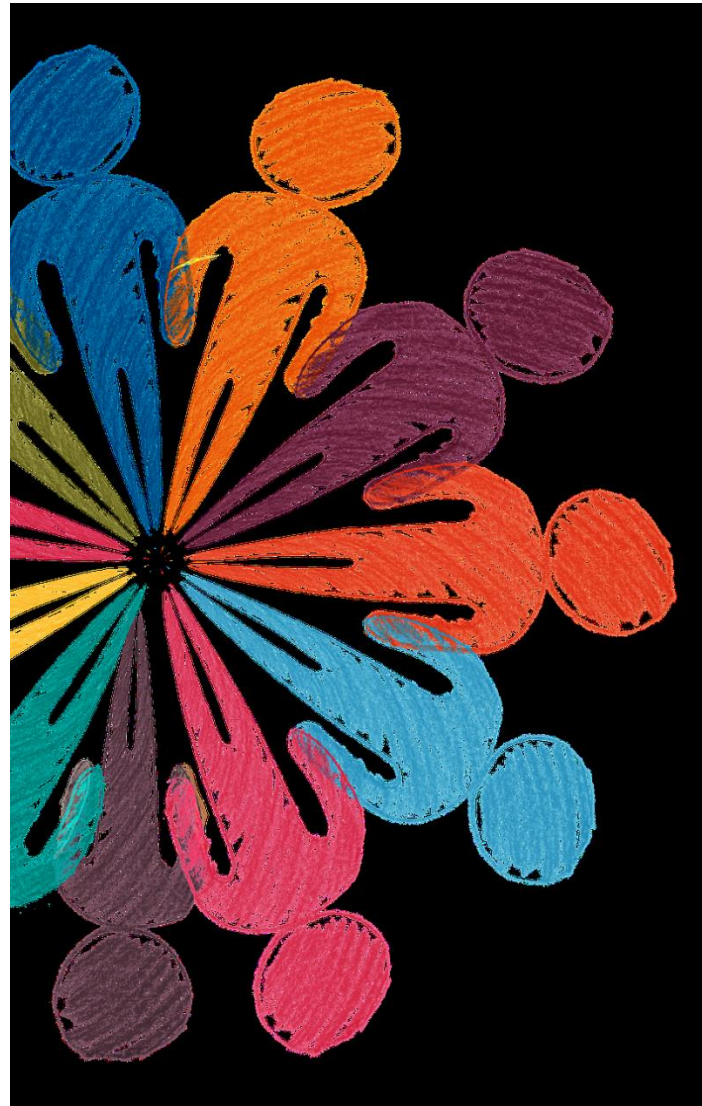

Consumer engagement

2020 to 2023



22 January 2020

Costs Lawyer Standards Board

CLSB
|||

Consumer engagement strategy

Overview

This strategy sets out how we will meet our aim of gaining and maintaining a deeper understanding of who the consumers of Costs Lawyers' services are, how those consumers interact with the market and the factors that drive their purchasing decisions.

The strategy also outlines how we will use this understanding to:

- ensure that our policy development reflects consumer needs;
- help consumers find out about Costs Lawyers' services and how to resolve problems; and
- help Costs Lawyers engage with consumers.

This strategy will apply from 2020 to 2023, in line with our [wider organisational strategy](#). It will be reviewed annually by the CLSB board during its lifetime. Planned activities will therefore be subject to amendment and development as we obtain further information, test "what works" and build on learnings from previous years. The ways in which consumers access services change over time, and we are mindful of the need to anticipate and adapt accordingly.

For these reasons, the activities described in this strategy are specified in more detail for year one than in subsequent years; the actions for future years will be refined and built upon as part of the annual review.

The consumers of Costs Lawyers' services

The overwhelming majority of Costs Lawyers' instructions come from professional clients – predominately solicitors. There has been an increase over time in the proportion of Costs Lawyers employed directly by solicitors' firms, from 26.5% in 2011 to 41% in 2018. In 2018, 54% of Costs Lawyers worked exclusively as sole practitioners or in practice with other Costs Lawyers.

Our data suggests that the total volume of lay instructions remains low, but is not immaterial, and may be growing. For example, in 2018 there were 135 Costs Lawyers who received 1-10 lay client instructions each year compared to 99 in the previous year, and five Costs Lawyers who received more than 100 such instructions when there were none in the previous year.

The range of clients, both direct and indirect, who benefit from Costs Lawyers' services currently includes:

- legal services professionals who instruct Costs Lawyers at arms-length;
- legal services professionals within the same firm as Cost Lawyers;
- ultimate clients of instructing legal services professionals;
- lay individuals (including pro bono clients);
- corporate clients; and
- employers of in-house Costs Lawyers.

We therefore need to take into account the needs of the immediate consumer of Costs Lawyers' services and, where an instruction comes via an intermediary, the ultimate beneficiary of those services.

Price transparency

Costs Lawyers have a unique contribution to make to consumer information through the promotion of price transparency across the wider legal profession. Their expertise can assist solicitors and other legal services providers in clearly presenting information to clients and can assist consumer understanding of legal fees at all stages of a transaction.

We know that 15.5% of complaints handled by the Legal Ombudsman in 2018 related to costs, and that figure reached 22% in the family law category and 25% in consumer law.¹

¹ <https://www.legalombudsman.org.uk/raising-standards/data-and-decisions/#complaints-data>

Better information about costs can help facilitate choice, improve consumer outcomes, and reduce complaints.

Engagement and data analysis

In 2019, we engaged with a variety of stakeholders, conducted desk research and mined our existing data to produce an interim report about Costs Lawyers and Consumers. The report identified gaps in our existing evidence-base and potential avenues that could be explored to remedy those gaps. This strategy builds on that work and prioritises key areas of research and engagement.

In terms of existing data, the limited number of direct lay consumers of Cost Lawyers' services – as well as the fact that consumers may not always distinguish between a regulated Cost Lawyer and an unregulated costs adviser – means that current data on the lay consumer experience in this market is limited. The small numbers involved will also make it difficult to identify trends through quantitative research. However, since the majority of Costs Lawyers' instructions are derived from professional sources, we can use data relating to those sources to help build a clearer picture of consumer need. Data relating to complaints about legal costs across the wider sector can also point us to potential unmet need.

In terms of engagement, throughout the duration of this strategy we will continue to engage with existing stakeholders to benefit from their research and learnings, and explore opportunities for collaboration. These stakeholders include:

- The Association of Costs Lawyers (ACL)
- Regulated Costs Lawyers
- Consumer groups and not-for-profit organisations
- The Legal Services Consumer Panel (LSCP)
- The Legal Services Board (LSB)
- The Legal Ombudsman
- Other regulatory and representative bodies, such as the Solicitors Regulation Authority (SRA), The Law Society (TLS) and the Competition and Markets Authority

We will regularly review published data sources and research, such as the LSCP's tracker survey and the LSB's individual legal needs survey.

The actions set out in this strategy for each year will be in addition to those ongoing activities but may require increased engagement with particular stakeholders on specific issues.

Year 1

2020 to 2021

In this year we will:

- Review the information about complaints on our website to reflect the different types of consumers of Costs Lawyers' services identified in our interim report and to improve our use of plain language.
- Amend or add to the questions we ask Costs Lawyers in their annual regulatory return to provide more insightful data on the types of consumers that instruct them. This will enable us to obtain better information about, for example, the types of professionals that instruct Costs Lawyers and the sources of referrals.
- Explore and test sources of informal feedback to improve our understanding of the consumer journey and experience. Potential options will include:
 - anecdotal evidence from costs judges and masters as to the kinds of cases in which Costs Lawyers appear and the types of clients represented;
 - anecdotal evidence from Costs Lawyers who are in a position of relative impartiality (e.g. having recently retired or recently qualified) in relation to issues such as the nature of first tier complaints and competitive market forces;
 - anecdotal evidence from procurement functions in large solicitors' firms that do not have an in-house costs team;
 - establishing an advisory group of solicitors or other professionals who regularly instruct Costs Lawyers to advise on regulatory proposals;

-
- carrying out targeted research with academics.
 - Work with ACL to obtain feedback on consumer issues from their membership, including at their annual conferences.
 - Explore possible changes to the tracker survey with LeO to obtain more relevant data about the Costs Lawyer segment of the market.
 - Engage with Citizens Advice to understand the nature of complaints relating to legal costs.
 - Engage with the SRA and TLS to improve our knowledge of the sources of instructions for Costs Lawyers working within solicitors' firms, perceptions of the client relationship and the types of solicitors' firms that employ Costs Lawyers.
 - Incorporate a draft statement on how proposed policy changes will meet the regulatory objective of protecting and promoting the interests of consumers in our consultations going forward.

Year 2

2021 to 2022

In this year we will:

- Have selected and be using the most fruitful of the informal feedback arrangements tested in year 1.
- Review and improve our consumer website page and the guidance for consumers of Costs Lawyers' services, including a refresh of our guidance on vulnerable consumers to address risks that are specific to the Costs Lawyer market.
- Issue a discussion paper on how Costs Lawyers can help to improve price transparency for consumers of legal services more widely.
- Explore measures to raise awareness amongst consumers of the benefits of instructing a regulated Costs Lawyer.

-
- Explore opportunities for and potential barriers to pro-bono work with key players in the sector (such as LawWorks) and publish an information sheet and/or guidance on Costs Lawyers and pro bono work.

Year 3

2022 to 2023

In this year we will:

- Introduce measures to help improve price transparency (for example through guidance, training and joint initiatives with other regulators) based on the previous year's feedback.
- Review our new CPD arrangements to ensure that they continue to facilitate and encourage upskilling to allow Costs Lawyers to meet likely future consumer need.
- Produce a policy paper on Costs Lawyers and SMEs and hold a stakeholder event to inform the debate.
- In consultation with ACL, undertake a survey of our regulated community on the efficacy of measures taken so far and future measures for consumer engagement.

Anticipated outcome

The intended outcome of this strategy is that, by 2023, a feedback framework will be in place as depicted on the next page. This will enable us to ensure that our regulatory approach is aligned to consumer needs, expectations and behaviours in the market for Costs Lawyers' services.

