
Costs Lawyer Code of Conduct



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Costs Lawyer Standards Board



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Definitions

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| Client | The person for whom a Costs Lawyer acts including (where the context permits) a prospective or former client |
| CLSB | The Costs Lawyer Standards Board |
| Costs Lawyer | A Costs Lawyer with a current practising certificate issued by the CLSB |
| Code | This Code of Conduct made pursuant to the LSA |
| LSA | Legal Services Act 2007 |
| Professional client | Any person or organisation authorised to carry out reserved legal activities under the LSA, or any unauthorised costs advisor, that instructs a Costs Lawyer to provide services to or in relation to a client |

Introduction

This Code is made pursuant to the LSA and sets out the principles that should guide your conduct as a Costs Lawyer, both when delivering reserved activities and across the rest of your practice, as well as, to the extent indicated below, in your private conduct. Further, it sets out your authorised rights and works in conjunction with prevailing legislation in such a way as to regulate what you can and cannot do under your authorisation.

The scope of your authorisation is governed by legislation but should not be interpreted as preventing you from expanding into other, unreserved areas of practice or from seeking to innovate in areas related to costs and pricing where Costs Lawyers have unique knowledge and skills. If you are unclear about how an innovation you are considering might interact with this Code or other CLSB regulatory arrangements you should discuss this with the CLSB.

Under section 176(1) of the LSA you must comply with this Code. Breach of this Code or of the CLSB's wider regulatory arrangements as set out in the Costs Lawyer Handbook may result in disciplinary proceedings being brought against you by the CLSB. This Code is effective on the date stated on the first page.

Authorised rights

As a Costs Lawyer you are a regulated person under the LSA and are authorised to carry on the following reserved legal activities:

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

Provided that you are instructed to deal only with matters that relate to costs, you may conduct proceedings and represent clients in any court or tribunal, including any criminal court or courts martial, the Supreme Court or the Privy Council where:

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- the proceedings are at first instance;
 - the proceedings include an appeal below the level of the Court of Appeal or Upper Tribunal, are on a first appeal (other than in the Court of Appeal) and the appeal itself relates to costs;
 - the proceedings do not fall within either of the categories above, but your instructions are limited to dealing with the costs of the proceedings; or
 - the court or tribunal grants permission for you to conduct proceedings or to represent a client (or both).

Where proceedings relate to other matters, in addition to costs, the rights referred to above apply only to those parts of the proceedings (if any) that:

- relate solely to costs; or
- when they relate to other issues, solely those issues that are not in dispute.

A matter “relates to costs” if it relates to payments for legal representation, including payments in respect of pro bono representation under section 194 of the LSA, or to payments made for bringing or defending any proceedings, but only if and to the extent that those monies are not damages. For the avoidance of doubt, this includes:

- costs between opposing parties including costs management and budgeting;
- solicitor and client costs but not if and to the extent that issues of negligence arise when a lawyer competent to deal with allegations of negligence ought to be instructed instead;
- legal aid, criminal costs, wasted costs or costs against third parties.

Further, you may administer any oath.

The scope of this authorisation does not prevent you from offering other services as a Costs Lawyer provided you do so in accordance with this Code of Conduct and adhering to any of the CLSB’s other regulatory arrangements that are relevant.

Seven principles of regulation

There are seven principles to which Costs Lawyers must conform to ensure public confidence in you and the profession. Adherence to these principles is mandatory.

You must:

1. Act with honesty and integrity and maintain your independence.
2. Comply with your duty to the court and promote the proper administration of justice.
3. Act in the best interests of your client.
4. Provide a good quality of work and service to your client.
5. Deal with the regulators and Legal Ombudsman in an open and co-operative way.
6. Treat everyone fairly and equitably, and with dignity and respect.
7. Keep the affairs of your client confidential.

PRINCIPLE 1

Act with honesty and integrity and maintain your independence

- 1.1 You must act honestly and with integrity, not only in your professional life but also in your private life where your behaviour might reasonably be considered to undermine your adherence to the core ethical principles of the profession.
 - 1.1a You must act independently in the interests of the proper administration of justice. This duty overrides your duties to your client and applies both to your work before the court, in advising clients, and in conducting litigation.
- 1.2 You must not attempt to carry on a reserved legal activity other than one you are authorised to undertake under the LSA. Where you carry out unreserved legal activities within the same business, or if you hold yourself out as a Costs Lawyer in any other business, you must adhere to this Code across these other activities.
- 1.3 You must not give false or misleading information to anyone with whom you deal.
- 1.4 When you supply or offer your services as a Costs Lawyer, you must not be misleading or inaccurate about the nature or scope of the services you are offering, who will be legally responsible for undertaking them, the extent to which they are covered by regulation and insurance, the terms on which they will be supplied or the basis on which they will be charged.

PRINCIPLE 1

**Act with honesty
and integrity
and maintain
your
independence**

- 1.5 You must not:
 - (i) make an unsolicited approach by any means to a private individual (lay person) or to domestic premises (unless a business is being conducted from there) in order to publicise your service as a Costs Lawyer or your business; or
 - (ii) accept referrals from a third party who made an unsolicited approach to the private individual (lay person) being referred.
- 1.6 You must not enter into any fee arrangements which are unlawful.
- 1.7 You must not act in any way which is likely to diminish the trust the public places in you or in the profession of Costs Lawyers.
- 1.8 You must only use the CLSB's regulatory marks in compliance with the terms of use published on the CLSB website.

PRINCIPLE 2

Comply with your duty to the court and promote the proper administration of justice

- 2.1 You must at all times act within the law.
- 2.2 You must not knowingly or recklessly either mislead the court, attempt to mislead the court, or allow the court to be misled.
- 2.3 You must comply with any court order which places an obligation on you and you must not be in contempt of court.
- 2.4 You must ensure that clients understand when your duties to the court will override duties owed to them and you must advise clients to comply with court orders made against them.
- 2.5 You must support the proper administration of justice by promoting the appropriate and cost-effective use of the resources of the court and the parties.

PRINCIPLE 3

Act in the best interests of your client

- 3.1 You must act at all times in the best interests of your client, except where this conflicts with your duty to act independently in the interests of the proper administration of justice or where otherwise permitted by law. You must act in the best interests of your client regardless of the consequences for your professional client or other intermediary. You must not permit a professional client, employer or any other person to limit your ability to fulfil this duty.
- 3.1a You must decline to accept an instruction from a client or, if you have already accepted an instruction, you must cease to act if:
 - (i) it would not be in the client's best interests for you to act;
 - (ii) your own interests conflict with your duty to act in the best interests of the client in relation to the instruction, or there is a significant risk of such a conflict arising during the course of the instruction; or
 - (iii) the client's interests conflict with those of another client. You may, however, act if each client has substantially common interests and has given informed consent.
- 3.2 You must provide for an effective complaints procedure for handling complaints from clients, covering issues relating to your professional conduct as well as the service you provide, in line with the CLSB's guidance on complaints procedures.
- 3.3 You must ensure that complaints are dealt with promptly (within a maximum eight week period from the date of receipt) openly and fairly and that appropriate provisions for redress exist.

PRINCIPLE 3

Act in the best interests of your client

- 3.4 You must ensure that new clients are advised in writing when instructions are first received of:
- (i) an estimate of fees / details of charging structure and where that estimate subsequently becomes inaccurate or that charging structure changes provide an updated estimate / notice of revised charges;
 - (ii) the right to complain;
 - (iii) how to complain i.e. the complaints handling procedure that applies to the services you will provide; and
 - (iv) If applicable, the client's right to refer their complaint to the Legal Ombudsman in certain circumstances.
- 3.5 You must identify and rectify any systemic issues that are causing, or are likely to cause, client complaints, taking steps to do so promptly upon discovery.
- 3.6 You must not accept client money save for disbursements and payment of your proper professional fees. This does not prevent you from using the services of third party financial institutions, such as escrow accounts or third party managed accounts, to deal with client money (including advance payment of your fees) so long as the terms of those services are agreed in advance with your client.
- 3.7 You must ensure that the information you provide to your client or prospective client is in a form that is tailored to their attributes, needs and circumstances.
- 3.8 You must ensure that you maintain professional indemnity insurance that complies with the Practising Rules and promptly provide evidence of that insurance cover if requested by a client, CLSB or the Legal Ombudsman.

PRINCIPLE 4

Provide a good quality of work and service to your client

- 4.1 You must ensure that you only undertake work for which you are properly qualified and which you are competent to undertake.
- 4.2 Work must be undertaken with due skill, care and attention, with proper regard for the technical standard expected of you. If you do not have the knowledge, skills or experience to undertake the work you must decline it.
- 4.3 You must ensure that you carry out your professional work in a timely manner with proper regard for standards of professional service and care.
- 4.4 You must maintain your competence to carry out your role and keep your professional knowledge and skills up to date.
- 4.5 You must keep your client regularly informed as to the progress of work and keep accurate records of that work.
- 4.6 You must ensure your client is able to make informed decisions about the work being undertaken on their behalf throughout the lifetime of a matter, including how it will be priced, the costs incurred and the likely overall cost of the matter (including any potential liability for the costs of other parties).

PRINCIPLE 5

Deal with the regulators and the Legal Ombudsman in an open and co-operative way

- 5.1 You must be open, honest and co-operate in your dealings with the CLSB, other regulators and the Legal Ombudsman.
- 5.1a You must provide accurate and complete documentation and information on an application for a practising certificate and you must promptly notify the CLSB of any subsequent event that impacts on your fitness to be a Costs Lawyer.
- 5.1b You must respond promptly to any requests from the CLSB with full and accurate information. You must provide the CLSB with access to information and documentation if requested to do so.
- 5.2 You must promptly notify the CLSB of any breach of its regulatory arrangements by you or other Costs Lawyers and notify any other approved regulator, as appropriate, if you reasonably believe there has been a serious breach of their regulatory arrangements by any person regulated by them (including you).
- 5.3 You must not take any action to dissuade or prevent anyone from reporting you to the CLSB or Legal Ombudsman, or victimise anyone who has done so.
- 5.4 You must promptly comply with any request, notice or disciplinary outcome issued to you by the CLSB under its regulatory arrangements.

PRINCIPLE 6

Treat everyone fairly and equitably, and with dignity and respect

- 6.1 You must treat all clients, colleagues and third parties fairly and equitably, and with dignity and respect. You must not bully or harass them, or unfairly discriminate against them (either directly or indirectly) on the grounds of age, disability, race (including colour, ethnic or national origin, nationality and citizenship), sex, gender reassignment, pregnancy and maternity, marital status (including civil partnerships), sexual orientation, religion or belief.
- 6.2 You must not engage in or facilitate counter-inclusive conduct or harassment which, intentionally or unintentionally, narrows or denies opportunities to people because of their background or characteristics.
- 6.3 If you are an employer, you must:
 - (i) have and adhere to a written policy which prevents discrimination and harassment and must investigate any allegation of discrimination, victimisation or harassment and take disciplinary action where appropriate; and
 - (ii) make reasonable adjustments for those with a disability to ensure they are not at a disadvantage in comparison with those without disabilities.

PRINCIPLE 7

Keep the affairs of your client confidential

- 7.1 You must keep the affairs of your client confidential unless disclosure is required or allowed by law or if the client consents in writing to disclosure, having had the consequences of such consent explained to them. You must ensure that your client is able, in your reasonable opinion, to give informed consent to waiving their right to confidentiality.