

Company number: 04608905

MINUTES
Costs Lawyer Standards Board Ltd
Wednesday 17 July 2024 at 9:30 am
20 Tavistock Square, London

Board:	Rt Hon David Heath CBE	Lay NED (Chair)
	Stephanie McIntosh	Lay NED (Vice-Chair)
	Andrew Harvey	Lay NED
	Andrew McAulay	Non-Lay NED
	Paul McCarthy	Non-Lay NED
In attendance:	Kate Wellington	CEO
	Jacqui Connelly	Director of Operations

1. OPENING MATTERS

- 1.1** The Chair declared the meeting quorate. There were no apologies.
- 1.2** There were no declarations of interest on any agenda item.

2. MINUTES

2.1 Minutes dated 23 April 2024

The board considered the minutes of its last scheduled quarterly meeting on 23 April 2024. The board agreed the minutes as being a true record for signing.

Actions: Publish approved minutes on CLSB website.

2.2 Matters arising

The board considered the matters arising from the minutes of its meeting on 23 April 2024. There were no matters arising that had not been scheduled as agenda items or otherwise dealt with.

3. STRATEGY

3.1 Progress against Business Plan: Q2 2024

The board was provided with a progress update against the 2024 Business Plan for Q2. Four of the 16 Business Plan priorities had been delivered, with another ten in train and two scheduled to commence in H2.

The board discussed workstreams relating to qualification, including the first audit of the CLPQ and the new process for handling Qualifying Experience (QE) applications. Board members asked about trends in QE applications so far, including the quantity being processed and the quality of submissions. The board discussed ways of helping

students engage with the CLSB's guidance on QE early on in their journey and then building periodic reminders into interactions with students.

The board considered and approved the executive's proposed strategic priorities for Q3 of 2024.

3.2 Feedback from strategy day (16 July 2024)

The board held a strategy day on 16 July and used this agenda item to provide feedback on the format and content of the sessions. Board members felt that the session on development of the CLSB's communications strategy, led by consultancy Consumer Voice, had been very constructive and brought fresh perspectives.

One of the matters arising from the board's meeting in April was to finalise risk appetite statements for the communications strategy. There had not been time to do this at the strategy day, so the board considered the risk appetite statements under this agenda items. The board agreed with the weightings Kate had assigned to each risk based on the board's feedback in April, except that risk 5 (relationship risks) should be moved from a rating of 1 (no appetite) to a rating of 2 (appetite where this is needed to mitigate a core risk).

Action: Finalise communications risk appetite statements as agreed.

3.3 2025 Business Plan

Kate presented the proposed 2025 Business Plan for consideration and approval, explaining how the priorities were linked to the regulatory objectives and the CLSB's mid-term strategy. The board discussed resourcing for the various projects, considering in particular which items could be outsourced to relieve pressure on internal time. The board agreed that the CLSB's model of using consultants to do project work with curation and oversight by the executive continued to be effective and should be applied to the new Business Plan. The board approved the Business Plan for consultation alongside the practising fee (see agenda item 5.3).

The board also felt that succession planning should be considered carefully in the Business Plan context, given the volume of planned work. David asked the Remuneration Committee to consider this in the first instance and report back to the board.

Action: Remuneration Committee to consider executive succession planning and report back to the board in December or March.

4. BOARD MATTERS

4.1 2025 board dates

The board agreed to schedule its next four quarterly meetings on the following dates:

- Q4 2024 meeting: 12 December 2024 (remote)
- Q1 2025 meeting: 26 March 2025 (remote)
- Q2 2025 meeting: 18 June 2025, with a strategy day on 17 June (in person)
- Q3 2025: 17 September 2025 (remote)

Action: Publish board meeting dates on website.

5. FINANCE

5.1 Quarterly report: Q2 2024

Jacqui introduced the quarterly finance report. The board noted the financial position at the end of Q2, namely a nominal projected surplus for the year, and Jacqui explained the reasons for variations from budget for certain line items. She also flagged the increasing income from interest on reserves, given prevailing high interest rates. The board noted the financial position.

5.2 2023 accounts

The board was presented with the 2023 financial accounts for approval, as prepared by AGP accountants. The board unanimously approved the accounts for signing.

Action: Chair to sign 2023 accounts; AGP to file accounts with Companies House; Publish accounts on website.

5.3 2025 budget and PCF consultation

Kate introduced this item, explaining how the proposed budget and consultation had been developed. She explained how the budget surplus from 2022 of circa £24k, which had been deployed to offset expenditure and reduce the practising fee in 2024, was not available for 2025. Therefore, while planned expenditure would be static, the practising fee would inevitably rise. The proposed increase would be from £290 in 2024 to £305 in 2025. This represented an increase of 5%, following an increase of 3% last year and no increase the year before.

The board discussed the proposed practising fee, as informed by the proposed budget. The board noted that it had known when setting the fee for 2024 that application of the surplus in that year would result in an increase to the fee in 2025; that outcome was appropriate and expected.

The board considered resourcing in the context of the budget, and agreed that the CLSB's financial stability and internal workload meant the Director of Policy should be offered a permanent role going forward.

The board also discussed the level of its financial reserves and current account buffer, and in particular whether it was the right time to make investments in discrete improvement projects from committed reserves. The board agreed that these funds should be invested carefully and only where value for the regulated community, the public and/or the regulatory objectives could be demonstrated, aligned to the CLSB's strategy. Several project options were considered and Kate agreed to give this further thought during the year.

The board considered the practising fee consultation documents and the consultation questions posed. The board approved the consultation, including the budget, for publication.

Action: Publish practising fee consultation with annexes; Transition Director of Policy role; Consider project options for investment of reserves.

6. RISK MANAGEMENT

6.1 Review of risk register

The board carried out its quarterly review of the risk register and discussed whether any amendments were required. In doing so, board members focused on issues around (i) market consolidation and (ii) use of AI.

The discussion around the risks and opportunities from increasing use of AI followed a session at the strategy day looking at future developments in the profession. The risks considered by the board included:

- potential professional negligence and the impact on insurance;
- poor client outcomes through misleading advice;
- reduction in learning opportunities for junior Costs Lawyers as AI replaces entry-level tasks; and
- sustainability risks for the profession as a whole.

In relation to market consolidation the board discussed recent acquisitions by costs firms such as Frenkel Topping and was provided with statistics about the number of Costs Lawyers working within the largest employers of regulated practitioners. Board members considered the structure of the market in terms of referrals and integrated services, and the need to ensure clients understand whether/when a firm is preferring its own or related party services over a competitive tender process so they can make informed choices about which organisation to instruct for different service needs. The risks canvassed included:

- conflicts of interest that could undermine the regulatory objectives relating to market competition and consumer interest; and
- increasing concentration of employment which could undermine the regulatory objective relating to promoting a strong, diverse and effective profession.

Actions: Update risk register in relation to AI and maintain a watching brief on market consolidations.

7. REGULATORY MATTERS

7.1 Ethics Hub

The board was updated on the launch of the new Ethics Hub (clsb.info/ethics-hub/) in Q2. Kate explained the structure of the Hub, which comprised a landing page from which users could explore nine ethical scenarios and seven resource pages on dedicated topics, and the board was shown examples of content. Kate also confirmed that resources had been tested with the CLSB's Non-Lay NEDs and Advisory Panel prior to publication where appropriate.

The board explored ideas for potential future content in the Hub and well as ways of communicating about the resources available. Kate set out the communications programme actioned to date, as well as plans to base the CLSB's session at the ACL conference in October around ethics and the rule of law. The board discussed the value of gathering statistics on traffic to the microsite, including after the conference by way of comparison. Board members discussed the different audiences for the site and how they could best be reached.

Action: Investigate traffic monitoring for the Ethics Hub.

7.2 New Guidance Notes

The board was asked to consider and approve four new Guidance Notes for publication in the Costs Lawyers Handbook. Kate explained the purpose of each note as follows.

- Guidance Note on Undertakings: This note captured learnings from a recent disciplinary investigation involving a Costs Lawyer failing to honour an undertaking given to a former solicitor.
- Guidance Note on Economic Crime: This note updated the CLSB's guidance on AML to cover other types of economic crime. It was needed to comply with the LSB's expectations on promoting the new economic crime regulatory objective.
- Guidance Note on Setting up a Practice: This note delivered the first part of Business Plan priority 10, following on from the CLSB's entity regulation work.
- Guidance Note on Client Confidentiality and Acting with Integrity: This note captured learnings from a recent disciplinary investigation involving a Costs Lawyer placing their client's interests before their duty to the proper administration of justice. It also supported various provisions in the new Code of Conduct.

The board felt each of the notes was both helpful and clear. Board members discussed a potential lack of understanding around the importance of undertakings, particularly in the context of file transfers, and felt it would be particularly important to communicate this new Guidance Note widely.

In relation to client confidentiality and conflicts, risks were discussed regarding Costs Lawyers acting for different solicitors who have both worked on the same substantive proceedings but who have competing interests inter se in how recovered costs are distributed between them. It was agreed that this could provide a helpful ethical scenario for the Ethics Hub going forward.

The board approved the new Guidance Notes for publication.

Action: Publish new Guidance Notes; Work up new ethical scenario for the Ethics Hub based on discussion of conflicts.

7.3 Complaints about unregulated providers

The board was provided with a report in relation to Business Plan priority 2, setting out anecdotal evidence of poor consumer outcomes in the unregulated part of the costs market. It was noted that, while the number of complaints received by the CLSB about unregulated providers was high as a proportion of overall complaints (around the same proportion as for regulated Costs Lawyers), the number of examples in absolute terms remained relatively small. The board was therefore asked for feedback on how to best use the evidence collated to date.

The board discussed whether the evidence was sufficient to take proactive steps to highlight poor consumer outcomes and considered options including publishing anonymised case studies, sharing information with ACL and/or using the evidence

reactively (for example, in response to consultations) while continuing to build the evidence base.

Board members agreed that publication would need to be aligned to the communications strategy, which was still in development, and the purpose of publication would need to be clear. The board agreed that proactive publication was not appropriate at this stage, but that the CLSB should continue to collate data of the kind set out in the report for use once more evidence was available. Where possible, sufficient information should be sought from complainants to build meaningful case studies.

The board discussed the unsatisfactory position of not being able to help complainants find a resolution when they experienced a poor outcome in the unregulated part of the market and the damage this caused to the reputation of CLSB, Costs Lawyers and the legal sector generally. Options for providing assistance and advice were discussed, and it was agreed that for complaints where no signposting was available at all, complainants should be encouraged to write to their local MP about their experience under the existing regulatory framework to help build the case for change.

Action: Continue to build evidence base over time.

7.4 Engagement in Wales

The board was updated on work the CLSB is doing to better understand costs services in Wales. The board was provided with details of a planned roundtable event in the Autumn where specific issues of interest would be discussed. Kate explained that a draft invitation was with the Welsh Government for approval and would be sent out shortly. Andrew M and Paul noted they both had clients in Wales and would be keen to attend the event, and David noted he would be able to attend in person if needed.

Action: Get in touch with Andrew, Paul and David at the point of setting a date for the roundtable.

8. LEGAL SERVICES BOARD (LSB)

8.1 Work updates

The board received updates from David and Kate in relation to:

- the new LSB CEO, who would take up post in August;
- input into the LSB's project on disciplinary and enforcement processes;
- attendance at the LSB's economic crime roundtable;
- research into Costs Lawyers and technology for compliance with the LSB's new policy statement in that area;
- a letter received from the LSB requesting evidence of compliance with the LSB's policy statement on consumer empowerment in September;
- attendance at the latest roundtable meeting on professional ethics and the rule of law (PERL).

8.2 Compliance plan for transparency expectations

The board was provided with a letter from the LSB setting out the timetable for the next regulatory performance assessment along with the LSB's expectations in relation to transparency in that context. The board was also provided with a gap analysis

comparing the CLSB's current governance practices to the expectations in the LSB's letter. The executive recommended changes to processes in three areas to ensure compliance with the expectations.

The board considered and approved the first and third recommendations, noting that the third was in line with (for example) the typical approach to local government planning.

The board discussed the second recommendation in detail, which related to publication of minutes of Remuneration Committee (Rem Com) meetings. The board was mindful that the Rem Com often considered matters involving personal data and/or confidential personnel matters, particularly given the small size of the organisation and thus identifiability of staff. Board members agreed that fulfilling legal and regulatory obligations to staff (and prospective staff) was of the utmost importance when considering whether to publish Rem Com minutes.

However the board was also confident that standing items of the Committee, such as the annual cost of living wage rise that applies to all personnel including directors and panel members, rarely involved confidential matters. And, in any event, the Rem Com's decisions were documented in the minutes of the board meeting at which the Rem Com reported back to the full board.

The board was also comfortable that any redactions from Rem Com minutes that were necessary to comply with legal obligations could be made within the parameters of the CLSB's existing publication policy, ensuring that readers were provided with the reason for redaction in each case. The second recommendation was therefore also agreed.

Action: Implement recommendations from the gap analysis.

9 STAKEHOLDER UPDATES

9.1 ACL Council meeting minutes

The board noted the minutes of the ACL Council meeting held in March. The board was also provided with draft minutes of the Council's April and June meetings, but as these had not yet been approved by the Council, Kate noted they would not be published with the board papers.

9.2 Work updates

The board received updates in relation to:

- an introductory meeting with the new Chair of the Legal Services Consumer Panel;
- collaborative talks with Women in Costs;
- ACL's recent consultation on changes to its Articles and bye-laws.

The board discussed ACL's consultation in detail, particularly in relation to the new membership categories of Fellow and Costs Draftsperson that ACL was proposing to create. The board was keen to understand the response rate to the consultation to ensure a sufficient proportion of the profession was on board with the proposals, as well as detailed consultation with ACL Training and the SCCO. Board members raised

concerns around the Costs Draftsperson membership category being linked to the criterion of “supervision by a Costs Lawyer” and queried the impact of this from a regulatory perspective, including regulatory responsibility for client outcomes caused by the supervised Costs Draftsperson.

The board agreed to invite the Chair of ACL to the October board meeting to discuss the changes, even if a decision had already been made at an ACL EGM. While the board was mindful that the changes were ultimately a decision for ACL alone, it asked the executive to encourage ACL to ensure it had sufficient time before the EGM to think through all the potential consequences in detail.

Kate agreed to write to the Chair of ACL with an invitation to the October meeting and the board’s feedback on the proposals.

Action: Write to the Chair of ACL as agreed.

9.3 Annual review of MOU and OP

The board was informed that the fourth annual review of the MOU and Operating Protocol (OP) between ACL and the CLSB had taken place in Q2. The organisations had received all the information they needed under the OP in 2023 and there had been no perceived threats to regulatory independence identified during the year. It was agreed that the protocol was working well and that no changes to the documents were necessary at this stage.

The board noted the outcome and Kate confirmed that the versions of the MOU and OP published on the CLSB website would be annotated to show the date of last review.

Action: Publish annotated version of MOU and OP on website.

10 OPERATIONS

10.1 Client care letters project plan

The board received an update on the project plan to deliver priority 12 in the Business Plan, relating to investigating whether a new supervision framework for client care letters was warranted based on evidence of client outcomes. Kate and Jacqui explained that, during the planning stage, it had become clear that an audit-style approach was unlikely to be possible given the wide variety of equally valid approaches to client care letters used in the market.

The executive therefore intended to carry out a thematic review of sample client care letters with a view to identifying poor practice, which could be used as the basis for improving standards. Depending on the outcome of the review, tools could be developed such as model client care letters for sole practitioners or small firms, updated guidance, top tips / dos and don’ts, training videos and so on.

The board discussed the quantity and quality of the sample client care letters that had been collected to date, including practitioners’ responses to requests from the CLSB for assistance with the project. The board agreed that a sample of around 15 letters was sufficient and agreed that the proposed thematic review was a sensible approach. Board members discussed potential outputs from the project, including direct feedback to those Costs Lawyers who had provided sample client care letters. It was

agreed that the tone of individualised feedback should be in line with the CLSB's approach of providing valuable advice and support toward continual improvement for the benefit of clients.

Action: Proceed with the project based around a thematic review.

11 PUBLICATION

11.1 Confirmation that papers can be published

The board agreed that all board papers for the meeting should be published, other than those noted on the agenda for the reasons stated.

Action: Publish board papers on website in accordance with agenda notations.

12 AOB

There was no other business.

13 NEXT SCHEDULED QUARTERLY MEETING

The next meeting was scheduled for 23 October and would be held remotely via videocall.

There being no further business, the Chair declared the meeting closed at 12:07.

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Chair

Related documents

Item	Document	Publication location (CLSB website)
2.1	Board minutes	About ⇒ Our board
3.1	2024 Business Plan	About ⇒ Strategy and governance
3.3	Proposed 2025 Business Plan	Regulatory ⇒ Consultations
5.2	Annual accounts	Regulatory ⇒ Cost of regulation
5.3	Proposed 2025 budget and practising fee consultation	Regulatory ⇒ Consultations
6.1	Risk register	About ⇒ Strategy and governance
7.1	Ethics Hub	For Costs Lawyers ⇒ Costs Lawyer Handbook
7.2	Guidance Notes	For Costs Lawyers ⇒ Costs Lawyer Handbook
9.3	MOU and OP with ACL	About ⇒ Who we are
11.1	Board papers	About ⇒ Our board