

Company number: 04608905

MINUTES
Costs Lawyer Standards Board Ltd
Monday 21 October 2024 at 10:30 am
Remotely via Teams

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
	Lori Frecker	Director of Policy
	Tom Hayhoe	Legal Services Consumer Panel (item 1)
	Lola Bello	Legal Services Consumer Panel (item 1)
	David Bailey-Vella	Association of Costs Lawyers (item 9.1)

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.

1.3 The board hosted Tom Hayhoe and Lola Bello from the Legal Services Consumer Panel for a meet-and-greet session. Tom described the Panel's current priorities and continued work to deliver the recommendations from the CMA's review of its legal services market study. The board discussed with Tom how the smaller regulators could collaborate and gain leverage from the work and research of their larger peers, including how the Panel could work with the regulators to facilitate progress. The importance of legal costs to consumers was also discussed, including the possibility of the CLSB and LSCP creating joint briefings on costs issues.

David thanked Tom and Lola for their time and insights, and both organisations agreed to maintain an open dialogue going forward.

2. MINUTES

2.1 Minutes dated 18 July 2024

The board considered the minutes of its last scheduled quarterly meeting on 18 July 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 18 July 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: Q3 2024

The board was provided with a progress update against the 2024 Business Plan for Q3. Kate explained that Q3 had been an extremely busy quarter and the team had delivered a further eight Business Plan priorities over the period. This left three priorities for completion in Q4. While Q4 would be shorter than usual in 2024, Kate was confident that all Business Plan priorities could be delivered by year end.

Board members expressed their thanks to the executive for the amount that had been delivered and achieved already in 2024, despite the many external pressures that had arisen during the year.

The board considered and approved the executive's proposed strategic priorities for Q4 of 2024.

3.2 Communications strategy

Kate explained that, following the board strategy day in July, she had been working with Consumer Voice to develop a proposed communications strategy for consideration by the board. Kate drew out important aspects of the strategy from the deck, including key messages and priorities for year 1.

The board discussed the strategy deck in detail. Board members felt that Consumer Voice had done an excellent job of capturing input from the strategy day and creating a process that was well-suited to the organisation, its resources and ambitions. The board believed the strategy was achievable if the right energy was devoted to it.

Board members discussed the aspects of the strategy relating to kitemarks. They were keen on developing a kitemark for organisations employing Costs Lawyers, in addition to a kitemark for individuals, and noted that this could facilitate a light-touch form of entity oversight in the future. The board was also keen to develop kitemarks with a more modern look that would help make the CLSB's branding more accessible.

The board discussed the resource implications of the strategy, given the CLSB's size, and felt it was appropriate to interpret the strategy as permissive rather than prescriptive. The board was particularly attracted to the idea of having Costs Lawyers be champions of the key messages in the strategy, including through a marcomms toolkit, to help with resourcing.

The board adopted the strategy for implementation under the 2025 Business Plan.

Action: Implement communications strategy over the coming year.

4. BOARD MATTERS

4.1 Interim update from Remuneration Committee

Andrew H provided an update on a recent decision of the Remuneration Committee, taken by email, to adjust the Director of Operations' salary to better align it with other staff and to reflect the increased responsibilities of the role since its inception. An updated job description had been agreed between the Director of Operations and CEO, and the CEO was confident that the change could be absorbed in the 2025 budget.

Andrew confirmed that the Committee would be meeting later in the year to consider the annual cost of living pay rise and to further discuss succession planning for the executive, as agreed with the board in July.

5. FINANCE

5.1 Quarterly report: Q3 2024

Jacqui introduced the quarterly finance report. The board noted the financial position at the end of Q3, namely a small projected surplus for the year due to higher than anticipated income. Jacqui explained the reasons for variations from budget for certain line items and flagged potential additional expenditure before year end that depended on the timing of invoices. The board noted the financial position.

5.2 Practising fee application outcome

In early September, Kate shared with the board by email the positive response received to the CLSB's practising fee consultation. Board members had unanimously agreed to proceed with applying for approval of a £305 practising fee as planned. The board affirmed that decision for minuting.

Kate explained that the CLSB applied for approval of the fee in September and received approval in October. The board was provided with the LSB's decision notice. The board noted the action/recommendation in the decision notice for next year's application.

6. RISK MANAGEMENT

6.1 Review of risk register

The board carried out its quarterly review of the risk register and agreed that no amendments were required this quarter.

7. REGULATORY MATTERS

7.1 Education and training updates

The board was provided with updates in relation to:

- annual monitoring of ACL Training's delivery of the Costs Lawyer Qualification, which was underway and would be completed by the CLSB's Accreditation Panel in Q4; and
- the CLSB's role as EQAP and EPAO for the new apprenticeship standard, including recent advice from IfATE and liaison with ACL Training.

7.2 Guidance Note for unregulated firms

The board was asked to consider and approve a new Guidance Note for publication in the Costs Lawyer Handbook. Business Plan priority 10 required the CLSB to develop new guidance in two areas, one of which related to expectations on unregulated costs firms.

Kate explained that, in developing content for the guidance, it had become clear that there was overlap/duplication with existing guidance notes on (i) unregulated employers of Costs Lawyers, (ii) setting up a practice, and (iii) closing down a practice. It was therefore decided that a better approach was to repurpose the guidance for unregulated employers of Costs Lawyers to meet the aims of Business Plan priority 10. Kate explained how this had been achieved and the board was provided with a marked-up version of the Guidance Note for approval.

The board considered the amendments to the Guidance Note and approved them for publication.

Action: Publish amended Guidance Note.

7.3 Costs Lawyers, technology and regulation project report

The board was provided with a cover paper and report that had been commissioned from Hook Tangaza on the use of technology and AI in the costs law market. Lori introduced the report and took the board through the key findings and recommendations for the CLSB.

The board discussed the report in detail. The board considered:

- differences in the uptake of technology across different parts of the market;
- the risks and opportunities associated with AI;
- the incentives and disincentives to greater use of technology in costs law;
- barriers to bespoke AI products for legal costs;
- the likely evolution of the Costs Lawyer role in the future; and
- the role of a regulator in relation to technology and AI, including ways in which regulators can keep pace with advances and risks.

The board adopted the recommendations in the report to frame the CLSB's work in this area going forward. Lori agreed to bring an action plan for delivering the recommendations back to the board in December.

Action: Create action plan for delivering recommendations for board to consider at December meeting.

7.4 EDI resources bundle

The board was asked to consider four new topic notes for inclusion in the Ethics Hub (with links to the EDI page of the website). Kate explained the purpose of the notes as follows:

- Addressing pay gaps: This note responded to the CLSB's diversity survey which suggested a significant gender pay gap exists amongst Costs Lawyers. The content

aimed to encourage and assist practitioners to address the issue in their workplace.

- Equality, diversity and inclusion: While the CLSB had a published Equality and Diversity Statement, as well as a report on the Business Case for Diversity, it did not have guidance for the profession on promoting EDI. This topic note would fill that gap.
- Bullying and harassment: This note supported the CLSB's commitment to the regulators' joint statement on counter-inclusive behaviour.
- Whistleblowing: While not strictly an EDI issue, in creating guidance around reporting unethical behaviour and bullying and harassment, this was identified as a gap in the CLSB's existing resources.

The board discussed the topic notes. Board members asked about plans for raising awareness of the content – particularly around addressing pay gaps – to ensure impact. Kate explained that the team would look to leverage relationships with other organisations, such as Women in Costs, to raise awareness.

The board discussed the need for this kind of advice to be easy to find on the website and returned to the possibility of investing part of the CLSB's committed reserves to create a restricted area of the website accessible only to regulated Costs Lawyers via a log-in system. Decisions about what content to restrict would need to take account of the value to Costs Lawyers, the need for transparency, and the public interest in the CLSB stating its position on regulatory and ethical matters. Overall, the board agreed it was an idea that should be explored further.

The board approved the topic notes for publication.

Actions: Publish topic notes in the Ethics Hub; Begin to scope a project to create a log-in area of the website.

7.5 Topic note: Presenting information to the court

To address lessons learned from the Post Office Horizon scandal, the board was asked to consider a new topic note covering ethical issues in relation to presenting information to the court. The board approved the note for publication, subject to an amendment to more clearly distinguish between misleading the court by commission and omission.

Action: Amend topic note as agreed and publish in the Ethics Hub.

7.6 Feedback from Wales roundtable

On 14 October, the CLSB hosted a virtual roundtable in collaboration with the Welsh Government and ACL to discuss the market for costs law services in Wales. Lori and David (who chaired the event) provided feedback to the board. The roundtable was attended by 11 Costs Lawyers from different practice areas and the discussion had been interesting and constructive.

Board members discussed some of the themes from the roundtable as well as the scope of application of the Welsh Language Act.

7.7 Next two year review of the DR&P

The board considered a report on the outcomes of the scheduled two yearly review of the Disciplinary Rules and Procedures. Kate explained that the review had yielded four recommendations that would be taken forward in 2025, although none of those required amendments to the DR&P themselves. The board approved the recommendations for future work.

Action: Deliver recommendations from the review during 2025, as set out in the report.

8. LEGAL SERVICES BOARD (LSB)

8.1 Work updates

The board received updates in relation to:

- meetings with the new LSB CEO, including confirmation that he had been invited to the CLSB's December board meeting to introduce himself;
- the CLSB's recent submission on compliance with the LSB's policy statement on consumer empowerment;
- a joint submission by the CLSB and ACL in response to the LSB's information request on compliance with the Internal Governance Rules 2019.

Board members noted the importance of investing in new relationships at the LSB given the recent turnover of staff and offered support to the executive in building trust and confidence with new colleagues.

8.2 Regulatory performance assessment information request

The board was provided with the LSB's request for information to inform the 2024 regulatory performance assessment. The board noted that the CLSB was required to give a full account of how it meets every characteristic under all three standards in the LSB's framework, as well as answering 11 additional questions about specific workstreams. The board agreed, as for the previous year, that in preparing the response the executive should provide all relevant information the CLSB holds.

9 STAKEHOLDER UPDATES

9.1 Discussion with ACL: New membership categories

The board welcomed David Bailey-Vella, ACL Council member, to discuss proposed changes to ACL's bye-laws aimed at introducing a new membership category of "Costs Paralegal". David B-V provided an overview of the changes, the rationale for them, the membership's response to ACL's consultation on the issue, and proposed next steps.

The board discussed with David B-V how the pathway to qualification would look for Costs Paralegals and what would happen if a Costs Paralegal did not progress to qualification after a period of time as envisaged. They also discussed the profile of the individuals who were likely to take up the new membership opportunity and how those people might be reached.

The board then discussed with David B-V the intended supervision arrangements for Costs Paralegals and the intersection between this type of supervision and the regulatory regime. It was agreed that Costs Paralegals could not be held to the full standard of competency expected of a Costs Lawyer, but it might be appropriate to expect Costs Paralegals to meet aspects of the regulatory framework such as compliance with parts of the Code of Conduct relating to ethical behaviour. There would need to be further consideration of, for example, how those obligations would be supervised and enforced.

The board agreed that the discussion had been very helpful in understanding ACL's intentions and how they fit with the CLSB's activities and objectives, and thanked David B-V for his time. It was agreed that the organisations should keep in close touch as matters progressed, especially in relation to any supervision or compliance aspects of ACL's proposals, and for wider discussions around Costs Lawyer career pathways.

Action: Continue to liaise with ACL where there is regulatory overlap with the proposed new membership category.

9.2 ACL Council meeting minutes

The board noted the minutes of the ACL Council meeting held in July. Jacqui agreed to check whether it was possible to obtain an unredacted version of the minutes going forward, as the redactions made it difficult to understand the full scope of discussions.

Action: Ask for unredacted minutes.

9.3 Feedback from ACL London conference

Jacqui and Lori provided feedback on their attendance at the ACL London conference in October, where Jacqui had also given a presentation on changes to the Code of Conduct and the new Ethics Hub.

The board discussed the importance of interaction with the regulated community through this type of event, and agreed that a CLSB representative should attend at least one conference a year and possibly two if it could add value.

9.4 Work updates

The board received updates about:

- talks with the Ministry of Justice in relation to Costs Lawyers being made eligible for judicial appointment;
- Kate's attendance in October at the International Conference of Legal Regulators;
- the UK-Australia Regulatory Dialogue and opportunities it might present for Costs Lawyers.

Kate also updated the board on the recent business of the Legal Choices Governance Board. This included a request for increased funding in 2024/25 to cover the next phase of developing the Regulatory Information Service (RIS) and to expand the budget for evaluation.

The board carefully considered the exceptional circumstances relating to the request for additional funding in this case. Based on assurance from the Legal Choices delivery

team that this would be a one-off request, the board agreed that the CLSB would contribute to the overspend in the usual proportion. The board made clear, however, that the additional contribution would be the exception not the rule, and that future cash calls made after the annual practising fee budget had been set would not be viewed favourably.

Action: Agree Legal Choices one-off funding contribution on the above basis.

10 OPERATIONS

10.1 Outcome of 2024 audit of complaints procedures

The board received a report summarising the outcome of the 2024 audit of complaints procedures. Jacqui provided further context around how Costs Lawyers had engaged with the process. The board noted the outcome.

10.2 Documenting internal processes

The board received an update on Business Plan priority 14 relating to documenting key internal processes. Kate and Jacqui described the work carried out over the last year on the project, culminating in a new Administration Handbook. The board was provided with the contents pages of the Handbook and invited to review any areas of interest. The board was also provided with an example of the flowcharts that had been produced to document the user journey through the CLSB's online application forms, given that the forms had become more complex over time.

The board joined Kate in thanking Jacqui for her considerable efforts in delivering the project during 2024.

10.3 Data protection review

The board received an update on the data protection review that had been carried out in Q3, which covered a review of the CLSB's:

- Data Protection Manual;
- Privacy Policy; and
- Article 30 record of processing.

The board discussed the general rise in cyber security risks across the economy and sought assurance about how those risks were being addressed.

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 12 December and would be held remotely via videocall.

There being no further business, the Chair declared the meeting closed at 13:11.

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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
6.1	Risk register	About ⇒ Strategy and governance
7.2	Guidance Notes	For Costs Lawyers ⇒ Costs Lawyer Handbook
7.4 + 7.5	Ethics Hub	For Costs Lawyers ⇒ Ethics Hub
7.7	Disciplinary Rules and Procedures	For Costs Lawyers ⇒ Costs Lawyer Handbook
11.1	Board papers	About ⇒ Our board
Item	Document	Publication location (other)
5.2	2025 practising fee application and outcome	LSB website here