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# Guidance Note

## Setting up a practice

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Costs Lawyer Standards Board

CLSB



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## Who should read this guidance?

1. This guidance is for Costs Lawyers who are considering setting up a costs law practice, either alone or with others, that is not authorised by another legal regulator such as the Solicitors Regulation Authority (SRA).
2. A costs law practice could be a sole trader, a partnership or a limited company.

## Does my practice need to be authorised?

3. Transitional arrangements under Schedule 5 of the Legal Services Act 2007 (LSA) allow Costs Lawyers to provide reserved legal activities through an unauthorised body. This means that, while you as an individual Costs Lawyer are authorised by the CLSB, your costs law practice does not need to be authorised by any of the legal services regulators.
4. You will need to seek authorisation for your costs law practice if you want to undertake certain activities. In particular, you must seek authorisation if you intend to carry out reserved legal activities that are outside the scope of your authorisation as a Costs Lawyer. The next section considers in more detail the scope of services your costs law practice can provide without authorisation.
5. If you do want to carry out activities that require your costs law practice to be authorised, you will need to contact one of the legal regulators that regulates entities (firms) to see whether your practice will meet their authorisation criteria. Guidance can be found on the [SRA website](#) or [CILEx Regulation website](#) to help you get started.

## What services can my practice offer?

6. As a Costs Lawyer, you can conduct litigation and exercise rights of audience in relation to a costs matter (LSA Schedule 4 Part 1). You can also administer oaths. You are not allowed to carry on any other [reserved legal activities](#) through your practice. See our [Guidance Note](#) on Reserved Legal Activity Rights for further details.

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7. If you employ a person authorised under the LSA who is not a Costs Lawyer (for example, a solicitor, barrister or CILEx Practitioner) you will need to be aware of the restrictions on their practising rights. The transitional provisions under the LSA that allow you to provide reserved legal activities through an unauthorised body will not apply to that other authorised person. They will therefore not be able to provide reserved legal services to the public through your practice because the practice is not authorised under the Legal Services Act. So they will not be able to conduct litigation or exercise rights of audience on your or your firm's behalf.
  8. You are able to carry out any non-reserved legal activities that you wish through your practice, but must obtain the appropriate professional indemnity insurance (see below).

## What arrangements do I need to put in place for a new practice?

9. When setting up your practice, you must put arrangements in place to comply with all of your regulatory and legal obligations. The following table, which is not exhaustive, contains a list of some of the core requirements when setting up your practice, and tells you where you can find those requirements and any further guidance. You can find information on additional requirements in the [Cost Lawyer Handbook](#), including our Guidance Note on Unregulated Employers of Costs Lawyers.

Requirement	Regulatory reference and further guidance
<b>Professional Indemnity Insurance (PII)</b> Your practice must have PII that covers all of the practice's work (not just the reserved legal activities). The minimum level must be £100,000 for any one claim to include loss of documents. You must assess all financial risk associated with your work on a continuous basis and make sure that PII is available in excess of the minimum commensurate with that risk.	Practising Rules 1.1(d) and 9  <a href="#">Guidance Note:</a> Indemnity Insurance

<p><b>Client money</b></p> <p>If you are practising as a sole practitioner or in partnership, you are not allowed to hold client money. If necessary, you can consider making arrangements for dealing with client money through a Third Party Managed Account (TPMA).</p> <p>If your practice is a limited company, the company (just like any other unauthorised corporation) is allowed to hold client money in its name. Client money must be kept in a separate bank account and not mixed with the company's own money (or used for the company's running expenses). There will need to be appropriate security measures in place for the account, full records kept and the PII must be adequate to include the risk of loss of client money (e.g. through third party fraud). The company may also use an appropriate TPMA as an alternative.</p>	<p><a href="#">Code of Conduct</a> Principles 1.1, 1.7 and 3.6</p> <p><a href="#">Guidance Note:</a></p> <ul style="list-style-type: none"> <li>• Handling Client Money</li> <li>• Unregulated Employers of Costs Lawyers</li> </ul> <p><a href="#">Ethical scenario: You're asked to handle your client's money</a></p>
<p><b>Financial and business planning</b></p> <p>The failure or disorderly closure of a practice can bring a number of serious consequences, for example:</p> <ul style="list-style-type: none"> <li>• clients are prejudiced, left without representation, and court proceedings are disrupted;</li> <li>• confidential client files and information, including personal data, are not properly safeguarded;</li> <li>• client money is put at risk; and</li> <li>• you face regulatory action from the CLSB as well as complaints or civil action from your clients.</li> </ul> <p>You should therefore make sure that you have adequate funding and a proper business plan for your practice to minimise the risk of a disorderly closure. The plan should include financial projections for your</p>	<p><a href="#">Code of Conduct</a> Principles 1 and 3</p> <p><a href="#">Guidance Note:</a> Regulatory issues when shutting down a practice</p> <p><a href="#">Ethics Hub resources on managing risks to your clients</a></p>

<p>firm, covering at least the next 12 months but ideally a three-year period.</p>	
<p><b>Economic crime</b></p> <p>You should have appropriate procedures in place to ensure that you are not involved in economic crime. These could include:</p> <ul style="list-style-type: none"> <li>• carrying out a money laundering, proliferation financing and terrorist finance risk assessment on the practice, based on the nature of the practice’s intended work areas and client profile;</li> <li>• obtaining evidence of identity if you are not familiar with a client and cannot verify their authenticity through other means;</li> <li>• nominating someone within the practice to receive internal disclosures.</li> </ul>	<p><a href="#">Code of Conduct</a> Principles 1.1, 1.7 and 2.1</p> <p><a href="#">Guidance Note: Economic Crime</a></p> <p><a href="#">Ethical scenario: You notice signs of possible economic crime</a></p> <p><a href="#">LSAG Anti-Money Laundering Guidance for the Legal Sector</a></p>
<p><b>Data Protection</b></p> <p>Your practice must comply with data protection legislation. This includes keeping your clients’ personal data secure, only using data for legitimate purposes and informing clients of their rights.</p> <p>You should complete the data protection fee self-assessment with the Information Commissioner’s Office, as you will be handling personal data (even if you are not acting directly for individuals) and this may incur a registration fee.</p> <p>You should have a privacy policy available on your website and to prospective and current clients. A privacy policy should include details of what types of data you collect, on what lawful basis, what you do with the data, how long you keep it and how people can exercise their rights (for example, to view their data or have it deleted).</p>	<p><a href="#">Data protection fee self-assessment</a></p> <p><a href="#">UK General Data Protection Regulations</a></p> <p><a href="#">The Information Commissioner’s Office Guidance and Resources</a></p> <p><a href="#">ICO guidance on how to write a privacy policy</a></p>

<p>You should consider obtaining cybersecurity insurance (whether as part of your PII or separately) to cover you against claims for loss of data or money through online fraud or another cyber incident, as well to cover any disruption to your business.</p> <p>If you operate through paper files you will need to have physically secure arrangements for storage and retrieval.</p>	
<p><b>Your website and other promotional material</b></p> <p>Ensure that your website (and any other promotional material) is accurate, complies with consumer law and gives appropriately transparent price information. The website should contain a privacy notice/policy and comply with requirements for collecting data by cookies – telling clients what data is collected and giving them the option of rejecting non-essential cookies.</p> <p>If you collect payments via your website, you must have appropriate security in place and comply with the PCI Data Security Standard (PCI DSS). You can help achieve this by using an established payment gateway for your website.</p>	<p><u><a href="#">Guidance Notes:</a></u></p> <ul style="list-style-type: none"> <li>• Dealing with Consumers</li> <li>• Vulnerable Consumers</li> <li>• Price Transparency</li> </ul> <p><u><a href="#">ICO guidance on cookies and similar technologies</a></u></p> <p><u><a href="#">PCI Security Standards Council – Protect payment data with industry-driven security standards, training, and programs</a></u></p>
<p><b>Client care arrangements</b></p> <p>You must have procedures in place to make sure that you comply with your obligations to clients.</p> <p>These must contain a procedure for dealing with complaints which includes informing clients of their right to go to the Legal Ombudsman and the timeframe during which you will resolve the complaint, which must be within eight weeks of receipt.</p> <p>You must also have client care letters in place so that clients are given appropriate information, including on</p>	<p><u><a href="#">Code of Conduct</a></u></p> <p>Principles 1.4, 3.1-3.4, 4.5 and 4.6</p> <p><u><a href="#">Guidance Notes:</a></u></p> <ul style="list-style-type: none"> <li>• Client Care Letters</li> <li>• Complaints Procedures</li> <li>• Conflicts of Interest</li> <li>• Dealing with Consumers</li> <li>• Unregulated Employers of Costs Lawyers</li> </ul>



<p>costs and complaints, and can make informed decisions about their case. The information should also include your terms and conditions of business, data protection rights and details of your individual regulation by the CLSB and how to complain to us. If an unauthorised employee will be dealing with aspects of a matter, the client care letter should also make this clear and explain the consequences to the client.</p> <p>You must have procedures in place for identifying and dealing with conflicts of interest.</p>	<p>Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013</p> <p>Provision of Services Regulations 2009</p> <p><a href="#">Ethical scenario: You realise your complaints procedure isn't compliant</a></p> <p><a href="#">Ethical scenario: You get a complaint from a vulnerable client</a></p> <p><a href="#">Ethical scenario: The interests of your clients conflict with each other</a></p>
<p><b>Treating people fairly and equitably</b></p> <p>You should have procedures in place to make sure you treat all clients, colleagues and third parties fairly and equally, and with dignity and respect.</p> <p>If you are an employer, you must:</p> <ul style="list-style-type: none"> <li>• have and adhere to a written policy which prevents discrimination and harassment and must investigate any allegation of discrimination, victimisation, or harassment and take disciplinary action where appropriate; and</li> <li>• make reasonable adjustments for those with a disability to ensure they are not at a disadvantage in comparison with those without disabilities.</li> </ul>	<p><a href="#">Code of Conduct</a> Principles 6.1-6.3</p> <p><a href="#">Guidance Note:</a> Vulnerable Consumers</p> <p><a href="#">Ethical scenario: You witness bullying and harassment at work</a></p>

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## Can I say that my practice is regulated by the CLSB?

10. No. The CLSB authorises and regulates individual Costs Lawyers. Since we are not able to regulate firms or other organisations, you should not tell clients that your practice as a whole is regulated by the CLSB. To do so would be incorrect and could give clients a false impression of the protections they are entitled to. This applies to statements made, for example, on your website, email signature, letterhead or promotional material.

## Can I say that my practice is a “firm of Costs Lawyers” (or similar)?

11. The title “Costs Lawyer” was created specifically to identify those members of the Association of Law Costs Draftsmen (now the Association of Costs Lawyers) who were authorised to provide services under the Legal Services Act 2007. “Costs Lawyer” is the title used in the Act to describe those costs advisers who are regulated by the CLSB. The courts, the legislature, the legal profession and wider public all therefore understand that the title Costs Lawyer refers to an individual regulated by us. This is especially so given that there are other titles commonly used to identify someone who specialises in costs law but is not regulated, such as costs draftsman, costs draftsperson or costs consultant.
12. Consequently, your practice should not refer to anyone as a Costs Lawyer if they are not regulated by the CLSB. If all costs advisers within your practice are Costs Lawyers, it will likely be appropriate to refer to your practice as a firm of Costs Lawyers (or similar). If your practice employs a mix of regulated and unregulated costs advisers, referring to the practice as a firm of Costs Lawyers (or similar) is likely to be misleading.

## Can my practice use the CLSB’s Mark of Regulation?

13. The Mark of Regulation is a logo indicating that a Costs Lawyer is regulated by the CLSB. You can use it as a badge of professionalism to highlight your regulatory status. The Mark can be used by all Costs Lawyers who have a current practising certificate, subject to the [Terms of Use](#). You can download a high resolution image of the Mark of Regulation [from our website](#).



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14. Since the CLSB regulates individuals, and not organisations, the Mark of Regulation is intended primarily for use by Costs Lawyers personally. However, the Mark can be used by a costs law practice to promote the regulatory status of any Costs Lawyers it employs, so long as this does not cause confusion for clients or members of the public about the scope of regulation.
  15. By way of example, generic use of the Mark on the website homepage of a business that employs both regulated and unregulated individuals is likely to be misleading. However, use of the Mark on a page of the same business' website that relates only to regulated Costs Lawyers is less likely to be misleading.

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