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# Consultation Costs Lawyer Competency Statement

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**Closing date: 18 October 2021**

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**Costs Lawyer Standards Board**

**CLSB**  
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# This consultation

The Costs Lawyer Standards Board (CLSB) regulates Costs Lawyers under the framework established by the Legal Services Act 2007. Costs Lawyers must fulfil certain criteria before they can apply to the CLSB for authorisation to practise without supervision. One of those criteria, as set out in Practising Rule 1.1(a), is that “they have qualified as a Costs Lawyer in accordance with the Training Rules”. This involves completing the Costs Lawyer Qualification.

The CLSB sets parameters for the Costs Lawyer Qualification – such as entry requirements and course structure – through the [Training Rules](#) and supplementary [course documentation](#). The Qualification is then delivered to students by an Accredited Study Provider. There is currently only one such provider, namely ACL Training, which is an affiliate of the Association of Costs Lawyers. The training provider is responsible for developing a detailed syllabus, creating training materials, delivering the course to students and determining appropriate assessment methods.

From a regulatory perspective, the purpose of the Costs Lawyer Qualification is to ensure that, by the time a Costs Lawyer is authorised to practise on their own, they are competent to do the job; they conduct themselves in a professional manner and meet the expectations of their clients, the courts and the wider public. It is therefore important to have a clear, shared understanding of the level of competency expected of Costs Lawyers at the point of qualification.

To achieve this, we have developed a new statement of competency for qualifying Costs Lawyers, based on a comprehensive programme of research and engagement. The proposed Competency Statement is set out at Annex 1 and is the subject of this consultation.

The remainder of this document explains the approach we have taken to creating the Statement. It raises questions that you might like to consider as part of your consultation response, although we welcome comments on any aspect of the proposals. The consultation questions are collated at page 17 for reference. Consultation responses should be sent to [enquiries@clsb.info](mailto:enquiries@clsb.info) by **5pm on 18 October 2021**.

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# Purpose and objectives

The overarching objective for our current work relating to the training and qualification of Costs Lawyers is:

*For the CLSB's regulatory rules to allow for a Costs Lawyer Qualification that:*

- (i) assures consistent high standards;*
- (ii) can be delivered flexibly, making it accessible to a diverse range of students;*
- (iii) is focused on the unique combination of knowledge, skills and attributes needed by Costs Lawyers, ensuring it is valid and relevant.*

We view the development of a new Competency Statement as a critical first step in achieving this objective.

The purpose of the Competency Statement is to articulate the knowledge and skills that a competent Costs Lawyer is expected to possess and apply when they enter the profession (i.e. at the point of qualification). In this way, the Competency Statement will provide a benchmark against which to review the learning outcomes, content and structure of the Costs Lawyer Qualification in the near future. Through that process, we can give training providers more flexibility in the way they deliver the course and ensure that students receive the training they need to prepare them for costs practice in the modern world.

This project also furthers three of the regulatory objectives set out in the Legal Services Act. These are:

- *Protecting and promoting the interests of consumers of legal services – by ensuring that newly qualified Costs Lawyers are well-equipped to meet the needs of all types of clients.*
- *Encouraging an independent, strong, diverse and effective legal profession – by focusing on competency, rather than course structure, such that the Costs Lawyer Qualification can be undertaken by a diverse range of students.*
- *Promoting and maintaining adherence to the professional principles – by embedding a focus on ethical and professional conduct within course design, and ensuring that essential skills are taught and assessed.*

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# Research methodology

The proposed Competency Statement (at Annex 1) is the product of extensive research and engagement with stakeholders who brought a wide variety of perspectives to the project. The Competency Statement has also been validated with expert groups, drawn from within and outside the Costs Lawyer profession.

The main elements of our research methodology can be summarised as follows:

- **Semi-structured interviews** – to elicit the knowledge, skills and attributes required of a newly qualified Costs Lawyer through examples of highly effective and ineffective in-job behaviours. We conducted 11 interviews with a mix of junior and supervising Costs Lawyers, resulting in around nine hours of data for analysis.
- **Work diaries and job specifications** – to capture routine but potentially essential job aspects. We received work diaries from five recently qualified Costs Lawyers, detailing the work they were doing and noting whether the workload was typical. We complemented this data with job specifications provided by employers.
- **Subject Matter Expert (SME) strategic review** – to identify potential market developments, technological advances and consequent job specification changes. We held a roundtable with five leaders in their fields giving us insights into the skills that Costs Lawyers are likely to need in the future.
- **Subject Matter Expert (SME) review** – to validate our initial findings and rate the importance and frequency of the identified competencies. We held a second roundtable during which six senior Costs Lawyers (none of whom were involved in the earlier SME review) considered our emerging findings.
- **Desk research** – to draw on experience in other professions, ensuring we captured good practice and learnt from mistakes. We considered how competency frameworks had been developed and used by other regulatory bodies and training providers, in the legal services sector and beyond.
- **Expert Panel** – to provide targeted advice and guidance on our methodology and emerging thinking. We convened a panel of five preeminent experts in professional education and competency with a range of expertise.

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Through this approach, we were able to capture perspectives from:

- recently qualified, senior and supervising Costs Lawyers;
- practitioners working in large firms, smaller firms, solicitors' firms and in-house;
- practitioners specialising in commercial costs, personal injury / clinical negligence costs, legal aid and lawyer-client costs;
- special interest organisations, such as the Legal Services Consumer Panel and LawCare;
- training providers and Accredited Costs Lawyers;
- other legal services regulators and professionals;
- academics and experts in professional qualifications.

Other than seeking to ensure we captured the above range of perspectives, eligible participants were invited at random by the CLSB to be involved in the project. Participants were not remunerated or incentivised, and individual views were confidential to the forum in which they were expressed (with informed consent being obtained in advance). We would like to take this opportunity to extend our immense gratitude to all those who gave up their time to assist with the project.

## Elements of the Competency Statement

### How the Competency Statement works

The Competency Statement describes the level of competency that a Costs Lawyer is expected to have attained at the point of qualification, when they are first eligible for a practising certificate. It establishes a minimum or baseline standard of competency that all qualifying Costs Lawyers must meet or exceed. Specifically, 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 Costs Lawyer's knowledge and skills will be applied
- The **professional attributes** that will help a Costs Lawyer meet the Minimum Standard and progress successfully beyond qualification

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At the beginning of the Competency Statement you will find an explanation of how to use the document (page 3), how the different elements fit together (page 4) and who should use the document (page 5).

***Consultation question 1: Is it clear from pages 3 to 5 of the Competency Statement how the document should be used and how the elements fit together? If not, what other information would be helpful?***

## Legal and technical knowledge

*“... you need to have your wits about you in many different areas of law.”*

Junior Costs Lawyer

Our research identified nine core areas of legal and technical knowledge that all qualifying Costs Lawyers should possess. These are set out in the knowledge section of the Competency Statement (on page 6) and comprise: civil litigation; other litigation; legal aid; contract law; tort; budgeting; bills of costs; points of dispute and replies; and professional standards and ethics.

The Competency Statement does not detail the specific topics that should be covered within each area of knowledge. Those topics can be found in the course documentation published by the CLSB, and they are expanded upon by the training provider during course design and delivery. Once the Competency Statement has been finalised (following this consultation) the course documentation will be updated accordingly, including by aligning prescribed learning outcomes for the course to the areas of knowledge in the Competency Statement.

Despite this, the Competency Statement does give an indication of the relative depth and breadth of knowledge required in each area. All qualifying Costs Lawyers are expected to understand the key concepts and general principles across all nine knowledge areas. Some areas, such as “civil litigation”, require more detailed knowledge and understanding by all qualifying Costs Lawyers. In other areas, our research

suggested that students who intend to specialise in the area would benefit from additional training, and such areas are good candidates for optional advanced modules.

The table below summarises why an understanding of each knowledge area (by all newly qualified Costs Lawyers) is considered important, drawing on our research findings.

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.
Other litigation	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. Those specialising in these types of litigation 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, such as solicitor retainers, cost indemnities and contingent fee agreements.
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.
Budgeting	This is a core, routine area for junior Costs Lawyers, requiring unique technical and strategic understanding.
Bills of costs	This is a core, routine area for junior Costs Lawyers that is often carried out without close supervision at an early stage of their career.



Points of dispute and replies	This is a core, routine area for junior Costs Lawyers which can be complex and requires skillful presentation.
Professional standards and ethics	This is necessary to preserve the reputation of the profession, retain an individual's regulated status, protect the interests of clients, and act in lawyer-client disputes (including knowledge of the Solicitors Act 1974).

These nine areas were identified through our research as critical to “day one” competency, and so have been included in the minimum competency requirements set out in the Competency Statement. Of course, other knowledge areas may be of relevance or interest to qualifying Costs Lawyers. Nothing in the Competency Statement is intended to prevent training providers from offering additional modules or CPD opportunities, although students would not have to undertake additional learning to demonstrate their competence to the CLSB at the point of qualification.

***Consultation question 2: Does the Competency Statement reflect the knowledge you would expect a newly qualified Costs Lawyer to have? If not, which areas should be added or excluded, and why?***

## Skills

*“... they might know the caselaw really well but putting that together in a practical situation is more difficult.”*

Supervising Costs Lawyer

Our research identified seven core skills that Costs Lawyers need to demonstrate in order to carry out their role. These are set out in the skills section of the Competency Statement (from page 7) and comprise: relationship management; case management; self management; agile thinking; effective communication; negotiation; and advocacy.

For each skill, behavioural indicators have been used in the Competency Statement to provide examples of what it looks like when someone displays the skill (positive behavioural indicators) or lacks the skill (negative behavioural indicators). Below are some extracts from our interviews that give a flavour of the type of comments that helped us build the behavioural indicators for each skill.

<p><b>On relationship management:</b>  <i>"... aim is to make everyone feel their case is the most important one in your case load."</i>            Supervising Costs Lawyer</p>	<p><b>On case management:</b>  <i>"... estimating work can be quite difficult ... you've just got to have that dialogue and ask the right questions."</i>            Junior Costs Lawyer</p>	<p><b>On self management:</b>  <i>"... some clients can get quite anxious... and I think that's very difficult for NQs... because you're taking on other people's anxieties basically."</i>            Supervising Costs Lawyer</p>
<p><b>On agile thinking:</b>  <i>"... it's easy to slip into the habit of using standardised points and replies even when not relevant... NQs in particular can be guilty as it's more comfortable to simply copy and paste."</i>            Supervising Costs Lawyer</p>	<p><b>On effective communication:</b>  <i>"... might think you know all the law but might not know the best way to communicate [it], particularly where there are really emotional things involved."</i>            Supervising Costs Lawyer</p>	<p><b>On negotiation:</b>  <i>"... being amicable about things you don't really need to argue about... and actually settling sensibly."</i>            Junior Costs Lawyer</p>

Skills and knowledge will usually be applied together by a newly qualified Costs Lawyer in order to complete a piece of work. For example, when attending a mediation with a client, a Costs Lawyer might apply their knowledge in the areas of contract law, points

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of dispute and professional ethics, together with the skills of agile thinking, negotiation and relationship management. In this way, the knowledge and skills that are set out in the Competency Statement together provide a toolkit that a newly qualified Costs Lawyer can draw from to competently manage a work situation or complete a task.

***Consultation question 3: Does the Competency Statement reflect the skills you would expect a newly qualified Costs Lawyer to demonstrate? If not, which skills should be added or excluded, and why?***

## The Minimum Standard

The proposed Minimum Standard is set out on page 5 of the Competency Statement as follows:

*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 rarely technically incorrect and 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.*

The Minimum Standard sets the bar against which competency will be measured and assessed. It helps trainee Costs Lawyers understand what is expected of them – at a minimum – at the point of qualification. It also helps training providers assess whether an individual can apply the knowledge and skills in the Competency Statement effectively.

It is important to recognise that the Minimum Standard is a gateway to qualification, and thus to the profession. It must be set sufficiently high to achieve the purposes of

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regulation, including protecting the interests of consumers and promoting adherence to the professional principles. However, it must not be set so high as to impose a disproportionate regulatory burden or be counter to the regulatory objective of encouraging a strong, diverse and effective profession.

We believe the proposed Minimum Standard strikes the right balance. While each part of the regulated legal sector is unique, and different types of lawyers are authorised to carry out different activities, we are confident that the proposed Minimum Standard is broadly in line with (and does not set a standard lower than) the minimum or threshold standards for the authorisation of other lawyers in England and Wales.

***Consultation question 4: Do you agree that the Minimum Standard is set at the appropriate level to establish the threshold for qualification (and authorisation) as a Costs Lawyer? If not, how should it be adjusted and why?***

## Professional attributes

*“It’s challenging when a client asks you to do something that you know isn’t right.”*

Junior Costs Lawyer

Our research identified eight professional 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 are set out in the attributes section of the Competency Statement (on page 13) and are: self-sufficient; diligent; accountable; curious; proactive; professional; commercial; and inclusive.

Unlike the knowledge and skills identified in the Competency Statement, we do not envisage requiring newly qualified Costs Lawyers to demonstrate these attributes to a particular standard or requiring training providers to specifically assess the attributes. However, a newly qualified Costs Lawyer will find it easier to meet the level of

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competency expected of them (and to meet the expectations of their employer) if they have developed these attributes during their training.

We would encourage Costs Lawyers to nurture these attributes throughout their career, including by undertaking relevant CPD, and would expect to see training providers incorporating them into course design. The attributes could also be drawn on by employers to inform performance appraisals, recruitment, progression and ongoing staff development.

***Consultation question 5: Do you agree that development of the attributes should be encouraged, as a tool to promote competence, rather than the attributes being specifically measured/assessed at the point of qualification?***

## **How the Competency Statement will be used**

Following consultation, the final version of the Competency Statement will be published for use by its intended audiences (see page 3 of the Statement). It will then be used to inform the CLSB's ongoing policy development on education and training, including by:

- underpinning the CLSB's regulatory rules for the Costs Lawyer Qualification, allowing us to develop up-to-date education standards and learning outcomes;
- guiding course design and the creation of materials by training providers;
- creating a clear framework against which training providers can demonstrate that students who successfully complete their course possess the expected competencies;
- encouraging assessment methods that test knowledge and skills in different ways;
- establishing the baseline for ongoing learning and development throughout a Costs Lawyer's career, feeding into our thinking on CPD;
- establishing a de minimis standard of work for qualified Costs Lawyers.

We will consult further on any regulatory changes associated with these workstreams as appropriate.

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# Impact of the proposals

## Impact on equality

We do not foresee our proposals having any adverse impact on groups with a protected characteristic under the Equality Act 2010. As explained earlier in this document, a key objective of the project is for our regulatory rules to allow for a Costs Lawyer Qualification that can be delivered flexibly, making it accessible to a diverse range of students. We anticipate that the Competency Statement will enable the CLSB to be less prescriptive as to the structure and content of the Costs Lawyer Qualification going forward, focusing instead on the education standards and learning outcomes that students must meet at the point of qualification. This will give training providers greater flexibility to deliver the course in ways that meet the needs of a wider range of learners. In this way, we believe that our proposals will have a positive impact on equality of access to the Costs Lawyer Qualification, and thus the profession.

We would welcome any observations or feedback on equality impacts (positive or negative) arising from the proposed Competency Statement.

## Impact on regulated persons, consumers and the public interest

The Competency Statement will not directly impact regulated Costs Lawyers, however it may impact them indirectly as employers and supervisors of newly qualifying practitioners, and also as stakeholders in the profession's reputation and future. The Competency Statement will directly impact trainee Costs Lawyers and prospective future Costs Lawyers by establishing the competencies that they must demonstrate, and the standard to which they must demonstrate them, in order to qualify and become authorised as a Costs Lawyer.

We consider the impact on these groups to be positive, by:

- ensuring fairness, by holding all new qualifiers to a consistent, objective standard;
- improving the validity, relevance and scope of training obtained through the Costs Lawyer Qualification;

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- providing a clearer statement of expectations for new qualifiers, which also helps prospective students to determine whether the Costs Lawyer profession is right for them;
  - encouraging training providers, supervisors and employers to nurture the attributes that will help Costs Lawyers succeed over their career.

Expectations of current students will be managed through a transition period, ensuring there is ample time for those who are starting the qualification now to develop the competencies needed at the point of qualification.

We also acknowledge the potential impact of the proposals on the current training provider, ACL Training, given our plans to translate the Competency Statement into refreshed education standards and learning outcomes. Ultimately those standards will need to be adopted by ACL Training, necessitating changes to its course design. We will continue to work closely with ACL Training to ensure that the impact is proportionate to the positive outcomes we envisage for all stakeholders, and that where possible the timing of our changes coincides with ACL Training's own plans to modernise its course design.

In terms of consumers and the public, the Competency Statement is designed to ensure that Costs Lawyers possess the right skills and knowledge to advise all clients at a minimum level of competency, now and into the future. The strong focus on “softer” skills such as relationship management, self management and effective communication will help Costs Lawyers engage successfully with a wider range of clients on issues of varying complexity. Specifically, this project is designed to promote the consumer outcomes of quality, access, fairness and diversity under our [commitment to promoting good consumer outcomes](#).

We would welcome comments from consultation respondents on likely impacts (positive or negative) of the Competency Statement on regulated persons, consumers or the public.

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# Summary of consultation questions

The questions posed in this consultation are collated below for reference:

**Consultation question 1:** *Is it clear from pages 3 to 5 of the Competency Statement how the document should be used and how the elements fit together? If not, what other information would be helpful?*

**Consultation question 2:** *Does the Competency Statement reflect the knowledge you would expect a newly qualified Costs Lawyer to have? If not, which areas should be added or excluded, and why?*

**Consultation question 3:** *Does the Competency Statement reflect the skills you would expect a newly qualified Costs Lawyer to demonstrate? If not, which skills should be added or excluded, and why?*

**Consultation question 4:** *Do you agree that the Minimum Standard is set at the appropriate level to establish the threshold for qualification (and authorisation) as a Costs Lawyer? If not, how should it be adjusted and why?*

**Consultation question 5:** *Do you agree that development of the attributes should be encouraged, as a tool to promote competence, rather than the attributes being specifically measured/assessed at the point of qualification?*

We welcome feedback on any aspect of the consultation, whether or not it relates to a specific question.

The consultation closes at **5pm on 18 October 2021** and responses should be sent to [enquiries@clsb.info](mailto:enquiries@clsb.info). We will publish a report on the outcome of the consultation on our website after the consultation closes. If you would like any part of your response to be anonymised or kept confidential, please let us know when you submit it.





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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 Costs Lawyer's 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, including the Code of Conduct, which applies to all Costs Lawyers including new qualifiers.

## How the elements fit together

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



### Knowledge

Civil litigation

Other litigation

Legal aid

Contract law

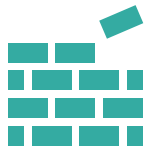
Budgeting

Points of dispute and replies

Tort

Bills of Costs

Professional standards and ethics



### Skills

Relationship management

Effective communication

Case management

Negotiation

Self management

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

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## 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.
- **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 rarely technically incorrect and 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	✓	✓	
Other litigation	✓		✓
Legal aid	✓		✓
Contract law	✓	✓	
Tort	✓		✓
Budgeting	✓	✓	
Bills of costs	✓	✓	
Points of dispute and replies	✓	✓	
Professional standards and ethics	✓	✓	

# 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.

<b>Relationship management</b>	<b>What is it?</b>	The ability to build and manage constructive relationships with stakeholders of all kinds.	
	<b>Why is it important?</b>	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.	
	<b>How does it help?</b>	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.	
	<b>Positive behavioural indicators</b>	<b>Negative behavioural indicators</b>	
	<ol style="list-style-type: none"> <li>1. Is empathetic to the needs and motivations of those they interact with – provides support beyond explanation of legal issues</li> <li>2. Manages expectations – explains process, cost and timeframe, including factors that could affect these, and updates as necessary</li> <li>3. Develops good working relationships with colleagues</li> <li>4. Engages with opponents in a professional and constructive manner, regardless of how others conduct themselves</li> <li>5. Deals effectively with different personalities</li> </ol>	<ol style="list-style-type: none"> <li>1. Communicates to clients a lack of interest in, or time for, their matter (e.g. by openly prioritising one client over another)</li> <li>2. Does not keep other team members informed of critical issues, new work coming in or their caseload generally</li> <li>3. Does not share know-how with the group</li> <li>4. Lacks self-awareness and allows own emotions to impact negatively on relationships with others</li> </ol>	

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



<b>Self management</b>	<b>What is it?</b>	<b>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.</b>	
	<b>Why is it important?</b>	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 personal wellbeing and maintains expected quality of work output.	
	<b>How does it help?</b>	People who demonstrate this skill will be able to balance competing demands on their personal resources and seek help and support when required.	
	<b>Positive behavioural indicators</b>	<b>Negative behavioural indicators</b>	
	<ol style="list-style-type: none"> <li>1. Takes responsibility for own professional decisions and notifies supervisors of mistakes quickly</li> <li>2. Maintains a professional distance from clients' emotions</li> <li>3. Is able to motivate to work alone, albeit with supervision, on long projects</li> <li>4. Recognises when to seek help and guidance</li> <li>5. Is confident to say when they do not agree or challenge something they do not understand</li> <li>6. Is able to deal with situations involving another's negligence or dishonesty (e.g. on the part of an instructing lawyer)</li> </ol>	<ol style="list-style-type: none"> <li>1. Reacts negatively to perceived criticism</li> <li>2. Covers up mistakes and tries to avoid consequences</li> <li>3. Lacks confidence in work output or decisions – risks spending too much time on a matter or avoiding tasks</li> <li>4. Takes on too much work, at risk to themselves and their work</li> </ol>	

<b>Agile thinking</b>	<b>What is it?</b>	<b>The ability of a Costs Lawyer to adapt their approach depending on the circumstances and apply knowledge, ideas and technologies to novel situations.</b>	
	<b>Why is it important?</b>	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.	
	<b>How does it help?</b>	People who demonstrate this skill will display a willingness to take on varied work and find alternative solutions.	
	<b>Positive behavioural indicators</b>	<b>Negative behavioural indicators</b>	
	<ol style="list-style-type: none"> <li>1. Deploys legal research resources efficiently and effectively</li> <li>2. Proactively keeps own legal knowledge and skills up to date</li> <li>3. Uses initiative to research a point and present it to their supervisor</li> <li>4. Recommends a range of options to the client</li> <li>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)</li> <li>6. Can tackle large problems by breaking them down into constituent parts</li> <li>7. Seeks the input of colleagues on new approaches</li> <li>8. Can adapt approach in a tight timescale</li> </ol>	<ol style="list-style-type: none"> <li>1. Does not fit legal arguments with the facts of the case</li> <li>2. Is slavish to the text of existing precedents</li> <li>3. Does not take account of the client’s business or personal context</li> <li>4. Tends to refuse work that is unfamiliar or challenging</li> <li>5. Rejects ideas and innovations simply because they are untried</li> </ol>	

<b>Effective communication</b>	<b>What is it?</b>	<b>The ability to identify and use a method of communication that is appropriate for the circumstances in order to convey relevant information clearly.</b>	
	<b>Why is it important?</b>	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.	
	<b>How does it help?</b>	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.	
	<b>Positive behavioural indicators</b>	<b>Negative behavioural indicators</b>	
	<ol style="list-style-type: none"> <li>1. Explains the complicated simply</li> <li>2. Uses plain language and avoids jargon and abbreviated terms</li> <li>3. Plans and structures drafting to aid the reader’s understanding</li> <li>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</li> <li>5. Understands when and how to engage with different methods of communication</li> <li>6. Adapts communication style to suit the situation and audience</li> </ol>	<ol style="list-style-type: none"> <li>1. Gives poorly structured advice where the point is lost or obscured</li> <li>2. Displays poor presentation, grammar or spelling</li> <li>3. Fails to listen (e.g. to a client, instructing solicitor, supervisor, judge)</li> <li>4. Produces something ‘academic’ which is accurate but not helpful to a court or client in practice</li> <li>5. Does not know or does not apply drafting conventions for formal documents</li> </ol>	

<b>Negotiation</b>	<b>What is it?</b>	<b>The ability to identify what motivates people and then interact constructively with others to find solutions to problems that align with those motivations.</b>	
	<b>Why is it important?</b>	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.	
	<b>How does it help?</b>	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.	
	<b>Positive behavioural indicators</b>	<b>Negative behavioural indicators</b>	
	<ol style="list-style-type: none"> <li>1. Is able to recognise the approach being taken by the other side and respond accordingly</li> <li>2. Identifies the most appropriate forum for settlement depending on the case, issues, client and opponent</li> <li>3. Can spot irrelevant issues and deal with them appropriately</li> <li>4. Understands the client's motivations – agrees a negotiating strategy with the client that is aligned to that client's individual needs</li> <li>5. Can employ basic mediation skills and recognises when to instruct a professional mediator or other third party</li> </ol>	<ol style="list-style-type: none"> <li>1. Becomes too emotionally or personally involved with a point or approach</li> <li>2. Aims to achieve an objectively 'good' outcome, without understanding what the client actually wants</li> <li>3. Implements a negotiation strategy that does not account for strengths or weaknesses of the client's or opponent's position</li> <li>4. Ignores indications of an opponent's motivation or strategy</li> <li>5. 'Wages war' with the other side in a way that damages the client's prospects of successful settlement</li> </ol>	

<b>Advocacy</b>	<b>What is it?</b>	<b>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.</b>	
	<b>Why is it important?</b>	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.	
	<b>How does it help?</b>	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.	
	<b>Positive behavioural indicators</b>	<b>Negative behavioural indicators</b>	
	<ol style="list-style-type: none"> <li>1. Applies relevant knowledge of civil and other litigation effectively</li> <li>2. Is rigorous in knowing all key issues in a case and the parties’ arguments in relation to them</li> <li>3. Draws out the strengths and weaknesses of each party’s case</li> <li>4. Is able to think on their feet and respond to opposing arguments and questions</li> <li>5. Presents arguments in a structured and accessible manner, but can also pivot between different points</li> <li>6. Knows when to seek advice from or instruct counsel</li> <li>7. Is professional and courteous, and understands etiquette of the particular forum</li> <li>8. Takes instructions from the client during proceedings if novel issues arise</li> <li>9. Recognises the boundaries of their rights of audience relating to costs</li> </ol>	<ol style="list-style-type: none"> <li>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</li> <li>2. Uses inappropriate or aggressive language</li> <li>3. Fails to appreciate the wider context (i.e. non-cost elements) of the case</li> <li>4. Fails to cite legal authorities, materials or procedural rules appropriately</li> </ol>	

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# 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