



## Consultation response

Legal Services Board consultation on First-tier complaints: A consultation on draft section 112 requirements, guidance and policy statement for approved regulators under the Legal Services Act.

16 November 2023

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The Costs Lawyer Standards Board (“CLSB”) is the regulator of Costs Lawyers in England and Wales. We exist to serve the public interest by setting and maintaining the standards of professional conduct by which Costs Lawyers must abide. Our mission is to “provide effective, proportionate regulation of Costs Lawyers in a way that promotes consumer choice and understanding, and engenders justified public trust”.

The CLSB is pleased to respond to the LSB’s consultation on First-tier complaints: A consultation on draft section 112 requirements, guidance and policy statement for approved regulators under the Legal Services Act.

The CLSB is broadly supportive of the LSB’s proposed requirements, guidance and policy statement. We believe that the requirements of our Code of Conduct, Complaints Procedures guidance and Supervision Framework already meet many of the LSB’s proposed new section 112 requirements and related draft guidance. We further believe that any aspects of the proposed new requirements or guidance which are not explicitly covered by our existing regulatory arrangements could be promptly incorporated.

Regarding the LSB’s draft policy statement, the CLSB generally agrees with the aims and outcomes. However, we would welcome clarification on two aspects, as follows:

- 1) Paragraph 15 (vi) of the policy statement states that regulators should use intelligence from complaints to “*give particular consideration to the experiences of legal services users with protected characteristics and/or who are in vulnerable circumstances.*” We are not aware of the extent to which Costs Lawyers and other authorised persons already monitor diversity of their clients. However, our understanding is that if a firm or authorised person were to collect diversity data about a client (for example, through a diversity monitoring survey) this may need to be kept separate from the client file in order to comply with data protection legislation. Given this, we query how regulators, firms, or authorised persons who are subject to a complaint will be able to track the protected characteristics of a complainant without taking additional steps to do so – for example, by asking complainants to complete a diversity monitoring survey (which may in itself have a deterrent effect on complaints). It would be helpful to have more detail about how the LSB envisages this expectation working in practice.
- 2) Paragraph 15 of the draft policy statement also sets an expectation that regulators will use intelligence gathered from first and second tier complaints to identify recurring themes, areas of weakness, good practice etc. It would be helpful to understand how the LSB envisages these

expectations being met where a regulated community may fall within the remit of more than one approved regulator. For example, individual Costs Lawyers are regulated by the CLSB, but many work in solicitors' firms, which are regulated by the Solicitors Regulation Authority. We would welcome clarification on this point, in order to avoid inadvertent duplication of effort by approved regulators.

The CLSB is content with the proposed timescale for implementation. We agree that the proposals potentially have positive benefits for vulnerable consumers and consumers with different accessibility needs, as identified in the equality impact assessment. Finally, we welcome the recognition that the examples provided in the draft guidance are illustrative and that regulators should determine what is most appropriate for their own regulated communities.

We look forward to the publication of the LSB's response to the consultation in due course.