



Costs Lawyer Standards Board

AGENDA

Wednesday 29 March 2023 @ 10:30am
Remotely via videocall

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

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 (31 January 2023) 2.2 Matters arising (31 January 2023)	Item 2.1 -	Yes	DH DH
3	Strategy 3.1 Progress against Business Plan: Q1 2023 3.2 Discussion session: Options for entity regulation	Item 3.1 Item 3.2	Yes No (G)	KW KW
4	Board matters 4.1 Remuneration Committee minutes (31 January 2023) 4.2 Annual review of register of interests	Item 4.1 Item 4.2	No (A, B) Yes	AH DH
5	Finance 5.1 Quarterly report: Q1 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.

6	Risk management 6.1 Review of risk register : New framework	Item 6.1	Yes	KW
7	Regulatory matters 7.1 Education update 7.2 Diversity survey report	Item 7.1 Item 7.2A+B	Yes Yes	KW KW
8	Legal Services Board (LSB) 8.1 Work updates	Item 8.1	Yes	KW
9	Stakeholder updates² 9.1 ACL Council meeting minutes 9.2 Work updates	Item 9.1 Item 9.2	Yes Yes	KW KW
10	Operations 10.1 2022 CPD audit report 10.2 Digital workplan progress report	Item 10.1 Item 10.2	Yes Yes	JC JC
11	Publication 11.1 Confirmation that papers can be published	-		DH
12	AOB	-		DH
13	Next meeting Date: 27-28 June 2023 Venue: London	-		DH

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

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

MINUTES
Costs Lawyer Standards Board Ltd
Tuesday 31 January 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 (Items 1 to 7)
	Board members	Legal Services Board (Item 8.1)

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 19 October 2022

The board considered the minutes of its last scheduled quarterly meeting on 19 October 2022. The board agreed the minutes as being a true record for signing.

Action: Publish approved minutes on CLSB website.

2.2 Matters arising

The board considered the matters arising from the minutes of its meeting on 19 October 2022. There were no matters arising that had not been scheduled as agenda items or otherwise dealt with.

3. STRATEGY

3.1 Progress against Business Plan: 2022 roundup

The board was provided with a progress update against the 2022 Business Plan. Kate noted that four additional priorities had been achieved during Q4, which completed the Business Plan in its entirety (other than one item which was deprioritised in Q2 in light of the findings of the RPF project). Board members thanked Kate and Jacqui for their hard work in achieving this outcome. The board also approved the executive's proposed strategic priorities for Q1 of 2023.

3.2 Annual progress against performance indicators

The board was provided with a summary of progress against the metrics in the performance indicators document (PID), which was adopted in January 2020 and updated in 2021 and 2022. The performance indicators had been developed to help the board monitor the effectiveness of the CLSB's governance arrangements and track achievement of the mid-term strategy. The board was also provided with the results of a NED satisfaction survey that had been carried out to provide data for the governance metric in the PID relating to cultural alignment and accountability.

The board considered the report. Board members discussed whether the operational metrics should be retained given that the LSB had recently indicated it would no longer require regulators to collate these. The board agreed that it remained helpful to be aware of the data from a governance and oversight perspective, and also to publish the data to promote transparency and allow stakeholders to scrutinise performance. The executive would therefore continue to provide it annually to the board for noting and publish it with the board papers.

Kate also recommended that the performance indicators be reviewed alongside development of the CLSB's next mid-term strategy during 2023, and the board was happy with this approach.

Actions: Update PID for 2022 and publish on website.

4. BOARD MATTERS

4.1 Remuneration Committee report

Andrew H provided the board with a verbal report of the Remuneration Committee's business following its meeting on 31 January 2023.

The board noted that the Committee had agreed a 6% cost of living annual wage rise for staff, which would apply from 1 March. Andrew H explained how the Committee had taken into account factors such as the level of inflation, wages benchmarking data, the 2023 budget position, and the potential impact on practising fees and staff retention. Minutes of the Committee's meeting would be provided to the board in March for noting.

5. FINANCE

5.1 Quarterly report: Q4 2022

Jacqui introduced the quarterly finance report. The board noted the financial position, including the final budget surplus recorded for the year. This was due mainly to higher than expected income and departure of the Director of Policy who had not been replaced.

The executive explained that this surplus would be used to secure consultancy resources in key areas in 2023 and provide a buffer against a budget shortfall in 2023, given that PCF income had not met budget during the renewal period. The board noted the transfer of £5,000 to committed reserves, in line with the 2022 budget.

6. RISK MANAGEMENT

6.1 Review of risk registers

The board reviewed the risk registers and considered whether any new risks should be added, any existing risks removed or any risk scores changed. The board noted that it would be discussing the outcome of a risk review under item 6.2 and thus the existing risk registers were likely to be replaced by a new approach from March onward. Despite this, the board felt it was important to ensure the existing register was up to date.

Board members discussed market updates in relation to the timing of the upcoming fixed costs extension, potential reforms to the Solicitors Act 1974, and the likely outcome of the Civil Justice Council's review of civil costs. The board agreed to update OP1 to reflect the most imminent of these developments.

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

6.2 Review of approach to risk

The board was provided with a report from consultancy Hook Tangaza following a review of the CLSB's methodology for measuring, recording, monitoring and responding to risk. The board discussed the analysis set out in the report and the recommendations for a new approach going forward.

Board members strongly supported the idea of publishing an annual risk review and discussed the potential benefits of this, including as a vehicle for circulating warnings around cyber-security and scams. Andrew M volunteered to review a draft and feed in from the perspective of the profession. The board also discussed the distinctions between the external-facing risk review and the new internal risk register in terms of purpose and presentation.

Board members discussed the need to ensure that the CLSB does not position itself as responsible for owning and managing all the wider system risks identified in the report. This could be achieved through clear communication.

Kate agreed to develop a draft risk register for consideration by the board at its March meeting, structured in line with the three areas identified in Hook Tangaza's report (i.e. areas for risk monitoring, areas for risk mitigation, and areas for strategic reflection), and to prepare the risk review.

Actions: Develop new risk register for the board to consider at its next meeting; Develop first annual risk review for publication.

7. REGULATORY MATTERS

7.1 Update on rule change applications

The board was provided with an update on the CLSB's applications to the LSB for approval of changes to its:

- Disciplinary Rules and Procedures (DR&P), which had been approved in November; and
- Training Rules, which were still under consideration.

In relation to the DR&P, Kate noted that the changes would require Costs Lawyers to make some minor adjustments to their complaints procedures. The Legal Ombudsman had also reviewed its Scheme Rules in 2022 and decided to make a number of changes that would impact complaints procedures further. To allow practitioners to make all the necessary changes at once, the CLSB would align implementation of the new DR&P with implementation of the new Scheme Rules, on 1 April 2023. The board noted plans for communicating the changes.

In relation to the Training Rules, Kate explained the status of the rule change application and developments at ACL Training in relation to accreditation of the new training course. The board agreed that it was important for the CLSB to be ready to devote resources to considering ACL Training's application for accreditation. Andrew M volunteered to join the CLSB's Accreditation Panel as the board representative.

Action: Put in place resources for accreditation process.

7.2 Ongoing competency forward plan

The board was provided with a progress update that had been submitted to the LSB in relation to compliance with the LSB's policy statement on ongoing competence. Kate explained that the CLSB is now compliant with two of the four outcomes in the statement and summarised plans for achieving full compliance during 2023. The board noted the resources that would be required to carry out this work as a priority during the year.

7.3 Costs Lawyer Profession in 2022 report

The board was provided with the latest annual report compiling statistics about the Costs Lawyer profession in 2022, mainly derived from the "regulatory return" data collected as part of practising certificate renewals. Jacqui introduced the item and highlighted some new metrics that had been captured in 2022 for the first time.

Board members discussed the age profile of the profession as shown in the report and the risks to continuity within the profession that this created. The board discussed the actions already being taken to influence the profile downwards and the importance of their success, including introduction of the new training course.

7.4 Code of Conduct review

The board received a report setting out recommendations from a review of the Costs Lawyer Code of Conduct. The review had drawn together a number of considerations, including making the Code consistent with other up-to-date regulatory arrangements, implementing recommendations from the RPF innovation project and generally modernising the language.

Kate noted that this review represented a milestone for the CLSB, in that the Code was the last of the CLSB's legacy regulatory arrangements to be reviewed and, when the changes are implemented, all the CLSB's published rules, guidance and policy statements will have been developed or updated in the last three years. Kate also explained how the review had provided an opportunity to address issues arising from a disciplinary investigation carried out in late 2022.

The board discussed the recommendations and agreed that the proposed changes should be put to consultation. Board members discussed the likely response from the profession and did not identify any areas that it foresaw as being controversial. The Non-Lay NEDs felt that the revisions to the rules on client money were particularly useful and that questions from practitioners might arise on that aspect of the consultation. The board also agreed that the review presented a good opportunity to clarify the interplay between a Costs Lawyer's duties to their ultimate and intermediary (professional) clients.

Action: Develop and issue consultation on proposed changes.

7.5 Diversity update and proposed priorities

Kate updated the board on resourcing for equality, diversity and inclusion (EDI) projects and proposed a series of strategic priorities for 2023. The board discussed the priorities and agreed that they were areas in which there were good opportunities to collaborate and learn from others. Board members also discussed options for plugging Costs Lawyers into existing legal networks, such as the Asian Lawyers Network. David offered to help facilitate this.

8. LEGAL SERVICES BOARD (LSB)

8.1 Board to board roundtable

At 11:30 all board members joined a one-hour roundtable discussion with representatives from the LSB's board. The LSB took a separate note of that session.

8.2 Regulatory performance assessment outcome

The board noted the outcome of the LSB's recent regulatory performance assessment, under which the CLSB was the only regulator to provide the LSB with sufficient assurance of performance across all standards. Board members reflected on how far the organisation had come in a relatively short period and how it was now well positioned to be proactive and forward-looking.

9 STAKEHOLDER UPDATES

9.1 ACL Council meeting minutes

The board noted the minutes of ACL Council meetings held in September, October and November 2022, including the change in the CLSB's policy contact at ACL. Board members discussed an upcoming event that ACL will be hosting to share its business plan and obtain feedback, which was considered a positive development.

10 OPERATIONS

10.1 Practising certificate renewals data

The board was provided with a report of how the practising certificate renewals process went, including renewal statistics, results of the exit survey, and updates on technical elements of the process. Kate introduced the item on behalf of Jacqui, noting in particular the termination statistics and reasons, and highlighting the features of the new Register of Costs Lawyers that had gone live in early January.

Kate also explained that the renewals process had flagged up an issue relating to unemployed practitioners not having professional indemnity insurance in place during

the renewal window. It was proposed that, to give clarity around this scenario, a minor amendment be made to the Guidance Note on indemnity insurance to more explicitly set out when it is permissible not to have PI insurance in place, in line with the Practising Rules.

The board discussed the report. Board members asked about terminations in the part of the profession specialising in legal aid and discussed the benefits that regulation could bring in this area. The board also discussed the general lack of awareness amongst clients (of all types) of those benefits and how that awareness could be bolstered. It was suggested that the CLSB's profile could be raised within other parts of the legal community given that the majority of Costs Lawyers' instructions come from professional intermediaries, and through this the CLSB could advocate for the merits of regulation. Kate also noted that the executive was building a portfolio of case studies where complainants had approached the CLSB about detrimental client outcomes caused by unregulated providers.

Action: Update Guidance Note on PI insurance.

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

13 NEXT SCHEDULED QUARTERLY MEETING

The next meeting was scheduled for 29 March 2023, remotely via videocall. The board discussed the logistics for its next in-person meeting and agreed that a strategy session should be held in the afternoon of 27 June with the usual board meeting being held in the morning of 28 June in London.

There being no further business, the Chair declared the meeting closed at 12:57.

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Chair

Related documents

Item	Document	Publication location (CLSB website)
2.1	Board minutes	About ⇒ Our board
3.2	Performance Indicators	About ⇒ Strategy and governance
6.1	Risk registers	About ⇒ Strategy and governance
11.1	Board papers	About ⇒ Our board

Item	Document	Publication location (other)
7.1	LSB Decision Notice on application to amend the Disciplinary Rules and Procedures	LSB website here
7.1	Application to LSB to amend the Training Rules	LSB website here
7.2	LSB policy statement on ongoing competence	LSB website here
8.2	2022 regulatory performance assessment	LSB website here

Q1 board update

Costs Lawyer Standards Board



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.	Pending (expected Q3) <i>We will kick-off this priority at our scheduled strategy session in June and then work up a proposed mid-term strategy for the board to consider at its October meeting.</i>
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.	In train (expected Q2) <i>Achieved: We have begun scoping the terms of reference and composition of a user panel as envisaged under the final year's activities.</i> <i>Outstanding: Finalise panel membership and plan how to use the panel to promote ongoing consumer engagement.</i>
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.	In train (expected Q4) <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> <i>Outstanding: Develop and implement the new B2C regulatory framework for those practitioners identified through the segmentation exercise.</i>
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.	In train (expected Q2) <i>Achieved: New Training Rules were approved by the LSB in February and our new regulatory framework has been finalised and published. We have appointed an Accreditation Panel, including an independent member to lead on the accreditation process, and that process is well underway.</i> <i>Outstanding: Complete the remaining stages of the accreditation process and work with ACLT to implement the outcome.</i>

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.	Pending (expected Q3) <i>This priority is scheduled for Q3.</i>
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.	In train (expected Q4) <i>Achieved: A strategy discussion around entity regulation is scheduled for this meeting based on an options paper that has been put to the board.</i> <i>Outstanding: Next steps will be carried out during the remainder of the year, depending on the board's steer at this meeting.</i>
7.	Explore ways of encouraging competition in the market for legal services and promoting the interests of consumers through considering: <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. 	Pending (expected Q4) <i>This priority is scheduled for H2.</i>
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.	In train (expected Q3/4) <i>Achieved: We have identified ways to achieve this priority as part of improving the Costs Lawyer Code of Conduct. Changes to the Code were approved by the board at its January meeting.</i> <i>Outstanding: Following consultation on the changes, 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>
9.	Design a project that looks at how the regulation of Costs Lawyers should evolve into the future, taking into account how	Pending (expected Q4) <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>

	the profile of our regulated community may change.	
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>Achieved: <i>We have developed a work programme to ensure compliance with the policy statement, which has been approved by the board and socialised with the LSB.</i></p> <p>Outstanding: <i>The work programme will be implemented over the course of the year, 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>Achieved: <i>We have developed EDI priorities for 2023 and these have been approved by the board. The board will consider a report on our most recent diversity data at this meeting.</i></p> <p>Outstanding: <i>Implementation of targeted initiatives to act on the data we collected in our two most recent diversity surveys.</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 the Register of Costs Lawyers made in 2022; • capturing regulatory history of individual Costs Lawyers in the database to consolidate and safeguard all available information. 	<p>In train (expected Q3)</p> <p>Achieved: <i>All workstreams were commenced in Q1, other than the final bullet point relating to capturing regulatory history. The second bullet point has already been completed. The board will be provided with a progress report at this meeting explaining what we have achieved so far and describing a number of new workstreams that have been identified since this priority was drafted.</i></p> <p>Outstanding: <i>Work on completion of all workstreams will continue throughout the year, for completion prior to PC renewals in November.</i></p>

Consolidated Register of Interests

At 17 March 2023

Name	Rt Hon David Heath CBE, Chair
Employment in last year	<ul style="list-style-type: none"> Independent Chair, MCS Standards Board Chair, Policy Advisory Group, Institute and Faculty of Actuaries Member, Disciplinary Committee, Royal College of Veterinary Surgeons Non-Executive Director and Chair of Commissioning Committee, Somerset Clinical Commissioning Group (NHS) – until July 2022
Businesses in which partner or sole proprietor	
Company Directorships	
Charity Trusteeships	
Memberships (with control or management)	<ul style="list-style-type: none"> President, Frome & District Agricultural Society Vice-President, Frome Festival
Immediate family declarations of interest	
Breach of CLSB Board Code of Conduct?	No
ACL decision-making role?	No
Gifts or hospitality from external bodies?	No
Any other personal or professional interests	No

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

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

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

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

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

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

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

Any other personal or professional interests	No
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DRAFT TO BOARD

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 effect 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	7

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	<ul style="list-style-type: none">– Risks from inadequate supply of costs information services

Regulatory objective	Costs law market related risk outcome	Relationship to risk sources
	<ul style="list-style-type: none"> – Expansion of fixed costs regime, reforms to PI regime, reforms to judicial review – 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 policy reforms designed to reduce availability of contested litigation – 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 	<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

Regulatory objective	Costs law market related risk outcome	Relationship to risk sources
	<ul style="list-style-type: none"> Concerns about market risks disincentivise new qualifiers or encourage qualified Costs Lawyers out of the profession 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 	<ul style="list-style-type: none"> Risks from lack of awareness/ability of Costs Lawyers to embrace and adapt to technology
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.

	Regulatory risks
1.	Poor client outcomes arise from substandard conduct, inadequate service or lack of competence amongst Costs Lawyers.
2.	Costs Lawyers offer new areas of service without adequate consumer protections or assessment of risk to consumers.
3.	Regulatory deterrents or barriers to innovation limit the Costs Lawyer profession.
4.	Independence of the profession is compromised through capture by certain types of clients or practising arrangements.
5.	New Costs Lawyer Qualification fails to attract sufficient student numbers or sufficiently diverse cohorts.
6.	The Costs Lawyer Competency Statement fails to ensure that newly qualified Costs Lawyers are equipped for modern practice.

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?

Summary of Decision

The purpose of this summary sheet is to provide a high level and accessible overview of the Legal Services Board's ("LSB") decision. Readers are recommended to read the formal decision notice below for further details. This summary is not and should not be taken as a formal part of the LSB's decision notice under the Legal Services Act 2007 (the "Act").

The LSB's decision is to grant in full the application from the Costs Lawyer Standards Board (CLSB) for approval of alterations to its regulatory arrangements relating to its Training Rules.

The amendments seek to update the CLSB's Training Rules, which set out the requirements for qualifying as a cost lawyer. The amendments seek to:

- Set out clearly what an individual is required to do to qualify as a Costs Lawyer
- Link delivery of the Costs Lawyer Qualification to the Competency Statement and Scheme Handbook rather than the course documentation
- Update the requirements for Qualifying Experience
- Remove what the CLSB state are outdated and unjustified requirements on trainees and study providers.

Following assessment of the CLSB's application, the LSB has concluded that the changes do not meet the conditions for refusal under paragraph 25(3) of Schedule 4 to the Act.

The decision notice explains our assessment of the main issues that we considered in reaching our decision.

Decision notice

The CLSB's application for approval of alteration to its existing regulatory arrangements relating to its Training Rules

1. The Legal Services Board (“**LSB**”) has granted an application from the CLSB for approval of alterations to its Training Rules
2. The LSB is required by Part 3 of Schedule 4 to the Legal Services Act 2007 (the “Act”) to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements. The Association of Costs Lawyers (“ACL”) is an approved regulator and the CLSB is the regulatory body to which the ACL has delegated its regulatory functions.
3. This decision notice sets out the decision taken, including a description of the changes. The statutory framework for applications to the LSB for approval of changes to regulatory arrangements can be found on the LSB website¹.

Chronology

- The application was received on 15 December 2022.
- The LSB confirmed receipt of the current application from the CLSB on 15 December 2022.
- The 28-day initial decision period for considering the application ended on 11 January 2023.
- An Extension Notice was issued on 5 January 2023 to extend the decision period to 14 March 2023.
- This decision notice is effective from **15 February 2023**.
- The decision notice will be published on the LSB's website by 17 February 2023.

Background

4. The CLSB's Training Rules were first introduced in 2011, and form part of its original suite of regulatory arrangements. Since then, the Training Rules have been subject to amendments in 2013, 2017 and 2020, although they have never been reviewed in their entirety. Having undertaken a review, the CLSB has concluded that the Training Rules require substantial amendment as they are no longer reflective of good regulatory practice.
5. The CLSB carried out a four-stage project during 2021 and 2022 to develop a new regulatory framework for qualifying as a Costs Lawyer. Following that project, the CLSB proposes to amend the Training Rules, as well as introduce supporting materials and resources that it has developed as part of the review. In February 2022 the CLSB introduced a new Competency Statement which sets out the level of competency expected of Costs Lawyers. The application states that newly qualifying Costs Lawyers will need to demonstrate they meet the specified requirements outlined in the Competency Statement on completion of the

¹ <https://legalservicesboard.org.uk/our-work/statutory-decision-making/alterations-to-regulatory-arrangements/statutory-framework-for-applications-to-the-lsb-for-approval-of-changes-to-regulatory-arrangements>

Costs Lawyer Qualification. In addition, the CLSB has developed new Assessment Outcomes, which are designed to test whether the Competency Statement's requirements have been met.

6. The CLSB has also developed its Accredited Study Provider Scheme Handbook (the "Scheme Handbook") to replace the current Course Documentation, policies, Protocol, and student facing material. The Scheme Handbook includes the new Assessment Outcomes.
7. The application is for amendments to the Training Rules. The CLSB provided us with the remaining suite of documents to provide context to its proposals.

Summary of proposed changes

8. Paragraphs 39 to 49 of the application set out the CLSB's proposed amendments to its Training Rules. These amendments include:
 - Reducing the Qualifying Experience requirements from three years to two years.
 - Removing the requirement that Qualifying Experience needs to be completed prior to accreditation. The individual will still be required to have completed the Costs Lawyer Qualification and demonstrate that they have met the Assessment Outcomes. However, Qualifying Experience may now be used by newly qualified Costs Lawyers to demonstrate the competencies set out in the Competency Statement in practice. During this time the Costs Lawyer will be under the supervision of a Qualified Person.
 - Removing the entry level qualification and age restrictions. The CLSB states that there is no justifiable basis for the current requirements and any Accredited Study Provider (ASP) will be able to set requirements depending on how their course is structured. Currently the Association of Costs Lawyers Training (ACL Training) are the only ASP.
 - Removing the procedural and administrative requirements from the Training Rules. The CLSB has also stated that the procedural and administrative requirements will fall within the remit of the ASP. This allows them to be subject to continued review and improvement. The CLSB states that these matters should more appropriately fit in the Scheme Handbook, and not the Training Rules.

Key Issues

Engagement with consultation

9. The application sets out that the CLSB had received two responses from individual Costs Lawyers on the Scheme Handbook. We consider the consultation process to be of key importance, so asked what consideration the CLSB had given to a longer consultation period, or other methods of obtaining feedback from its regulated community.
10. The CLSB agreed that it had received limited responses from individuals to the consultation, however it highlighted that its engagement with individual cost lawyers went beyond the consultation. Individual Costs Lawyers were directly involved in the earlier stages of the project, particularly to develop the Competency Statement. The CLSB stated it had engaged with a number of individuals through interviews and its Small to Medium Enterprise ("SME") strategic review, as well as working collaboratively to produce work diaries. The CLSB states

that this engagement helped capture the views and experiences of Costs Lawyers on the competencies that underpin the Assessment Outcomes.

11. The CLSB also notes that both trainee and qualified Costs Lawyers were invited to provide feedback on the consultation via a survey undertaken by the ACL. ACL used that data to inform and prepare its response to the CLSB, thus reflecting the views of the profession. In addition, the CLSB explained that it widely promoted its consultation, using its website, social media, newsletter and direct emails to reach out to all regulated Costs Lawyers.

Qualifying Experience

12. The CLSB proposes to reduce the number of years of Qualifying Experience required from three years to two years. It states that this is in line with other legal services regulators. The CLSB has also explained its view that the proposed course structure, Competency Statement and new assessment outcomes mean that those completing the course will have demonstrated that they meet the competencies required to practice as a Costs Lawyer.
13. The application proposes for individual Costs Lawyers to become authorised and practice as a Costs Lawyer prior to completing the requisite Qualifying Experience. We asked the CLSB a number of questions relating to how this would work in practice, the process for supervision and the assessment of Qualifying Experience. We also requested information about the risks that may be posed by implementing this new approach to authorisation.
14. The proposal outlines that during the two years Qualifying Experience supervision will be provided by a Qualified Person, as defined in the new Training Rules. The CLSB states that the Qualifying Experience will be an opportunity for newly qualified Costs Lawyers to practise the competencies they have gained through the new course structure, whilst under the supervision of a Qualified Person.
15. In response to a request for further information on the process of Qualifying Experience, the CLSB noted that for the purposes of an explanation provided to the LSB, the term 'practitioner' will be used to refer to trainees or authorised Costs Lawyers who are currently completing their qualifying experience. The CLSB stated that a practitioner will be required to provide evidence of successful completion of their Qualifying Experience via an online form. The form will request examples of how each of the skills in the Competency Statement has been practised. A statement from the Qualified Person who has supervised the practitioner will also be submitted. This statement will verify the details of the Qualifying Experience; it will include a report on matters that could give rise to a risk to competency, such as complaints about the practitioner, and an indication that the practitioner meets the minimum standard in the Competency statement.
16. The CLSB stated that if a practitioner, when applying for their first Practising Certificate ("PC"), indicates that they have not yet completed their Qualifying Experience, or if the CLSB determines that they have not met the Qualifying Experience criteria in the Training Rules and thus a further period of experience is required, the practitioner will be issued with a conditional PC. This conditional PC will require the practitioner to practise under supervision and to complete their Qualifying Experience within a specified period. These conditions will be recorded in the CLSB's database. This record ensures that the condition is published on

the Register of Costs Lawyers and will automatically notify the CLSB when the period for completion is at an end.

17. If the condition has not been fulfilled in the time expected, then the condition may be amended or extended as appropriate in the circumstances. If the condition has not been fulfilled in the time expected because the practitioner has not complied with the condition, then their PC may be revoked, or other sanctions may be imposed unless the practitioner provides appropriate reasoning. CLSB will decide on a case-by-case basis if it is appropriate to further amend the conditions or revoke the PC or apply other sanctions. The CLSB has confirmed that the situation would be treated in the same way as the breach of any practising condition under its Practising Rules and Disciplinary Rules and Procedures.
18. The CLSB has highlighted that by authorising the practitioner after the completion of the Costs Lawyer Qualification, that individual will then become regulated by the CLSB and therefore subject to the CLSB's full suite of regulatory arrangements and supervisory tools from an earlier stage. The CLSB believes that this will be beneficial in furthering the regulatory objectives, and in particular the objective to protect and promote the interests of consumers.
19. The CLSB also highlighted that the vast majority of those undertaking the Costs Lawyer Qualification are already employed in an environment where they can accrue time to count towards their Qualifying Experience and complete the course alongside their work. It is therefore unlikely that an individual would complete the Cost Lawyer Qualification without having completed any work experience. The LSB also notes that the actual time spent by Costs Lawyers on reserved legal activities is very limited.

Number of students impacted by transitional arrangements

20. Following questions from the LSB, the CLSB further confirmed that transitional arrangements would be put in place by ACL Training to phase in the new Training Rules if they are approved by the LSB. The transitional arrangements are summarised below and include details of the numbers of students who will be impacted.
21. The CLSB provided assurance that there were appropriate transitional arrangements in place for those mid-way through qualification and those who may need to re-sit certain parts of the course. The CLSB confirmed that 22 students are currently mid-way through the course and will fall under the transitional arrangements in place. The CLSB also noted that 31 students are currently set to complete the course by the end of 2023, should any of those students need to re-sit, they would also fall under the transitional arrangements.

Exemption from qualification

22. In our initial assessment of the application, we identified that the proposed Training Rules made no reference to exemptions from qualification. We consider that the provision of a mechanism for exemption from qualifications ought to have its foundation within the regulatory arrangements, even if the detail is elsewhere. With that in mind, we requested that the CLSB consider amending the proposed training rules to include some reference to exemptions.

23. Following our request, the CLSB amended the Training Rules to include a reference to exemption from elements of the Costs Lawyer Qualification, thus providing clarity that the granting of exemptions form part of the CLSB's regulatory arrangements. The amended Training Rules set out the responsibilities of ASP's, this includes:

- (a) Considering applications to undertake the Costs Lawyer Qualification
- (b) designing and delivering the relevant course material and assessments for the Costs Lawyer Qualification
- (c) applying exemptions from elements of the Costs Lawyer Qualification
- (d) providing Trainees with evidence they have completed the Costs Lawyer Qualification.

Decision

24. The LSB has considered the application against the criteria in paragraph 25(3) of Schedule 4 to the Act. It considers that there is no reason to refuse this application, and accordingly, the application is granted.

25. Annex A to this decision notice contains the amendments to the regulatory arrangements that have been approved by the LSB.

Matthew Hill, Chief Executive

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

15 February 2023

Equality, Diversity and Inclusion Questionnaire

March 2023

Thank you for taking part in the LSB's EDI Questionnaire.

Why we are seeking this information

The Legal Services Board and the approved regulators share a responsibility to deliver the regulatory objective to encourage an independent, strong, diverse and effective legal profession. We are now seeking information about regulatory approaches to encouraging a diverse profession to support the development of a statutory statement of policy on Equality, Diversity and Inclusion that the LSB aims to consult on later this year. This statement of policy will provide clear and updated expectations for regulators on how they should encourage a diverse legal profession. In developing the statement, we will take account of the wealth of evidence published by regulators and other stakeholders on the barriers to achieving a diverse profession and what regulatory approaches may be most effective.

How to complete the questionnaire

The questionnaire consists of three sections on: strategy; data collection and monitoring; and, regulatory activities and evaluation. In your responses, please provide information about your **regulatory approach in the last three years** and, where relevant, please indicate when data used in your responses was collected.

Regulators should complete the questionnaire in the template provided which will explain the types of information that might be useful in response to each question. Our intention is not to create a significant burden on your resources but to receive information that is easily available to you. Where it is easier to provide an additional document (such as an EDI strategy) in response, please indicate you will do so in the relevant box and provide any documents as an attachment to your email response. Please ensure any attachments are clearly labelled to explain which question number(s) they relate to. In your response, you are welcome to signpost published information to us rather than provide this separately (please provide links to this information in the relevant box and explain what specific information in the link is relevant to your response). The questions are not intended to be repetitive. If you have already provided relevant information in response to another question, you can cross-refer to this.

Throughout the questionnaire we refer to 'authorised persons' as defined under the Legal Services Act 2007, which includes relevant entities (e.g., regulated firms). This reflects that the focus of this questionnaire is your approach to delivering the above regulatory objective. Please keep this in mind when considering what information may be relevant to provide. We are not, for example, asking about your internal approach to EDI as an employer.

Please do not provide any personal data about authorised persons which could make an individual identifiable.

What we will do with the information you provide

We will analyse the responses and feed these into our policy development. We will publish our analysis of responses in our consultation document, which may include references to the approaches of specific regulators. If this causes any issues, you are welcome to provide confidential versions as well or ask for certain information to be redacted from publication. Responses to the questionnaire are due by **Friday 14 April 2023**.

SECTION ONE: STRATEGY

This section focuses on your EDI strategies, including how you design, agree and communicate your strategies.

1. What policies and/or strategies do you have in place to improve the diversity of persons authorised to provide one or more reserved legal activity?

This can be any written articulation of the aims of your work which contributes to encouraging a diverse legal profession.

2. How do you approach setting EDI objectives, goals or ambitions?

We are interested in how you establish what your starting point is (in terms of progress to date towards achieving a diverse profession), how you identify and prioritise any particular areas of focus for your strategies and how you determine what outcome you aim to reach during the period your strategies cover. This may include how you use evidence and any relevant benchmarks you consider to determine what a diverse profession should look like. It would also be useful to understand how you take account of the role of representative bodies when establishing what you aim to achieve, considering opportunities to compliment efforts and collaborate to further progress.

3. What governance processes are in place to provide strategic direction and decision-making on EDI?

Please tell us about any formal or informal governance processes that you use to determine and agree your EDI strategies. In addition to explaining any processes that aid the development of your EDI strategies, it would be useful if you can explain how assurance is provided to decision makers about progress against the strategies and how you approach decisions on reprioritisation when needed.

4. How do you communicate your strategies to authorised persons and any other relevant stakeholders?

Please tell us how you engage with stakeholders about your EDI strategies, such as by publishing or using communications and events to promote your strategy.

SECTION TWO: DATA COLLECTION AND MONITORING

This section focuses on your approach to collecting EDI data and monitoring the diversity profile of authorised persons.

5. What data do you collect to understand the diversity profile of authorised persons?

You can signpost us to the 'Legal Regulators Diversity Questions' file and your latest published figures on the composition of authorised persons for ease, but if you want to tell us about any other data you collect which relates to the diversity profile of professionals, please use this space. Please state the frequency and timing of your data collection. It would also be useful to know what analysis you produce of different data points, for example, if you can cross-tabulate seniority and gender.

6. How do you encourage authorised persons to take part in diversity data collection?

Please tell us how you notify authorised persons of the opportunity to provide their diversity data, including how frequently or routinely authorised persons are invited to provide or update data, and how you articulate the purpose and value of this data for you.

7. Are there any other specific steps you have taken to encourage authorised persons to take part in your diversity data collection?

Please inform us of any additional steps you take to encourage authorised persons to provide their data. For example, do you engage with representative bodies about data collection? Have you engaged with industry leaders about the importance of providing diversity data? Have you taken any steps to reduce the number of 'prefer not to say' responses you receive?

8. Have you identified any remaining barriers to increasing the completeness of your diversity data?

Please set out any factors which may limit your ability to better understand the diversity of authorised persons. For example, there may be reasons why you do not want to change or add questions you have previously asked authorised persons, or you may be aware of the reasons why some respondents are not providing their data to you. Please provide as much information as you can about these barriers as this will best enable the LSB to set reasonable expectations for regulators about their data collection.

9. What specific data do you collect on the barriers to entry and career progression for authorised persons?

Do you undertake any form of primary research about the barriers to getting in and/or getting on in the profession? Do you consult research conducted by others on these themes to inform your work? This could also include collecting data on the impact of initiatives which seek to address these barriers.

SECTION THREE: REGULATORY ACTIVITIES AND EVALUATION

This section focuses on the activities you deliver which aim to contribute to an increase in the diversity of authorised persons and the approach(es) you use to evaluate the impact of your activities.

10. How do you evaluate the impact of your regulatory activities relating to EDI?

In the next question, we invite you to consider how you measure the impact of your individual activities. This response should instead focus on any methodologies you use to evaluate the impact of your work. This could include how you articulate the change you want to achieve, how you gather evidence to determine if that change is happening, how frequently you evaluate your activities and how you communicate the impact of your work to relevant stakeholders.

11. Please can you use the table provided below to inform us about your regulatory activities for EDI?

This is a space to tell us about any activities you deliver which aim to increase the diversity of authorised persons. In particular, please highlight specific activities intended to mitigate barriers to entry and progression for authorised persons, and any specific measures in place to understand any differential impact on protected characteristics within your disciplinary/enforcement procedures. As you will have told us about your approach to monitoring the composition of authorised persons above, you do not need to list this here as an activity.

Please remember these should be activities from the last three years only but please include any ongoing activities which commenced more than three years ago. The questionnaire aims to capture your approach to EDI at this moment in time so you do not need to tell us about future activities. However, if you feel your future activities are an important indication of your approach to EDI and you would like to list these too, you may do so.

For each activity, we would like to know what the activity is, when it was/will be delivered, the outcomes you aim to achieve, how you will measure your progress towards these outcomes and any data you have collected to evaluate your impact (where this information is available to you).

Activities	Timings	Outcome	Outcome indicators	Evaluation
<i>Who your target group(s) is/are and the activities you deliver for, with or to them (please include any activities that involve collaboration with others).</i>	<i>When the activity will start and end, any key milestones and when you will evaluate the impact of it.</i>	<i>The most important changes you want to see for your target group.</i>	<i>The specific, measurable pieces of information that you can collect to keep track of the difference your work is making.</i>	<i>The data you have collected, what it tells you about the impact of your work and how you communicate this data to your stakeholders.</i>
Activity 1				
Activity 2				
Activity 3 etc				



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About the social mobility survey

One of the regulatory objectives for legal services, as set out in section 1 of the Legal Services Act 2007, is to encourage an independent, strong, diverse and effective legal profession. In pursuit of this objective, the legal services regulators are working together to promote an inclusive legal profession in which the opportunity to build a successful career in law is available to everyone, regardless of background.

One potential barrier to a diverse and inclusive legal profession is the differential treatment of individuals – either at the start of, or during, their career – based on their socio-economic background. This is sometimes referred to as a lack of ‘social mobility’. The Social Mobility Commission describes social mobility as the link between an individual’s income and occupation and the income and occupation of their parents, and notes that the term is widely adopted as a way of describing the importance of creating opportunities for individuals from lower socio-economic backgrounds to enable them to become more economically successful.¹

In order to identify barriers to social mobility in the Costs Lawyer profession, and then design interventions to help tackle those barriers, we need to know more about the socio-economic background of Costs Lawyers and how that background has influenced their experience. To that end, our 2022 diversity survey focused on social mobility issues.

We asked questions about respondents’ socio-economic backgrounds in a way that would facilitate analysis across different regions, genders, age groups and levels of progression. We asked questions in three areas – relating to parental occupation, type of school attended and parental university attendance – using categories recommended by the Social Mobility Commission to facilitate benchmarking against other groups. Ultimately, we are interested in the extent to which the Costs Lawyer profession offers a route into law for those from socially diverse backgrounds.

We received 258 responses, representing 39% of the Costs Lawyer profession.

¹ [Socio-economic diversity and inclusion: Employer’s toolkit](#), July 2021 edition, page 35.

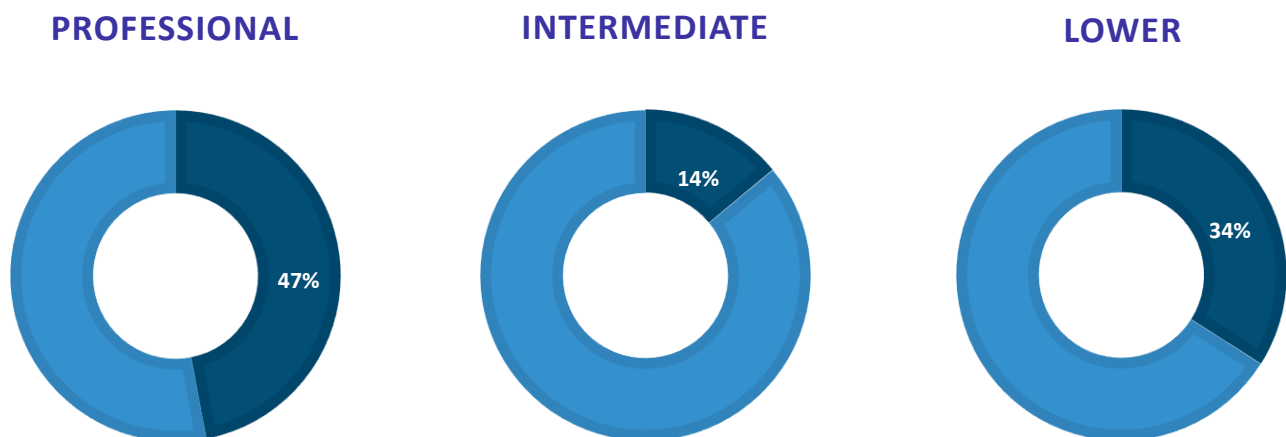
Parental occupation

The Social Mobility Commission identifies parental occupation as the best measure for assessing someone's socio-economic background.² Our question asked respondents to identify the occupation of their main household earner when the respondent was about 14. Responses were then divided into three categories to allow for benchmarking, namely:

- Professional socio-economic backgrounds – including modern professional and traditional occupations; senior or junior managers or administrators.
- Intermediate socio-economic backgrounds – including clerical and intermediate occupations; small business owners.
- Lower socio-economic backgrounds – including technical and craft occupations; routine, semi-routine manual and service occupations; long-term unemployed.

The statistics below show the socio-economic background of Costs Lawyers based on the parental occupation measure, along with comparative data for the general population and for the largest group of other legal practitioners, namely solicitors.³

Parental occupation at age 14: Costs Lawyers

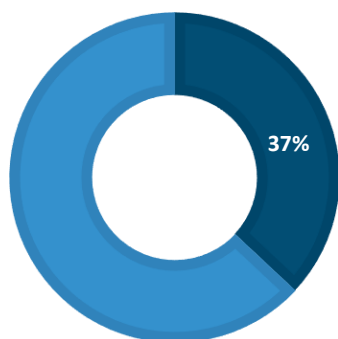


² See <https://socialmobilityworks.org/toolkit/financial-and-professional-measurement/>.

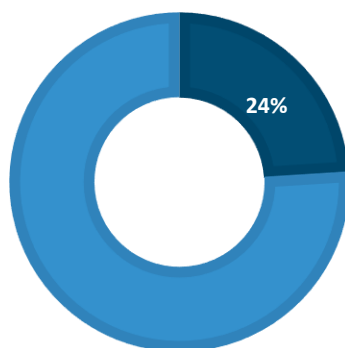
³ Note that the percentages for each group do not always total 100% as they exclude certain respondents, such as those who did not answer the question or who indicated that they preferred not to say.

Parental occupation at age 14: General population⁴

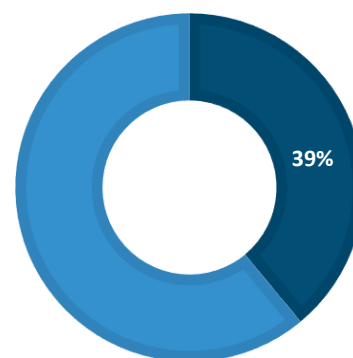
PROFESSIONAL



INTERMEDIATE

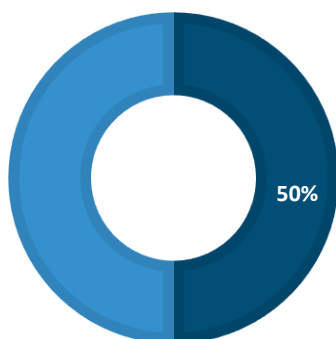


LOWER

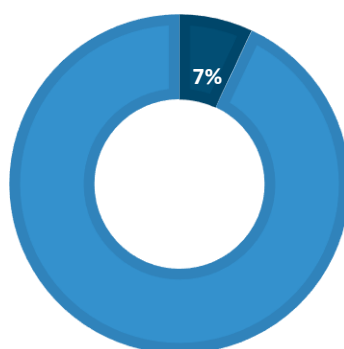


Parental occupation at age 14: Solicitors⁵

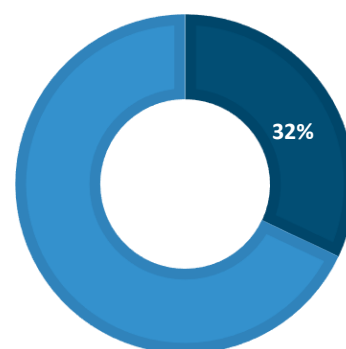
PROFESSIONAL



INTERMEDIATE



LOWER



The proportion of Costs Lawyers with a professional socio-economic background is higher than the general population (47% compared to 37%) and is slightly lower than solicitors (at 50%). The proportion of Costs Lawyers with a lower socio-economic background is lower than the general population (34% compared to 39%) and slightly higher than solicitors (32%). This suggests there is, to some degree, greater social mobility amongst Costs Lawyers than solicitors, but that more can be done to encourage a shift in the socio-economic profile of the profession toward that of the population.

⁴ 2020 data for England reported by the Social Mobility Commission at <https://socialmobilityworks.org/toolkit/financial-and-professional-measurement/>.

⁵ 2019 data reported by the Solicitors Regulation Authority at <https://www.sra.org.uk/solicitors/resources/diversity-toolkit/law-firm-diversity-tool-2/>.

The survey showed that there is little difference between the socio-economic backgrounds of male and female Costs Lawyers, as measured by parental occupation. This suggests that social mobility amongst Costs Lawyers is relatively similar for men and women.

	Parental occupation at age 14		
Gender	Professional	Intermediate	Lower
Male Costs Lawyers	47%	15%	32%
Female Costs Lawyers	49%	10%	37%

There was some variance between socio-economic backgrounds across different geographic regions.⁶ The North West had both the highest proportion of respondents with a professional socio-economic background and the lowest proportion with a lower socio-economic background, suggesting that social mobility amongst Costs Lawyers may be most limited in this region (followed by the South West).

	Parental occupation at age 14	
Region	Professional	Lower
Wales	36%	43%
North West	52%	26%
North East	44%	44%
Yorkshire & Humber	38%	31%
East	43%	57%
South West	50%	32%
West Midlands	47%	35%
East Midlands	50%	40%
South East	49%	43%
London	49%	34%

⁶ Participants were asked: "In the last year, in which region did you work? (If more than one, please choose the place where you spent most of your working time.)"

Comparing parental occupation across Costs Lawyers of different ages, and across Costs Lawyers who have spent different amounts of time in the profession, we see an indication that social mobility within the profession may be decreasing over time. As a general trend, the proportion of practitioners with a professional socio-economic background is higher amongst younger and less experienced practitioners, and the proportion of practitioners with a lower socio-economic background is lower across the same groups.

	Parental occupation at age 14	
Age bracket	Professional	Lower
25-34	54%	35%
35-44	51%	33%
45-54	47%	29%
55-64	38%	42%
65+	42%	42%

	Parental occupation at age 14	
Years in profession⁷	Professional	Lower
Up to 5	48%	34%
6-15	53%	32%
16-25	48%	33%
26-40	39%	36%
40+	43%	50%

⁷ Participants were asked: “For how many years have you been practising as an authorised Costs Lawyer?”

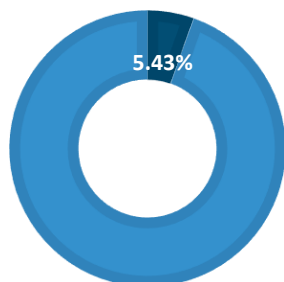
Type of school

Next, we asked respondents which type of school they attended for the most time between the ages of 11 and 16. According to the Social Mobility Commission, this measure provides an indication of economic and cultural advantage.⁸

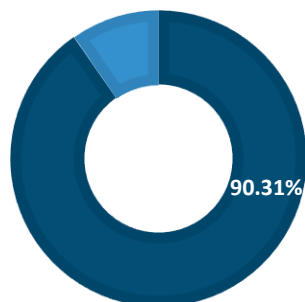
The statistics below show the proportion of Costs Lawyers that attended an independent school (without a bursary) compared to other education pathways,⁹ with comparative data for the general population and for solicitors. The data indicates that educational privilege is less prevalent amongst Costs Lawyers than amongst solicitors and the wider population.

Type of school: Costs Lawyers

INDEPENDENT

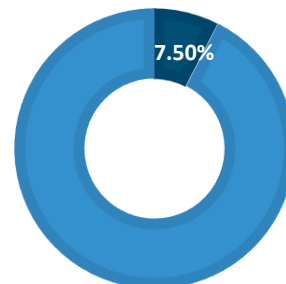


OTHER (UK)

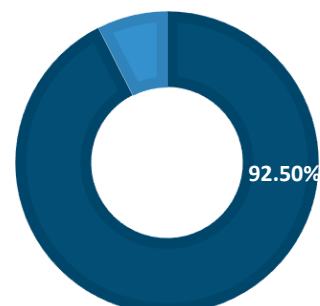


Type of school: General population¹⁰

INDEPENDENT



OTHER (UK)



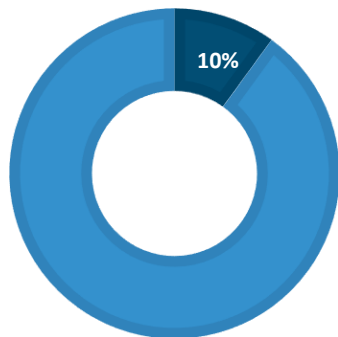
⁸ See <https://socialmobilityworks.org/toolkit/financial-and-professional-measurement/>.

⁹ Excluding those who attended school outside of the UK and who indicated they preferred not to say.

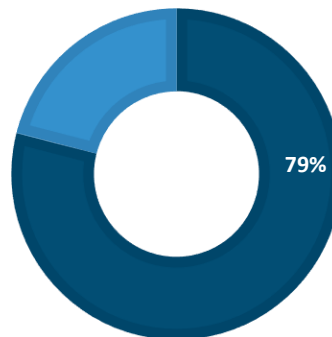
¹⁰ 2019 data for the UK reported by the Social Mobility Commission at <https://socialmobilityworks.org/toolkit/financial-and-professional-measurement/>.

Type of school: Solicitors¹¹

INDEPENDENT



OTHER (UK)



The prevalence of independent school attendance varies by region, although the relatively small number of respondents who indicated that they attended an independent school without a bursary (14 individuals in total) means that the sample size for each region is small.

Region	Costs Lawyers who attended an independent school for most of the time between ages 11 and 16
Wales	0%
North West	10%
North East	11%
Yorkshire & Humber	3%
East	14%
South West	9%
West Midlands	12%
East Midlands	0%
South East	0%
London	2%

¹¹ 2019 data reported by the Solicitors Regulation Authority at <https://www.sra.org.uk/solicitors/resources/diversity-toolkit/law-firm-diversity-tool-2/>.

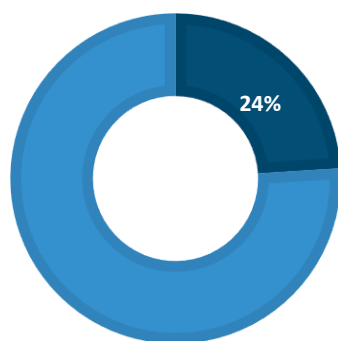
Parental education

Finally, we asked respondents whether either of their parents attended university and gained a degree by the time the respondent was 18. According to the Social Mobility Commission, attending university gives a nuanced form of cultural advantage, as organisational cultures favour attendees. Being the ‘first in family’ to attend signals a potential lack of support to navigate university and entry into the graduate workforce.¹² While this is not in itself a measure of social background, it can be interpreted alongside findings from the parental occupation question described above.

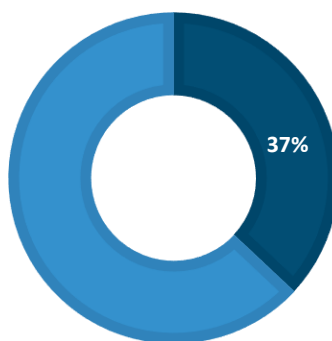
The statistics below show the proportion of Costs Lawyers that had at least one parent who attended university and gained a degree. We do not draw any conclusions about the proportion of Costs Lawyers who were ‘first in family’ to attend university, not least because it is not a requirement that Costs Lawyers themselves attend university in order to undertake their professional qualification. We have also provided benchmarking data for other groups, although that data was collected using slightly different questions to the one we asked, so comparisons should be drawn with caution.¹³

Proportion of group with a parent who attended university

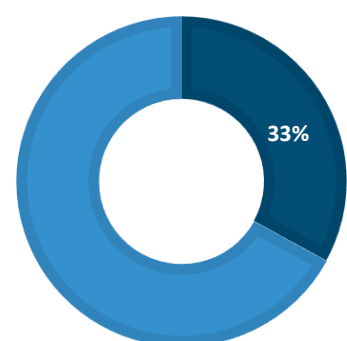
COSTS LAWYERS



SOLICITORS



ALL GRADUATES



¹² See <https://socialmobilityworks.org/toolkit/financial-and-professional-measurement/>.

¹³ For solicitors, 2019 data reported by the Solicitors Regulation Authority at <https://www.sra.org.uk/solicitors/resources/diversity-toolkit/law-firm-diversity-tool-2/>. For all graduates, 2020 data reported by the Social Mobility Commission at <https://socialmobilityworks.org/toolkit/financial-and-professional-measurement/>.

Career progression

We asked participants about their current job level, as an indicator of their career progression after entering the profession. Of course, job level will be influenced by a number of factors, including experience obtained before and after qualifying as a Costs Lawyer. However, if the data was to show a close correlation between practitioners' career success/seniority and measures of social mobility, it may be possible to infer a causal link between socio-economic background and career progression.

Our conclusion is that nothing in the statistics below indicates that socio-economic background is presenting a barrier to progression in the Costs Lawyer profession.

Current job level¹⁴	Parental occupation at age 14	
	Professional	Lower
Junior employed lawyer or sole practitioner	48%	34%
Mid-level employed lawyer or sole practitioner	53%	32%
Senior employed lawyer or sole practitioner	48%	33%
Partner or business owner with employees	39%	36%

Current job level	Proportion of Costs Lawyers that:	
	Had a parent who attended university	Attended an independent school (no bursary)
Junior employed lawyer or sole practitioner	48%	34%
Mid-level employed lawyer or sole practitioner	53%	32%
Senior employed lawyer or sole practitioner	48%	33%
Partner or business owner with employees	39%	36%

¹⁴ Participants were asked: "Which of the following best describes your current job level?"

More information

The Annex to this report contains the raw data from the three social mobility questions asked in the survey. If you would like further information about any of the data presented in this report, or would like access to the raw data on comparative metrics (such as age, job level, gender or practising region), please [contact us](#).

You can find additional data relating to the Costs Lawyer profession (including diversity data) on the [Data About Costs Lawyers](#) page of the CLSB's website.

Annex

Raw data from the three social mobility questions

Question 1: What was the occupation of your main household earner when you were aged about 14?

Answer choices	Response rate	Number
Modern or traditional professional occupations such as: teacher, nurse, physiotherapist, social worker, musician, police officer (sergeant or above), software designer, accountant, solicitor/barrister/judge, medical practitioner, scientist, civil / mechanical engineer	33.3%	86
Senior, middle, or junior managers or administrators such as: finance manager, chief executive, large business owner, office manager, retail manager, bank manager, restaurant manager, warehouse manager	14.0%	36
Clerical and intermediate occupations such as: secretary, personal assistant, call centre agent, clerical worker, nursery nurse	7.0%	18
Technical and craft occupations such as: motor mechanic, plumber, printer, electrician, gardener, train driver	12.8%	33
Routine, semi-routine manual and service occupations such as: postal worker, machine operative, security guard, caretaker, farm worker, catering assistant, sales assistant, HGV driver, cleaner, porter, packer, labourer, waiter/waitress, bar staff	19.8%	51
Long-term unemployed (claimed Jobseeker's Allowance or earlier unemployment benefit for more than a year)	1.6%	4
Small business owners who employed less than 25 people such as: corner shop owners, small plumbing companies, retail shop owner, single restaurant or cafe owner, taxi owner, garage owner	6.6%	17
Other such as: retired, this question does not apply to me, I don't know	2.3%	6
I prefer not to say	2.7%	7
Total		258

Question 2: What type of school did you mainly attend between ages 11 and 16?

Answer choices	Response rate	Number
State-run or state-funded: selective on academic, faith or other grounds	25.2%	65
State-run or state-funded: non-selective	61.6%	159
Independent / fee-paying: where I received a bursary covering 90% or more of my tuition	3.5%	9
Independent / fee-paying: no bursary	5.4%	14
Attended school outside the UK	3.5%	9
I prefer not to say	0.8%	2
Total		258

Question 3: Did either of your parents attend university and gain a degree (e.g. BA/BSc or equivalent) by the time you were 18?

Answer choices	Response rate	Number
No, neither of my parents attended university	75.2%	194
Yes, one or both of my parents attended university	23.6%	61
Do not know / not sure	0.8%	2
I prefer not to say	0.4%	1
Total		258

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16 February 2023

Dear David

Providing assurance under the LSB's new regulatory performance framework

Following the publication of our 2022 Regulatory Performance Assessment report, our attention has turned to the full implementation of our new Regulatory Performance Framework. I have had helpful initial conversations with some of you (for which many thanks) about how the boards of regulatory bodies might go about seeking their own assurance of their performance against the new standards in our framework. To this end, I thought it would be helpful to set out some thoughts on how you might approach this, with a view to reducing the need for additional information to be produced at assessment time.

Background

As we were transitioning from our previous framework to our new one, we used a hybrid approach for our 2022 assessment. This meant that we asked regulators to provide us with assurance about their performance against the standards in our previous (2018-2022) framework, but we used our new framework's rating system and a narrative approach to presenting our assessments.

We found that using the hybrid approach for our 2022 assessment worked well. We believe that evaluating the level of assurance regulators provided about their performance against the standards combined with the narrative approach to presenting our assessments provided a more realistic picture of where regulators were doing well and where there were opportunities (and indeed requirements) for improvement.

Our 2023 assessment, which will start in June, will be the first to be done entirely under our new framework. This means that as well as using our new rating system and approach to presentation, we will seek assurance from regulators about their performance against the new standards set out in our [Sourcebook of Standards and Characteristics](#), which are as follows:

- **Well-led:** Regulators are well-led with the resources and capability required to work for the public and to meet the regulatory objectives effectively.
- **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.
- **Operational delivery:** Regulators' operational activity (e.g. education and training, authorisation, supervision, enforcement) is effective and clearly focused on the public interest.

The standards are supported by 20 characteristics which describe the features of effective regulators and are derived from regulators' statutory duties and regulatory arrangements.

Assurance mapping

When we consulted on our new framework, we emphasised that one of its aims was to give regulators more autonomy about how they carry out their work while providing clarity about our expectations of their performance.

One helpful suggestion that has come up in discussion, and which I share with you now, relates to "assurance mapping". This would involve Boards identifying in advance the sources of assurance they would likely rely on in assessing the extent to which they demonstrate the 20 characteristics, and, summing that up, their performance against the three standards. The assurance map might then be used as a template for suitably regular performance reporting, both internally and to the public and stakeholders.

In an ideal world we might aim for a position that the regulator's own assurance mapping, with regular reporting against it and effective self-challenge obviates the need for any additional information to be supplied to the LSB at assessment time. While we recognise that such an ideal world may not in fact exist, we ought to be able to get quite a long way towards it.

We would like to develop these ideas further with you, either bilaterally or collectively. My colleagues at the LSB will be in touch with the CLSB to discuss our new framework and our approach to the 2023 assessment in the next few weeks. If you have any questions in the meantime, please do not hesitate to contact Steve Violet.

Yours sincerely



Helen Phillips

Chair

E: Helen.Phillips@legalservicesboard.org.uk

Minutes of the ACL Council Meeting
held on 29 November 2022
 via Teams



Council members present: **Jack Ridgway (JR)**, Stephen Averill (SA), Julian Caddick (JC), Stephanie McBride (SM), Amy Dunkley (AD)

The meeting started at 10:00

Item	
1	Welcome and apologies
1.1	Apologies were received from David Bailey-Vella, Kris Kilsby, Victoria Morrison-Hughes, Laura Rees, Amy Dunkley and Carol Calver. (DBV, LR, AD & CC Joined the meeting part way through)
2	Minutes of the council meeting held on 3 November 2022
2.1	It was unanimously agreed that the draft minutes of 3 November were an accurate reflection of the meeting. It was agreed that items 8.3 & 9.2 should be partially redacted before publishing on the website.
3	Actions arising from the council meeting held on 03 November 2022
3.1	Actions were reviewed and updated.
3.2	VMH had asked for 'Free Access to Case Law' to be discussed following conversations at London Conference. Council discussed at length the availability of free case law. <i>Redacted due to confidentiality.</i> With the majority of members being employed by firms access should already be provided. CC to explore a discounted rate for external Cost Lawyers members with WestLaw.
4	Chairman's Report
4.1	JR formally welcomed Stephanie and Amy to the ACL Council and provided an overview of council structure and responsibilities. JR confirmed intent to place Amy on the PR-AM sub-committee and Stephanie to join Finance / Operations.
4.2	Business Review of 2022 – confirmation of policy and internal policy to be split leaving Policy to focus on external matters. JR requested feedback and confirmation on draft submitted to council.
5	PR & Marketing Report
5.1	DBV provided feedback on London conference – general feedback very positive, members pleased with a change of venue.
5.2	CC provided venue specific feedback from Operations and improvements were discussed for the future.
5.3	Discussion as to suitability of speakers and sponsors going forward – potential sight of presentations to council prior to the event and sponsors to attend for the entire event.
5.4	Members requested more coverage on mediation which will be considered for future conferences.

5.5	Discussion on the use of Slido for Q&A Panel, positive response from members and council to use at future conferences and expand the use of overall.
5.6	DBV gave an update on the upcoming website upgrade following a meeting with Operations and confirmed the rationale behind the changes proposed to modernise and simplify the experience for both the general public and members.
6	Policy Committee Report
6.1	Policy Committee have completed hand over meeting between remaining Policy sub-committee members and Ian Curtis-Nye.
6.2	ICN to arrange hand over meetings with CLSB and LSB to introduce KK and JC fully. Meetings to take place January.
6.3	KK and JR held meeting with the LSB during November, discussing the future of the profession along with subsequent regulation. LSB very pleased with the improvements seen in the modernisation and management of the CLSB over the last 18 months.
6.4	<i>Item 6.4 redacted due to confidentiality.</i>
6.5	KK has worked with CC on policy handbooks, KK had suggested the creation of a Directors Handbook for Council members based on the code of conduct available on website.
6.6	CJC Consultation discussion following the re-opening. Was agreed the ACL should provide a supplementary response which Policy will provide by 15/12 deadline.
7	Education Committee Report
	-Education report provided in advance-
7.1	Head of Education role offered to Madeleine Jenness and verbally accepted. Level of candidates for the role was very strong.
7.2	ACLT Budget for 2023 discussed and signed off. Slight increase has come from Business Development and Marketing which was deemed worthwhile.
7.3	<i>Item 7.3 redacted due to confidentiality.</i>
7.4	Encouraging numbers for enrolment into new course September 2023 – ACLT to confirm final numbers.
7.5	<i>Item 7.5 redacted due to confidentiality.</i>
7.6	Sarah Hutchinson (ACLT Chair) appointment renewal for 2023. JR recommended full approval, unanimously agreed by council.
8	Finance Committee Report
8.1	SA detailed meeting with CC for review of 22 budget to create potential 2023 budget. 2023 budget should be available early January. 5 year forecast to be reviewed to understand analysis behind suggested reducing member subscriptions.
8.2	<i>Item 8.2 redacted due to confidentiality.</i>

8.3	Ongoing support of Operations in supplier analysis and improvements.
8.4	SA highlighted to council the costs for Black Letter Communications to ensure full and complete use of their provision to the ACL.
9	Operations Report
9.1	CC reported circa 450 Membership renewal invitations for 2023 have been sent. Expectation that membership levels will remain static with some drop off, some returning. CLSB have advised a small drop in their membership renewal for 2023 – likely due to covid.
9.2	<i>Item 9.2 redacted due to confidentiality.</i>
9.3	JR reminded council that CC will liaise with the CLSB in January to cross reference renewal data to identify those with practicing certificates that do not have ACL membership and intention to email (through the CLSB) to discuss reasons behind this.
9.4	AD provided feedback following her council appointment that colleagues had indicated a reason for not renewing being simple forgetfulness. CC to ensure lapsed data from previous years is reviewed prior to renewals to include any that may fall into this category.
9.5	CC reported a high uptake of members wanting to join the Special Interest Groups. Council to agree Terms of Reference. JR suggested that whilst groups to be run by members with support from Operations a member of council to be part of each group – to be decided once groups are up and running during Q1 of 2023. JR to support until then.
9.6	CC provided an update on liaison with the LAG following a call with Bob Baker. LAG conference schedule agreed for 2023. The LAG also requires support from ACL Policy sub-committee to update their own constitution.
11	Any other business
11.1	(CC left meeting) Council discussion regarding the end of CC probation period.
12	Date of next meeting
12.1	Next meeting scheduled for Wednesday 18 th January 2023 – 12:00 Midday at: Thompsons Solicitors, 60 Church Street, Birmingham, B3 2DJ There being no further business the meeting ended at 11:55

**Minutes of the ACL Council Meeting
held on 18 January 2023**
at Thompsons Solicitors, Church St, Birmingham.



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

Also present: Carol Calver (CC), Head of Operations

The meeting started at 12:15

Item	
1	Welcome and apologies
1.1	Apologies were received from Stephen Averill and Laura Rees JR welcomed all to the meeting.
2	Minutes of the council meeting held on 29 November 2022
2.1	It was unanimously agreed that the draft minutes of 29 November were an accurate reflection of the meeting. It was agreed that items 3.2, 6.4, 7.3, 7.5, 8.2, & 9.2 should be redacted / partially redacted before publishing on the website.
3	Actions arising from the council meeting held on 29 November 2022
3.1	Actions were reviewed and updated.
4	Chairman's Report
4.1	JR advised of potential dates for the AGM – dates to be agreed with Council and membership invited. There has been no AGM for many years. The 2023 AGM will be via Teams.
4.2	JR provided details of contact at Access to Justice Foundation Policy Office who would like to discuss Pro Bono costs –along with a contact from the Federation of Small Businesses who would also like to work with the Association - Policy committee to arrange both.
4.3	JR summarised suggested points for inclusion in the 2023 Business Plan and asked each sub-committee to provide committee specific priority items.
4.4	<i>Item 4.4 redacted due to confidentiality.</i>
5	PR & Marketing Committee Report
5.1	The council discussed a recent eBulletin complaint regarding the CLSB disciplinary decision article. It was determined that as these details are fully accessible on the CLSB website and the publication of such was felt to be in-line with other representative bodies the article was deemed to be rightly published. The council also considered it appropriate to ensure that Costs Lawyers understand that the CLSB will sanction when required. Having no formal policy on this, it was recognised that publishing the personal details of the CL in question may have been unnecessary. CC will ensure the online article is updated to remove these details and will confirm with those involved.
5.2	The PR-AM sub-committee will work with the Editor of the eBulletin to create a list of <i>redacted due to confidentiality</i> topics that the Council should be made aware of in advance if articles are

	to cover these topics.
6	Policy Committee Report
6.1	KK provided feedback following the re-commencement of the Newcastle Regional Meetings (Dec 22), formally thanking Jon Farthing of Womble Bond Dickinson for his assistance and hosting.
6.2	KK confirmed the ACL submission of the supplementary response to the CJC Costs Consultation following the Belsner judgement.
6.3	KK confirmed attendance of the upcoming LSB, Draft Business Plan webinar.
6.4	KK detailed support to the LAG Group in regards to upcoming meetings for the Law Society Children's Act Panel and the MoJ Civil and Family LA RoCLA Stakeholder Advisory Group.
6.5	KK reported that the draft CPR changes are not yet available.
7	Education Committee Report
7.1	<i>Item 7.1 redacted due to confidentiality.</i>
8	Finance & Internal Policy Committee Report
8.1	CC has provided a proposed 2023 budget to JR for initial analysis.
8.2	<i>Item 8.2 redacted due to confidentiality.</i>
8.3	SM reported that the F&IP committee had been working on the Terms of Reference documents for the SiGs. JR suggested that the constitution for all SiGs should be the same and could be based on the LAG group constitution – documents to be completed and sent to Council for sign off.
9	Operations Report
9.1	A discussion took place regarding the incomplete member profiles of Costs Lawyers within the ACL website. CC confirmed it is the responsibility of members to update this area. JR suggested Operations cross reference the CLSB member profile with this data and back fill where possible.
9.2	CC confirmed the intention to email (via the CLSB) those CLs who hold a current practicing certificate but who do not have current ACL membership to survey them for feedback. PR-AM to collate email and questions.
9.3	<i>Redacted due to confidentiality.</i> CC to provide lapse data to Council
9.4	JR requested analysis of renewals v lapsed – how many are employed v self employed and how many are LAG v non LAG – CC to provide.
9.5	<i>Item 9.5 redacted due to confidentiality.</i>

9.6	<p>On formalisation of the Special Interest Groups, it was suggested that a Council member sit on each group, they will not however be required to Chair the Group.</p> <p>The Council volunteered as below:</p> <p>Court of Protection – Kris Kilsby</p> <p>Commercial Costs – Stephen Averill</p> <p>Solicitor / Client Costs – Victoria Morrison-Hughes</p>
9.7	<p>CC attended the recent LAG Committee meeting and reported:</p> <ul style="list-style-type: none"> – The LAG request JR to be Keynote speaker at the upcoming LAG Spring Conference – JR to confirm once dates finalised – Request for a LAG version of the ACL logo – to show expertise and provide enhancement with LAA – this was approved by Council, CC to organise. – The ACL hold the LAG Group date, however this is not made available to the LAG Committee – CC suggested Group communication should remain with the ACL however the LAG Committee should have a copy of member data (Name and Company only) – this was approved by Council, CC to organise.
9.8	<p>CC detailed visits to Conference venues in Manchester for conference on 21/04</p> <p>Ticket prices & sponsorship packages to be agreed at February council meeting on completion of draft budget.</p>
10	Any other business
10.1	<i>Item 10.1 redacted due to confidentiality.</i>
11	Date of next meeting
11.1	<p>Next meeting scheduled for 28 February 2023 – 10:00 to 12:00 via Teams.</p> <p>There being no further business the meeting ended at 14:20</p>

17 March 2023

Dear Kate,

Draft Business Plan, Budget and Interim Strategy for 2023/24: Overview of stakeholder responses

We are writing to follow up on the latest OLC Business Plan, Budget and Interim Strategy consultation for 2023/24. As always, it was really valuable to hear a range of stakeholder views on our proposals, and the responses have enabled us to reflect on our plans for the year ahead.

The consultation process closed on 14 December 2022. The revised Business Plan and Strategy were approved by the OLC Board earlier in February and will now be considered by the Legal Services Board (LSB) at their Board meeting on 21 March 2023.

Ahead of the LSB's decision, we wanted to share an overview of what we heard during the consultation process and highlight the changes we have made as a result of ongoing conversations we have had since the consultation ended.

Stakeholder feedback

The responses we received were generally supportive of the OLC's draft priorities and objectives. Following on from last year's notable shift in confidence levels, aligned to LeO's commitment to working openly and transparently, it was reassuring to see that stakeholder confidence has been maintained or increased for many respondents. We heard a clear message that LeO is 'moving in the right direction'.

However, it is important to reflect on the level of uncertainty around LeO's ability to reach the point of recovery forecast for the end of 2023/24. While recognising external factors such as the cost-of-living crisis are outside of LeO's control, responses highlighted the need for LeO to see its recovery journey through. We go into these points later when we discuss changes to the trajectories for 2023/24.

Some of the other key feedback we received was:

- A call for LeO to do more work under priority three, sharing insight and experience to improve the legal sector. This is linked to both the value LeO can add in supporting service providers in complaint handling and prevention, and also the associated impact of driving down the number of complaints that need to be referred to LeO.
 - Linked to this, the ongoing importance of transparency, including the need to look at what more LeO can do with the data it holds. This is of particular importance to regulators who want to better understand any particular themes and issues happening across their regulated communities, to help drive up standards and improve complaint handling.
 - Stakeholder appetite for understanding the impact of the Scheme Rules changes - not just on those bringing a complaint to LeO, but also on the organisation itself and the stabilisation of demand.
-

- Ongoing financial sensitivities within the sector. Given the cost-of-living crisis and real term cuts being experienced by many organisations, some respondents noted any increased budget would have an impact on service providers.

Over the last couple of months, we have reflected carefully on what we heard during the consultation process – with particular, attention given to balancing our ambition for LeO's performance, with the need to set plans that are credible and realistic.

While the final Business Plan and Budget is still subject to LSB approval, we wanted to share the broad changes from the draft we consulted on. The final Business Plan and Budget includes:

- Rescrutinised trajectories for complaints resolutions and the investigation queue (pre-assessment pool) – underpinned by data from actual performance in the meantime, stripping out optimism bias, and adopting an even more cautious approach to Scheme Rules impact.
- A change in reporting of the investigator queue – which provides a more accurate picture, as it excludes cases being resolved early.
- The impact of a different approach to contract renewals and having achieved greater savings in non-staff areas. This means more money can be diverted to operational teams – with more investigators for same budget.

Rescrutinised trajectories

Stakeholders have consistently told us that LeO shouldn't 'overpromise and underdeliver' – a belief shared by the Executive Team and OLC Board. But it's also right for us to have a level of ambition about LeO's performance trajectories.

Our latest forecasts show LeO will achieve 92% of its ambitious Business Plan target for 2022/23. This will be a high-water mark of 9,400 resolutions against historic performance in the region of 6,500 yearly resolutions – a 43% increase, or 2,800 more complaint outcomes, compared to 2021/22.

While LeO is on a strong positive trajectory, both LeO and the OLC understand the uncertainty of the current environment we're all operating in. In this context, it's important to recognise the distinction between ambition, targets and forecasting. The revised plan strips out optimism bias so our ambition is balanced with realism. The final forecasts now show a range between likely and worst-case scenarios which reflect a greater number of potential risks and variables in the underlying assumptions:

LeO's casework in 2023/24 (worst to likely case)

2023/24	Q1	Q2	Q3	Q4	Total
Total closures	1955 - 2094	2115 - 2232	1788 - 1907	1696 - 1895	7555 - 8128
Closed after investigation	935 - 1074	1095 - 1257	813 - 977	766 - 1010	3610 - 4318
Early resolutions*	1020	1020 - 975	975 - 930	930 - 885	3945 - 3810

**The number of early resolutions would be lower under LeO's likely-case scenario than under the worst-case scenario. This is because with a lower decrease in front-end demand, there would be relatively more opportunities for early resolution.*

Budget

In the consultation, we made clear that, like all organisations, we face significant unavoidable costs and inflationary increases. While many stakeholders acknowledged the need for an inflationary budget increase, we also recognise the real pressure felt by those who contribute to LeO's funding.

The pay increase of 8% recognises the very real risk of continuing to lose the skilled people we have invested in if we don't take into account the rising cost of living and ensure the competitiveness of LeO's offer. No clarity has yet been provided on the pay increase proposal. While the Business Plan is subject to approval from the LSB, LeO is bound by MoJ pay remit guidance, and we will need to wait for further clarity on any expected increase.

We also want to take this opportunity to reflect on the responses received which outlined the expectation that LeO's future budgets will reduce as the organisation stabilises. While we can't predict what future budgets will look like, it is important to recognise the clear stakeholder appetite for more to be done in the learning and insight space – from the legal profession, regulators, and consumer representatives alike. The call for this is testament in itself to renewed confidence in LeO.

A commitment to do more in this space is already reflected in the plans, with 2023/24 being an opportunity to reflect on LeO's current offering and to gain a better understanding from stakeholders around how they would like to see our future strategy develop. As we look to develop this area of work, we will be considering what this means for the balance of LeO's resources and how, like the rest of LeO's operations, we can ensure this work is funded in way that is sustainable, reflecting its value and impact.

We have welcomed the honest feedback received throughout our consultation process, and during LeO's recovery journey as a whole. As ever, if you have any questions on any aspect of the Business Plan and Budget, please don't hesitate to get in touch.

Best wishes,



Elisabeth Davies
OLC Chair



Paul McFadden
Chief Ombudsman

Board paper

Audit of 2022 CPD

March 2023

Introduction

This report provides the Board with an overview of the audit of 2022 CPD which was undertaken February-March 2023.

This was the second audit of CPD undertaken under the new CPD Rules effective from 1 January 2021.

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

Outcomes

1. The audit comprised of 20 randomly selected Costs Lawyers, and one Cost Lawyer who failed the audit last year.¹ All were asked to provide evidence of both their individual CPD activities in 2022, as well as their written CPD record identifying their training needs, setting CPD objectives and evaluating the effectiveness of their CPD ("Full CPD Records"), as required by the new Rules. Their Full CPD Records were assessed using the Audit Checklist in the [Supervision Framework for CPD](#).
2. As last year, every Costs Lawyer audited used the CLSB example template for planning and recording their CPD. By using this structure they complied with many of the points on the Audit Checklist.
3. The majority of Full CPD Records demonstrated a good level of engagement with planning, recording and evaluating CPD.
4. The new framework for CPD is continuing to have a positive impact on the planning of CPD, as shown in the following extracts from the Full CPD Records submitted:

"Having my objectives thought out and set from the beginning of the year ensured I was able to achieve my CPD activities throughout the year and I was able to work on activities most relevant to my needs."

¹ The second Costs Lawyer who did not pass the audit last year and was told they would be reaudited this year did not renew their practising certificate for 2023. This has been recorded in the database and will be picked up upon any future reinstatement.

"It has been helpful to plan my CPD earlier in the year."

"Planning the CPD was a benefit this year and I managed to explore and improve my technical ability which is key for my role as a fee earner."

"Undergoing training from a wider and less stringent list of providers has made it easier to undertake training as I go along and to target the training to the work being undertaken at the time."

"Next year I will look to develop a number of trusted providers and perhaps seek to undertake a monthly review of relevant issues, noting the work done each month, to maintain accuracy and help identify any areas where I would benefit from additional training well before the end of the CPD period. This may help with a wider pool of training, as options can be limited towards year's end."

5. As last year, and in line with the Supervision Framework, the focus of the audit was on education rather than sanction, and Costs Lawyers whose Records were lacking in specific objectives or detail were encouraged to address this in future years. The most common feedback that Costs Lawyers were asked to consider in future was how they could better set specific objectives that reflected their own practice, existing skills and learning needs. This was particularly noticeable in the legal and technical competence category, where the only objective of several Costs Lawyers audited was to "keep up to date".
6. Three Costs Lawyers were assessed as not having fully complied with the Rules:
 - a. Two did not send Full CPD Records as required. Both were asked submit their CPD objectives for 2023, and told they will be audited again in the next 3 years. One of these CLs had to be chased repeatedly, missed the original and later deadlines, and only responded after I contacted a senior manager (who was very supportive) in the firm. At the time of writing, receipt of the 2023 objectives is still pending, due to all the delays.
 - b. One CL submitted CPD objectives that had clearly not been set at the start of the year as they related to a job started much later in the year. Feedback on future compliance with the Rules was given.
7. Generally, Costs Lawyers who were asked for additional information, were given guidance for the future, and/or had not complied with the Rules were positive about the process:

"Thanks Jacqui – useful feedback."

"Thank you, that is helpful."

"Thank you for the helpful explanation and pointers to the various materials."

8. The most significant issue arising from this year's audit is the need to clarify what constitutes acceptable "evidence" of individual CPD activities. This issue arises from:
- a. Both the new CPD Rules and changes to the delivery of training since the pandemic mean that less CPD is undertaken by attending an event in person where a certificate is provided at the end. Often the only evidence provided is an email confirmation of booking. In some cases the full CPD record provides evidence of engagement with the activity, but they are not usually sufficiently detailed for this.
 - b. Whilst time spent supervising a trainee Costs Lawyer can be counted for CPD, internal records can contain case/organisation sensitive information and ACLT does not keep records of supervisors if this changes after the application for the CLQ, so it can be difficult to obtain adequate evidence of this activity.
 - c. Costs Lawyers who have moved job since undertaking CPD activities often find it hard to produce any evidence at all, as they have not retained this prior to losing access to their former organisation's systems.

Whilst the audit follows the approach set out in the [Supervision Framework](#) to "take a risk-based approach to verifying whether a Costs Lawyer has in fact participated in the CPD activities listed in their summary CPD record, rather than verifying every activity for every audited practitioner" this means that in some cases, depending on the range and type of activities undertaken, there is little actual evidence of participation in CPD activities. In cases where the full CPD record is also lacking in detail this makes it hard to carry out the "prima facie assessment of every Costs Lawyer's summary CPD record" which should act as a "safety net" for promoting compliance with the minimum requirements in line with the Supervision Framework.

9. As last year, we did not feel it necessary or appropriate to take disciplinary action against any of the Costs Lawyers who did not pass this year's audit (subject to receiving 2023 objectives from the Costs Lawyer mentioned in paragraph 6(a) above). We believe that providing guidance on the Rules and following up with certain individuals through a further audit in the next few years is a proportionate approach that is most likely to yield positive compliance outcomes in the longer term.

Actions

10. Review what is likely to be sufficient (and insufficient) evidence of CPD, and update the list of evidence (for example, consider adding notes taken when attending an event/reading an article).
11. Update both the suggested template for planning and recording CPD and the worked example in light of experience from the first two audits under the new Rules. As all Costs Lawyers audited to date have used this template this is an excellent way to disseminate good practice.
- a. Be clear on the need to set more specific objectives, especially in the legal and technical competence category where planning to develop specific knowledge

and skills is far more useful, than simply planning to “keep up to date”. (We added a FAQ to the website along these lines after last year, but a change to the template is likely to have more impact.)

- b. In the evaluation section provide space for some reflection on the impact of CPD activities where evidence is hard to obtain (e.g. research, supervision).
 - c. Clarify how to deal with the Full CPD Record if role/organisation changes during the year and some/all objectives are no longer relevant.
 - d. Last year we noted the need to clarify that the category “dealing appropriately with your client and third parties” may mean internal clients, depending on a Costs Lawyer’s practising arrangements – and cannot be ignored if they do not deal with lay clients.
12. Add a new paragraph to the standard email that goes out with practising certificates reminding Costs Lawyers of the CPD Rules, in particular the need to set CPD objectives at the start of the practising year/when practising begins and the need to retain evidence of CPD, even when changing jobs.
13. Remind individual Costs Lawyers who notify the CLSB of a new organisation during the course of the year of the need to retain evidence of CPD for 2 years after the end of the practising year.
14. Update the [Lessons from the audit of 2021 CPD records](#) webpage, sharing feedback from the audit outcomes with the wider regulated community, to reflect the learnings of both audits and make it clear that all CPD activities should be listed on the Full CPD Record (even if only sufficient activities to meet the minimum 12 points is evidenced and listed on practising certificate applications). Promote this webpage again in the newsletter.

Conclusions

15. 18 of the 21 Costs Lawyers audited passed the audit, including the individual who did not pass last year. 3 did not pass and 2 of these will be audited again within the next three years. We provided feedback for future years to all audit participants.
16. Like last year the audit suggests that the majority of Costs Lawyers (based on the audited sample) are aware of the new approach to CPD, and many are already seeing the value of identifying their training needs, setting CPD objectives and evaluating the effectiveness of their CPD to their practice.
17. Follow up communications and future audits will ensure the new approach becomes embedded so that, as well as benefitting from the increased freedom and choice of individual CPD activities under the new Rules, Costs Lawyers plan and evaluate CPD as effectively as possible, for the benefit of their practice and clients.

Jacqui Connelly

Digital work plan update

Board report

1 March 2023

Progress overview

The next phase of our digital workplan is set out in priority 12 of the 2023 Business Plan as follows:

- a. improving the visibility of supervision issues in the database;
- b. creating a single repository for complaints data in the database;
- c. adding action prompts to functionality;
- d. revising application forms and adding database functionality resulting from enhancements to the Register of Costs Lawyers made in 2022;
- e. capturing regulatory history of individual Costs Lawyers in the database to consolidate and safeguard all available information.

All of this work, except (e), is well underway, with (b) now complete.

However, since the Business Plan was drafted several other changes have become necessary, most notably:

- f. creating application forms and extending the database to deal with the assessment of Qualifying Experience by the CLSB;
- g. implementing a new bulk email sending system.

The new bulk email sending system is now in use; many thanks to the Board for providing useful feedback on the prototype version.

In addition to working on the above specific projects, we have been making the usual annual updates following the practising certificate renewal process. Some issues that initially appeared to be minor have thrown up more significant challenges, and it seems timely to provide the Board with a more detailed update on where we have got to with our digital work plan and our framework for future developments.

PC renewal process – improvements and challenges

Since the introduction of the online practising certificate renewal application form in 2020 we have updated the form each year to improve both user experience and quality of data. The implementation of the new email sending system early this year addressed the most significant outstanding user experience issue; namely, failure to receive the email containing a link to the personalised application form. The first newsletter to be sent out using the new mailing system was distributed at the beginning of March, with several CLs reporting it was received into their inbox when previously it had always gone to spam.

We have improved the quality of data collected in the application forms by refining the questions asked, as well as the structure and layout of the form, and also increased the quantity and range of data collected (for example, last year we collected data for the first time on the extent to which CLs take direct instructions from consumers). Some of this additional data collected is initiated by us to help us understand the profession better (e.g. asking about additional organisations in which CLs practise) and some of it is due to new LSB requirements (e.g. practising areas) and how we implement these (e.g. instructions from consumers).

The underlying database enables us to store, report on and analyse the data in a way impossible with the previous paper application forms.

However, the ongoing changes means the application process is becoming more and more complicated. Below is a case study to give you a feel for how the changes bring both improvements and challenges.

- Last year, for the first time, we had the answers to some questions drive the content/questions that applicants see later on in the form. We will be extending this for this year's renewals to improve the clarity of the questions and our data quality.
- One way we did this was by not requiring CLs who work in-house to answer questions about the source of their instructions, which is likely to have skewed the data in previous years. Another way we did this was by not asking for information on PI insurance and consumers from CLs whose primary organisation is SRA regulated.
- However, we now also collect data on any additional organisations that CLs work in. Whilst this doesn't apply to many individuals (i.e. not many lawyers work in multiple organisations), it impacts significantly on the coding of the online forms. The system now has to check information about all the (up to 10) additional organisations in order to ascertain which content/questions to show the applicant.
- This becomes even more complicated if an individual changes their organisation type at a later stage in the application, as they may have not seen some now relevant questions.
- To ensure consistency between the look and feel of all the application forms, the changes have knock-on effects on the reinstatement and first practising certificate applications. Things that initially appear to be simple changes, have actually become quite complicated and time-consuming to implement, test and manage.

In short, by making the most of the functionality offered by the database and online forms, we now have a much more complicated process, rather than just an online version of the original paper forms.

To help manage this complexity we have commenced work on developing a flow chart of the renewal application, which we'll bring to a future Board meeting for your information. The Board should also be aware that there are inevitably implications on both my time and the time (and therefore cost) of our IT consultant. Our current strategy for developing the system is to continue to improve user experience and quality of data for us, and we are confident we can do this within the existing budget, but will keep this under review particularly in relation to any new LSB requirements (e.g. on ongoing competency).

Solving the pre-population problem

This focus on user experience and quality of data is illustrated by the way we are approaching the pre-population of data for future practising certificate renewal applications. Applications are accessed via a link sent in an email and are pre-populated with both personal and organisational data as well as the regulatory information provided last year (for review and amendment where necessary), all of which is stored in the database. The way the pre-population currently works is limited to being able to pre-populate a maximum number of characters. The need to pre-populate the extra data on additional organisations collected last year takes us over this limit.

We were presented with the option of a quick and easy fix to the immediate problem – requiring about 2.5 days development work – but it doesn't solve the longer term pre-population restrictions we face. We have therefore chosen to take a longer term view – requiring around double the development time – but providing a better technical solution and some future-proofing to the system. This solution draws any information publicly available on the Register of Costs Lawyers from there, rather than the database.

The additional benefit of this is that pre-populated data remains live, not fixed after sending the email containing the application link. So, a Costs Lawyer who notifies us of moving organisations on 18 November, and completes their application on 20 November, would see the new organisation information even though the application email was sent out on 1 November. This approach therefore gets us much closer to some of the benefits of a login-type system without the data security risk that comes with that, thus extending the lifetime of our current system and making the investment worthwhile.

Jacqui Connelly