

MINUTES
Costs Lawyer Standards Board Ltd
Tuesday 23 April 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 (Item 7)

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 30 January 2024

The board considered the minutes of its last scheduled quarterly meeting on 30 January 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 30 January 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: Q1 2024

The board was provided with a progress update against the 2024 Business Plan for Q1. Four of the 16 Business Plan priorities were delivered in Q1, with another seven in train.

The board discussed the ongoing work under priorities 1 and 6 to integrate the CLSB into ACL Training's course programme for the Costs Lawyer Qualification. Jacqui provided updates on the CLSB's induction session for new students and the CLSB seminar in the professional ethics module that had been delivered for the first time in

April. It was agreed that this activity was valuable in fostering an early understanding of regulatory obligations as well as getting to know future Costs Lawyers at an early stage.

The board recognised that increasing engagement with students – including through the newly in-housed assessment of Qualifying Experience – was putting additional pressure on internal resource. Outsourcing solutions were considered and the board agreed that it was preferable for internal staff to continue doing work that built relationships with students and, if outsourcing became necessary, to use this for delivering back-end tasks. The board also considered other ways to raise awareness of the CLSB brand and the importance of regulation with new qualifiers, such as attendance at events where qualification certificates are issued.

The board considered and approved the executive's proposed strategic priorities for Q2 of 2024.

3.2 Performance indicators for new strategy

The board was provided with draft Performance Indicators aligned to the CLSB's new mid-term strategy for use during the strategy period (2024 to 2027). As well as introducing new strategic metrics, the proposals would change the way that annual performance data is published, allowing stakeholders to compare data over time. The board considered and approved the Performance Indicators for adoption.

Action: Adopt Performance Indicators for new strategy and publish on the website; Develop a standalone document for publishing annual performance data.

3.3 Communications strategy: risk appetite statements

In January, when defining the purpose and scope of the CLSB's communications project for 2024, the board discussed the need to establish its risk appetite in relation to communications. The board was presented with a paper setting out ten risk areas for discussion, with a view to establishing appetite statements for each.

The board discussed the risk areas in detail, delineating between existential threats, legal risks and reputational risks. It was agreed that the organisation should have no tolerance for risks that were likely to adversely impact the regulatory objectives, risks that meant the regulator fell below the standards set for the regulated community (particularly around integrity), or risks that infringed core regulatory principles such as transparency and accountability. Risks like a lack of timeliness or reach in communications, while important to mitigate, would be acceptable where this was necessary to avoid other more serious risks.

Based on the board's discussion and ranking of the risk areas, Kate agreed to update the paper to include risk appetite statements which could be settled at the board's July meeting or strategy day, as appropriate.

Action: Work up risk appetite statements based on board feedback and bring back to the board in July.

4. BOARD MATTERS

4.1 Consolidated register of interests

Board members considered the updated register of interests. The board agreed that no real or perceived risk of a conflict of interests arose from the register. Board members also confirmed that all declarations were correct and complete for publication.

Action: Publish updated register of interests.

4.2 Remuneration Committee report

Andrew Harvey, as Chair of the Remuneration Committee, reported on the Committee's annual business and the board was provided with the minutes of the Committee's meeting on 14 February, for information.

5. FINANCE

5.1 Quarterly report: Q1 2024

Jacqui introduced the quarterly finance report. The board noted the financial position at the end of Q1, namely a nominal projected deficit for the year, and Jacqui explained the reasons for variations from budget for certain line items.

The board was also provided with an update on progress with moving some of the CLSB's reserves to accounts offering higher interest rates. Due to high administrative barriers with other providers, two new high interest accounts had been opened with one of the CLSB's existing providers. The executive would continue to explore other options, but to date no better options than the incumbent providers had been identified.

5.2 Finance Authorisation Policy

The board was reminded that, in approving the CLSB's practising fee for 2024, the LSB had recommended that the CLSB have its financial accounts audited. While this was not a requirement from an accounting perspective, the LSB suggested it as a matter of good practice. The board was provided with an update on procurement for the audit, including the decision to use the independent audit arm of the CLSB's accountants (AGP) at a quoted cost of £3,000 plus VAT. Preparations had begun for the audit, given the volume of financial information that would need to be collated and made available. In the course of those preparations, the executive had identified a need for a routine review the Finance Authorisation Policy.

The board considered proposed amendments to the Policy. Board members discussed the need for the Director of Operations to be able to make routine payments quickly and simply, and agreed to add authorisations to proposed paragraph 4 of the Policy so the Director of Operations could make expenditures on (i) office expenses up to £500, and (ii) regular subscription, service and contractor fees. It was also agreed to add text making it possible for the Chair to approve expenditure by the Director of Operations, by way of contingency in the event the CEO was not available to give an urgent approval.

Action: Subject to the agreed amendments, adopt the updated Finance Authorisation Policy.

6. RISK MANAGEMENT

6.1 Review of risk register

6.2 Annual Risk Outlook (second edition)

The board took items 6.1 and 6.2 together. The board carried out its quarterly review of the risk register and discussed whether any amendments were required. In doing so, board members considered the system risks identified in the latest Annual Risk Outlook.

The board agreed that the 2024 Annual Risk Outlook, which built on and updated the risks identified in the 2023 version, was an accessible and useful resource that demonstrated the value the CLSB could bring to the sector. Board members discussed how the Annual Risk Outlook should be socialised widely to generate engagement with the identified risks, including possibly exploring individual topics in shorter risk bulletins throughout the year. Overall the board agreed the project remained highly valuable and should be continued in 2025.

The board approved the 2024 Annual Risk Outlook for publication, subject to correcting one typographical error.

Actions: Publish Annual Risk Outlook and consider options for engagement.

7. REGULATORY MATTERS

7.1 Code of Conduct implementation

The board was updated on the LSB's decision to approve the CLSB's proposed changes to the Costs Lawyer Code of Conduct and the steps taken subsequently by the executive to implement those changes.

The board discussed the main substantive issue raised by the LSB in the course of determining the application, as well as the difficulties caused by the timeframe within which that concern was raised. Board members considered how such difficulties might be avoided in the future through the LSB relationship management process or other means.

In relation to implementation, the board confirmed its approval of a consequential amendment to the definition of the term "Principle" in the Disciplinary Rules and Procedures and acknowledged the consequential amendments made to various guidance documents and policy statements to reflect the changes to the text of the Code.

Board members also discussed the link between the new Code of Conduct and the CLSB's work on PERL (professional ethics and the rule of law), including how more detailed guidance on the rule of law could feed into the new ethics hub that was under development for the website.

Finally, the board was updated on work that Jacqui had been doing to develop a seminar for students, forming part of ACL Training's professional ethics module, exploring Costs Lawyer's regulatory obligations and the new Code of Conduct.

Action: Incorporate content on the rule of law into the new ethics hub.

7.2 Annual complaints look-across

The board received an annual roundup of complaints received by the CLSB to facilitate oversight of, in particular:

- complaint volumes, associated with the cost of handling complaints;
- complaint outcomes, as an indicator of the effectiveness of the CLSB's processes;
- themes and trends in complaints over time.

The board discussed issues arising from the complaints look-across, including: (i) the supervisory role of Costs Lawyers where complaints related to the conduct of unregulated advisors within costs firms, (ii) structural gaps in regulatory reach, (iii) challenges faced in enforcement due to not having statutory entity regulation in the costs arena, and (iv) options for assisting complainants where the CLSB has no formal jurisdiction.

The board discussed the importance of recording anecdotal examples of structural regulatory gaps as evidence for wider reform, and Jacqui provided an update on work against the Business Plan priorities relating to collating evidence of poor client outcomes in the unregulated part of the market.

The board agreed that the annual roundup of complaints was helpful and should be provided each year at the end of Q1, with exception reporting on specific complaints throughout the year as previously agreed.

7.3 MoJ submission on judicial appointments

The board was provided with a draft submission to the Ministry of Justice, collating evidence as to why Costs Lawyers should be made eligible for judicial appointment. Lori explained that the survey data presented to the board in January had been combined with other evidence sets to create a wholistic submission covering areas of interest to the MoJ. It was noted that some board members had already provided input on earlier versions of the draft submission during the development stage. The board was also updated on recent discussions with the MoJ around the likely timing and next steps toward the necessary legislative amendment.

Board members considered and approved the draft submission, noting alignment with the goals of the MoJ and Judicial Appointments Commission around promoting judicial diversity. The board considered the need to keep the regulated community informed about progress on this workstream, and also begin to educate Costs Lawyers about the range of roles they could contribute to with their skillset, particularly outside judicial roles relating solely to costs.

Similarly, board members considered how Costs Lawyers could be encouraged to consider quasi-judicial roles on disciplinary boards, tribunals and so on, where their authorisation would help them meet essential role criteria. It was accepted that eligibility criteria for such roles was more disparate than eligibility criteria for judicial appointment, but it would be worth the CLSB using its influence to have authorised Costs Lawyers added to any definition of "lawyer" or "legally qualified person" that appeared in general selection criteria where the opportunity arose.

Action: Submit evidence to MoJ.

7.4 2023 diversity report

In November the CLSB ran a full diversity survey alongside the 2024 practising certificate renewal process, asking Costs Lawyers about a range of diversity characteristics to get an up-to-date profile of the profession. The board was provided with a report of the survey results, with comparative data for people working in SRA regulated firms and for the general population (where that data is available). The comparisons highlight areas where we are doing better/worse on diversity than our peers and will help us focus our EDI activities over the next few years. Lori explained the response rates and difficulties with some metrics given sample sizes and the board considered whether anything more could be done to encourage engagement.

Board members discussed the data in the report. It was noted that the solicitor profession was outperforming Costs Lawyers on ethnicity metrics and the board considered why this might be. Ideas for raising awareness of the profession amongst under-represented ethnic groups were discussed, including visibility in regions with a higher population of under-represented groups and collaborating with existing associations of lawyers from certain ethnic minorities.

Action: Publish diversity report on website; Consider follow-up work on ethnicity.

7.5 Economic crime regulatory objective

The board was provided with an update on work to implement the new regulatory objective in the Legal Services Act 2007 relating to the detection and prevention of economic crime. The first step in the workplan was to update and expand the risk chart originally produced to map risks of non-compliance with economic sanctions in October 2022. A draft of the expanded risk chart was provided to the board for consideration and approval. Kate noted that this drew on a desk research exercise looking at risks identified by other legal services regulators for their part of the sector as well as several sector-wide (or economy wide) assessments by other agencies.

The board discussed the risk chart and approved it for publication, subject to adjusting the formatting so it was clearer how the various activities (in the lefthand column) related to the risk profiles (in the righthand column). The board was informed that, following publication, the risk chart would be used as a basis for updating the existing anti-money laundering guidance note to cover other types of economic crime and provide advice on the areas of risk identified in the chart.

Action: Amend format of risk chart and then publish; Proceed to phase 2 of the workplan on economic crime.

8. LEGAL SERVICES BOARD (LSB)

8.1 Work updates

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

- the LSB's reshaping legal services conference, including the panel session in which David participated, and the emphasis being placed on PERL and the role of in-house lawyers in the current climate;
- information requests from the LSB in relation to: (i) the CLSB's work on PERL; (ii) the LSB's upcoming review of the Internal Governance Rules; and (iii) feedback on the effectiveness of the Practising Fee Rules;

- the LSB's work on disciplinary and enforcement processes, including a sector workshop attended in Q1;
- the LSB's business plan for 2024/25.

Kate also passed on thanks from the LSB's outgoing CEO for his leaving card received from the CLSB and for the board's continued engagement during his time with the LSB.

9 STAKEHOLDER UPDATES

9.1 ACL Council meeting minutes

The board noted the minutes of ACL Council meetings held in November, January and February. The board discussed the idea noted in the minutes of bringing back an awards night and potential involvement or support the CLSB could offer.

9.2 Work updates

The board received updates in relation to:

- the CLSB's involvement in the organising committee for the 2024 International Conference of Legal Regulators;
- the CLSB's response to the MoJ's call for evidence to support a review of civil legal aid;
- participation in the LSCP's investigation into unmet legal need.

10 OPERATIONS

10.1 Outcome of 2023 CPD audit

The board considered a report on the outcome of the annual CPD audit. Jacqui provided an update on follow-up work carried out to implement learnings from the audit, including through improving the CLSB's guidance and template CPD record. The board noted that engagement and compliance were relatively high, but that ongoing communication with the regulated community around CPD obligations was important.

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 17 July, with a strategy session on 16 July, in person in London.

There being no further business, the Chair declared the meeting closed at 12:16.

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Chair

Related documents

Item	Document	Publication location (CLSB website)
2.1	Board minutes	About ⇒ Our board
3.1	2023 Business Plan	About ⇒ Strategy and governance
3.2	Performance Indicators	About ⇒ Strategy and governance
4.1	Register of interests	About ⇒ Our board
6.1	Risk register	About ⇒ Strategy and governance
7.1	New Code of Conduct	For Costs Lawyers ⇒ Costs Lawyer Handbook
7.3	CLSB submission to MoJ on eligibility for judicial appointment	Regulatory ⇒ Consultations
9.2	CLSB response to MoJ call for evidence to support a review of civil legal aid	Regulatory ⇒ Consultations
11.1	Board papers	About ⇒ Our board
Item	Document	Publication location (other)
7.1	LSB decision notice on Code of Conduct rule change application	LSB website here
8.1	LSB 2024/25 business plan	LSB website here