers of Costs Lawyers. If Costs Lawyers are over-dependent on SRA regulated entities for employment, this not only exposes Costs Lawyers (and by extension the CLSB) to the risk of entity failure but suggests that there might be services that Costs Lawyers could be providing to solicitors' firms – or to organisations and individuals whose interests might diverge from those firms' profit motivation – that are not currently on offer due to a lack of independence of Costs Lawyers from the solicitors' profession.



The economics of the regulatory model

The continued existence of CILEx Regulation (CRL) is currently at risk due to a decision by CILEx to re-designate its regulatory powers.⁵ An important contributory factor to this decision has been the inability of CRL to gain the necessary recognition from financial institutions that would allow CILEx regulated entities to access important areas of the market (such as panel recognition by mortgage lenders) due to its internal capacity and relatively limited entity regime. This cautionary tale illustrates the challenges and expense of entity regulation within smaller parts of the legal profession.

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.



Consumer awareness of the law

Market reports¹³ suggest that the pandemic has helped to increase significantly consumers' willingness to engage with lawyers remotely and awareness of the different options open to them. This may encourage consumers to seek online solutions to legal issues, and whilst in the abstract that might be welcome, the risks involved for them in doing so may be increased if consumers are unclear about the protections they have (or do not have) and the costs exposure they face from engaging in litigation.



Higher premium attached to ESG

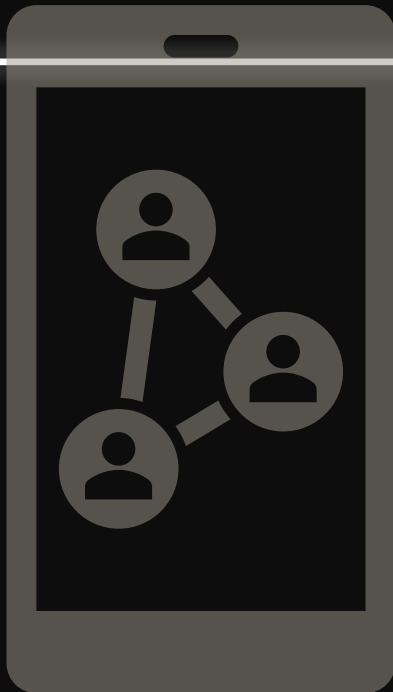
Environmental, social and governance (ESG) issues are exploding in importance within the legal sector, both in relation to compliance by firms and advisory and contentious ESG work for clients. The role for Costs Lawyers in these issues, whether using a costs auditing role or in evaluating litigation risk around ESG or otherwise, are yet to be fully investigated.



Diversity and inclusion

The socio-political focus on widening participation in professions, including the legal profession, is likely to gain further traction as law firms come under pressure from regulators and clients to demonstrate ESG compliance. Employers will be interested in accessing talent from more diverse backgrounds and it may be that widening routes into the solicitor profession attracts away individuals who might historically have joined the costs law profession through employer sponsored entry.

SOCIAL DRIVERS OF RISK



Technological change

There are a variety of social trends relating to the use of technology that are likely to have an impact on Costs Lawyers.¹⁴

The take up of technology by the courts

The pace of technological change in the justice system is expected to accelerate significantly over the next few years. Both the Ministry of Justice and the court system (HMCTS) have ambitious agendas for the adoption of technological solutions¹⁵ and are targeting in particular automated dispute resolution platforms and improved systems for legal aid providers and applicants – all of which could reduce the demand for Costs Lawyers' services in their traditional form.

The use of technology to reduce the need for litigation

Technology driven new entrants, such as Pursuit,¹⁶ are attempting to persuade the legal market to use fixed fees and smarter legal pricing across the board, including in litigation. Further ahead, the increased adoption of blockchain technology in smart contracts is likely to reduce the need for litigation over contractual terms, although we may see more complex litigation relating to the technology itself emerge in its place. These developments may not eliminate the need for Costs Lawyers, but are likely to change the nature of the costs services their clients are looking for.

Cyber crime and information security

The move to remote and hybrid working following the pandemic has made many businesses, including law firms, more dependent than ever on IT systems. With increased dependence comes increasingly sophisticated threats that must be predicted and managed. Threats in the form of scams (such as phishing attempts and email modification frauds), ransomware used to steal information and block system access, and attacks spreading between legal providers who work together (such as instructing solicitors, barristers and Costs Lawyers) have all been experienced recently in the legal sector, often with very serious consequences.¹⁷



SOCIAL DRIVERS OF RISK

COMPETENCY RISK



Demand for legal careers

Demand for legal careers remains high (based on HESA enrolment statistics) but apprenticeships are taking a growing share of the school leaver market, as SRA education reforms kick in and as the earnings premium attached to having a degree declines.¹⁸ Higher apprenticeship start figures in 2020/21 were equivalent to 15% of the number of students enrolling in the first year of an undergraduate degree in the same year. The absence of a costs law apprenticeship option potentially reduces the competitiveness of costs law as an entry level qualification as does the recognition of the costs law qualification for cross-qualification within the legal sector or more broadly.



Emerging gaps in competency

As we have seen in this report, 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:

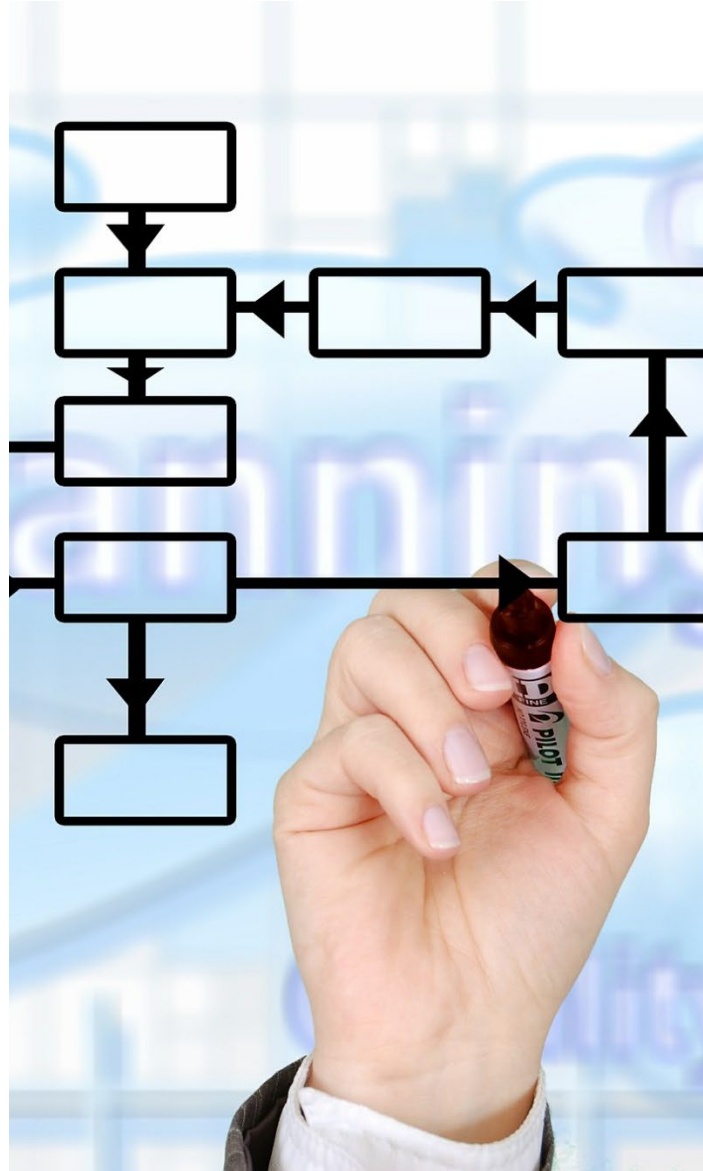
- Understanding how to use new technologies and systems, and the risks associated with them
- Appreciating the changing needs of clients and how to address them
- Adapting organisational management to changing workplace expectations
- Grasping how new regulatory and ethical obligations apply to specific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

REFERENCES

1. Strategic Litigation against Public Participation, see for example [Crackdown on SLAPP suits could include new legal regulations | News | Law Gazette | 17 March 2022](#)
2. See for example [Reforming legal services: regulation beyond the echo chambers | Professor Stephen Mayson | 2020](#) (final report of the Independent Review of Legal Services Regulation)
3. [Legal services regulation reform - consultation analysis | Scottish Government | 22 December 2022](#)
4. [Alan Kershaw Confirmed as New LSB Chair as Dr Helen Phillips Steps Down | News | Legal Services Board | 6 February 2023](#)
5. See for example [Investigation into disputes between the Chartered Institute of Legal Executives and CILEx Regulation Limited | Investigation Report | Legal Services Board | 18 April 2023](#)
6. Regulated individuals or entities shopping around between regulators on the basis of differences in practising arrangements, conduct standards and other distinguishing features.
7. Based on [data from the Office for National Statistics](#) to March 2023
8. [Monthly Decision Maker Panel Data | Bank of England | 4 May 2023](#)
9. Research project funded by the Regulators' Pioneer Fund asking [How could Costs Lawyers reduce the costs of legal services?](#)
10. [Litigation Trending: Ten predictions for 2022 | Ashurst | 10 January 2022](#)
11. [The evolution of the UK litigation funding market – future trends? | Macfarlanes | 30 June 2022](#)
12. [Investigators probe collapse of Pure Business Group | News | Law Gazette | 18 November 2022](#)
13. See for example [The 2022 Legal Trends | Clio](#)
14. See generally [Technology Trends Outlook 2022 | McKinsey](#)
15. See for example [The Future for Dispute Resolution: Horizon Scanning | www.judiciary.uk | 17 March 2022](#)
16. [www.persuit.com/product](#)
17. See for example [Risk Outlook Report: Information security and cybercrime in a new normal | Solicitors Regulation Authority | 1 June 2022](#)
18. [How have changes in higher education participation and degree class awards impacted graduate earnings? | HESA | 23 November 2021](#)

Business Plan 2023

Q2 board update



June 2023

Costs Lawyer Standards Board

CLSB



Annual priorities

Improving our regulatory arrangements

	Initiative	Progress status / expected completion
1.	Work with internal and external stakeholders to develop a new mid-term strategy for the CLSB, building on the learnings and successes from our first strategy covering the period 2020 to 2023.	<p>In train (expected Q3)</p> <p><i>We will kick-off this priority at our scheduled strategy session on 27 June and then work up a proposed mid-term strategy for consultation alongside the 2024 business plan, budget and PCF.</i></p>
2.	Deliver the priority activities for the final year of our Consumer Engagement Strategy , and consider what successor initiatives should be put in place going forward.	<p>Achieved (Q2)</p> <p><i>We scoped terms of reference and membership for a potential user panel as envisaged under the final year's activities, and found that members' experiences and needs were likely too disparate to make contributing through a single panel feasible. Having done this scoping work, we decided to focus on identifying individual business clients that could feed into our specific projects under priorities 5, 7 and 9 below.</i></p>
3.	Develop a programme of work to promote the outcomes in the Legal Services Board's policy statement on empowering consumers in a way that takes into account the unique nature of the market for costs services.	<p>In train (expected Q4)</p> <p><i>Achieved: We have developed a work programme to ensure compliance with the policy statement and the programme has been approved by the board and socialised with the LSB and LSCP. The first stages of the programme have been implemented, allowing us to identify those Costs Lawyers offering B2C services.</i></p> <p><i>Outstanding: Develop and implement the new B2C regulatory framework for those practitioners identified through the segmentation exercise.</i></p>
4.	Using our new regulatory framework for the Costs Lawyer Qualification, work with ACL Training to accredit a new course that meets the standards for delivery and competency assurance set by the CLSB.	<p>Achieved (Q2)</p> <p><i>New Training Rules were approved by the LSB in February and our new regulatory framework was then finalised and published. We appointed an Accreditation Panel, including an independent member to lead on the accreditation process, and that process was carried out during H1 with a Panel visit taking place on 26 April. The Panel made its decision on accreditation in mid-June and the outcome will be reported to the board at this meeting.</i></p>

5.	Deliver a programme of work aimed at harnessing the unique insights that Costs Lawyers can bring, to stimulate discussion across all the legal regulators about how legal costs can be better controlled.	<p>Pending (expected Q3)</p> <p><i>This priority is scheduled for Q3.</i></p>
6.	Investigate the risks and benefits of entity regulation amongst costs firms, including whether there is a cost effective version of entity regulation that may be practical for the CLSB to implement.	<p>In train (expected Q4)</p> <p><i>Achieved: The board held its first strategy discussion around entity regulation in March, based on an options paper prepared by the executive. Scoping work was undertaken during Q2 at the board's direction and the results of that work will be presented to the board at this meeting.</i></p> <p><i>Outstanding: Next steps will be carried out during the remainder of the year, depending on the board's further steer in June.</i></p>
7.	<p>Explore ways of encouraging competition in the market for legal services and promoting the interests of consumers through considering:</p> <ul style="list-style-type: none"> • how the CLSB's branding is used by the sector; • how our competency frameworks can ensure the profession provides the best value to end users; and • how our overall framework of regulation could best support the positive role that Costs Lawyers can play. 	<p>Pending (expected Q4)</p> <p><i>This priority is scheduled for H2.</i></p>
8.	Consider whether and how to implement measures to more strongly distinguish between the interests of intermediaries (professionals who instruct Costs Lawyers on a client's behalf) and the interests of the Costs Lawyer's ultimate client in our regulatory arrangements.	<p>In train (expected Q3/4)</p> <p><i>Achieved: We have identified ways to achieve this priority as part of improving the Costs Lawyer Code of Conduct. Proposed changes to the Code were approved by the board at its January meeting and a consultation has been issued, closing in mid-July.</i></p> <p><i>Outstanding: Depending on the outcome of the consultation, we will make a rule change application to the LSB and implement the changes thereafter. We hope to achieve this during H2, depending on how long each stage takes and feedback from the consultation.</i></p>

9.	Design a project that looks at how the regulation of Costs Lawyers should evolve into the future, taking into account how the profile of our regulated community may change.	<p>Pending (expected Q4)</p> <p><i>This priority will draw together learnings from various other Business Plan priorities and projects, and so will be carried out toward the end of the year.</i></p>
10.	Develop a programme of work to align the CLSB’s approach to ensuring continued competency with the Legal Services Board’s policy statement on ongoing competence.	<p>In train (expected Q4)</p> <p><i>Achieved: We have developed a work plan to ensure compliance with the policy statement, which has been approved by the board and socialised with the LSB. Amendments to our own policy statement on enforcement and sanctions have been drafted and will be considered by the board at this meeting, along with a draft framework for extending the Competency Statement, as envisaged in the work plan.</i></p> <p><i>Outstanding: The remainder of the work plan will be implemented over the course of the year – including consulting on any changes if necessary – targeting full compliance by January 2024.</i></p>
11.	Continue to improve our diversity data collection and, specifically for this year, look at how working cultures and professional environments for Costs Lawyers impact on good equality, diversity and inclusion (EDI) outcomes.	<p>In train (expected Q4)</p> <p><i>Achieved: The board considered a report on our most recent diversity data in March and comprehensive reports looking at the gender pay gap and social mobility in the profession have been published. Follow-up work in both areas has been planned and a successful event to coincide with Social Mobility Awareness Day was held in June.</i></p> <p><i>Outstanding: Implementation of targeted initiatives to act on the data we collected in our two most recent diversity surveys will continue throughout H2.</i></p>
12.	<p>Deliver the next phase of our digital workplan, including by:</p> <ul style="list-style-type: none"> • improving the visibility of supervision issues in the database; • creating a single repository for complaints data in the database; • adding action prompts to functionality; • revising application forms and adding database functionality resulting from enhancements to 	<p>In train (expected Q4)</p> <p><i>Achieved: The second item (single complaints repository in database) was completed in Q1. The first and third items (improving visibility and adding action prompts) were completed in Q2. The fourth item (revising the application forms and adding database functionality) is in progress and will be completed in time for the renewal of practising certificates for 2024.</i></p> <p><i>Outstanding: The fourth item is due for completion in Q3. Work on the final item (capturing missing aspects of the regulatory history of individuals in the database)</i></p>

	<p>the Register of Costs Lawyers made in 2022;</p> <ul style="list-style-type: none">• capturing regulatory history of individual Costs Lawyers in the database to consolidate and safeguard all available information.	<p><i>is not time critical and will be progressed as capacity allows.</i></p>
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Foreword

Rt Hon David Heath CBE, Chair

Back in 2019, we developed a [mid-term strategy](#) that established our vision and objectives for the CLSB from 2020 to 2023. We described our mission in this way:

“The CLSB provides effective, proportionate regulation of Costs Lawyers in a way that promotes consumer choice and understanding, and engenders justified public trust.”

Looking at that mission statement now, four years on, it could not be more relevant to the challenges we face today. With the cost of living in England and Wales increasing at a phenomenal rate, proportionality in regulation is more important than ever. And as a small regulator it is critical that we put our limited funds to work in an efficient and impactful way, identifying and targeting key areas of risk within the profession to achieve the best possible outcomes for Costs Lawyers’ clients and the wider public.

Promoting informed choice, too, is increasingly important in regulating legal services. The evolution of new and innovative services is enhancing competition and impacting prices, while unregulated providers are stepping in to meet legal needs that are – for many different reasons – unmet by the regulated sector. As the services on offer become both more accessible and more complex, it is increasingly important that clients understand the advantages and risks of using different providers, and are informed about the regulatory protections that are (or are not) associated with their choices.

Building justified trust in the Costs Lawyer profession also remains highly relevant, along with fostering public awareness of the specialist services that Costs Lawyers provide. Our research suggests that the majority of Costs Lawyers’ instructions come from other legal services professionals, leaving untapped potential for Costs Lawyers to directly meet the needs of individual clients and small businesses.

2024 will be the first year of our new mid-term strategy. While we have transformed as an organisation under our existing strategy – through wholesale improvements to our regulatory arrangements and ways of working – our overall mission can be articulated in much the same way as it was in 2019. To me, that suggests we have been on the right track, which is an encouraging thought to take into the next strategy cycle.

Introduction

Kate Wellington, Chief Executive

When I joined the CLSB in 2019, the route to qualifying as a Costs Lawyer was closed. Challenges with the training course meant that new students had not been accepted for several years. Given that new entrants are critical for viability in a small profession, the outlook for the Costs Lawyer community was uncertain. In 2020 we were able to bring a refreshed version of the professional qualification back online, working closely with our colleagues at ACL Training. This represented the start of a new phase in building the profession's capacity and reputation.

Since then, [research carried out by the CLSB](#) has revealed a great deal of evidence suggesting that the Costs Lawyer profession has the potential to have a much bigger impact than it does today. In order to achieve this, two things are required: the first is greater awareness of the specialist services that Costs Lawyers can offer, and the second is a greater number of Costs Lawyers offering a diverse range of services to a diverse pool of clients. A large part of our planned work for 2023 and 2024 relates to making Costs Lawyers' expertise more widely understood and available to those who need it most. Amongst other things, this requires us to facilitate growth in the profession, in a way that is sustainable and assures competence and quality in newly qualifying Costs Lawyers.

Against that backdrop, I have no difficulty in identifying the CLSB's most important achievement in 2023. In February, we implemented a new regulatory framework for qualifying as a Costs Lawyer; from revised Training Rules to a comprehensive new Scheme Handbook for Accredited Study Providers, we have reviewed and improved every aspect of our regulatory arrangements for qualification. ACL Training embraced this opportunity in order to develop a new course offering for the next generation of Costs Lawyers. Our two organisations worked together over several months on validation of the course and, in June, ACL Training was accredited by the CLSB to offer a new Costs Lawyer Professional Qualification from September.

What does this mean for 2024? We will be watching closely to ensure the new course is meeting our objectives of equipping practitioners with the knowledge and skills they need to succeed in an ever-changing workplace, while enabling the profession to attract a diverse and talented pool of lawyers. In my view, sustainable growth will unlock the capability of the profession to innovate and thrive, which will serve the public well in an environment where the cost of legal services is shooting up the political and commercial agenda.

Our objectives

Pursuing our strategy

Below are the CLSB's strategic objectives for 2024 to 2027, as set out in our [mid-term strategy](#). Each strategic objective is assigned a letter, A through [E]. These letters are used in the remainder of this Business Plan to demonstrate how our annual priorities for 2024 are linked to achievement of our wider strategic goals.

[This section will be updated once the new strategy is approved. The priorities below are from the 2020-2023 mid-term strategy as a placeholder.]

- A. *We will have collaborative working relationships with key stakeholders in the costs law market and across the wider legal services landscape, including the Association of Costs Lawyers, the Legal Services Board and other Approved Regulators. Through these relationships, we will identify best practice, harness evidence and data, and draw from the learnings of others, to deliver a rigorous approach at proportionate cost.*
- B. *We will consider and act upon evidence in a consistent, structured and documented way, furthering our ability to implement highly tailored regulatory arrangements.*
- C. *We will have an advanced understanding of the consumer dimension of the market we regulate, and we will regularly revisit and update our perception of the risks posed by the profession to the public.*
- D. *We will have a deep comprehension of the risk framework within which we operate, and our stakeholders will be confident that we are delivering robust risk-based regulation that is bespoke to Costs Lawyers.*
- E. *Costs Lawyers will view the CLSB as facilitating a trusted and evolving profession, responding proactively to new challenges and needs.*

The regulatory objectives

All of our activities must be compatible with, and promote, the regulatory objectives set out in section 1 of the [Legal Services Act 2007](#). The regulatory objectives are reproduced below, and each is assigned a number, 1 through 7. These numbers are used in the remainder of this

Business Plan to demonstrate how our annual priorities for 2024 are linked to promotion of the regulatory objectives.

The regulatory objectives are:

1. *protecting and promoting the public interest;*
2. *supporting the constitutional principle of the rule of law;*
3. *improving access to justice;*
4. *protecting and promoting the interests of consumers;*
5. *promoting competition in the provision of legal services;*
6. *encouraging an independent, strong, diverse and effective legal profession;*
7. *increasing public understanding of the citizen's legal rights and duties;*
8. *promoting and maintaining adherence to the professional principles.*

The professional principles referred to at 8 above are:

- that authorised persons should act with independence and integrity;
- that authorised persons should maintain proper standards of work;
- that authorised persons should act in the best interests of their clients;
- that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice; and
- that the affairs of clients should be kept confidential.

Promoting consumer outcomes

In line with our commitment to consider consumer outcomes in all of our regulatory work, we have also indicated in this Business Plan how each initiative is linked to the promotion of one or more of the consumer outcomes that we are interest in, namely: price; quality; access; innovation; privacy; fairness; and/or diversity.

Annual priorities

	Initiative	Link to objectives	Fit with consumer outcomes
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>Strategic [•] Regulatory 3, 4, 6, 8</p>	<p>Quality Access Diversity</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>Strategic [•] Regulatory Promotes all</p>	<p>Quality Fairness</p>
3.	<p>Implement the recommendation from the Regulators' Pioneer Fund project to promote awareness of regulatory protections through a multi-channel communications campaign.</p>	<p>Strategic [•] Regulatory 1, 4, 7</p>	<p>Access Innovation</p>
4.	<p>Embed the B2C regulatory framework with the group of Costs Lawyers that deliver services directly to consumers.</p>	<p>Strategic [•] Regulatory 4</p>	<p>Price Quality Access Fairness</p>
5.	<p>Publish the second annual Risk Outlook for the profession and assess the impact and future direction of this initiative.</p>	<p>Strategic [•]</p>	<p>Access Innovation</p>

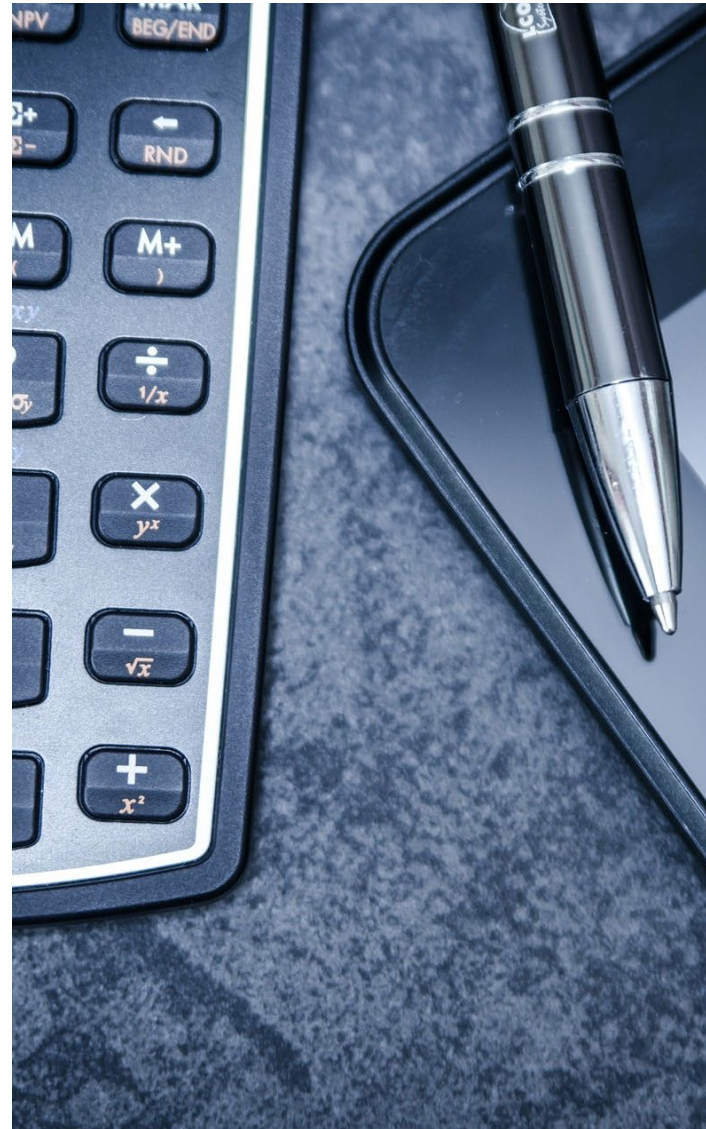
		Regulatory 1, 5, 6	Privacy
6.	Implement changes to the Costs Lawyer Code of Conduct, including by reviewing all published regulatory arrangements, guidance, policies and web content to ensure alignment with the new Code.	Strategic [•] Regulatory 6, 8	Quality Innovation Fairness
7.	Carry out the next 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.	Strategic [•] Regulatory 4, 8	Quality Fairness
8.	Carry out the first phase of evaluation activities relating to the new framework for qualifying as a Costs Lawyer.	Strategic [•] Regulatory 6	Quality Access Diversity
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.	Strategic [•] Regulatory 4, 6, 8	Quality
10.	Develop the next phase of our diversity and inclusion workplan by reference to the new mid-term strategy.	Strategic [•] Regulatory 6	Diversity
11.	Investigate whether a new supervision framework for client care letters is warranted based on evidence of client outcomes.	Strategic [•] Regulatory 4, 8	Fairness Price
12.	Develop a communications strategy for engaging the profession on key regulatory issues, such as ongoing compliance and supervision, consultations and evidence gathering, and the costs and benefits of regulation.	Strategic [•] Regulatory 6, 8	Quality Innovation Fairness

13.	Modernise the way we track enquiries from external sources to facilitate reporting and trend analysis.	Strategic [•] Regulatory 1, 3, 4, 6	Supports all
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.	Strategic [•] Regulatory Supports all	Supports all
15.	Review our data protection arrangements to ensure they remain robust and fit for purpose following extensive improvements to our digital operations.	Strategic [•] Regulatory Supports all	Privacy
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. • Develop the CLSB database by: <ul style="list-style-type: none"> - enhancing security to provide unique access keys for each user; - reviewing the read-only version of the database to improve ease of use and utility. 	Strategic [•] Regulatory Supports all	Supports all

Our budget for 2024, which will facilitate delivery of this Business Plan, can be [found on our website](#).

Consultation

2024 practising fee: Proposed 2024 budget



DRAFT: Proposal for consultation: X July 2023

Costs Lawyer Standards Board

CLSB
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Budget for the 2024 practising year

Category	Budget provision (£)
Staff costs	137,667
Travel and subsistence	5,000
Rent and room hire	2,328
Telephone	631
Printing, postage and stationery	344
Equipment	1,000
Levies and contributions (LSB, LeO, Legal Choices)	27,968
Licences, subscriptions and fees	3,771
Office services	2,990
Consultancy services	17,500
IT services	2,929
Business Plan priorities	18,000
Miscellaneous	1,500
TOTAL EXPENDITURE	221,626
Transfer to reserves	5,000
TOTAL DEBITS	226,626
<i>Practising fee</i>	290
<i>Estimated number of renewals</i>	660
Renewal income	191,400
Other practising fee income (reinstatements, new qualifiers and late payment fees)	10,750
ESTIMATED INCOME	202,150
In-year surplus/deficit	-24,476
Application of 2022 surplus to reduce practising fee	24,289
Final surplus/deficit	-187

Consultation

2024 practising fee



DRAFT: [X] July to 2 September 2023

Costs Lawyer Standards Board

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Proposed fee

We propose to set the practising fee for Costs Lawyers at £290 in 2024. This represents an increase of 3% (or £9) from the current practising fee, but a decrease of around 7% in real terms given the persistently high level of inflation that we are all experiencing.

Last year, we were able to keep the practising fee static at £281. While our running costs were already beginning to rise when we set the practising fee, we worked hard to offset rising prices through our ongoing programme of cost saving initiatives, such as moving to a fully remote operating model and leveraging opportunities for government funding. Those savings were passed on to Costs Lawyers and, by the end of 2022, we were able to achieve a budget surplus of around £24k.

This year, persistent rising prices have hit harder and we anticipate incurring a slight budget deficit of around £4k by the end of 2023. Like everyone in England and Wales, we continue to face rising input costs for basic services and in 2024 we will also see an increase in the levy that we pay on your behalf to the Legal Services Board, as their budget increases by a projected 9.1% (to £4.679m).

We will apply the £24k budget surplus from 2022 to our activities in 2024, to keep next year's practising fee as low as possible. We will focus on initiatives that generate value for the profession as well as clients and the public, as set out in our proposed Business Plan. And we will continue to negotiate with suppliers to procure the best possible rates on essential services.

This consultation paper provides further information about the level of the practising fee and how the money raised through your fees will be used. At the end of this consultation there are some questions you might like to consider as part of your response, but we would welcome any feedback you wish to provide. Consultation responses should be sent to enquiries@clsb.info by **5pm on Monday 2 September 2023**.

How we set the practising fee

The process

The process for determining the practising fee starts in May each year.

- First, we develop a **Business Plan** for the coming practising year, setting out our annual priorities for achieving our strategic goals.
- Next, we develop a **budget** that reflects our fixed costs (such as salaries and overheads), the variable costs of our core regulatory work (such as supervision and enforcement) and the cost of delivering the annual priorities in the Business Plan.
- The budget determines our total anticipated expenditure for the year; that is, the funding we need to operate effectively. Anticipated expenditure is then divided by the **number of Costs Lawyers** that we estimate will be practising during the year. This gives us the proposed practising fee. The fee is agreed by the **CLSB's board**.
- We ask Costs Lawyers for feedback on the proposed fee through this **consultation process**. The fee is adjusted as appropriate in response to feedback received.
- The fee must then be **approved by the Legal Services Board (LSB)** under its [Practising Fee Rules](#). This involves a detailed application process whereby the fee is explained and justified to our oversight regulator. Our application is [published](#) by the LSB.
- In early October, the LSB issues its decision and the practising fee is **confirmed to Costs Lawyers**.
- We are then able to finalise the **practising certificate renewal form** based on the approved fee. You will receive an email when your online renewal form, which is unique to you, is available for completion.

2024 Business Plan

The bulk of our income from practising fees is spent on fulfilling our core regulatory duties. These activities can be broadly summarised as:

- establishing policy, rules and guidance in relation to the professional conduct expected of Costs Lawyers;
- setting the outcomes for, and accrediting training providers to deliver, the Costs Lawyer Qualification and assessing trainees' Qualifying Experience;
- supervising compliance with our regulatory requirements;

-
- dealing with complaints about Costs Lawyers' conduct and taking disciplinary action where conduct falls short of the required standard;
 - helping consumers and the wider public understand issues relating to legal costs and how Costs Lawyers can assist them;
 - assisting practitioners in navigating ethical issues and treating their clients fairly;
 - gathering evidence and data about the regulated market to inform our activities.

Our annual Business Plan establishes additional projects and priority work areas that are specific to the practising year. Each priority in the Business Plan is linked to the regulatory objectives in the [Legal Services Act 2007](#), the improvement of specified [consumer outcomes](#), and the achievement of one or more of the objectives in our mid-term strategy. Our current mid-term strategy expires at the end of this year, so we will be working toward a new mid-term strategy in 2024. A draft of that strategy has been provided [with this consultation](#) for feedback.

Our proposed Business Plan for 2024 has also been provided [with this consultation](#). The priorities in the Business Plan, together with the core regulatory work described above, constitute the full programme of activity that is funded through your practising fees.

In 2022 we delivered all our Business Plan priorities except one (which was deprioritised early in the year based on our research findings). A summary of the anticipated and actual benefits of our 2022 work programme is available [with this consultation](#).

Levies and contributions

Our proposed budget for 2024 is also available [with this consultation](#). You will see that a portion of our budget is made up of levies and contributions that we must pass on to other organisations – namely the Legal Services Board, the Legal Ombudsman and the Legal Choices website – to fund their activities. Each of the legal services regulators is required to make contributions on behalf of the lawyers they regulate.

In 2024, the cost per Costs Lawyer of these contributions will be approximately:

- £26 for the Legal Services Board (9% of your practising fee)
- £7.5 for the Legal Ombudsman (2.6% of your practising fee)
- £8.8 for Legal Choices (3% of your practising fee)

Other information about practising fees

Permitted purposes

The CLSB derives almost all of its income from practising fees. Other minor sources of income include accreditation fees and fixed costs awarded under our Disciplinary Rules and Procedures.

All our income is allocated to expenditure on so-called “permitted purposes”. Permitted purposes are prescribed regulatory activities as listed in Rule 8 of the Legal Services Board’s [Practising Fee Rules](#). They include activities like regulation, accreditation, education, training, raising professional standards, providing advice and guidance, participating in law reform and furthering public legal education.

The Association of Costs Lawyers

Your practising fee exclusively funds the CLSB. It is not used to fund the profession’s representative body, the Association of Costs Lawyers (ACL). If you would like to be a member of ACL, a membership fee is payable separately. You can [contact ACL](#) to understand more about the benefits of membership.

Tax relief

Tax relief on your practising fee can be claimed under SI 1126/2013: The Income Tax (Professional Fees) Order 2013. This covers “fees payable to the Costs Lawyer Standards Board on applying for a costs lawyer practising certificate”.

Reserves

We hold financial reserves to provide a buffer against unexpected events. We want the level of our reserves to be neither too low nor too high, so our Reserves Policy provides for a target level of reserves. In 2021, we revised our target level of uncommitted reserves downward, following a review of the financial risks we face and the extent to which those risks are insurable. Our target is now six months’ operating expenditure (or

roughly six months' gross income from annual practising fees). The level of our uncommitted reserves currently meets this target.

We also hold separate reserves reflecting the amount of our paid up share capital, as well as committed reserves for planned future IT development projects. Our target level of committed reserves is £30,000. We have achieved just over 50% of this target so far and we will make further contributions over the next three years to reach the target level.

The level of our reserves is recorded in our audited accounts, which are available [with this consultation](#).

Practising certificates

Practising Rules

Your practising fee must be paid before we can issue you with a practising certificate for the relevant year. This is established under our Practising Rules, which you can find in the [Costs Lawyer Handbook](#).

Practical advice and information

The [practising certificates](#) page of our website contains advice on a range of topics relating to practising certificates and the practising fee. It includes information about who needs a practising certificate, how to renew your certificate, how to pay the practising fee and how your application will be dealt with.

You can also find information on this webpage about fee remissions. You might be entitled to a reduction in your practising fee if, for example, you are a newly qualified Costs Lawyer, you are applying for reinstatement to the register part-way through the year or you have recently taken parental leave.

Benefits of having a Costs Lawyer practising certificate

Your practising certificate gives you the right, under the Legal Services Act 2007, to conduct the following reserved legal activities:

- The exercise of a right of audience
- The conduct of litigation
- The administration of oaths

In addition you will:

- Appear on the [Register of Costs Lawyers](#) on the CLSB website.
- Be able to use, in line with the terms, the CLSB [Mark of Regulation](#) on communications to publicise that you are authorised and regulated by the CLSB.
- Have access to the support of [LawCare](#). This is a confidential service which supports the mental health and wellbeing of legal professionals and their families.
- Receive regular CLSB newsletters with the latest updates for Costs Lawyers.

Having a CLSB practising certificate also evidences to clients, the courts and fellow lawyers that you are qualified, regulated, have professional indemnity insurance in place, follow a complaints handling procedure (including access to the Legal Ombudsman where applicable) and undertake continuing professional development (CPD). You may also be able claim a better hourly rate than unregulated costs draftsmen and increase potential client instructions.

Consultation questions

Main question

Question 1: Do you agree with our proposal to set the practising fee at £290 for 2024? Why or why not?

Other questions you might like to consider

Question 2: Do you agree with the CLSB's proposed Business Plan and budget for 2024? If not, what aspects would you suggest we change and why?

Question 3: What do you perceive to be the main benefits of regulation? Do you think we place sufficient focus on those benefits? Do you think we are delivering those benefits?

Question 4:

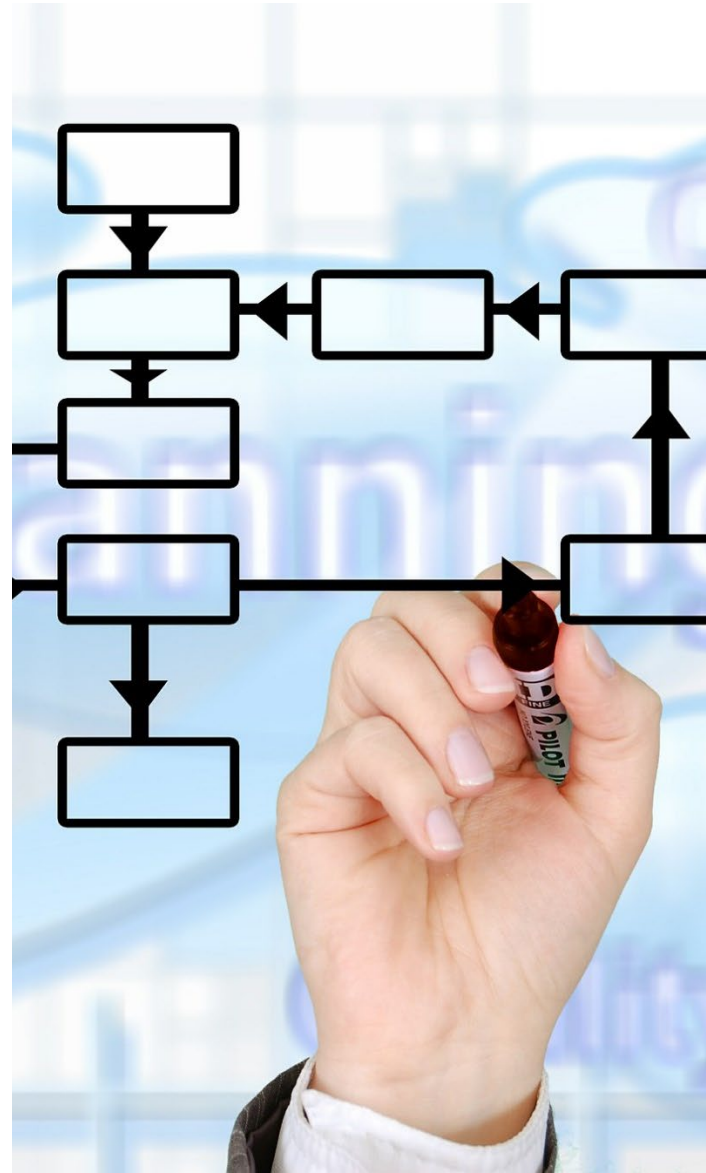
- (a) Are you adversely impacted by the level of the practising fee due to a protected characteristic under the Equality Act 2010 (such as age, disability or gender) or due to your individual practising arrangements? If so, please tell us why and how we could meet your needs.
- (b) Do you agree with our initial Equality Impact Assessment (EIA) of the practising fee, which we have provided [with this consultation](#)?

Question 5: Is there anything else you would like to know about the practising fee that we should include in next year's consultation?

Consultation responses should be sent to enquiries@clsb.info by **5pm on Monday 2 September 2023**.

Consultation

2024 practising fee: Summary of activity funded by the 2022 practising fee



DRAFT: [x] July 2023

Costs Lawyer Standards Board



Purpose

This document is intended to help Costs Lawyers better understand the programme of activity that was funded through their practising fees in 2022, as well as the benefits of that activity, in line with the Legal Services Board's [Guidance on its Practising Fee Rules](#).

In particular, this document:

- describes the annual priorities in the CLSB's 2022 Business Plan;
- explains whether, when and how they were achieved;
- summarises their intended benefits, by reference to our strategic goals and the regulatory objectives in the Legal Services Act 2007; and
- provides examples of indicators that we believe demonstrate they had the benefits we anticipated.

You might like to consider this document alongside the CLSB's [consultation](#) on the proposed Costs Lawyer practising fee for 2024, which closes on 2 September 2023.

Regulatory objectives

Below are the regulatory objectives established by the Legal Services Act 2007, which the legal regulators (including the CLSB) must promote through their work. Each regulatory objective is assigned a number, 1 through 8. These numbers are used in the remainder of this document to demonstrate how our annual priorities for 2022 were intended to promote the regulatory objectives.

1. *Protecting and promoting the public interest.*
2. *Supporting the constitutional principle of the rule of law.*
3. *Improving access to justice.*
4. *Protecting and promoting the interests of consumers.*
5. *Promoting competition in the provision of legal services.*
6. *Encouraging an independent, strong, diverse and effective legal profession.*
7. *Increasing public understanding of the citizen's legal rights and duties.*
8. *Promoting and maintaining adherence to the professional principles.*

Strategic objectives

Below are the CLSB's strategic objectives for 2020 to 2023, as set out in our [mid-term strategy](#). Each objective is assigned a letter, A through E. These letters are used in the remainder of this document to demonstrate how our annual priorities for 2022 were intended to help us achieve our wider strategic goals.

- A. *We will have collaborative working relationships with key stakeholders in the costs law market and across the wider legal services landscape, including the Association of Costs Lawyers, the Legal Services Board and other Approved Regulators. Through these relationships, we will identify best practice, harness evidence and data, and draw from the learnings of others, to deliver a rigorous approach at proportionate cost.*
- B. *We will consider and act upon evidence in a consistent, structured and documented way, furthering our ability to implement highly tailored regulatory arrangements.*
- C. *We will have an advanced understanding of the consumer dimension of the market we regulate, and we will regularly revisit and update our perception of the risks posed by the profession to the public.*
- D. *We will have a deep comprehension of the risk framework within which we operate, and our stakeholders will be confident that we are delivering robust risk-based regulation that is bespoke to Costs Lawyers.*
- E. *Costs Lawyers will view the CLSB as facilitating a trusted and evolving profession, responding proactively to new challenges and needs.*

Annual priorities

Improving our regulatory arrangements

	Initiative	Status (by end of 2022)	Intended benefits	Example indicators of the benefits achieved
1.	<p>Review the Costs Lawyer Code of Conduct to ensure it aligns with:</p> <ul style="list-style-type: none"> • our consumer outcomes framework; • our research into the competencies expected of a qualifying Costs Lawyer; • learnings from our risk deep-dive exercise carried out in 2021; • the better regulation principles, and in particular that it does not impose unnecessarily broad regulatory burdens; • recent updates to our other regulatory arrangements; • evidence of good practice across the wider professional services sectors. 	<p>Achieved (Q4)</p> <p><i>This review was carried out in Q4, working with Hook Tangaza. A report detailing proposed changes to the Code was put to the board at the end of Q4. Following board approval, a consultation is currently being carried.</i></p>	<p>Strategic objectives: B, D</p> <p>Regulatory objectives: 1, 4, 6, 8</p>	<ul style="list-style-type: none"> • The timing of the review allowed us to implement learnings and recommendations from our wider research work, improving standards in a way that will have a real practical impact for consumers and those accessing the justice system. • This work completed a wider project to review all the CLSB’s regulatory arrangements within three years, meaning that all our rules, guidance and policy statements are relevant and up-to-date for practitioners and the public.
2.	<p>Implement changes to the Training Rules and other regulatory arrangements relating to education – informed by evidence from our competencies project in 2021 – to</p>	<p>Achieved (Q4)</p> <p><i>The board considered the first draft of the new Accredited Study Provider Handbook in January. A final draft, incorporating assessment outcomes and a series of new</i></p>	<p>Strategic objectives: B, E</p>	<ul style="list-style-type: none"> • The new regulatory framework modernises the way that Costs Lawyers qualify, making the profession more attractive and

	modernise the requirements for becoming a Costs Lawyer and facilitate a wider range of flexible pathways to qualification.	<i>annexes, was put to the board in July along with proposed new Training Rules. Consultation materials were then developed and a public consultation was run from August to October. A rule change application was made to the Legal Services Board in Q4, completing this priority. We are now working closely with the training provider in relation to implementation.</i>	Regulatory objectives: 3, 4, 5, 6, 8	<p>accessible to a diverse range of trainees.</p> <ul style="list-style-type: none"> • Training providers now have the flexibility to design course programmes that are competitive and aligned to students’ needs, focusing on the specific knowledge and skills that make Costs Lawyers unique in the legal market. • The new Accredited Study Provider Scheme Handbook ensures that students receive high-quality, consistent training, and that new qualifiers are competent to enter the profession.
3.	Using our new supervision framework, evaluate the extent to which our revised approach to Continuing Professional Development (CPD) has been understood and adopted by Costs Lawyers, and develop communications to address any areas of difficulty or other themes identified.	<p>Achieved (Q1)</p> <p><i>An audit of CPD for the 2021 practising year – being the first year in which the new CPD Rules were in force – was carried out in Q1. A report of the findings, as well as actions taken to provide feedback to the regulated community and further embed the approach, was presented to the board at its May meeting.</i></p>	<p>Strategic objectives: B, E</p> <p>Regulatory objectives: 6, 8</p>	<ul style="list-style-type: none"> • The audit allowed us to identify areas where Costs Lawyers need support with their CPD activities and put in place additional materials and practical assistance to address this. • Examples of best practice emerged from practitioners’ CPD records which we were able to share with the profession through our ‘lessons learned’ initiative.

4.	Evaluate the success of our new Disciplinary Rules and Procedures two years after implementation.	<p>Achieved (Q2)</p> <p><i>A review of our experience in applying the new DR&P was carried out in Q1 and several recommended adjustments were identified, mainly to clarify the relationship between complaints to the CLSB and complaints to the Legal Ombudsman. A report setting out these recommendations was considered by the board in July. Consultation and a rule change application to the LSB followed in H2 by way of implementation. The review also identified a need for a documented, step-by-step triage process, which was approved by the board in May.</i></p>	<p>Strategic objectives: B</p> <p>Regulatory objectives: 1, 4, 6, 8</p>	<ul style="list-style-type: none"> • The evaluation identified areas where further improvements could be made to streamline our processes for the benefit of Costs Lawyers and complainants. • Working closely with the Legal Ombudsman, we were able to align the timing for implementation with changes to the Ombudsman’s own scheme rules, reducing the regulatory burden on practitioners in amending their complaint procedures.
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Protecting the interests of consumers and promoting professional standards

	Initiative	Progress status	Intended benefits	Example indicators of the benefits achieved
5.	Update our Consumer Engagement Strategy to capture learnings from the first year, and deliver the updated priority activities for the second year.	<p>Achieved (Q2)</p> <p><i>Our Consumer Engagement Strategy was updated for year 2, reflecting learnings from year 1 and bringing it into line with our policy statement on consumer outcomes. A report on delivery of the year 2 activities was put to the board in July, along with recommendations for our approach to the third and final year of the strategy.</i></p>	<p>Strategic objectives: C</p> <p>Regulatory objectives: 4</p>	<ul style="list-style-type: none"> • We were able to link our activities under the Consumer Engagement Strategy with our innovation project funded by the Regulators’ Pioneer Fund (RPF), to leverage the funding resource and draw connections across our different work areas.

6.	<p>Embed a culture of considering consumer outcomes in all of our regulatory work, seeking evidence of effectiveness where possible.</p> <p>In line with this culture:</p> <ul style="list-style-type: none"> gather evidence of whether and how consumer outcomes differ when clients use regulated advisers and unregulated advisers, so we can better assess the risks to consumers of under- or over-regulation in the market for costs law services; based on evidence, evaluate how far we can tackle any issues raised in the areas of price; innovation; access; privacy; and fairness. 	<p>Achieved (Q3)</p> <p><i>A large part of this priority was delivered through our project “How could Costs Lawyers reduce the costs of legal services?”, with funding from the Regulators’ Pioneer Fund (RPF). In this work we explored the differences between regulated and unregulated advisers, and the impacts of under and over regulation. The research phase of the project concluded in March and the project report was published in June. We curated a session at the July board meeting to cover taking forward recommendations around price, innovation and fairness. Access and privacy were covered separately (see below). While this priority is marked as “achieved”, it relates to a cultural shift that we will continue to nurture generally into the future.</i></p>	<p>Strategic objectives: A, B, C, D, E</p> <p>Regulatory objectives: 4, 5, 6</p>	<ul style="list-style-type: none"> Following our RPF funded work, we now have a much better idea about the type of work Costs Lawyers do, what kinds of clients they serve, and what our regulatory priorities should be. Recommendations from this work have been far-reaching and allowed us to develop projects in 2023 that are targeted to specific challenges identified in the market.
7.	<p>Carry out a research project to better understand the pricing structures used by Costs Lawyers and to benchmark prices for different types of costs services.</p>	<p>Deprioritised (Q2)</p> <p><i>We changed our expectations of the work we should do in this area, in light of findings from our RPF funded project in relation to the nature of Costs Lawyers’ clients.</i></p>	<p>Strategic objectives: B, C</p> <p>Regulatory objectives: 4, 5</p>	<p>Not applicable</p>
8.	<p>Investigate consumers’ expectations in relation to privacy – including by reference to learnings from existing research in related markets – and assess whether there is any evidence that expectations are not being met.</p>	<p>Achieved (Q2)</p> <p><i>We completed an evaluation of privacy and commercial clients of Cost Lawyers, and set out a plan to reinforce the importance of considering privacy and cyber security in the context of B2B relationships.</i></p>	<p>Strategic objectives: A, B, C, D, E</p> <p>Regulatory objectives: 4, 6</p>	<ul style="list-style-type: none"> Understanding the client profile of Costs Lawyers through our RPF funded work helped us target commercial clients, allowing us to collaborate with organisations like the NCSC to disseminate relevant information.

9.	<p>Deliver the next phase of our diversity and inclusion work program in the three broad areas identified in our 2021 comparative report, namely:</p> <ul style="list-style-type: none"> • further improving our data collection; • enhancing engagement with our regulated community; • assessing the likely effectiveness of potential regulatory interventions to improve diversity and inclusion. 	<p>Achieved (Q3)</p> <p><i>We analysed the results of our 2021 survey on pay and earnings, comparing female and male Costs Lawyers, and a report on the outcomes was put to the board in July. We commissioned an agency to check the conclusions drawn from the data prior to publication. We will take forward this work next year by engaging with our regulated community to explore the reasons for a (apparently) substantial pay gap between men and women, and differences by region. We developed a new survey on social mobility that was distributed with PC applications in November, giving us additional data to consider in 2023.</i></p>	<p>Strategic objectives: A, B, E</p> <p>Regulatory objectives: 6</p>	<ul style="list-style-type: none"> • Having robust data on specific diversity issues has allowed us to target our initiatives in areas that are particularly relevant to Costs Lawyers, such as our recent event: Driving Social Mobility in Costs. • Learning from others by analysing what has worked in other markets, and drawing analogies to our own regulated community, has allowed us to target our resources at initiatives most likely to have a positive impact.
10.	<p>Deliver a project to benchmark the level of innovation in the profession and to explore any regulatory or statutory arrangements that might hinder or assist innovation in the market for Costs Lawyers' services.</p>	<p>Achieved (Q1)</p> <p><i>This priority was delivered through our project "How could Costs Lawyers reduce the costs of legal services?", with funding from the Regulators' Pioneer Fund (RPF). The research phase of the project concluded in March and the final project report was published in June.</i></p>	<p>Strategic objectives: B, E</p> <p>Regulatory objectives: 4, 5, 6</p>	<ul style="list-style-type: none"> • Our RPF funded work has given us a broad and deep evidence base that we can draw on across all our regulatory interventions now and in the future. • We have been able to make changes to the Costs Lawyer Code of Conduct (see priority 1) to promote innovation and competition based on recommendations from the project.
11.	<p>Engage with the other legal services regulators to identify and act on</p>	<p>Achieved (Q4)</p> <p><i>We identified a number of areas for collaboration during the year and joined</i></p>	<p>Strategic objectives: A</p>	<ul style="list-style-type: none"> • Examples of successful collaborations include work on public legal education, a joint

	<p>opportunities for collaboration that have the potential to deliver:</p> <ul style="list-style-type: none"> • material cost savings; • new evidence or learnings that we could not access on our own; and/or • unique benefits from taking a whole-sector approach. 	<p><i>several cross-sector initiatives. This continued to be a priority throughout the year as we identified and acted on new opportunities, hence completion in Q4 / at year end.</i></p>	<p>Regulatory objectives: Facilitates all</p>	<p>statement on counter-inclusive behaviours, and government sanctions compliance. These promoted consistency in regulation across the legal sector and made the best use of our limited resources.</p>
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Modernising our organisation

	Initiative	Progress status	Intended benefits	Example indicators of the benefits achieved
12.	<p>Begin to consider a vision for our organisation beyond the current <u>mid-term strategy</u> that ends in 2023, focused around a board strategy day informed by the views of stakeholders.</p>	<p>Achieved (Q3) <i>The strategy session envisaged under this priority was held alongside the board's July meeting. The board met in person to facilitate open discussion. The session drew on learnings about the market from our RPF funded project – which captured the views of a wide range of stakeholders – and generated suggestions for areas of strategic focus over the coming years.</i></p>	<p>Strategic objectives: Facilitates all Regulatory objectives: Facilitates all</p>	<ul style="list-style-type: none"> • Measuring success against a mid-term strategy allows us to demonstrate the benefits of regulation and achieve sustainable positive outcomes tailored to the regulatory objectives. • The timing of this work allowed us to capture and act on the findings of our RPF funded project ensuring our future direction is evidence based and meets the needs of stakeholders.

13.	Review our methodology for measuring, recording, monitoring and responding to risk in light of changes to our regulatory approach and organisational culture since our existing methodology was introduced.	<p>Achieved (Q4)</p> <p><i>This review was carried out in Q4, working with Hook Tangaza. A report detailing a proposed new risk framework for the CLSB was put to the board for consideration and a new risk register, based on the review, has been developed in 2023.</i></p>	<p>Strategic objectives:</p> <p>D</p> <p>Regulatory objectives:</p> <p>Facilitates all</p>	<ul style="list-style-type: none"> • The review encouraged us to think about risk more broadly to implement a framework that is less operational and more strategic in nature, better allowing the profession's risk profile to inform our mid-term goals and regulatory approach.
14.	Test the measures in our Business Continuity and Disaster Recovery Plan to ensure they remain fit for purpose following changes to our organisational design.	<p>Achieved (Q2)</p> <p><i>Testing was carried out in Q2 by running through hypothetical test scenarios with key staff. Updates and adjustments were made to the Plan based on the outcomes of the test, as well as to systems that support it. A new version of the Plan has been distributed to holders.</i></p>	<p>Strategic objectives:</p> <p>D</p> <p>Regulatory objectives:</p> <p>Facilitates all</p>	<ul style="list-style-type: none"> • Given the size of our organisation and the nature of our responsibilities, it is critical that we can respond nimbly to disasters and unexpected events. This test highlighted practical improvements that will allow us to respond immediately in a real-world scenario.
15.	<p>Deliver the next phase of our digital workplan, including:</p> <ul style="list-style-type: none"> • automating the analysis of routinely captured data; • building add-on functionality for the Costs Lawyer database, such as bespoke report generation. 	<p>Achieved (Q1)</p> <p><i>In Q1 we added functionality to the database to:</i></p> <ul style="list-style-type: none"> • <i>record complaints procedure audit outcomes</i> • <i>track all contacts with individual Costs Lawyers</i> • <i>auto-fill address fields to save admin time</i> <p><i>We decided that adding a bespoke reports option was not cost effective. We also made the following upgrades to the PC renewal application form:</i></p>	<p>Strategic objectives:</p> <p>Facilitates all</p> <p>Regulatory objectives:</p> <p>Facilitates all</p>	<ul style="list-style-type: none"> • Improvements to our automated systems have improved efficiency and reduced the risk of human error in recording and reporting data. • Back-end improvements meant that we were quickly and easily able to analyse the data captured in the annual Regulatory Return and for reporting on performance indicators, without needing external support as anticipated.

		<ul style="list-style-type: none"> • <i>automatic calculation of fee remission</i> • <i>provision of invoices rather than Fee Notes to facilitate bulk payments in large firms</i> • <i>changes to make the form easier to follow, and more user friendly, in line with user feedback</i> 		
16.	Review and modernise our internal staff policies to ensure they are fair, relevant and reflect our current ways of working.	<p>Achieved (Q3)</p> <p><i>We tendered for bids from HR consultancies for this work and appointed an agency in September. We worked with them to review and update our existing internal policies, taking advice on good practice standards. A proposed new, consolidated staff policy was approved by the board in October.</i></p>	<p>Strategic objectives: E</p> <p>Regulatory objectives: Facilitates all</p>	<ul style="list-style-type: none"> • The review has removed risks to the CLSB from outdated and inconsistent internal policies, safeguarding practising fee income for future years.
17.	Consider whether additional or different advisory appointments are necessary to fill any skill gaps at board or executive level.	<p>Achieved (Q1)</p> <p><i>We incorporated this work into our wider governance review which was carried out in H2 2021. The recommendations from the governance review were implemented in Q1, following board approval in February 2022, and the Remuneration Committee held its inaugural meeting in June.</i></p>	<p>Strategic objectives: Facilitates all</p> <p>Regulatory objectives: Facilitates all</p>	<ul style="list-style-type: none"> • Improvements to our governance processes mean we now have the framework in place to bring in specialist advisory expertise on short notice where needed.

Consultation

2024 practising fee: Initial equality impact assessment



DRAFT: [x] July 2023

Costs Lawyer Standards Board

CLSB
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Initial Equality Impact Assessment (EIA)

This document supports, and should be read with, the CLSB’s [consultation](#) on the practising fee for Costs Lawyers in 2024. The consultation closes on 2 September 2023.

The Legal Services Board’s [Guidance](#) on its Practising Fee Rules states that a regulator must carry out an equality impact assessment (EIA) in relation to its proposed practising fee, and the EIA should be informed by consultation with the regulated community. Below is a preliminary EIA setting out how we anticipate the level of the proposed practising fee for 2024 (£290) will affect practitioners with protected characteristics. We have used the summary format recommended by the Legal Services Board.

We welcome your input, particularly if you have evidence which suggests that the practising fee could create barriers to access or progression for certain groups of Costs Lawyers.

Protected characteristic group	Is there a potential for positive or negative impact?	Please explain and give examples of any evidence / consultation / data used	Actions to address negative impact
Disability	No	7% of Costs Lawyers report having a disability, which is higher than in other parts of the sector (for example, 3% of solicitors). Our data suggests that Costs Lawyers can sometimes experience differential impacts due to disability, such as problems accessing court buildings. However there is no data to suggest that practising fees affect this group disproportionately and questions in previous practising fee consultations revealed no evidence of differential impact.	Not applicable
Gender reassignment	No	Our latest diversity survey included a question on gender identity, but the percentage of “prefer not to say” answers compared to the percentage of respondents who we might expect to answer “no” to the question (is your gender identity the same	Not applicable

		as that which you were assigned at birth?) means the data is unreliable. Nevertheless, we expect that the percentage of our regulated community with a different gender identity to that assigned at birth is likely to be very small or zero.	
Marriage or civil partnership	No	We do not collect data on the marital status of practitioners, however as our fee is set at the same level for all practitioners and marital status does not impact ability to practise, we have not identified any risk of differential impact based on this characteristic.	Not applicable
Pregnancy and maternity	Yes	We previously identified that, due to the way we calculate practising fees for Costs Lawyers who reinstate their authorisation part way through the year, practitioners who took parental leave were incurring different practising fees depending on the time of year that their leave commenced. After consulting, we implemented a remissions policy that ensures practitioners receive a reduction in their fee for the whole period they are on parental leave, regardless of the start date.	We will apply the remissions policy again this year (and going forward). More information is available in the parental leave section of our practising FAQs .
Race	No	7% of Costs Lawyers identify as Black, Asian or Minority Ethnic, compared to 21% of lawyers in SRA regulated law firms. As part of our EDI work programme, we are investigating whether there are barriers to entry for these groups which are driving the above statistic. However, none of our research to date suggests that the practising fee presents such a barrier and questions in previous practising fee consultations revealed no evidence of differential impact.	Not applicable
Religion or belief	No	44% of Costs Lawyers report having no religion or being atheist and a further 42% identify as Christian. The proportion of practitioners from other faith groups is small – around 1% or less per group – although a	Not applicable

		relatively high number of practitioners preferred not to report their religion so these groups might be larger than recorded. While we are working to reduce the number of practitioners who prefer not to report their religion, our data does not suggest any differential impact of the practising fee on smaller faith groups. Questions in previous practising fee consultations also revealed no evidence of this.	
Sexual orientation	No	6% of Costs Lawyers identify as lesbian, gay or bisexual compared to 2.7% of the population. While we have strong LGBT representation within the profession, there is no evidence that a practising fee which is the same for all practitioners has any differential impact on this group. Questions in previous practising fee consultations also revealed no evidence of this.	Not applicable
Sex (gender)	Yes	There is potential for women to be disproportionately impacted by incurring practising fees whilst on parental leave. Our data shows that, to date, all Costs Lawyers who have been reinstated to the Register part way through a practising year due to taking parental leave have been women.	This is addressed through our remissions policy – see above under “pregnancy and maternity”.
Age	No	Due to the profile of qualifying Costs Lawyers, only a small proportion (4.1%) are under the age of 30, and 7.6% are above 60. The vast majority of Costs Lawyers fall in the middle age ranges. There is no evidence to suggest that a practising fee which is the same for all practitioners has any differential impact on the younger or older groups. Questions in previous practising fee consultations also revealed no evidence of this.	Not applicable

CLSB Risk Register

Last reviewed: 29 March 2023

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"> • 2023 Business Plan priority 10: <i>Develop a programme of work to align the CLSB’s approach to ensuring continued competency with the Legal Services Board’s policy statement on ongoing competence.</i> • 2023 Business Plan priority 12: <i>Deliver the next phase of our digital workplan, including by: improving the visibility of supervision issues in the database; creating a single repository for complaints data; adding action prompts to functionality; capturing regulatory history of individual Costs Lawyers in the database.</i> • Implement changes to the Disciplinary Rules and Procedures as well as first tier complaint procedures aimed at encouraging streamlined resolution of both service and conduct issues for clients (April 2023). • Update and augment supporting materials for CPD and complaints procedures, and publish “lessons learned” for the profession, following supervisory audits (May 2023).
2.	Costs Lawyers offer new areas of service without adequate consumer protections or assessment of risk to consumers.	<ul style="list-style-type: none"> • 2023 Business Plan priority 3: <i>Develop a programme of work to promote the outcomes in the Legal Services Board’s policy statement on empowering consumers in a way that takes into account the unique nature of the market for costs services.</i> • Develop our first Annual Risk Outlook for the profession (June 2023).
3.	Regulatory deterrents or barriers to innovation limit the Costs Lawyer profession.	<ul style="list-style-type: none"> • 2023 Business Plan priority 6: <i>Investigate the risks and benefits of entity regulation amongst costs firms, including whether there is a cost effective version of entity regulation that may be practical for the CLSB to implement.</i>

		<ul style="list-style-type: none"> • 2023 Business Plan priority 7: <i>Explore ways of encouraging competition in the market for legal services and promoting the interests of consumers through considering: how the CLSB’s branding is used by the sector; how our competency frameworks can ensure the profession provides the best value to end users; and how our overall framework of regulation could best support the positive role that Costs Lawyers can play.</i> • 2023 Business Plan priority 9: <i>Design a project that looks at how the regulation of Costs Lawyers should evolve into the future, taking into account how the profile of our regulated community may change.</i>
4.	Independence of the profession is compromised through capture by certain types of clients or practising arrangements.	<ul style="list-style-type: none"> • 2023 Business Plan priority 5: <i>Deliver a programme of work aimed at harnessing the unique insights that Costs Lawyers can bring, to stimulate discussion across all the legal regulators about how legal costs can be better controlled.</i> • 2023 Business Plan priority 8: <i>Consider whether and how to implement measures to more strongly distinguish between the interests of intermediaries (professionals who instruct Costs Lawyers on a client’s behalf) and the interests of the Costs Lawyer’s ultimate client in our regulatory arrangements.</i> • Consult on changes to the Costs Lawyer Code of Conduct aimed at promoting professional independence (May to July 2023).
5.	New Costs Lawyer Qualification fails to attract sufficient student numbers or sufficiently diverse cohorts.	<ul style="list-style-type: none"> • 2023 Business Plan priority 4: <i>Using our new regulatory framework for the Costs Lawyer Qualification, work with ACL Training to accredit a new course that meets the standards for delivery and competency assurance set by the CLSB.</i> • 2023 Business Plan priority 11: <i>Continue to improve our diversity data collection and, specifically for this year, look at how working cultures and professional environments for Costs Lawyers impact on good equality, diversity and inclusion (EDI) outcomes.</i>
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"> • 2023 Business Plan priority 4 (as above). • Implement a new framework for Qualifying Experience to be overseen by the CLSB for the first time (H1 2023).

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?



Costs Lawyer Standards Board
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Manchester
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Office: 0161 956 8969
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19 June 2023

Sarah Hutchinson
Chair
ACL Training

By email to: chair@acltraining.co.uk

Dear Sarah

Accreditation of ACL Training (ACLT) to provide the Costs Lawyer Professional Qualification from September 2023

Determination of your application for accreditation

Thank you for your application for accreditation to deliver a new version of the Costs Lawyer Professional Qualification from September 2023.

Your final application is dated May 2023, however it is worth documenting that this letter is the culmination of extensive discussions and engagement between our two organisations over the past year, as well as the submission and refinement of various draft documents. I would like to take this opportunity to express my appreciation for the open and collaborative approach to accreditation that everyone at ACLT has adopted.

The CLSB's Accreditation Panel – which comprises an independent member (Abigail Field), board member (Andrew McAulay) and staff member (myself) – is of the view that the information ACLT has provided in its final accreditation application is sufficient to demonstrate that it meets the Accredited Study Provider Requirements at Annex 3 of the CLSB's Accredited Study Provider Scheme Handbook (the Scheme Handbook). The final version of the Accreditation Panel's assessment report, noting that all criteria have been met, is **enclosed** for your reference.

The options open to the Accreditation Panel for determining an application are: (i) to grant accreditation, with or without recommendations; (ii) to grant accreditation subject to conditions; or (iii) to refuse accreditation (see paragraph 21 of the

Scheme Handbook). Given the findings in its assessment report, the Accreditation Panel has determined that ACLT should be granted accreditation unconditionally.

ACLT is therefore invited to sign and return the standard Accreditation Agreement **enclosed** with this letter, which will give effect to the Accreditation Panel's determination. Once the Accreditation Agreement has been executed, ACLT may begin marketing itself as a CLSB Accredited Study Provider and, accordingly, remove references in its marketing material to accreditation being pending.

ACLT's accreditation will subsist for the period set out in the Accreditation Agreement and will be subject to annual monitoring, as explained in Section 4 of the Scheme Handbook.

Outstanding governance issue

In considering ACLT's application, the CLSB found that ACLT's amended Articles of Association had not been filed with Companies House. The new Articles give ACLT the power to carry out various activities referred to in its application, and they also give effect to key governance changes that provide for independent oversight and scrutiny of ACLT's activities. It is therefore important, in the context of accreditation, that this issue is resolved promptly.

We do not feel that this issue warrants a formal condition being placed on your accreditation, because you have provided us with a receipt from Companies House to evidence that the Articles have been filed and are being processed. However, we expect you to keep us informed – particularly if any difficulties come to light – and provide us with evidence that the new Articles have taken effect as soon as this is available.

Consent to subcontract

ACLT has adopted a delivery model whereby it will outsource key aspects of the Costs Lawyer Professional Qualification to Hook Tangaza.

Clause 13 of the Accreditation Agreement contains provisions relating to subcontracting. Relevantly, it provides:

13.1 The ASP may not assign, transfer, charge, sub-contract, or otherwise dispose of any of its rights, benefits or obligations arising out of this Agreement to a third party without CLSB's prior written consent.

13.2 Where CLSB has given written consent under clause 13.1, the ASP will be responsible for ensuring that the third party has the appropriate capacity and capability to ensure the provision of the CLQ under this Agreement and will agree in writing to any requirements CLSB may have in providing its consent.

13.3 In the event that CLSB provides consent to the ASP to sub-contract, the ASP shall be responsible for the management of sub-contractors and the ASP must ensure their compliance with all aspects of this Agreement and the Scheme Handbook, in particular by ensuring they are contracted (as far as applicable) on legally binding terms not less onerous than the terms set out in this Agreement. The ASP shall remain liable at all times to CLSB for the acts, errors or omissions of any sub-contractor as though they were acts, errors or omissions of the ASP.

13.4 The ASP shall ensure that any sub-contractor appointed by the ASP under this clause discloses its status and relationship with the ASP in any communication with Learners in connection with the CLQ.

13.5 For the avoidance of doubt, where CLSB has given written consent under clause 13.1, such consent does not extend to the right of the ASP to sub-license any of its rights in respect of the Logo. Any use of the Logo, and any other activity that could reasonably associate the sub-contractor with CLSB, shall require prior written consent of CLSB given in respect of the particular sub-contractor.

By this letter, the CLSB gives ACLT consent to subcontract aspects of delivery to Hook Tangaza – as described in its application for accreditation – subject to the following requirements:

- (i) ACLT enters into an agreement with Hook Tangaza, or amends its existing Services Agreement with Hook Tangaza, so as to meet the requirements of clause 13 of the Accreditation Agreement and in particular so that Hook Tangaza is contracted (as far as applicable) on legally binding terms not less onerous than the terms set out in the Accreditation Agreement (as per clause 13.3).
- (ii) ACLT's agreement with Hook Tangaza includes a full waiver and assignment of intellectual property rights in all course-related materials to ACLT, for the purpose of ensuring continuity of delivery.
- (iii) An agreement between ACLT and Hook Tangaza that meets the above requirements is provided to the CLSB within 14 days of the new Articles of Association being published by Companies House or by 30 July 2023, whichever is earlier.

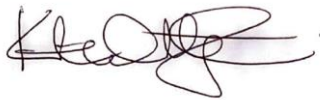
Recommendations

Given that the course will be launched afresh in September 2023, both parties appreciate that there is limited evidence at this stage of how ACLT's new policies and procedures will work in practice. We therefore do not intend to make formal recommendations at this time, but would expect to see updated evidence of how your new processes have been applied at the first annual monitoring point in mid-2024.

For example, as flagged in the Accreditation Panel's final assessment report, we would expect to receive evidence during the annual monitoring process in relation to requirement 7.5 (*marking of assessments is accurate, consistent, and fair*) and requirement 7.6 (*effective mechanisms are used for the monitoring of learner progression and achievement, assessment outcomes and attendance*).

If you have any questions or concerns about the matters covered in this letter, please do let me know. Otherwise, everyone at the CLSB looks forward to working with colleagues at ACLT as the new course launches later this year.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kate Wellington', with a horizontal line underneath.

Kate Wellington
CLSB CEO

Encl: Accreditation Panel final assessment report
Accreditation Agreement for execution

CLSB statement on the implementation of transitional arrangements for Qualifying Experience

April 2023

The CLSB has put transitional arrangements in place to ensure that trainee Costs Lawyers who started the Costs Lawyer Qualification (CLQ) prior to the introduction of the new Training Rules are not disadvantaged.

To ensure all students are treated fairly the following arrangements will apply:

1. Students who are in the final year of the CLQ and will complete the CLQ in 2023 (or shortly thereafter, for example through resitting an examination relating to modules undertaken in 2023) can choose whether to have their Qualifying Experience assessed under the new Training Rules or under the [old Training Rules](#) that applied until February 2023.
2. Students who are not in the final year of the CLQ in 2023 and are, therefore, due to complete the CLQ by the end of 2024 or later will have their Qualifying Experience assessed under the new Training Rules.
3. We are aware that there may be a small group of students who started the CLQ in or before January 2023 for whom the position set out in paragraph 2 could cause difficulties. For example, students may have a current supervisor who does not meet the requirements for a Qualified Person in the new Training Rules (that is, they are not a Costs Lawyer or other authorised and regulated lawyer). Previously, informal dispensation was given by ACL Training in these circumstances, but such arrangements will no longer be available under the new Training Rules.
4. In these cases the following arrangements will apply:
 - a. The student should make arrangements to have a supervisor who meets the Qualified Person requirements as soon as possible, and by the beginning of 2024 at the very latest. (This Qualified Person does not need to be the student's day to day line manager, but must supervise Qualifying Experience for the purpose of the Training Rules).
 - b. The student's current supervisor (who does not meet the Qualified Person requirements) should complete a Qualified Person Statement for the period during which they supervised

the student's Qualifying Experience, providing details of their experience in costs law. The new supervisor (who meets the Qualified Person requirements) should complete a separate Qualified Person Statement for the remainder of the Qualifying Experience period. Both statements should be submitted to the CLSB by the student with the other evidence required on completion of Qualifying Experience.

- c. Students with no eligible Qualified Person in their organisation can request a list of Costs Lawyers willing to act as a Qualified Person.

BOARD DECISION NOTE
Costs Lawyer Standards Board
Date of Decision: 28 June 2023

Issue: Process documentation for assessing Qualifying Experience

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

1. Background information and summary of the issue

This Board Decision Note records the decision-making process in relation to the CLSB taking on responsibility for determining whether trainee Costs Lawyers have met the requirements for Qualifying Experience set out in the [Training Rules](#).

Changes to regulatory arrangements for Qualifying Experience

The CLSB carried out a review of its Training Rules in 2022. The Training Rules establish the requirements for qualifying as a Costs Lawyer. A period of Qualifying Experience has always been a requirement for qualification, although historically the training provider (ACL Training) was responsible for determining whether the criteria for Qualifying Experience had been met by individual qualifiers.

The CLSB [consulted on](#) changes to the Training Rules between 22 August and 17 October 2022 and published a report on the outcome of the consultation on 1 November 2022 (available [here](#)). Changes to Qualifying Experience are covered on pages 9 to 13 of that report and include a decision to shift responsibility for assessing Qualifying Experience to the CLSB; a decision supported by ACL Training.

Following approval from the Legal Services Board, the new Training Rules came into force in February 2022.

Development of a framework for assessing Qualifying Experience

As part of implementing the Training Rules, the executive developed a framework for assessing Qualifying Experience, comprised of process documents, guidance for students, and supporting materials. Documents of this kind would usually be considered by the board at a scheduled meeting. However, under the relevant transitional arrangements, students who met certain criteria would have the option of carrying out their Qualifying Experience under either the old Training Rules or the new Training Rules, and it was important to ensure that the CLSB's arrangements were communicated to students as early as possible so they could work toward the route that best met their needs.

The board therefore considered the following documents by email:

- Qualifying Experience Guidance Note
- Qualifying Experience web FAQs
- Template Qualifying Experience Record
- Template Qualified Person Statement

The board provided feedback and approved these documents by email in March 2023. That decision was recorded in the [minutes](#) of the board's meeting on 29 March 2023 (see item 7.1). At the meeting, the board confirmed its approval of the documents and agreed that no further amendments were necessary.

Subsequent issues for consideration

The executive continued to progress implementation during Q2 of 2023. At its meeting on 28 June 2023, the board received updates on the following workstreams:

- finalisation of online application forms;
- finalisation of the design for a conditional practising certificate;
- implementation of a communications plan;
- development of a supervisor register;
- processing of the first applications from students under the new framework.

This activity generated questions from several students about how the rules applied to their unique circumstances, and two such issues were considered by the board. First, the board discussed how the transitional arrangements applied to students whose Qualifying Experience supervisor did not meet the requirements in the new Training Rules. Second, the board considered the approach that should be taken where a trainee is not in a role/organisation where they have the opportunity to practise the skill of advocacy during their Qualifying Experience as required by the Training Rules (by reference to the [Costs Lawyer Competency Statement](#)).

2. Evidence considered by the Board

- Consultation outcome report on changes to the regulatory arrangements for the Costs Lawyer Qualification
- Feedback from students on the impact of the transitional arrangements on their individual circumstances
- ACL Training's reported experience of assessing Qualifying Experience
- Work experience frameworks used by other approved regulators

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

The executive recommended the adoption of a new policy statement relating to supervision during the transitional period and additional guidance in relation to practising the skill of advocacy during Qualifying Experience.

4. Other factors considered by the Board

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

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

- CLSB independence: A key driver of shifting responsibility for assessing Qualifying Experience from the training provider to the CLSB was to ensure independence of regulatory oversight in relation to competency at the point of qualification. Fair, consistent and robust assessment processes are essential to achieving this aim.
- Furtherance of the regulatory objectives / consumers: Ensuring a robust process for assessing Qualifying Experience is central to promoting the regulatory objectives of (i) encouraging an independent, strong, diverse and effective legal profession; (ii) protecting and promoting the interests of consumers; and (iii) promoting adherence to the professional principles.
- CLSB's financial position: This decision does not impact on the CLSB's financial position.
- Equality and diversity: Part of ensuring that the transitional arrangements for Qualifying Experience do not have an adverse impact upon any existing students relates to ensuring that students with protected characteristics or other diversity markers are not detrimented by the arrangements in a way that is different to other students.
- Data privacy: This decision does not impact on data privacy.

5. Risk assessment

The key risk in developing a new framework for assessing Qualifying Experience is that the changes may impact some students differently to others, causing unfair advantage or detriment to certain groups or individuals. There is also scope for miscommunication or inconsistency in how the rules are applied, due to the shift of responsibility from one body to another, and the fact that students will inevitably be communicating with both of those organisations about the changes.

These risks have been mitigated by working closely with the training provider to (i) agree the principles that will be applied in communicating with students and agree a communications plan; (ii) survey all existing students to identify potential issues with the transition and address those issues before they arise. Given the size of the existing cohort, ACL Training has been able to provide individualised support and assistance to students, in consultation with the CLSB, to ensure that no student is unfairly treated during the transition period.

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

In relation to how the transitional arrangements apply to students whose supervisor does not meet the requirements in the new Training Rules, the board considered and approved

a policy statement (**Annex 1**) setting out how students in particular circumstances would be treated, to ensure fairness and consistency.

In relation to the approach that should be taken where a trainee does not have the opportunity to practise the skill of advocacy during their Qualifying Experience, the board considered and approved guidance – to be published on the CLSB website as part of the Qualifying Experience FAQs – emphasising the importance of practising advocacy during Qualifying Experience but providing practical suggestions for how that experience might be obtained.

The board acknowledged that during the transition period it was likely that other matters would come to light that needed to be addressed promptly to avoid any detriment being caused to students. The board therefore authorised the executive to take decisions on those matters – guided by the principles of clarity and consistency, pragmatism and practicality, and fairness to affected students – reporting to the board on an exceptions basis where appropriate.

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

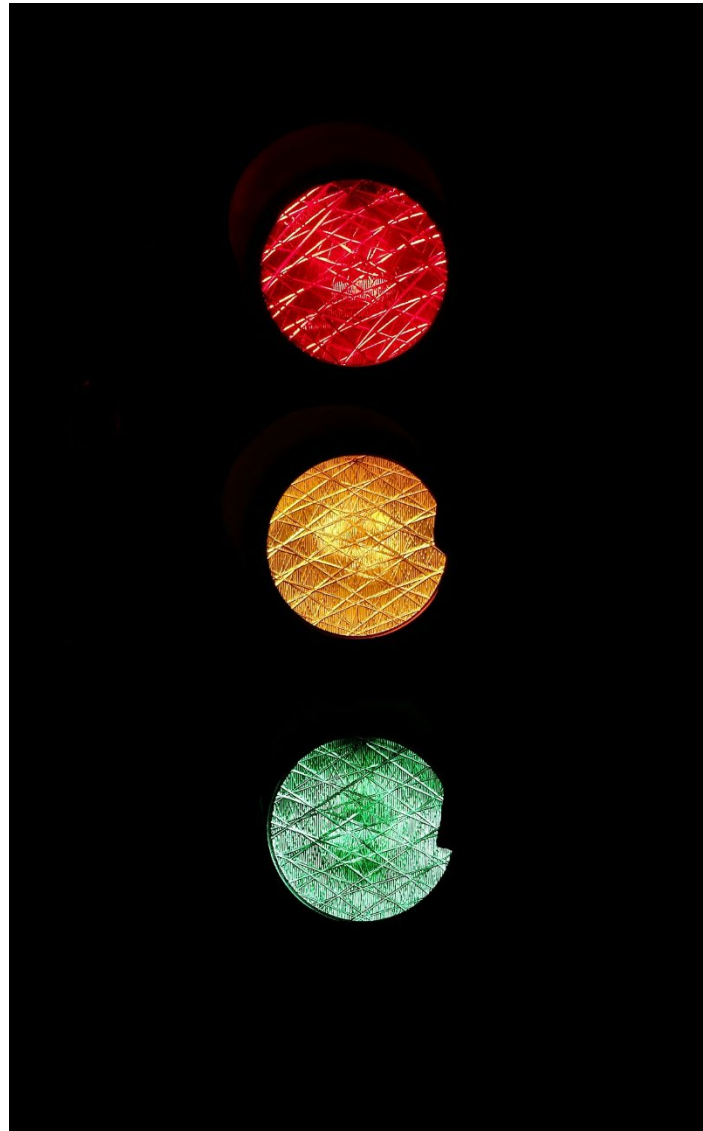
N/A

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

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

Board Decision Note approved by the Board on: 28 June 2023

Policy statement on enforcement and sanctions



DRAFT: 28 June 2023 (version 2)

Costs Lawyer Standards Board

CLSB
|||

Purpose of this policy statement

1. The purpose of this policy statement is to promote proportionate, consistent and fair decision making by the Costs Lawyer Standards Board (CLSB) when considering the conduct of a Costs Lawyer. It supplements two sets of regulations – the Disciplinary Rules and Procedures (DR&P) and the Practising Rules – both of which can be found in the [Costs Lawyer Handbook](#) on the CLSB website.
2. The DR&P set out the types of disciplinary sanctions that can be imposed when a Costs Lawyer breaches our rules. The range of outcomes under the DR&P – which can be imposed by the CLSB or agreed with the Costs Lawyer – include:
 - A warning letter
 - A written undertaking
 - Condition(s) on a practising certificate
 - Payment of a financial penalty
 - Suspension of a practising certificate for a fixed term
 - Permanent revocation of a practising certificate
3. The Practising Rules specify the circumstances in which the CLSB can refuse an application for a practising certificate, revoke a Costs Lawyer’s practising certificate, or impose practising conditions. The Practising Rules also require Costs Lawyers and prospective Costs Lawyers to disclose specified events (such as criminal convictions, financial measures and regulatory breaches) when they apply for a practising certificate and throughout the year. Disclosures can affect a Costs Lawyer’s eligibility for a practising certificate or attract practising conditions.
4. This policy statement will be taken into account by the CLSB when making decisions under the DR&P and/or the Practising Rules in relation to a Costs Lawyer’s conduct. This includes decisions taken by a Conduct Committee or Conduct Appeal Committee in the context of disciplinary proceedings. The policy statement should be read in conjunction with the DR&P, Practising Rules and any other relevant CLSB regulations. The specific provisions of the DR&P and Practising Rules take precedence over this policy statement.

Purpose of the rules

5. The DR&P and Practising Rules seek to:
 - Promote:
 - good practice by Costs Lawyers;
 - public awareness of the standards that can be expected of a Costs Lawyer;
 - confidence that the CLSB will take appropriate action where poor conduct is identified and hold individuals to account; and
 - confidence in the Costs Lawyer profession on the part of all involved in the administration of justice.
 - Protect:
 - consumers;
 - the public interest;
 - the reputation of the Costs Lawyer profession and the CLSB; and
 - the rights of Costs Lawyers to have conduct matters dealt with fairly and promptly.

6. In particular, the purpose of imposing disciplinary sanctions is to protect an infringing Costs Lawyer's current and future clients from poor outcomes, help prospective clients make informed purchasing decisions, and deter additional conduct breaches by the same Costs Lawyer or others in the profession.

Approach to enforcement

7. The CLSB is primarily concerned with taking enforcement action against serious breaches, not those which are merely trivial. Behaviour involving dishonesty, lack of integrity or significant harm to consumers, or posing a high risk to the public interest, to the reputation of the profession or to the administration of justice will always be serious.

8. Whilst the CLSB's core concern is the regulation of Costs Lawyers' professional conduct, in some circumstances it will be appropriate to take action in relation to conduct that occurs outside of practice – the most obvious example being where

a Costs Lawyer is convicted of a criminal offence in their private life. We are particularly concerned with the impact of conduct outside of practice (including in the private lives of Costs Lawyers) where:

- the matter is so serious that it is capable of damaging public confidence in the profession; or
- the behaviour implies a risk to the safe delivery of Costs Lawyer services by the individual in the future.

Mitigation and aggravation

9. Below is a table listing the main factors that we are likely to take into account as mitigating or aggravating a Costs Lawyer’s conduct. These factors – and any other relevant factors specific to the case – will determine the nature and level of sanctions imposed under the DR&P and/or the impact on the Costs Lawyer’s ability to practice under the Practising Rules. The factors in the table can also be used in deciding whether conduct is serious enough to warrant action at all.

Less serious/mitigating factor	More serious/aggravating factor
The conduct was of low risk to the public interest	The conduct was of high risk to the public interest
The conduct was of low risk to the reputation of the profession	The conduct was of high risk to the reputation of the profession
The conduct was of low risk to the administration of justice	The conduct was of high risk to the administration of justice e.g. it led to an obstruction of justice or a court being misled
The conduct was a simple mistake or poor service with no evidence of knowingly or recklessly breaching applicable rules or ignoring ethical issues	There is evidence of dishonesty, lack of integrity, recklessness or deliberate breach
There was no profit made or intention to profit from the conduct	The Costs Lawyer profited or intended to profit from the conduct

There was no loss or detriment to the complainant or third parties	There was loss or detriment to the complainant or third parties
The client was a sophisticated or professional client appropriately advised of risks	There was poor client information and/or client vulnerability was not addressed
The conduct was an isolated incident (unless a very serious one)	There was a pattern of minor or serious failings
The conduct was self-reported and/or remedial action was promptly implemented and steps taken to prevent recurrence	There was no self-reporting and/or no steps were taken to remedy the breach or prevent recurrence
Remorse and genuine insight into the conduct has been demonstrated	No remorse or genuine insight into the conduct has been demonstrated
The Costs Lawyer was junior or inexperienced, or had no control over the circumstances leading to the breach	The Costs Lawyer was senior or experienced, or had responsibility for the circumstances leading to the breach
The Costs Lawyer collaborated with the CLSB and provided full information	The Costs Lawyer did not collaborate or provide information and/or attempted to conceal information
There have been no prior findings relating to the Costs Lawyer by the CLSB or other regulator	There have been prior findings relating to the Costs Lawyer by the CLSB or other regulator
In respect of any prior finding by the CLSB or other regulator, the Costs Lawyer addressed sanctions imposed	There was a failure by the Costs Lawyer to address a previous sanction (for example, comply with a warning letter or pay a financial penalty)
Any criminal conviction was for a low level offence	A criminal conviction was for a more serious offence (including those involving dishonesty or lack of integrity, violence or sexual misconduct) and/or there was a pattern of low level offences

Text below is new for approval

Approach to enforcement relating to competency

10. In some cases, we might become aware of information that indicates a practitioner does not meet the standards of competency expected of an authorised Costs Lawyer, as set out in the [Costs Lawyer Competency Statement](#).
11. The competency of all Costs Lawyers is assessed at the point when they qualify into the profession, through the Costs Lawyer Qualification. However, a lack of competency could arise during a Costs Lawyer's career if, for example, they:
 - fail to keep their technical knowledge or skills up to date;
 - fail to acquire new skills that are necessary for complying with their regulatory obligations in a changing environment, such as becoming a people or business manager, or taking on a new specialism;
 - misunderstand how the principles of professional conduct should be applied in a novel situation;
 - fail to appreciate the scope of their authorisation as a Costs Lawyer when taking on new work.
12. It is unlikely that competency issues will come to our attention in a vacuum. Usually, we will become aware of a potential lack of competency because it is implicit in, or is indicated by, other outcomes such as a poor client experience or a breach of our regulatory rules. A lack of competency might be indicated by, for example:
 - a formal finding of serious professional negligence against a Costs Lawyer;
 - negative observations made by a judge or the Legal Ombudsman;
 - the nature of a complaint made against a Costs Lawyer;
 - the nature of a disclosure made by a Costs Lawyer;
 - failure to demonstrate compliance with the CPD Rules.

A lack of competency might also be evidenced through the presence of one or more negative behavioural indicators, as set out in the [Competency Statement](#) for each skill competency.

-
13. A potential lack of competency will be considered under the DR&P in the same way as any other conduct issue (and will usually be considered together with any related conduct issues).
 14. Where a lack of competency is identified, we will require the Costs Lawyer to take remedial action to develop their competency and correct the issue. We are likely to do this in one or more of the following ways:
 - by supporting the Costs Lawyer to put in place an informal remediation plan, reporting to us as milestones are completed (with a failure to meet milestones, without good reason, being likely to result in additional measures being imposed);
 - by placing conditions on the Costs Lawyer’s practising certificate requiring specified remedial action to be taken;
 - by placing conditions on the Costs Lawyer’s practising certificate requiring them to refrain from offering certain services or acting for certain types of clients until action has been taken;
 - in very serious cases, by making an interim suspension order under DR&P 4, preventing the Costs Lawyer from practising until action has been taken.
 15. We may impose any appropriate condition on a Costs Lawyer’s practising certificate, but the conditions that are most likely to be imposed to remedy a lack of competency are:
 - completion of relevant training within a prescribed time frame;
 - a period of supervision or oversight of the Costs Lawyer’s practice by a qualified person;
 - a period of monitoring of the Costs Lawyer’s practice by the CLSB, for example through obtaining feedback from clients or managers;
 - a requirement for the Costs Lawyer to align their annual CPD objectives and activities with the relevant competency area;
 - a requirement to report on CPD activity more regularly than the usual annual requirement.

16. The approach taken will depend on the extent, nature and seriousness of the competency issue. The following mitigating and aggravating factors are likely to be most relevant in this context (these draw on the general mitigating and aggravating factors in the table above at paragraph 9).

Less serious/mitigating factor	More serious/aggravating factor
The lack of competency is of low risk to the public interest	The lack of competency is of high risk to the public interest
The lack of competency is of low risk to the reputation of the profession	The lack of competency is of high risk to the reputation of the profession
The lack of competency is of low risk to the administration of justice	The lack of competency is of high risk to the administration of justice
The lack of competency is an isolated incident (unless a very serious one)	There is a pattern of minor or serious competency issues that have not been addressed
The Costs Lawyer has reflected on their training and development needs and undertaken appropriate CPD activities	The Costs Lawyer has failed to consider or address their training and development needs in line with the CPD Rules
The Costs Lawyer shows insight into the issue and is proactive in planning and undertaking remedial action	No genuine insight into the issue has been demonstrated and/or the Costs Lawyer fails to take remediation seriously
The Costs Lawyer collaborates with the CLSB and provides full information	The Costs Lawyer does not collaborate or provide information and/or attempts to conceal information

END

Expansion of Competency Statement

Statement of purpose

The CLSB recognises that professional competence is not a fixed and static concept, but rather a dynamic one that is dependent on a range of factors. Authorised practitioners may require competencies that are specific to their job role, area of practice, stage of career, or changes to the law or consumer expectations.

Costs Lawyers must engage in ongoing professional development to ensure they remain competent and up-to-date by reference to their individual role and circumstances. By acknowledging the importance of continuous learning and development, Costs Lawyers can enhance their skills and knowledge, adapt to a changing environment and ultimately provide a better service to their clients.

While the competencies set out in the [Costs Lawyer Competency Statement](#) apply to all Costs Lawyers from the point of qualification, this document sets out the additional or enhanced competencies that are likely to be required as Costs Lawyers progress through their careers. It does this by building on the skills identified in the Competency Statement, focusing on three practising scenarios in which Costs Lawyers are likely to find themselves after qualification, namely being:

- an experienced/specialist practitioner;
- a people manager; and/or
- a business owner.

SKILLS		EXPERIENCED/SPECIALIST PRACTITIONER	
DEVELOPING A SPECIALIST PRACTICE	What is it?	The ability to identify gaps in the market, align one's skill-set with those gaps, and proactively build a client base within a specific area of expertise.	
	Why is it important?	It allows experienced practitioners to differentiate themselves as recognised experts and provide an authoritative service to clients in a specific field, enhancing professional reputation and generating opportunities for growth.	
	How does it help?	Specialising and developing expertise in a specific area has a dual purpose for the individual practitioner and the public interest, by promoting competition, innovation and professionalism.	
		Positive behavioural indicators	Negative behavioural indicators
		<ol style="list-style-type: none"> 1. Identifies emerging trends, industry demands, and areas where specialised expertise is needed 2. Improves and expands knowledge and skills to become a recognised specialist with a unique offering for clients 3. Builds extensive, relevant relationships and networks 4. Shares expertise and opinions to establish credibility and demonstrate thought leadership 	<ol style="list-style-type: none"> 1. Fails to identify or focus on expertise that is aligned to clients' needs 2. Neglects knowledge and skills leading to stagnant or outdated practice 3. Misses opportunities for professional growth 4. Poorly communicates expertise to the market

		5. Provides clients with tailored solutions and exceptional service	
COMMERCIAL AWARENESS	What is it?	The ability to appreciate the business environment in which Costs Lawyers operate, including industry trends, market forces, financial considerations and client needs.	
	Why is it important?	It facilitates the provision of strategic advice and solutions that take account of financial and commercial implications for all stakeholders.	
	How does it help?	People who demonstrate this skill will be able to develop commercially sensible and viable solutions for clients and the business and add value which sets the practitioner apart.	
		Positive behavioural indicators	Negative behavioural indicators
		<ol style="list-style-type: none"> 1. Demonstrates an understanding of key business concepts, financial metrics and market dynamics 2. Stays updated with industry trends, regulatory changes and new challenges that may impact the legal landscape and clients' businesses 3. Provides commercially sound recommendations 4. Actively seeks opportunities to enhance awareness, such as reading business publications, attending industry events or engaging 	<ol style="list-style-type: none"> 1. Fails to grasp the broader commercial context, limiting effectiveness in providing business-oriented advice 2. Overlooks significant market trends, changes or risks relevant to clients 3. Focuses solely on staying up to date with the law, disregarding the importance of staying up to date with relevant business trends, market forces and financial considerations

		in professional development activities.	
MANAGING OWN PERFORMANCE AND CONTRIBUTION	What is it?	The ability to take responsibility for personal development, setting goals, prioritising tasks, and delivering high-quality work, acting as a role model for professionalism and integrity.	
	Why is it important?	It allows experienced practitioners to maximise their potential, demonstrate accountability, and consistently deliver high-quality work which contributes to personal growth, professional development, and alignment with business goals.	
	How does it help?	People who demonstrate this skill will be able to identify relevant continuous learning opportunities and advance their career through effective prioritisation, reflection and improvement.	
		Positive behavioural indicators	Negative behavioural indicators
		<ol style="list-style-type: none"> 1. Establishes clear professional goals and effectively manages time and resources to achieve desired outcomes 2. Engages in self-assessment, seeking feedback and actively pursuing opportunities for professional growth and development 3. Takes responsibility for delivering high-quality work, meeting deadlines and ensuring professional standards are upheld 	<ol style="list-style-type: none"> 1. Fails to set clear objectives for professional development 2. Is unreceptive to feedback, missing opportunities for improvement or disregarding constructive criticism 3. Shifts blame, makes excuses or fails to take ownership of mistakes and shortcomings in performance

		<ul style="list-style-type: none"> 4. Embraces change, adapting to new situations and learning from setbacks 5. Seeks ways to enhance skills, knowledge, and effectiveness through training, mentorship and learning from experience 6. Manages time effectively, including through appropriate prioritisation and delegation 	<ul style="list-style-type: none"> 4. Resists new technologies, processes or organisational changes 5. Lacks motivation for growth, remaining complacent in current knowledge and skills
MENTORING	What is it?	The ability of an experienced practitioner to build a reputation as a go-to subject matter expert by serving as a valuable resource and trusted mentor for other Costs Lawyers. by sharing knowledge and expertise, and providing guidance and support.	
	Why is it important?	It enables knowledge transfer, enhances mutual professional development, supports wellbeing and ethical conduct in challenging situations, and strengthens costs businesses and the profession as a whole.	
	How does it help?	People who demonstrate this skill will be able to share knowledge and expertise in a way that provides guidance and support to others, helping to build networks and contribute to an inclusive professional culture.	
		Positive behavioural indicators	Negative behavioural indicators
		<ul style="list-style-type: none"> 1. Is accessible and responsive to mentees' needs, actively making time 	<ul style="list-style-type: none"> 1. Is unresponsive to mentees' enquiries or consistently fails to

		<p>for others and demonstrating openness to providing guidance and support when required</p> <ol style="list-style-type: none">2. Demonstrates genuine interest in mentees' concerns and questions, listening attentively and seeking to fully understand their perspectives and challenges3. Provides constructive and supportive feedback, offering specific suggestions for growth and development4. Encourages mentees to take initiative, make decisions and take ownership of their professional development5. Collaborates with mentees to set clear, achievable goals that align with their career aspirations and those of the business, providing guidance on how to achieve those goals	<p>allocate time for mentoring activities</p> <ol style="list-style-type: none">2. Demonstrates a lack of attention or interest in mentees' concerns, focusing instead on conveying their own knowledge and experience3. Provides overly discouraging feedback that focuses on pointing out mistakes without offering constructive suggestions for improvement4. Exerts excessive control or insists on specific approaches5. Focuses exclusively on formal mentorship, ignoring the potential benefits of supporting colleagues on discrete issues or tasks
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SKILLS	PEOPLE MANAGER		
PEOPLE ENGAGEMENT AND CULTURE	What is it?	The ability to manage people productively and respectfully by communicating information clearly, actively listening to others, providing feedback and facilitating open and transparent working relationships.	
	Why is it important?	It builds a collaborative and inclusive work environment and encourages understanding and trust, promoting productivity and wellbeing.	
	How does it help?	People who demonstrate this skill will be able to create a positive workplace culture that contributes to ethical conduct, employee engagement and satisfaction, and staff retention.	
		Positive behavioural indicators	Negative behavioural indicators
		<ol style="list-style-type: none"> 1. Expresses thoughts and ideas clearly and positively, generating buy-in from others and enthusiasm for new initiatives 2. Actively listens to others, demonstrates empathy and seeks to understand the perspectives of others 3. Recognises and celebrates team members' 	<ol style="list-style-type: none"> 1. Communicates in a way that results in uncertainty or misunderstandings 2. Disregards input from staff or ignores concerns raised 3. Makes false promises or repeatedly fails to follow through 4. Withholds information or is secretive, creating a culture of mistrust and speculation

		contributions and achievements 4. Encourages open and honest communication, shares information and addresses concerns or issues promptly and sensitively 5. Builds trust by respecting confidentiality	5. Fails to adapt communication style to audience or recipient resulting in ineffective communication and conflict
TEAM BUILDING AND COLLABORATION	What is it?	The ability to create a cohesive and collaborative team environment, building strong relationships among team members, managing conflicts and promoting effective teamwork to achieve common goals.	
	Why is it important?	It helps to enhance productivity, creativity and innovation by enabling individuals to work together effectively as a cohesive unit.	
	How does it help?	People who demonstrate this skill will be able to amplify individual contributions through collective problem-solving and sharing of resources.	
		Positive behavioural indicators	Negative behavioural indicators
		1. Builds trust in the team by promoting transparency and integrity	1. Leaves conflicts or issues unresolved, creating a toxic working environment

		<ol style="list-style-type: none"> 2. Encourages the sharing of ideas, knowledge, and resources 3. Addressing conflicts or issues within the team in a constructive and timely manner, generating healthy resolutions 4. Promotes effective teamwork through clear goal setting, role clarity and encouraging a sense of shared purpose 5. Recognises and celebrates joint achievements to boost morale and encourage a positive team spirit 	<ol style="list-style-type: none"> 2. Fails to build trust among team members, resulting in a lack of cooperation and reduced team performance 3. Displays favouritism or unfair preference to certain team members, or creates an overly bureaucratic or hierarchical team structure 4. Imposes team goals without encouraging a sense of shared purpose and motivation
PERFORMANCE MANAGEMENT	What is it?	The ability to set clear performance expectations for others, provide constructive feedback, evaluate individual and team performance and facilitate professional development.	
	Why is it important?	It promotes a culture of accountability, growth and continuous improvement that optimises individual and team performance, identifies areas for improvement and ensures alignment with business need.	
	How does it help?	People who demonstrate this skill will be able to improve individual and team performance by setting clear expectations	

that are aligned to business goals, and help individuals to identify roles or career paths that are well-suited to their ambitions and attributes.

Positive behavioural indicators

1. Sets clear performance goals that are specific, measurable, attainable, relevant, and time-bound
2. Conducts fair and objective performance appraisals based on agreed-upon criteria and provides actionable and achievable points for development
3. Collaborates with individuals to create personalised development plans that address skill gaps, develop strengths and support career growth
4. Acknowledges and rewards outstanding performance to motivate and reinforce positive behaviours and achievements

Negative behavioural indicators

1. Sets vague or unrealistic performance expectations, leading to confusion and lack of direction
2. Conducts appraisals which are biased or critical rather than fair and objective, leading to an unfair and demotivating process
3. Fails to invest in employee development and growth, resulting in stagnant skills and decreased job satisfaction
4. Shies away from difficult conversations or avoids responsibility for addressing poor performance

CONFLICT RESOLUTION	What is it?	The ability to identify a conflict and its underlying cause at an early stage, and facilitate open communication and de-escalate tensions to find mutually agreeable solutions.	
	Why is it important?	It maintains a safe and positive workplace environment, promotes healthy relationships and fosters productivity and collaboration by minimising the negative impact of conflict on individuals and teams.	
	How does it help?	People who demonstrate this skill will be able to reduce workplace disruption and mitigate employment related risks, allowing teams to focus on achieving business goals.	
		<p style="text-align: center;">Positive behavioural indicators</p> <ol style="list-style-type: none"> 1. Is actively involved in the team, so that conflicts and concerns are recognised and addressed before they become embedded or escalate 2. Listens carefully to all parties involved, seeking to understand their perspectives and concerns without judgement 3. Encourages collaborative problem-solving, where all parties work together to find mutually beneficial solutions 	<p style="text-align: center;">Negative behavioural indicators</p> <ol style="list-style-type: none"> 1. Sees conflict resolution as the sole responsibility of the people directly involved, allowing conflicts to escalate and negatively impact wider relationships and productivity 2. Shows bias or favouritism towards certain individuals or outcomes, undermining the fairness and impartiality of conflict resolution 3. Adopts a win-lose mentality, where one

		<ol style="list-style-type: none"> 4. Demonstrates empathy and emotional intelligence to understand and manage emotions – including their own emotions – effectively during conflict situations 5. Recognises when assistance is needed from an independent party 	<p>party's interests are prioritised over finding mutually beneficial solutions</p>
LEADERSHIP DEVELOPMENT	What is it?	The ability to identify and nurture leadership potential in others by offering opportunities and encouragement to develop essential leadership skills, competencies and behaviours, and by supporting career advancement.	
	Why is it important?	It ensures that capable individuals can fill key leadership positions when needed, enables employees to reach their full potential, enhances job satisfaction and engagement, and contributes to the success of a business by encouraging a culture of continuous learning and improvement.	
	How does it help?	People who demonstrate this skill will be able to make a valuable contribution to staff retention and recruitment, succession planning and people development to help their business grow and provide a high quality of service to clients.	
		<p>Positive behavioural indicators</p> <ol style="list-style-type: none"> 1. Seeks or creates relevant training opportunities for 	<p>Negative behavioural indicators</p> <ol style="list-style-type: none"> 1. Exerts excessive control and closely supervises

		others to enhance professional capabilities	team members, inhibiting their autonomy and growth
		2. Identifies appropriate opportunities to allocate challenging tasks and responsibilities to stretch performance, promoting growth and the development of new skills	2. Fails to recognise and address individual development needs and aspirations, stunting professional growth
		3. Appreciates and nurtures different types of talent and potential	3. Provides insufficient feedback on performance and development areas
		4. Actively builds supportive relationships with colleagues at all levels	4. Blocks opportunities for growth and career advancement within the business
		5. Creates a culture of professional development and continuous learning	5. Builds a team that merely replicates the skills, traits or backgrounds of existing leaders
			6. Prematurely rejects new ideas or innovations from more junior team members

SKILLS		BUSINESS OWNER	
BUSINESS LEADERSHIP	What is it?	The ability to inspire, guide and influence others within the business by setting a clear vision, establishing a positive work culture, making appropriate decisions and effectively managing resources to drive the business forward.	
	Why is it important?	It sets the direction for the business, motivates employees and creates an environment conducive to productivity and growth.	
	How does it help?	People who demonstrate this skill will be able to make a valuable contribution to building a successful and professional costs business that can adapt to challenges and engage with new opportunities.	
		Positive behavioural indicators	Negative behavioural indicators
		<ol style="list-style-type: none"> 1. Demonstrates a clear vision for the business and effectively communicates it to the team and external stakeholders 2. Makes informed decisions based on careful evaluation of short-term and long-term implications 3. Recognises and mitigates key business and regulatory risks, including by establishing effective internal systems and processes 4. Appropriately staffs client matters 	<ol style="list-style-type: none"> 1. Is indecisive or slow to react, leading to uncertainty and missed opportunities 2. Fails to properly resource the business' various operations 3. Resists or rejects necessary changes, hindering progress and adaptability within the organisation 4. Engages in unethical conduct, compromising professional standards and eroding trust within the

		<ul style="list-style-type: none"> 5. Nurtures talent and creates opportunities for professional growth within the business 6. Positions the business to adapt to change, embracing new ideas and technologies, and demonstrating resilience in the face of challenge 7. Upholds professional integrity and standards to build confidence in the business 8. Ensures the business is appropriately constituted and meets its reporting and regulatory obligations 	organisation and profession
FINANCIAL MANAGEMENT	What is it?	The ability to effectively manage and control financial resources within the business including through budgeting, monitoring cash flow, analysing financial data, and ensuring compliance with regulatory requirements.	
	Why is it important?	It creates financial stability and mitigates financial risks to the business and its clients, as well as supporting business growth by helping to identify opportunities for improvement and investment.	
	How does it help?	People who demonstrate this skill will be able to contribute to strategic planning and resource allocation by optimising cash flow, analysing key financial indicators and managing risk.	
		Positive behavioural indicators	Negative behavioural indicators

1. Develops comprehensive financial plans aligned with the business' strategic goals
2. Puts in place and oversees appropriate systems for maintaining accurate financial records and using appropriate accounting practices
3. Creates realistic budgets and regularly monitors financial performance against projections
4. Analyses financial data to identify trends, make informed decisions and drive improvements
5. Effectively manages cash flow, optimising working capital and maintaining adequate reserves
6. Ensuring compliance with financial regulations, implementing internal controls, and mitigating financial risks
7. Identifies and addresses gaps in financial knowledge

1. Neglects strategic financial planning, leading to inadequate resource allocation or financial instability
2. Keeps inadequate financial records, resulting in incomplete or unreliable financial information
3. Fails to create budgets or monitor financial performance, leading to poor financial control and decision-making
4. Creates liquidity issues and difficulties meeting financial obligations through poor management of cash flow
5. Ignores financial regulations, leading to legal and reputational risks for the business and financial risks for clients

CHANGE MANAGEMENT	What is it?	The ability to adapt successfully to new external and internal circumstances and think creatively to address challenges and embrace opportunities.	
	Why is it important?	Being open to change, flexible and capable of generating creative solutions will enable business growth and success by anticipating and preparing for change, staying ahead of emerging trends and fostering innovation.	
	How does it help?	People who demonstrate this skill will be able to work through novel situations such as technological advancements, legal reforms or shifts in client expectations and minimise disruptions, ensuring smooth business operations, to position the business as an industry leader.	
		Positive behavioural indicators	Negative behavioural indicators
		<ol style="list-style-type: none"> Embraces and promotes a culture of ongoing reflection and improvement, encouraging innovative thinking within the business Demonstrates the ability to adapt quickly to new circumstances, adjust strategies and processes, and effectively respond to evolving client needs and industry trends Actively seeks new knowledge, staying updated 	<ol style="list-style-type: none"> Demonstrates reluctance or hesitancy in accepting and implementing necessary changes, hindering progress and innovation Works in isolation, not seeking input or feedback from others, and missing out on diverse perspectives that could stimulate creativity and encourage adaptability Imposes change on others without appropriate

		<p>on industry developments, and investing in professional development to enhance skills and adapt to change</p> <ol style="list-style-type: none"> 4. Takes a proactive approach to identifying and addressing challenges, and embraces creativity in problem-solving processes 5. Is willing to take calculated risks, explore new opportunities and step outside of comfort zones to pursue innovative approaches and business growth 6. Maintains a positive attitude in the face of setbacks or failures, learning from experience and using them as fuel for continuous improvement and adaptation 7. Is sensitive to the impact of change on others and generates enthusiasm and understanding around organisational changes 	<p>engagement and consultation</p> <ol style="list-style-type: none"> 4. Fails to recognise and properly manage the risks associated with change 5. Neglects opportunities to invest in acquiring new skills and knowledge necessary for adaptation and creativity
<p>Business development, marketing and customer service and client relationships are interconnected. Effective coordination and alignment between business development, marketing, customer service and client relationships can lead to a comprehensive approach to business growth and success.</p>			

<p style="text-align: center;">BUSINESS DEVELOPMENT</p>	<p>What is it?</p>	<p>The ability to implement strategic initiatives to cultivate new business opportunities and enhance the overall growth and profitability of the business, by identifying and pursuing potential clients, building new partnerships and exploring avenues for revenue generation.</p>	
	<p>Why is it important?</p>	<p>By proactively seeking new opportunities and expanding the client base, business owners can tap into new markets, increase their visibility and ensure their service offering is aligned to client needs.</p>	
	<p>How does it help?</p>	<p>People who demonstrate this skill will be able to identify and nurture new clients, partnerships and opportunities and adapt services to meet evolving demands, leading to increased revenue, improved market position and long-term sustainability.</p>	
		<p style="text-align: center;">Positive behavioural indicators</p> <ol style="list-style-type: none"> 1. Actively seeks out networking opportunities and engages with potential clients and strategic partners to build relationships and generate leads 2. Identifies potential markets, unmet client needs and emerging trends to allow for strategic planning 3. Develops strong professional connections and encourages long-term relationships with clients, industry professionals and referral sources 	<p style="text-align: center;">Negative behavioural indicators</p> <ol style="list-style-type: none"> 1. Fails to articulate business development goals and strategies, leading to a lack of coordination and inability to measure success 2. Poorly prioritises business development activities, missing out on potential business growth opportunities 3. Fails to understand client needs, not tailoring services to meet specific requirements, and lacking a client-centric approach in

		<ul style="list-style-type: none"> 4. Demonstrates clear and persuasive communication skills to articulate the values of the business and negotiate instructions 5. Is open to learning and adapting to changes in the costs landscape, staying updated on industry developments and enhancing expertise to better serve clients and identify new opportunities 6. Supports staff at all levels to engage in business development activities 	<p>business development efforts</p> <ul style="list-style-type: none"> 4. Has inconsistent or infrequent communication with clients or referral sources 5. Is dependent on a limited number of clients, creating potential revenue risks 6. Is complacent in capitalising on new business development strategies, ignoring industry trends and advancements
MARKETING	What is it?	The ability to... Marketing covers the activities and efforts by business owners to promote the services of their business, increase brand visibility, and attract new clients.	
	Why is it important?	Marketing creates awareness about the services offered, establishes a strong brand presence and differentiates the business from competitors.	
	How does it help?	People who demonstrate this skill will be able to reach a wider audience, showcase expertise and attract potential new clients by communicating about service, value, professionalism and unique selling points.	
		Positive behavioural indicators	Negative behavioural indicators

		<ol style="list-style-type: none"> 1. Develops a comprehensive marketing strategy aligned with business goals, target audiences and the competitive landscape 2. Creates a compelling brand identity, consistent messaging and a unique value proposition to help clients understand the business' offering 3. Understands client needs, preferences and trends to tailor marketing efforts effectively 4. Engages with indicators of quality, such as comparison websites, to help clients make informed choices 	<ol style="list-style-type: none"> 1. Publishes misleading or incomplete information about the business' services, undermining professionalism and risking poor client outcomes 2. Wastes resource on marketing initiatives that do not take into account the target market's needs, preferences and behaviours
CUSTOMER SERVICE AND CLIENT RELATIONSHIPS	What is it?	The ability to establish and nurture positive connections with existing clients, ensuring clients' expectations around the service they will receive are met, and often exceeded.	
	Why is it important?	Building and maintaining strong relationships with clients and delivering a high-quality service establishes trust, loyalty and a strong reputation through client satisfaction and referrals.	
	How does it help?	People who demonstrate this skill will be able to understand and respond to their clients' needs, deliver exceptional service and establish client loyalty.	
		Positive behavioural indicators	Negative behavioural indicators

1. Proactively anticipates client needs and expectations and provides expert advice and guidance
2. Collaborates effectively with clients and experts to deliver solutions and adapts to changing circumstances to offer alternative options when necessary
3. Builds strong relationships with clients based on trust and reliability and seeks feedback from clients to improve service delivery
4. Takes responsibility for mistakes or misunderstandings, promptly addressing any issues and offering appropriate resolutions
5. Effectively manages expectations by clearly explaining the process, cost and timeframe involved, highlighting potential factors that may impact them and providing regular updates as necessary

1. Ignores client feedback, failing to reflect or change approach
2. Demonstrates a reactive approach to client needs, failing to manage expectations upfront
3. Struggles to build positive working relationships with colleagues, leading to communication breakdowns and hindering effective client service
4. Is complacent in building a strong relationship with the underlying client when an instruction comes from an intermediary client, such as a solicitor or barrister

6. Maintains ethical standards and upholds professional integrity in client interactions

By email only

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8 June 2023

Dear Kate

2023 Annual Regulatory Performance Assessment: Information request

1. This letter explains the process and timelines for our 2023 assessment and sets out the information that we will require from the CLSB.
2. The new regulatory performance framework came into force in January 2023. This will be the first assessment under the new framework and will cover the period from October 2022 to May 2023. We have engaged with regulators bi-laterally and at an all-regulator Q&A event about how to prepare for the new approach and we trust that these discussions have been helpful.

Scope

3. Our annual assessment information request asks **all regulators** to provide assurance about their performance against two of the three new standards - **well-led** and **effective approach to regulation**. In relation to these standards we will particularly be seeking assurance about the following common issues we identified in our 2022 assessment:
 - transparency of decision-making
 - capacity and capability
 - use and deployment of evidence
 - levels of proactiveness in supervisory work, and
 - resources, capability and capacity for enforcement
4. We will also be seeking assurance about how regulators are implementing the ongoing competence and consumer empowerment statements of policy.

Information request

5. Your response to our information request should include:
 - Your assurance mapping or other analysis and/or explanation as to how you provide your Board with assurance that the CLSB demonstrates the new framework's characteristics and, adding these together, meets the standards.
 - Supporting evidence including links to relevant published documents (eg Board papers). There is no need to provide large amounts of information. We are seeking the documents that you judge as the most relevant documents and evidence to provide assurance.
6. We expect that regulators will be frank and open in sharing information with the LSB and that this will be available in documents already provided or that have been published. You should assume that we will be familiar with your published board papers and other key corporate documents and therefore signposting will be sufficient. Where necessary, confidentiality will be maintained in how we present information in our assessment. Please identify any documents you consider to be confidential when responding to this request.
7. In November 2022, we assessed the CLSB as having provided the following and consequently we agreed actions that you would undertake, and we have monitored your performance against these actions:
 - sufficient assurance against our previous framework's well-led, regulatory approach, authorisation, enforcement, and supervision standards.
8. For this year's assessment we ask that you provide assurance as to how the CLSB:
 - demonstrates the characteristics of each of the **well-led** and **effective approach to regulation** standards including responses to our specific questions set out in the Annex;
 - has addressed the specific areas for improvement under the **operational delivery** standard relating to authorisation, supervision, and enforcement that we identified in our 2022 assessment including responses to our specific questions set out in the Annex; and
 - responses to any other specific questions set out in the Annex.
9. When preparing your response, in line with the well-led standard and your Board's role in monitoring the CLSB's performance, we would be happy for you to use information in the form that you have already provided to your Board, supplemented by any additional information you consider necessary to provide assurance.

10. Our assessment of your performance will take account of information that we have gathered since our last annual assessment in November 2022. This will include: our regular contacts such as relationship management meetings, CEO and Board-level meetings; applications submitted to us for approval; any information that you may have provided since the last assessment round; and information from other sources including publicly available material.
11. **Please provide us with your response to this information request by 28 July 2023.**

The LSB's assessment

12. Our assessment will also use a narrative format and our new grading system. As we did in our 2022 assessment, we will apply a red/ amber/ green rating against each standard, but not against each characteristic. However, to help regulators understand the LSB's assessment, we will include references to individual characteristics.
13. As we have requested that all regulators provide assurance against the whole of the well-led and effective approach to regulation standards, our assessment will include full assessments of your performance against them.
14. In the case of the operational delivery standard, we have only requested that regulators provide assurance on issues relating to authorisation, supervision and enforcement that were noted in last year's assessment and any that have arisen since.

Next steps

15. As we have previously, we will work with you to agree any new actions and milestones stemming from our assessment. We will ensure that you have time to review and comment on our final assessment before its publication in November.
16. If you have any questions about the assessment process, the request for information set out in this letter and its annex, or the deadline for response please either contact me or Steve Violet, your relationship manager.

Yours sincerely



Angela Latta,
Head, Performance and Oversight

Annex: Information request for CLSB

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

Please provide assurance to the LSB on how the CLSB meets this standard including in relation to:

- transparency of decision-making
- capacity and capability
- resources, capability and capacity for enforcement

As part of your response please also answer the specific questions below.

1: Please provide an update on the progress of CLSB's digital workplan.

2: Please provide examples of CLSB's learning from its own work and the work of others (including in respect of how it engages with stakeholders).

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

Please provide assurance to the LSB on how the CLSB meets this standard including in relation to:

- use and deployment of evidence
- levels of proactiveness in supervisory work

As part of your response please also answer the specific questions below.

3: Please provide a brief overview of the scoping work CLSB has undertaken in relation to entity regulation.

Questions on progress on empowering consumers statement of policy:

4: With reference to the [empowering consumers policy statement](#), please provide information on any relevant work you have undertaken in the last year to ensure the **provision of useful information** that best enables effective consumer choice **on the quality of legal services providers** to consumers.

5: Please set out when you expect to have met the specific expectations in the empowering consumers policy statement.

6: Please provide an update on your work to look at how general consumer protection legislation applies to legal services provided by Costs professionals

serving individual consumers (as set out in your submission to the LSB in July 2022)

Question on progress on ongoing competence statement of policy:

7: Please provide any relevant updates on progress since January 2023 toward meeting the outcomes in the ongoing competence policy statement, including any changes to your expected timeline for meeting the outcomes.

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

[Authorisation]

8: Please provide an update on work to implement CLSB's amended training rules.

9: Please provide an overview of the work undertaken by CLSB's Accreditation Panel in 2023.

[Enforcement]

10: Please update us on any enforcement action undertaken by the CLSB during the relevant period.

Minutes of the ACL Council Meeting
held on 28 February 2023
 via Teams



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

Also present: Carol Calver (CC) Head of Operations

The meeting started at 10:05

Item	
1	Welcome and apologies
1.1	Apologies were received from Stephen Averill and Stephanie McBride DBV welcomed all to the meeting.
2	Minutes of the council meeting held on 18 January 2023
2.1	It was unanimously agreed that the draft minutes of 18 January were an accurate reflection of the meeting. It was agreed that items 4.4, 5.2, 7.1, 8.2, 9.3, 9.5 and 10.1 should be redacted / partially redacted before publishing on the website.
3	Actions arising from the council meeting held on 18 January 2023
3.1	Actions were reviewed and updated.
4	Chairman's Report
4.1	AGM – JR confirmed a successful AGM and thanked Council for their attendance. The meeting was well attended by the membership with a survey subsequently sent to all members for feedback. The consensus was that members would have preferred a different time (later evening) for the AGM due to work or family conflicts. This will be taken into account for future meetings. Otherwise, members were happy with the level and range of information shared.
4.2	JR detailed his attendance at the annual ILFM (Institute of Legal Finance Management) awards lunch. JR met with Alan Kershaw, incoming head of LSB with JR confirming the solid relationship between the ACL and the LSB.
4.3	<i>Item 4.3 redacted due to confidentiality.</i>
4.4	JR acknowledged a request from the AGM for an Hourly Rates Survey of the membership and whilst this would be incredibly useful it may be difficult to collect data and that if sufficient data cannot be collected (including non-ACL members) it may distort the final analysis. However, the potential usefulness of a banded or average hourly rate per type of work was recognised with JR asking Council to consider how to initiate this.
5	PR & Marketing Committee Report
5.1	AD reported back on the CLSB survey to members who do not hold ACL membership – responses can be categorised into: <ul style="list-style-type: none"> • Employers no longer pay for membership • Lack of valuable benefits • Insufficient representation of CL profession • Cost of membership

	Initial actions to consider <i>redacted due to confidentiality</i> increasing awareness of benefits package and wider use of SM channels to promote the ACL overall.
5.2	Manchester conference keynote speaker confirmed as Erica Bedford. Dominic Regan, Rupert Cohen and Shilpa Shah have also confirmed slots. ACLT and the CLSB have confirmed a joint speaker slot. Council discussed potential speakers for the remaining slots with PR-AM to continue to contact as appropriate.
5.3	PR-AM confirmed consultation with Black Letter regarding a list of topics that would need full approval from the PR-AM committee before publishing in the eBulletin, confirming no 'blanket' approach and that each article will be reviewed on a case-by-case basis.
5.4	DBV confirmed attendance of Council at the upcoming round table event '10 years of Jackson Reforms'
5.5	DBV reported on plan for collaboration with KE Costs for Social Mobility during 2023.
6	Policy Committee Report
6.1	KK has requested from Judge Leonard that either himself or JC are added to the Court of Protection E-Bill Working Party. ACL have received a number of enquiries regarding the Excel Bill on the website.
6.2	KK has spoken with the Access to Justice Foundation and is working with them to raise awareness of Pro Bono Costs Orders. ATJF to contribute to an article for the eBulletin and have been invited as a sponsor and speaker slot at the LAG Spring Seminar.
6.3	Policy attended a Terms of Reference review with the MoJ for the upcoming Civil Legal Aid Review. Due to general concerns regarding long term impacts Policy aim to meet with the LAG (Bob and / or Paul) to formalise the response from the ACL.
7	Education Committee Report
7.1	VMH detailed an initial discussion had taken place with Sarah Hutchinson (ACLT Chair) regarding Chartered Status and that SH was in agreement and will discuss with RAS and feedback.
7.2	VMH confirmed the intent of ACLT to promote the new course along with the CL profession as a whole and to work with HTG on Marketing via round tables, social media and university law fairs etc. Education cont.....
7.3	ACLT are pleased with the reduction in qualifying experience from 3yrs to 2yrs as confirmed by the CLSB, making the course more attractive and accessible.
7.4	ACLT have confirmed initial intake figures for Jan 23 of 53 students - <i>redacted due to confidentiality</i> .
7.5	ACLT have asked if the ACL has any data on retention of membership (specifically female v male) and VMH has confirmed that Legal Aid is still part of the core course.
7.6	LR detailed a demo of the updated Online Learning Environment – acknowledging the improvement to the system.

7.7	ACLT have proposed the creation of a Cost Lawyer Apprenticeship and are looking for firms to work with for a pilot scheme – notice will be put into the eBulletin.
8	Finance & Internal Policy Committee Report
8.1	CC confirmed the proposed 2023 budget had been signed off and agreed by the Council.
9	Operations Report
9.1	CC proposed ticket and sponsorship prices for the Manchester conference – Council signed off on proposals. Sponsorship invites to be sent out by CC CC detailed a suggestion from membership that cost of conference is not enough less to encourage full membership – CC to see if conference data supports this and report back.
9.2	CC provided an update on the AGM survey feedback with the majority of respondents being satisfied. Council acknowledged the suggestions of different timings and real time polls etc.
9.3	Council discussed the results of operational analysis regarding potential discounts for the LAG. JR advised this needs to go to the wider membership for a formal vote – <i>redacted due to confidentiality</i> .
11	Any other business
11.1	KK – updated Council on plans for further Newcastle Regional Meetings for 2023, with expected meetings in May and Nov/Dec. JR confirmed plans for another London Regional Meeting in May. CC confirmed the creation of a Regional Meeting schedule to share with members via the eBulletin.
11.2	VMH detailed how <i>redacted due to confidentiality</i> the ACL had not been <i>redacted due to confidentiality</i> closely involved with the Women in Costs meetings. Council agreed the ACL should work to support future events and will discuss with Erica Bedford.
12	Date of next meeting
12.1	Next meeting scheduled for 28 March 2023 – 10:00 to 12:00 via Teams. There being no further business the meeting ended at 11:35

Minutes of the ACL Council Meeting
held on 28 March 2023
 via Teams



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

Also present: Carol Calver (CC) Head of Operations

The meeting started at 10:05

Item	
1	Welcome and apologies
1.1	Apologies were received from Victoria Morrison-Hughes and Laura Rees. DBV welcomed all to the meeting.
2	Minutes of the council meeting held on 28 February 2023
2.1	It was unanimously agreed that the draft minutes of 18 February were an accurate reflection of the meeting. It was agreed that items 4.3, 5.1, 7.4, 9.3 & 11.2 should be redacted / partially redacted before publishing on the website.
3	Actions arising from the council meeting held on 18 February 2023
3.1	Actions were reviewed and updated.
4	Chairman's Report
4.1	Council reviewed the draft of the ACL Business Plan for 2023. Final changes agreed and document fully signed off for 2023 – this will be shared with the membership via a direct email and the eBulletin.
4.2	JR detailed how Kris Kilsby's term on Council is due to end on 30/04. Council thanked KK for his dedication and contribution to date and hoped he would be successful in re-election. Operations to open nominations by the end of March, with voting complete by the end of April. KK responded with his wish to remain on Council to continue the momentum with Policy that he felt had been delayed over the covid period.
5	PR & Marketing Committee Report
5.1	DBV fed back on the final analysis data from the CLSB v ACL survey. The main items for improvements have been identified as cost and benefits of membership. PR-AM are confident the plans already under review for <i>redacted due to confidentiality</i> improved engagement and representation of the ACL members will be successful with an increase in subscriptions.
5.2	DBV detailed further work was required to create and promote 'bite-sized' CPD events for the membership.
5.3	<i>Item 5.3 redacted due to confidentiality.</i>
6	Policy Committee Report
6.1	KK reported on the awaited publication of the Fixed Recoverable Costs Extension Rules, with JC reporting the intent for this to be published 31/03. Policy Sub-Committee will review and feed

	back to Council and Membership.
6.2	KK confirmed he had spoken with Judge Leonard regarding the Court of Protection eBill pilot, the pilot has been deemed a success and there is presently no intention to re-convene the working party. Feedback to the Senior Costs Judge has been requested from the ACL. KK therefore proposed to request specific feedback from the membership via a survey and the SiG platform.
6.3	KK has corresponded with the FSB who have concerns that the introduction of Fixed Costs will prevent them gaining access to justice. FSB to explore the Litigation in Person Scheme. Policy to monitor to see if a working relationship could be formed between the FSB and ACL members.
6.4	Policy have met with the consumer arm of the LSB, specifically discussing promotion of consumer interest and how the ACL can support this. The LSB Consumer Panel (LSCP) have since invited the ACL to participate in the Standardisation of Consumer Information Roundtable event in April. The ACL will work with the CLSB to ensure we attend/have a presence.
7	Education Committee Report
7.1	No Education update as apologies were received from VMH and LR.
7.2	CC informed Council on how the ACL were working with ACL Training and the CLSB in the creation and promotion of a Qualified Person Supervisor register to support students who have no direct access within their own organisation.
8	Finance & Internal Policy Committee Report
8.1	SA confirmed the intent of Internal Policy to review the Articles and By-Laws of the ACL. Due to the complexity involved an initial review of this will take place by the end of May with full completion anticipated by September.
8.2	SA detailed how Finance will continue to review Management accounts for the ACL, adjusting where necessary between budgeted and actual. SA also detailed how the investment funds for the Association had fluctuated slightly in the last 3 months due to financial uncertainty in both the US and the UK, but how they were generally stable and we were not expecting any significant changes in the near future.
9	Operations Report
9.1	Council signed off the suggested email correspondence to members in consultation of changes to ACL Logo usage and a suggestion for subsidised LAG Seminar attendance for LAG members. Operations will complete this before 31/03.
9.2	CC provided an update on the Manchester conference, confirming an increase in sponsorship places, now totaling 1 x Main (Kings), 1 x A (12KBW), 4 x B (Clayton, Costs Master, Miller Grace & CLSB/ACL Training & 1 x lunch and post-conference drinks (PIC Legal).
9.3	CC informed Council that due to having a professional photographer at the Manchester Conference (Student Certificate Awards) the intent was for updated Council photographs for use by BL, including group shots as all Council were likely to be present.
10	Any other business
10.1	<i>Item 10.1 redacted due to confidentiality.</i>

11	Date of next meeting
11.1	Next meeting scheduled for 20 April 19:00 to 20:00 in person at Emirates, Old Trafford, Manchester. There being no further business the meeting ended at 11:25

Minutes of the ACL Council Meeting
held on 20 April 2023
in person at Hilton Garden Inn, Manchester



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

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

The meeting started at 19:30

Item	
1	Welcome and apologies
1.1	Apologies were received from Julian Caddick. JR welcomed all to the meeting.
2	Minutes of the council meeting held on 28 March 2023
2.1	It was unanimously agreed that the draft minutes of 28 March were an accurate reflection of the meeting. It was agreed that items 5.1, 5.3 & 10.1 should be redacted / partially redacted before publishing on the website.
3	Actions arising from the council meeting held on 28 March 2023
3.1	Actions were reviewed and updated.
4	Chairman's Report
	This was omitted due to discussion on Manchester Conference following day.
5	PR & Marketing Committee Report
	This was omitted due to discussion on Manchester Conference following day.
6	Policy Committee Report
	This was omitted due to discussion on Manchester Conference following day.
7	Education Committee Report
7.1	Council discussed the upcoming ACL Training course approval from the CLSB, this is expected shortly.
7.2	VMH confirmed there is a waiting list for Sept 23 course applications.
8	Finance & Internal Policy Committee Report
	This was omitted due to discussion on Manchester Conference following day.
9	Operations Report
9.1	A detailed discussion regarding final points for the Manchester conference took place, detailing numbers, logistics, speakers and operational support for the day.

10	Any other business
10.1	VMH highlighted that a firm who specialised in holding client money has expressed an interest in offering a discount to the membership. VMH to investigate.
12	Date of next meeting
12.1	Next meeting scheduled for 30 May 10:00 to 12:00 via Teams. There being no further business the meeting ended at 20:30

Complaints Procedure Audit 2023

Board report on outcomes

17 May 2023

The third annual audit of complaints procedures was carried out during April, earlier than in the past, to align the audit with changes to the LeO Scheme Rules from 1 April and therefore avoiding firms having to make multiple revisions to their procedures. This paper summarises the outcomes and future work arising from the audit.

Outcomes summary

1. 19 Costs Lawyers were selected for audit. All of them had complaints procedures noted as being non-compliant in some way with the [Guidance Note on Complaints Procedures](#) when they applied for a 2023 practising certificate.
2. The table below shows how many of the 19 audited did not comply (or had out of date information) in each of the areas checked.
3. At 17 May the responses to the audit¹ were:
 - a. 7 – submitted revised procedures which now comply (4 based on the model procedure in our Guidance Note)
 - b. 2 – submitted revised procedures which require further changes (1 based on the model)
 - c. 10 – acknowledged email, but have not submitted revised procedures to date (this is not required, however their procedures will be checked again during the next practising certificate renewal round)
4. The additional information gathered about practise areas and provision of services to consumers during last year’s PC renewals means that those who are required (in compliance with consumer rights legislation) to provide information on ADR procedures to clients are easily identified. Often this has meant reminding those who have deleted the optional paragraph in the model that it should be reinstated.

Audit checklist – Number of policies *not* complying with Guidance

Section A: Requirements		
1	State date effective or last updated	14

¹ Reminder emails were sent to 5 Costs Lawyers who had not responded a few days before the deadline of 21 April. One Costs Lawyer required repeated emails, and only responded on 16 May after a letter was sent to his house (on 3 May). His email account had been hacked and resolving this, complicated by building work at his home, meant he did not see the emails.

2	Be clear and simple with as few steps as possible	1
3	Identify the person to whom the complaint should be made	10
4	Be reasonable, fair, proportionate and responsive	0
5	Encourage complaints to be made as soon as possible, and set out the time limits for raising unresolved complaints with CLSB and the Legal Ombudsman	18
6	State clearly the timeframe for a complaint to be resolved	4
7	Advise that if the complainant is not satisfied with the outcome of the complaint under the complaints procedure, or the complaint has not been resolved within eight weeks, then the complainant has the right to refer a service complaint to the Legal Ombudsman, or refer a conduct complaint to the CLSB, and provide the timeframes for referral	11
8	Provide [correct] contact details for the Legal Ombudsman and CLSB	19
	CLSB or LeO or both missing	15
	Out of date contact details	7

Future work

5. The complaints procedures for the 12 Costs Lawyers where a revised compliant procedure has not yet been seen will be checked after submission with applications for a 2024 practising certificate.
6. At this time the complaints procedures of all staff in organisations where a Costs Lawyer has been audited this year will also be checked, to ensure everyone is using the revised document.
7. The Lessons from our audits of complaints procedures webpage has already been updated.

2022 Complaints Procedure Audit – issues outstanding from last year’s Board Report

8. 26 Costs Lawyers were included in the 2022 audit. 7 of these submitted revised complaints procedures immediately, as noted in last year’s report to the Board.
9. The complaints procedures submitted by the other 19 with their applications for a 2023 practising certificate were reviewed in March 2023. 17 of these Costs Lawyers had complaints procedures that are compliant with the guidelines, and used by all Costs Lawyers in their organisation.
10. The other 2 Costs Lawyers had not made the required changes to their complaints procedures. These were contacted again with a revised audit checklist (to take into account forthcoming LeO Scheme Rules changes) and asked to make the required

revisions urgently. They both responded the same day to say the non-compliance was an oversight.

11. All 26 complaints procedures audited in May-June 2021 were fully compliant by 8 March 2023. The majority wholly or partly used the model complaints procedure.
12. The complaints procedures of Costs Lawyers working in the same organisation as the 2 Costs Lawyers whose procedures were not compliant until 2023 will be checked in January 2024.