
Practising Rules



1 August 2020 (version 4)

Costs Lawyer Standards Board

CLSB
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Introduction

These Rules govern the practice of Costs Lawyers and the issue and revocation of practising certificates by the CLSB. They replace any other practising rules or regulations previously issued by the CLSB.

Definitions

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| ACL | Association of Costs Lawyers (named in the Legal Services Act 2007 as the Association of Law Costs Draftsmen) |
| Applicant | Any person who applies for a Practising Certificate |
| Approved Regulator | A body designated as an approved regulator under the Legal Services Act 2007 |
| CLSB | Costs Lawyer Standards Board |
| Costs Lawyer | A person who holds a current Practising Certificate and is therefore authorised to carry on the following reserved legal activities: <ul style="list-style-type: none">• The exercise of a right of audience• The conduct of litigation• The administration of oaths |
| Conduct Committee | Committee established by the CLSB to consider Costs Lawyer conduct matters, as defined in the Disciplinary Rules and Procedures |
| CPD | Continuing Professional Development |
| CPD Rules | CLSB's rules and requirements for continuing professional development that apply at the relevant date |
| Disciplinary Rules and Procedures | CLSB's rules and procedures governing disciplinary matters that apply at the relevant date |
| Practising Certificate | Certificate issued annually allowing a Costs Lawyer to practise under the title of Costs Lawyer and carry on reserved legal activities |
| Prescribed | Prescribed by the CLSB from time to time |
| Register | The register of Costs Lawyers who hold a current Practising Certificate |

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| Regulatory Arrangements | The CLSB Handbook, including the Code of Conduct, and associated CLSB guidance, policies and procedures |
| Regulatory Objectives | The objectives listed in section 1(1) of the Legal Services Act 2007 |
| Training Rules | The CLSB's rules and requirements for training and qualification that apply at the relevant date |

RULE 1: Right to practise as a Costs Lawyer

1.1 No person shall be entitled to practise as a Costs Lawyer unless:

- (a) they have qualified as a Costs Lawyer in accordance with the Training Rules;
- (b) they have a current Practising Certificate which has been issued in accordance with these Rules and which is not suspended;
- (c) they comply with CPD requirements set out in the CPD Rules; and
- (d) they have professional indemnity insurance in accordance with Rule 9.

RULE 2: Application for a Practising Certificate

2.1 An application for a Practising Certificate must be made in the prescribed form, correctly completed, by the prescribed time, and be accompanied by:

- (a) the prescribed fee; and
- (b) any information and documents that may be prescribed or reasonably requested by the CLSB.

2.2 The application will only be made once the CLSB has received all the payments, information and documents relating to it.

2.3 The applicant must ensure that all details provided in and in connection with the application are correct and complete, and if they become aware of any changes to the information supplied or any inaccuracy or relevant omission, they must notify the CLSB as soon as practicable.

RULE 3: Decisions

- 3.1 As soon as reasonably practicable after the receipt of a completed application for a Practising Certificate, the CLSB will notify the applicant of its decision.
- 3.2 The CLSB will either:
- (a) grant a Practising Certificate (with or without conditions); or
 - (b) refuse the application.
- 3.3 The CLSB will refuse the application if the applicant:
- (a) does not meet, or has not demonstrated that they meet, the criteria in Rule 1.1(a), (c) and (d);
 - (b) has not complied with Rule 2;
 - (c) has failed to pay any fixed costs or financial penalties imposed pursuant to the Disciplinary Rules and Procedures which are due at the date of the application;
 - (d) is subject to an order suspending their Practising Certificate; or
 - (e) is subject to an order permanently revoking their Practising Certificate.
- 3.4 The CLSB may refuse the application or impose conditions on the issue of a Practising Certificate if satisfied that:
- (a) the applicant is unsuitable to practise as a Costs Lawyer (or in the case of a condition, is unsuitable to undertake certain activities or engage in certain business or practising arrangements);
 - (b) the applicant is putting, or is likely to put, at risk the interests of clients, third parties or the public;
 - (c) the applicant will not comply with the CLSB's Regulatory Arrangements (and/or in the case of a condition, will require monitoring in relation to compliance with the CLSB's Regulatory Arrangements);
 - (d) in the case of a condition, the applicant should take specified steps conducive to the Regulatory Objectives; or
 - (e) it is otherwise in the public interest to do so in light of the Regulatory Objectives.

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- 3.5 The CLSB may also impose or amend conditions on a Practising Certificate during its currency on one or more of the grounds set out in Rule 3.4. If the CLSB does so, it must give 21 calendar days' written notice with reasons to the Cost Lawyer in question, unless it is satisfied on reasonable grounds that it is not in the public interest to do so.
- 3.6 The CLSB may remove a condition on a Practising Certificate if it considers, on written application of the Costs Lawyer or on its own initiative, that there has been a change of circumstances such that it is no longer satisfied that any of the grounds in Rule 3.4 for imposing a condition apply.
- 3.7 The CLSB must notify its reasons in writing to the applicant in the event the CLSB:
- (a) refuses an application;
 - (b) makes a Practising Certificate subject to conditions; or
 - (c) refuses to remove a condition imposed on a Practising Certificate.

RULE 4: Disclosure

- 4.1 An applicant or Costs Lawyer must disclose the events set out in Rule 4.2 to the CLSB:
- (a) when making an application for a Practising Certificate;
 - (b) when making an application to remove a condition on a Practising Certificate (including to remove a condition imposed under an interim suspension order pursuant to the Disciplinary Rules and Procedures); and
 - (c) at any other time as soon as reasonably practicable after the event has occurred.
- 4.2 The events that the applicant or Costs Lawyer must disclose are that they have:
- (a) been subject to any criminal charge, conviction or caution, subject to the Rehabilitation of Offenders Act 1974;
 - (b) been subject to an adjudication of bankruptcy;
 - (c) been granted a debt relief order;
 - (d) entered into an individual voluntary arrangement or a partnership voluntary arrangement;

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- (e) been a director of any company or partner in an LLP or partnership that has been the subject of a winding up order, an administrative order or an administrative receivership, or has otherwise been wound up or put into administration in circumstances of insolvency;
 - (f) been disqualified from being a company director or the trustee of a charity;
 - (g) been the subject of disciplinary proceedings by any regulatory or professional body;
 - (h) been the subject of an adverse order or finding of a civil court or employment tribunal; or
 - (i) become aware of any other matter that might reasonably be expected to be disclosed in affecting their fitness to become or remain a Costs Lawyer.

4.3 The applicant must make a prompt report to the CLSB of any material changes of which the applicant is aware to information previously provided to the CLSB by the applicant or on their behalf relating to the applicant or their practice, including any change to the information recorded in the register.

RULE 5: Register of Costs Lawyers

5.1 The Register may be kept in electronic form.

5.2 The name of each Costs Lawyer will be entered onto the Register upon:

- (a) the issue of a Practising Certificate; or
- (b) the expiry of any suspension of a current Practising Certificate.

5.3 The Register will contain the following information in respect of each Costs Lawyer:

- (a) name;
- (b) registration number;
- (c) date of qualification as a Costs Lawyer;
- (d) details of their practice or employment;
- (e) contact details, including an email address;
- (f) any conditions on their Practising Certificate; and
- (g) any other information required by law or deemed appropriate to be held.

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- 5.4 A short version of the Register which shows the name and registration number of each Costs Lawyer, their date of qualification, the organisation in which they practise (if applicable) and any conditions on their Practising Certificate will be made available in an electronic format for public inspection through the CLSB website. Other information may appear in this public Register from time to time, unless the Costs Lawyer requests that it does not so appear. Disciplinary information relating to a Costs Lawyer may appear in the public Register in accordance with the Regulatory Arrangements.
- 5.5 If a Costs Lawyer is subject to an order (pursuant to the Disciplinary Rules and Procedures or otherwise) for suspension of their name from the Register, the Costs Lawyer's name will be removed from the Register for the period of the suspension. The Costs Lawyer's name will be reinstated to the Register upon expiry of the suspension if they have a Practising Certificate that is current at that time. If they do not have a Practising Certificate that is current at that time, their name will be reinstated to the Register upon successful application for a Practising Certificate.
- 5.6 If a Costs Lawyer is subject to an order (pursuant to the Disciplinary Rules and Procedures or otherwise) for permanent removal of their name from the Register, the Costs Lawyer's name will be removed from the Register and will be reinstated only upon successful appeal against the order.
- 5.7 A Costs Lawyer's name will be removed from the Register if they do not have a current Practising Certificate.

RULE 6: Issue of Practising Certificates

- 6.1 The Practising Certificate will be delivered to the address notified to CLSB as the applicant's practising address or to such other address as the applicant shall advise the CLSB in writing and may be delivered either by post or electronically.
- 6.2 The commencement date for the Practising Certificate will be the date on which it is entered on the Register and will also appear on the Practising Certificate.

6.3 The Practising Certificate will include the following details:

- (a) the full name of the Costs Lawyer;
- (b) the commencement date;
- (c) the date of expiry; and
- (d) any condition to which the Practising Certificate is subject.

6.4 In the event conditions are imposed on a Practising Certificate, a replacement Practising Certificate will be issued stating the condition and the date on which it was imposed.

6.5 A replacement Practising Certificate will be issued in the event a condition expires, is varied, is successfully appealed or is revoked.

RULE 7: Expiration of a Practising Certificate

7.1 A Practising Certificate will expire:

- (a) on the expiry date stated on the Practising Certificate;
- (b) when a replacement Practising Certificate is issued; or
- (c) on the death of the Costs Lawyer.

RULE 8: Revocation and suspension of a Practising Certificate

8.1 A Practising Certificate may be revoked by the CLSB if:

- (a) the Costs Lawyer no longer meets the criteria in Rule 1.1(a), (c) and (d), or it comes to light that the Costs Lawyer did not meet those criteria at the time of applying for the Practising Certificate;
- (b) the Costs Lawyer is subject to an order permanently revoking their Practising Certificate;
- (c) the Costs Lawyer discloses one or more of the events set out in Rule 4.2 to the CLSB and the CLSB is satisfied of one or more of the matters in Rule 3.4 (a), (b), (c) or (e).

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- 8.2 If a Costs Lawyer is subject to an order suspending their Practising Certificate, they will not be able to practise as a Costs Lawyer for the period of the suspension. If the Practising Certificate is still current when the suspension ends, the Practising Certificate will remain valid. If the Practising Certificate has expired during the period of the suspension, the Costs Lawyer must apply for a new Practising Certificate.

RULE 9: Indemnity insurance

- 9.1 Costs Lawyers must ensure that they:
- (a) practise with the benefit of professional indemnity insurance of a minimum £100,000 (any one claim) to include loss of documents; and
 - (b) on an ongoing basis, assess all financial risk associated with work being undertaken by them and ensure that professional indemnity insurance (including loss of documents insurance) is in place in excess of the minimum set out in Rule 9.1(a) at a level commensurate with that risk.

RULE 10: Appeals

- 10.1 An applicant or Costs Lawyer may appeal a decision of the CLSB to:
- (a) refuse to issue a Practising Certificate;
 - (b) impose conditions upon a Practising Certificate;
 - (c) refuse to remove a condition imposed on a Practising Certificate; or
 - (d) revoke a Practising Certificate.
- 10.2 An appeal must be made within 21 calendar days of the date on which the Costs Lawyer is notified of the decision they intend to appeal.
- 10.3 The appeal must be in writing to the CLSB and must set out the grounds on which the appeal is being made.
- 10.4 The only grounds for making an appeal are that the decision was flawed because:
- (a) there was a material error of law;
 - (b) there was a failure to take into account material information;
 - (c) the decision was irrational or based on irrelevant considerations;

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- (d) there was a material failure to follow the Regulatory Arrangements;
 - (e) the decision was unlawful; or
 - (f) new evidence has been obtained which could not have been made available when the decision was made and which will be material to the decision.

10.5 An appeal shall be by way of review by a Conduct Committee and the decision on the appeal shall be made on the papers.

10.6 The Conduct Committee may not impose any decision or condition that is harsher than the original.

10.7 There is no right of appeal beyond the Conduct Committee.

RULE 11: Notification of decisions

11.1 If it is considered to further the Regulatory Objectives, the CLSB may notify any or all of the following about decisions made under these Rules:

- (a) ACL;
- (b) an Approved Regulator;
- (c) the Legal Services Board;
- (d) a law enforcement agency;
- (e) the Legal Ombudsman.

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