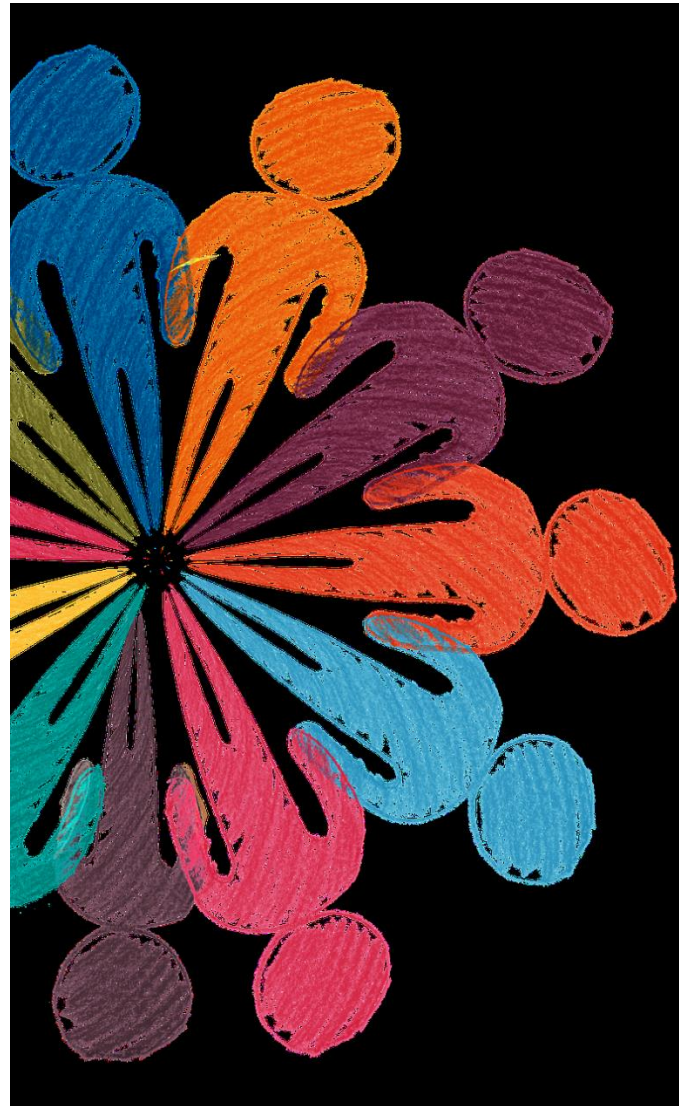

Consumer engagement

2020 to 2023



Last updated: 20 July 2022

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;
- help Costs Lawyers engage with consumers;
- meet our [commitment to focusing on good consumer outcomes](#).

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. The actions for each year 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.

Our data suggests that the total volume of instructions from individual consumers is very low. New evidence from a [flagship project](#) carried out from September 2021 to April

2022, asking how Costs Lawyers can help to reduce the cost of legal services, found that the Costs Lawyer profession essentially provides a business-to-business service.

These findings have changed our perception of the likelihood that Costs Lawyers are serving individual consumers, or will increasingly serve them in the future. Our working assumption following the project is now that Costs Lawyers rarely serve individual consumers, and are unlikely to involve themselves in growth areas serving consumers, such as solicitor-own client costs disputes.

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 client 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 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 individual consumers of Cost Lawyers' services – as well as the fact that consumers may not always distinguish between a

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

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) and the Legal Ombudsman
- The Legal Services Board (LSB)
- Other regulatory and representative bodies, such as the Solicitors Regulation Authority (SRA), The Law Society and the Competition and Markets Authority

Our [research project](#) mentioned above, that asked how Costs Lawyers can help to reduce the cost of legal services, has provided a wealth of new data and evidence about the dynamics of the market for costs advice. That evidence has heavily informed our approach to developing initiatives for the third and final year of this strategy.

Updates on our progress during each year of the strategy can be found in annual reports to the CLSB board, which are published [on our website](#). See the papers dated 21 July 2021 (at page 101) for a summary of progress in the first year and the papers dated 20 July 2022 (at page 90) for a summary of progress in the second year.

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:

- Seek evidence on the consumer experience that is aligned with our planned projects and guided by our consumer outcomes framework, as summarised in the table below:

Type of outcome	What information are we seeking?	Engagement with consumers
<p><i>Price, quality, access</i></p> 	<p>Do consumers think they get good value for money?</p> <p>Do consumers understand the price they will pay?</p> <p>How do consumers access and use information before making a choice?</p> <p>Do consumers think the services they bought were good quality?</p>	<p>Update the CLSB’s client survey to align with our outcomes framework and explore consumer ranking of price and quality.</p> <p>Follow up with any consumers who agree to take part in further research, and explore experiences across all outcomes.</p> <p>Audit, and seek feedback from Costs Lawyers on, the presentation of prices and consumers’ understanding of these (as set out in our guidance note on price transparency</p>

		here), drawing on lessons from other sectors where relevant.
<p>Privacy</p> 	<p>What are the expectations of individual consumers', and is there any evidence these are not being met?</p>	<p>Investigate expectations around privacy – drawing on existing research in similar markets – and assess whether there is any evidence that expectations are not being met.</p>
<p>Fairness</p> 	<p>What is the incidence of vulnerability markers in the users of Costs Lawyers' services?</p>	<p>Refresh and promote the CLSB's client survey to collect data on the characteristics of individual consumers using Costs Lawyers.</p>
<p>Diversity</p> 	<p>Do consumers experience equal outcomes regardless of their characteristics?</p>	<p>Refresh and promote the CLSB's client survey to collect data on the characteristics of individual consumers using Costs Lawyers, and draw on lessons from other sectors where possible.</p>

- Draw on the evidence collection described above to:
 - refresh and promote our guidance on vulnerable individual consumers;
 - explore opportunities for and potential barriers to pro-bono work, and publish guidance to support Costs Lawyers in undertaking pro bono work for individual consumers;
 - identify ways to improve consumer information about the regulatory status of the organisations in which Costs Lawyers practise.

The above actions were updated in July 2021 to reflect the lessons learned in delivering year 1 of the strategy.

Year 3

2022 to 2023

As part of our [research project](#) that examined how Costs Lawyers can help to reduce the cost of legal services, consultancy Hook Tangaza carried out an extensive data gathering and mapping exercise on our behalf, looking at both the regulated and unregulated parts of the market for costs law advice. Hook Tangaza's report made the following recommendation as to how we should change the focus of this strategy in year 3:

[CLSB should] establish a “user panel” and talk more directly to actual and potential institutional and corporate end-users of Costs Lawyers. To a large extent this is where the CLSB’s “consumer engagement” could potentially have most impact.

This recommendation reflects the findings of the project that Costs Lawyers mainly serve business clients, and also reflects other recommendations in Hook Tangaza's report about opportunities for the CLSB and Costs Lawyers to bring greater benefits to (overwhelmingly business) consumers.

We have taken the recommendation on board, and this will become the focus of our strategy in its third and final year. During year 3, we will investigate how best to establish a user panel, draft terms of reference for it, and develop an implementation plan.

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 client needs, expectations and behaviours and takes account of how Costs Lawyers' services impact the wider justice system and all of its users.

