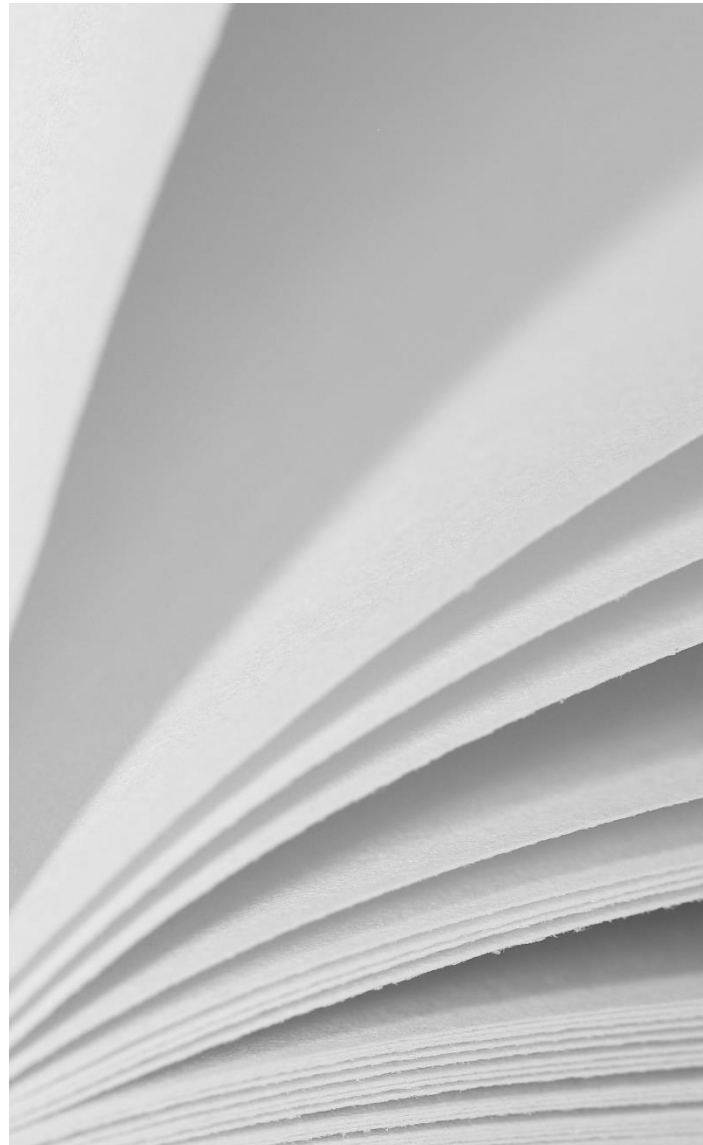

Costs Lawyer Competency Statement



2 February 2022

Costs Lawyer Standards Board

CLSB


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About the Competency Statement

How to use this document

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

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

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

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

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

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

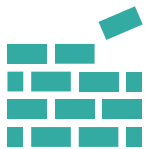
How the elements fit together

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



Knowledge

- Civil litigation
- Contract law
- Tort
- Practice and procedure in specialist forums
- Costs pleadings and process
- Legal aid
- The lawyer-client relationship and funding arrangements
- Professional standards and ethics



Skills

- Relationship management
- Case management
- Self management
- Effective communication
- Negotiation
- Advocacy
- Agile thinking

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



Minimum Standard

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

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



Professional attributes

- Self-sufficient
- Diligent
- Accountable
- Curious
- Proactive
- Professional
- Commercial
- Inclusive

Who should use this document

This document is for use by:

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

The Minimum Standard

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

1. Work is not negligent.
2. If work involves the exercise of professional judgement, that judgement is reasoned and defensible.
3. Work demonstrably assists the client and puts the client in a better position than if the work had not been carried out.
4. Work is fit for, and appropriate to, its purpose.
5. Work is performed to this standard within a reasonable timeframe.

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

Legal and technical knowledge

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

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

	Depth and breadth of knowledge required		
	Key concepts and general principles	Detailed knowledge and understanding	Optional additional knowledge, depending on intended practice area
Civil litigation	✓	✓	
Practice and procedure in specialist forums	✓		✓
Legal aid	✓		✓
Contract law	✓	✓	
Tort	✓		✓
Costs pleadings and process	✓	✓	
The lawyer-client relationship and funding arrangements	✓	✓	
Professional standards and ethics	✓	✓	

The table below summarises why each knowledge area is considered important.

Civil litigation	This informs most cases and is fundamental to the job, including knowledge and understanding of the Civil Procedure Act 1997 and the Civil Procedure Rules. This area includes the knowledge required to be a competent advocate.
Practice and procedure in specialist forums	A general understanding of the rules and procedure for employment, immigration, family and criminal litigation is necessary, given that Costs Lawyers may practise in any costs specialism once qualified, as is an understanding of the rules and procedure of the Supreme Court, Court of Protection and arbitral tribunals. Those specialising in these areas will benefit from additional training through optional modules and/or CPD.
Legal aid	The complexity of the legal aid process (and infrequency of cases for non-specialists) makes this area difficult for newly qualified Costs Lawyers, and yet economics dictate that junior lawyers often run these files.
Contract law	This is frequently relevant to understanding the underlying case as well as the legal obligations that govern costs liability.
Tort	A general knowledge of tort is relevant to understanding the underlying case in personal injury and clinical negligence claims. Those specialising in these areas will benefit from additional training through optional modules and/or CPD.
Costs pleadings and process	The quantification and assessment of costs are core, routine areas for junior Costs Lawyers, requiring unique technical and strategic understanding applied across different areas of law. Preparing documents such as budgets, bills of costs and points of dispute and reply are tasks that are often carried out without close supervision at an early stage of a Costs Lawyer's career, and may require complex analysis and skillful presentation.
The lawyer-client relationship and funding arrangements	Specialist knowledge of the arrangements that govern costs in legal proceedings (such as solicitor retainers, costs indemnities and funding agreements, as well as the Solicitors Act 1974) enables Costs Lawyers to advise on costs structuring and budget management, and to act in lawyer-client fee disputes.
Professional standards and ethics	This is necessary to preserve the reputation of the profession, retain an individual's regulated status and protect the interests of clients and the wider public.

Skills

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

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

Relationship management	What is it?	The ability to build and manage constructive relationships with stakeholders of all kinds.	
	Why is it important?	Costs Lawyer work requires regular interaction and engagement with clients (sometimes lay clients), colleagues and other members of the wider legal profession. Building and maintaining good working relationships establishes trust and influence, and requires empathy, collaboration and good communication skills.	
	How does it help?	People who demonstrate this skill will be sensitive to how the frequency and content of their oral and written communications impact others and manifest in outcomes.	
	Positive behavioural indicators		Negative behavioural indicators
	<ol style="list-style-type: none"> 1. Is empathetic to the needs and motivations of those they interact with 2. Manages client expectations – explains process, cost and timeframe, including factors that could affect these, and updates as necessary 3. Develops good working relationships with colleagues 4. Engages with opponents in a professional and constructive manner, regardless of how others conduct themselves 5. Recognises that colleagues and clients may have different attitudes and perspectives and can manage these effectively 		<ol style="list-style-type: none"> 1. Communicates to clients a lack of interest in, or time for, their matter (e.g. by openly prioritising one client over another) 2. Does not keep other team members informed of critical issues, new work coming in or their caseload generally 3. Does not share know-how with the group 4. Lacks self-awareness and allows own emotions to impact negatively on relationships with others

Case management	What is it?	The ability to anticipate, respond to and proactively drive the progress of all cases the Costs Lawyer is working on.	
	Why is it important?	Following qualification, Costs Lawyers are expected to manage their own caseload, albeit usually supervised, and seek input when and where necessary. Using technology to help organise tasks, as well as employing good organisational skills, ensures important dates and details are not overlooked.	
	How does it help?	People who demonstrate this skill will be able to prioritise tasks and juggle cases at different stages of completion.	
	Positive behavioural indicators		Negative behavioural indicators
	<ol style="list-style-type: none"> 1. Applies legal knowledge and skills to all cases effectively 2. Keeps to schedule – sticks to agreed processes for ongoing file review, diarises and meets important deadlines 3. Understands the value of process and abides by it, even if routine/repetitive 4. Plans ahead for work involved on a file – estimates time involved and considers impact on existing caseload and other members of the team 5. Regularly informs stakeholders of ongoing costs and file progress as well as potential issues and problems 6. Liaises with the client on routine matters and, where appropriate, more substantive technical issues 7. Is able to work without constant supervision 		<ol style="list-style-type: none"> 1. Persistently underestimates the time involved in tasks 2. Demonstrates lack of preparation or organisation 3. Displays poor time recording practices when charging on an hourly basis 4. Presents supervisors with problems without first thinking through potential solutions 5. Fails to properly onboard clients – works without an adequate retainer or fails to provide the client with prescribed/regulatory information 6. Fails to seek client instructions or otherwise clarify client instructions before proceeding 7. Does not follow court procedure (e.g. misses filing deadlines or important procedural steps)

Self management	What is it?	The ability of a Costs Lawyer to recognise their own emotions, limitations and doubts, understand how these could influence their conduct, and manage their behaviour accordingly.	
	Why is it important?	Costs Lawyers typically work on cases that are demanding on personal resource – cognitive, emotional and physical. They engage with diverse clients ranging from those expert in adversarial communications to distressed individuals unfamiliar with the law. Being able to effectively manage oneself and the demands of others helps protect mental wellbeing, maintain expected quality of work output and avoid ethical failings.	
	How does it help?	People who demonstrate this skill will be able to balance competing demands on their personal resources, act with integrity and seek help and support when required.	
	Positive behavioural indicators	Negative behavioural indicators	
	<ol style="list-style-type: none"> 1. Takes responsibility for own professional decisions and notifies supervisors of mistakes quickly 2. Maintains a professional boundary with clients 3. Is able to motivate to work alone, albeit with supervision, on long projects 4. Recognises when to seek help and guidance (e.g. when working beyond competence or having difficulty managing workload) 5. Is confident to say when they do not agree or challenge something they do not understand 6. Is able to deal with situations involving another’s negligence or dishonesty (e.g. on the part of an instructing lawyer) 7. Reflects on their own performance and takes action where needed 	<ol style="list-style-type: none"> 1. Reacts negatively to perceived criticism 2. Covers up mistakes and tries to avoid consequences 3. Lacks confidence in work output or decisions – risks spending too much time on a matter or avoiding tasks 4. Takes on too much work, at risk to themselves and their work 5. Ignores unethical behaviour 	

Agile thinking	What is it?	The ability of a Costs Lawyer to adapt their approach depending on the circumstances and apply knowledge, ideas and technologies to novel situations.	
	Why is it important?	Costs Lawyers will inevitably face issues with which they are unfamiliar either because of changes in the law or due to a lack of experience. Agile thinking is demonstrated by finding new ways of using existing knowledge and resources as well as undertaking legal research to further a client’s case. Knowing how to undertake and apply legal research helps to create confidence in relationships with clients and supervisors and requires a knowledge of available resources and good verbal reasoning skills.	
	How does it help?	People who demonstrate this skill will display a willingness to take on varied work and find alternative solutions.	
	Positive behavioural indicators	Negative behavioural indicators	
	<ol style="list-style-type: none"> 1. Deploys legal research resources efficiently and effectively 2. Proactively keeps own legal knowledge and skills up to date 3. Uses initiative to research a point and present it to their supervisor 4. Recommends a range of options to the client 5. Is able to identify new ways of approaching an issue which might be beneficial to the client or practice (e.g. the application of an innovative technology) 6. Draws on a range of sources, techniques and ideas to develop solutions to problems 7. Can tackle large problems by breaking them down into constituent parts 8. Seeks the input of colleagues on new approaches 9. Can adapt approach in a tight timescale 	<ol style="list-style-type: none"> 1. Does not fit legal arguments with the facts of the case 2. Is slavish to the text of existing precedents 3. Does not take account of the client’s business or personal context 4. Tends to refuse work that is unfamiliar or challenging 5. Rejects ideas and innovations simply because they are untried 6. Fails to recognise and tackle an ethical dilemma 	

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

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

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

Professional attributes

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

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

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