

Company number: 04608905

MINUTES
Costs Lawyer Standards Board Ltd
Tuesday 31 January 2023 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 (Items 1 to 7)
	Board members	Legal Services Board (Item 8.1)

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.

2. MINUTES

2.1 Minutes dated 19 October 2022

The board considered the minutes of its last scheduled quarterly meeting on 19 October 2022. The board agreed the minutes as being a true record for signing.

Action: Publish approved minutes on CLSB website.

2.2 Matters arising

The board considered the matters arising from the minutes of its meeting on 19 October 2022. 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: 2022 roundup

The board was provided with a progress update against the 2022 Business Plan. Kate noted that four additional priorities had been achieved during Q4, which completed the Business Plan in its entirety (other than one item which was deprioritised in Q2 in light of the findings of the RPF project). Board members thanked Kate and Jacqui for their hard work in achieving this outcome. The board also approved the executive's proposed strategic priorities for Q1 of 2023.

3.2 Annual progress against performance indicators

The board was provided with a summary of progress against the metrics in the performance indicators document (PID), which was adopted in January 2020 and updated in 2021 and 2022. The performance indicators had been developed to help the board monitor the effectiveness of the CLSB's governance arrangements and track achievement of the mid-term strategy. The board was also provided with the results of a NED satisfaction survey that had been carried out to provide data for the governance metric in the PID relating to cultural alignment and accountability.

The board considered the report. Board members discussed whether the operational metrics should be retained given that the LSB had recently indicated it would no longer require regulators to collate these. The board agreed that it remained helpful to be aware of the data from a governance and oversight perspective, and also to publish the data to promote transparency and allow stakeholders to scrutinise performance. The executive would therefore continue to provide it annually to the board for noting and publish it with the board papers.

Kate also recommended that the performance indicators be reviewed alongside development of the CLSB's next mid-term strategy during 2023, and the board was happy with this approach.

Actions: Update PID for 2022 and publish on website.

4. BOARD MATTERS

4.1 Remuneration Committee report

Andrew H provided the board with a verbal report of the Remuneration Committee's business following its meeting on 31 January 2023.

The board noted that the Committee had agreed a 6% cost of living annual wage rise for staff, which would apply from 1 March. Andrew H explained how the Committee had taken into account factors such as the level of inflation, wages benchmarking data, the 2023 budget position, and the potential impact on practising fees and staff retention. Minutes of the Committee's meeting would be provided to the board in March for noting.

5. FINANCE

5.1 Quarterly report: Q4 2022

Jacqui introduced the quarterly finance report. The board noted the financial position, including the final budget surplus recorded for the year. This was due mainly to higher than expected income and departure of the Director of Policy who had not been replaced.

The executive explained that this surplus would be used to secure consultancy resources in key areas in 2023 and provide a buffer against a budget shortfall in 2023, given that PCF income had not met budget during the renewal period. The board noted the transfer of £5,000 to committed reserves, in line with the 2022 budget.

6. RISK MANAGEMENT

6.1 Review of risk registers

The board reviewed the risk registers and considered whether any new risks should be added, any existing risks removed or any risk scores changed. The board noted that it would be discussing the outcome of a risk review under item 6.2 and thus the existing risk registers were likely to be replaced by a new approach from March onward. Despite this, the board felt it was important to ensure the existing register was up to date.

Board members discussed market updates in relation to the timing of the upcoming fixed costs extension, potential reforms to the Solicitors Act 1974, and the likely outcome of the Civil Justice Council's review of civil costs. The board agreed to update OP1 to reflect the most imminent of these developments.

Action: Update risk registers as agreed and publish on website.

6.2 Review of approach to risk

The board was provided with a report from consultancy Hook Tangaza following a review of the CLSB's methodology for measuring, recording, monitoring and responding to risk. The board discussed the analysis set out in the report and the recommendations for a new approach going forward.

Board members strongly supported the idea of publishing an annual risk review and discussed the potential benefits of this, including as a vehicle for circulating warnings around cyber-security and scams. Andrew M volunteered to review a draft and feed in from the perspective of the profession. The board also discussed the distinctions between the external-facing risk review and the new internal risk register in terms of purpose and presentation.

Board members discussed the need to ensure that the CLSB does not position itself as responsible for owning and managing all the wider system risks identified in the report. This could be achieved through clear communication.

Kate agreed to develop a draft risk register for consideration by the board at its March meeting, structured in line with the three areas identified in Hook Tangaza's report (i.e. areas for risk monitoring, areas for risk mitigation, and areas for strategic reflection), and to prepare the risk review.

Actions: Develop new risk register for the board to consider at its next meeting; Develop first annual risk review for publication.

7. REGULATORY MATTERS

7.1 Update on rule change applications

The board was provided with an update on the CLSB's applications to the LSB for approval of changes to its:

- Disciplinary Rules and Procedures (DR&P), which had been approved in November; and
- Training Rules, which were still under consideration.

In relation to the DR&P, Kate noted that the changes would require Costs Lawyers to make some minor adjustments to their complaints procedures. The Legal Ombudsman had also reviewed its Scheme Rules in 2022 and decided to make a number of changes that would impact complaints procedures further. To allow practitioners to make all the necessary changes at once, the CLSB would align implementation of the new DR&P with implementation of the new Scheme Rules, on 1 April 2023. The board noted plans for communicating the changes.

In relation to the Training Rules, Kate explained the status of the rule change application and developments at ACL Training in relation to accreditation of the new training course. The board agreed that it was important for the CLSB to be ready to devote resources to considering ACL Training's application for accreditation. Andrew M volunteered to join the CLSB's Accreditation Panel as the board representative.

Action: Put in place resources for accreditation process.

7.2 Ongoing competency forward plan

The board was provided with a progress update that had been submitted to the LSB in relation to compliance with the LSB's policy statement on ongoing competence. Kate explained that the CLSB is now compliant with two of the four outcomes in the statement and summarised plans for achieving full compliance during 2023. The board noted the resources that would be required to carry out this work as a priority during the year.

7.3 Costs Lawyer Profession in 2022 report

The board was provided with the latest annual report compiling statistics about the Costs Lawyer profession in 2022, mainly derived from the "regulatory return" data collected as part of practising certificate renewals. Jacqui introduced the item and highlighted some new metrics that had been captured in 2022 for the first time.

Board members discussed the age profile of the profession as shown in the report and the risks to continuity within the profession that this created. The board discussed the actions already being taken to influence the profile downwards and the importance of their success, including introduction of the new training course.

7.4 Code of Conduct review

The board received a report setting out recommendations from a review of the Costs Lawyer Code of Conduct. The review had drawn together a number of considerations, including making the Code consistent with other up-to-date regulatory arrangements, implementing recommendations from the RPF innovation project and generally modernising the language.

Kate noted that this review represented a milestone for the CLSB, in that the Code was the last of the CLSB's legacy regulatory arrangements to be reviewed and, when the changes are implemented, all the CLSB's published rules, guidance and policy statements will have been developed or updated in the last three years. Kate also explained how the review had provided an opportunity to address issues arising from a disciplinary investigation carried out in late 2022.

The board discussed the recommendations and agreed that the proposed changes should be put to consultation. Board members discussed the likely response from the profession and did not identify any areas that it foresaw as being controversial. The Non-Lay NEDs felt that the revisions to the rules on client money were particularly useful and that questions from practitioners might arise on that aspect of the consultation. The board also agreed that the review presented a good opportunity to clarify the interplay between a Costs Lawyer's duties to their ultimate and intermediary (professional) clients.

Action: Develop and issue consultation on proposed changes.

7.5 Diversity update and proposed priorities

Kate updated the board on resourcing for equality, diversity and inclusion (EDI) projects and proposed a series of strategic priorities for 2023. The board discussed the priorities and agreed that they were areas in which there were good opportunities to collaborate and learn from others. Board members also discussed options for plugging Costs Lawyers into existing legal networks, such as the Asian Lawyers Network. David offered to help facilitate this.

8. LEGAL SERVICES BOARD (LSB)

8.1 Board to board roundtable

At 11:30 all board members joined a one-hour roundtable discussion with representatives from the LSB's board. The LSB took a separate note of that session.

8.2 Regulatory performance assessment outcome

The board noted the outcome of the LSB's recent regulatory performance assessment, under which the CLSB was the only regulator to provide the LSB with sufficient assurance of performance across all standards. Board members reflected on how far the organisation had come in a relatively short period and how it was now well positioned to be proactive and forward-looking.

9 STAKEHOLDER UPDATES

9.1 ACL Council meeting minutes

The board noted the minutes of ACL Council meetings held in September, October and November 2022, including the change in the CLSB's policy contact at ACL. Board members discussed an upcoming event that ACL will be hosting to share its business plan and obtain feedback, which was considered a positive development.

10 OPERATIONS

10.1 Practising certificate renewals data

The board was provided with a report of how the practising certificate renewals process went, including renewal statistics, results of the exit survey, and updates on technical elements of the process. Kate introduced the item on behalf of Jacqui, noting in particular the termination statistics and reasons, and highlighting the features of the new Register of Costs Lawyers that had gone live in early January.

Kate also explained that the renewals process had flagged up an issue relating to unemployed practitioners not having professional indemnity insurance in place during

the renewal window. It was proposed that, to give clarity around this scenario, a minor amendment be made to the Guidance Note on indemnity insurance to more explicitly set out when it is permissible not to have PI insurance in place, in line with the Practising Rules.

The board discussed the report. Board members asked about terminations in the part of the profession specialising in legal aid and discussed the benefits that regulation could bring in this area. The board also discussed the general lack of awareness amongst clients (of all types) of those benefits and how that awareness could be bolstered. It was suggested that the CLSB’s profile could be raised within other parts of the legal community given that the majority of Costs Lawyers’ instructions come from professional intermediaries, and through this the CLSB could advocate for the merits of regulation. Kate also noted that the executive was building a portfolio of case studies where complainants had approached the CLSB about detrimental client outcomes caused by unregulated providers.

Action: Update Guidance Note on PI insurance.

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 29 March 2023, remotely via videocall. The board discussed the logistics for its next in-person meeting and agreed that a strategy session should be held in the afternoon of 27 June with the usual board meeting being held in the morning of 28 June in London.

There being no further business, the Chair declared the meeting closed at 12:57.

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Chair

Related documents

Item	Document	Publication location (CLSB website)
2.1	Board minutes	About ⇨ Our board
3.2	Performance Indicators	About ⇨ Strategy and governance
6.1	Risk registers	About ⇨ Strategy and governance
11.1	Board papers	About ⇨ Our board

Item	Document	Publication location (other)
7.1	LSB Decision Notice on application to amend the Disciplinary Rules and Procedures	LSB website here
7.1	Application to LSB to amend the Training Rules	LSB website here
7.2	LSB policy statement on ongoing competence	LSB website here
8.2	2022 regulatory performance assessment	LSB website here