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# Supervision Framework

## CPD audit

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24 May 2023 (version 2)

Costs Lawyer Standards Board

CLSB  
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## Introduction

1. This framework sets out how the CLSB supervises compliance by Costs Lawyers with the Continuing Professional Development (CPD) Rules.
2. The framework forms part of a wider supervision programme, which involves the use of similar frameworks for other supervision activities such as auditing complaints procedures and compliance with the Accredited Costs Lawyer Rules. It should be read in conjunction with the CLSB's [Supervision Policy](#).

## Regulatory context

3. All Costs Lawyers who are regulated by the CLSB must maintain and develop their knowledge and practical skills to ensure they meet the standards expected of them in the Costs Lawyer Code of Conduct.
4. The regulatory requirements relating to CPD are contained in the CPD Rules. New CPD Rules came into force on 1 January 2021. They aim to provide greater flexibility and choice for Costs Lawyers to undertake the right training for their development needs, by adopting a more outcomes-focused approach. The Rules encourage Costs Lawyers to take personal responsibility for identifying gaps in their knowledge and skills, and then targeting their selected learning activities at those areas.
5. The obligations under the CPD Rules can be summarised in four key stages, requiring Costs Lawyers to:
  - identify their training needs and set CPD objectives that are aligned to their individual role and responsibilities and to the professional standards in the CLSB Code of Conduct;
  - undertake relevant CPD activity, achieving a minimum of 12 CPD points each practising year (subject to any exemptions or dispensations);
  - evaluate the effectiveness of their CPD against their objectives;
  - record their CPD (including their objectives and evaluation) and report it to the CLSB upon request.

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- Detailed advice relating to each of the above stages can be found in the CPD guidance note in the Costs Lawyer Handbook. Other supporting materials, such as FAQs and a suggested template for planning and recording CPD, are available on [the CPD page](#) of the CLSB website.

## Reporting CPD

- Costs Lawyers report their CPD attainment to the CLSB in two stages. First, all Costs Lawyers must list the CPD activities they have undertaken or will undertake in the current practicing year in their annual application for a practicing certificate for the following year (their “summary CPD record”).
- At that stage, the CLSB checks that each Costs Lawyer’s summary CPD record meets, on its face, the minimum requirements in the CPD Rules (in particular, that 12 CPD points have been attained and that the listed activities were carried out during the relevant practising year). If a Costs Lawyer applies for an exemption or dispensation from these requirements, that application is also assessed at this stage, prior to a practising certificate being issued. If a Costs Lawyer has not met the minimum requirements and does not qualify for an exemption or dispensation, the CLSB may refuse to issue them a practising certificate or may impose conditions on their practising certificate.
- The second stage of reporting occurs only upon request, when a Costs Lawyer is selected for audit. At this stage, a Costs Lawyer must demonstrate that they completed all the CPD stages; that is, they must produce a record showing the assessment of their CPD needs, their CPD objectives and their evaluation of the activities they carried out against those objectives (their “full CPD record”).
- The full CPD record may take the format suggested in the CLSB’s template, but this is not compulsory. We are concerned with substance, not form.

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## Approach to supervision of CPD requirements

11. The CLSB's approach to supervising compliance with the CPD Rules reflects the aims of the new regime and is intended to support a focus on outcomes. Our approach is built on three broad ideas:
  - The purpose of the annual audit is to assess whether the Costs Lawyer has engaged meaningfully with their development needs and has undertaken activities that are relevant to those needs. We acknowledge that there are many different ways a Costs Lawyer can do this successfully.
  - We take a risk-based approach to verifying whether a Costs Lawyer has in fact participated in the CPD activities listed in their summary CPD record, rather than verifying every activity for every audited practitioner.
  - A prima facie assessment of every Costs Lawyer's summary CPD record acts as a "safety net" for promoting compliance with the minimum requirements across the board.
12. In the event the CPD Rules have not been complied with, our initial approach will usually be to discuss the issues with the Costs Lawyer and require them to plan and carry out corrective action. The emphasis is on education rather than sanction, particularly in the early years of the new regime, with the aim of improving standards in an enduring way.
13. We also apply learnings from each annual audit to inform improvements to our CPD guidance and other supporting materials, to help all practitioners comply, whether or not they have been subject to audit.
14. Notwithstanding this approach, non-cooperation, deliberate dishonesty and persistent failure to address issues will be dealt with under the Disciplinary Rules and Procedures. Costs Lawyers are required, under CPD Rule 2.4 and the Code of Conduct, to cooperate with the CLSB in the event of an audit.

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## Audit criteria and process

15. The audit process involves assessing whether a Costs Lawyer:
  - has actually undertaken the CPD listed in their summary CPD record;
  - has set CPD objectives and evaluated the effectiveness of their CPD in line with the CPD Rules, as demonstrated by their full CPD record.
  
16. An audit of approximately 20 Costs Lawyers' CPD records is undertaken annually. Costs Lawyers are selected for audit to ensure a reasonable balance of organisation type. Additionally:
  - Costs Lawyers will be asked to submit their full CPD record for audit if their CPD record was assessed as needing improvement in the previous year's audit;
  - Costs Lawyers may be specifically included in an audit if there have been past issues with their CPD attainment, and they were notified they might be included in an upcoming audit (for example, because their practising certificate is subject to conditions or they failed a previous audit); and
  - subject to the above, Costs Lawyers who were included in a CPD audit during the preceding three years will not be selected.
  
17. The CPD audit is divided into two phases. Phase one is the collection of CPD evidence, and phase two is an assessment of the Costs Lawyer's full CPD record.
  
18. Costs Lawyers selected for audit are sent an email similar to that at Annex A (adapted to their specific circumstances where necessary).

### **Phase one: collection of CPD evidence**

19. The Association of Costs Lawyers (ACL) is asked to validate CPD points listed in the summary CPD records of all audited Costs Lawyers in relation to ACL membership and conference attendance.
  
20. Each audited Costs Lawyer is then asked to provide:
  - a) their full CPD record;

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- b) evidence that they carried out each CPD activity listed in their summary CPD record, other than those validated by ACL; and
  - c) if they do not have evidence of a particular activity as required under (b), a reasonable explanation as to why this is the case.
21. In relation to (b), evidence might include records such as attendance certificates, booking acknowledgements, invoices, screenshots of online events, test results, materials provided to participants, notes taken during training, membership communications, account details showing materials that have been accessed, letters from managers or trainers, and so on.
  22. We will accept evidence at face value unless we have reasonable justification to question its veracity. In such cases we can take further steps, like requesting additional information or contacting a service provider directly. This is likely to be an iterative process until satisfactory evidence is received.
  23. In relation to (c), a reasonable explanation might be that no evidence of participation was available from the person or organisation that provided the CPD activity. Whether an explanation is reasonable is assessed on a case-by-case basis, and a risk-based approach is taken. For example, if a Costs Lawyer cooperates with the audit and provides evidence as far as is reasonable for the majority of CPD activities in their summary CPD record, we would not pursue evidence of activities such as listening to podcasts or reading articles. By contrast, if a Costs Lawyer's summary CPD record exclusively contains unevidenced activities such as listening to podcasts or reading articles, some form of evidence will be expected (such as notes or examples of the learning in use).
  24. If a Costs Lawyer cannot evidence a CPD activity listed in their summary CPD record, but can evidence other CPD activity, we will accept that evidence instead (assuming there is no reason to believe the Costs Lawyer was dishonest). Where a Costs Lawyer has listed activities totalling more than 12 CPD points in their summary CPD record, they still only need to provide evidence of the minimum 12 CPD points.

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## Phase two: assessment of full CPD records

25. Full CPD records are assessed against the checklist at Annex B, which is based on the provisions of the CPD Rules and guidance note. There are four core requirements noted in the checklist. As there are many acceptable ways to fulfil these requirements, the checklist also contains indicators of compliance, plus space to note additional indicators that might be unique to the individual Costs Lawyer. The checklist then provides for an overall assessment of whether the full CPD record demonstrates that the Costs Lawyer has met their obligations under the CPD Rules, looking at the indicators together in the round.
26. A checklist is completed for each full CPD record that is audited. The completed checklist is stored against the relevant Costs Lawyer's entry in the internal database. Completed checklists may be shared with Costs Lawyers where appropriate, including where the Costs Lawyer asks to see the completed checklist.

## Audit outcomes

27. Once a Costs Lawyer has provided:
  - evidence that allows sufficient CPD points to be validated; and
  - a full CPD record that demonstrates compliance with the CPD Rules,the Costs Lawyer is considered to have passed the audit and is notified of the outcome by email.
28. If, after liaison with the Costs Lawyer, it is not possible to validate sufficient CPD points to be confident that the required minimum level has been attained, this could result in disciplinary action being taken under the Disciplinary Rules and Procedures, or a practising certificate being revoked or practising conditions being imposed under the Practising Rules. Alternatively, the Costs Lawyer may be advised that they will be audited again within the next three years. The imposition of sanctions will be considered in line with the CLSB's [policy statement on enforcement and sanctions](#), including where a failure to meet CPD requirements indicates a potential lack of competency.

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29. Where a Costs Lawyer's full CPD record does not demonstrate compliance with the CPD Rules in some respect (for example, because not all the required CPD stages have been documented), the Costs Lawyer is:
- informed by email;
  - asked to improve their documentation for the current practising year; and
  - notified that they will be asked to submit their improved full CPD record during the following year's CPD audit.

We provide individualised guidance to the Costs Lawyer where appropriate, to help them understand and meet their obligations going forward.

30. The Costs Lawyer's improved full CPD record is then assessed against Annex B during the following year's audit. If changes have been made, but the full CPD record is still insufficient to demonstrate compliance with the CPD Rules, this is communicated to the Costs Lawyer and further changes are requested in the same way and assessed during the following year's audit.
31. Costs Lawyers who have been asked to improve their documentation can submit their revised full CPD record at any time for early feedback about compliance.
32. There is no hard limit on the number of times an individual Costs Lawyer may be asked to make improvements to their full CPD record. Past experience suggests that practitioners are generally keen to cooperate and comply with audit requirements. If it becomes necessary, we will work with a Costs Lawyer to ensure immediate compliance with the CPD Rules, rather than waiting until the following year's audit to assess improvements. Sanctions are most likely to be imposed in cases of deliberate or persistent non-cooperation (again, sanctions will be considered in line with the CLSB's [policy statement on enforcement and sanctions](#)).
33. Learnings from the audit are used to provide feedback to the profession (for example, by highlighting anonymised examples of poor and good practice) and to inform our regulatory arrangements and supporting materials as appropriate. Upon completion of the annual audit a report of the outcomes, learnings and proposed actions arising from those learnings is provided to the CLSB board.

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# Annex A

## Email to Costs Lawyers selected for audit

Dear [name]

As part of its supervision activities, the CLSB undertakes a random audit of compliance with the CPD Rules. This helps to give clients and the wider public confidence that Costs Lawyers' skills and expertise remain relevant and current. You have been [randomly] selected for audit for the practising year just ended (20XX).

Please provide, by [date]:

- (a) Evidence of your participation in the CPD activities listed in your application for this year's practising certificate, attached for reference (your "summary CPD record").
- (b) The document in which you have recorded: your assessment of your CPD needs and associated objectives; your full CPD activity; and your evaluation of the effectiveness of your CPD activity against your objectives (your "full CPD record").

More information on what to provide is set out below. You can also find the CPD Rules, guidance and other supporting materials on our [CPD webpage](#).

### **Providing evidence of the activities in your summary CPD record**

Where available, your evidence should be a certificate of attendance. If a certificate was not provided for a particular activity, you can submit other evidence that shows you participated in the CPD activity (or delivered it, if appropriate).

Examples of evidence include booking acknowledgements, invoices, screenshots of online events, test results, materials provided to participants, membership communications, account details showing materials that have been accessed, and letters from managers or trainers.

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If no written evidence is available at all, please explain why this is the case.

Please ensure your evidence, for each CPD activity, includes the duration of the activity or the CPD points gained where possible.

If you attained more than 12 CPD points, you only need to provide evidence of 12, in line with the minimum standard set out in the CPD Rules.

Please note that any points obtained through ACL membership or conference attendance have already been validated with ACL directly, and evidence of these need not be submitted.

It would be helpful if you could send your evidence in a single email, rather than multiple emails.

### **Providing your full CPD record**

We will assess your full CPD record to check that it demonstrates your compliance with the CPD Rules. It is not compulsory to use our template record, but you might wish to check your own record against our template and worked example, to ensure you have included the necessary information. The template and example are available on our [CPD webpage](#).

### **What happens next**

Once:

- your CPD points have been validated; and
- your full CPD record has been assessed as demonstrating compliance with the CPD Rules,

we will let you know by email that you have passed the audit.

If your full CPD record is not sufficient to demonstrate compliance with the CPD Rules, we will provide feedback to help you make improvements and will give you more information about the steps we will take to follow up.

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If you are unable to meet the deadline of [date], please let me know as soon as possible, explaining the reasons, and when you will be able to submit your documentation.

Please note that a failure to cooperate with this audit or to otherwise meet your regulatory obligations could result in [disciplinary action](#) being taken.

Please do not hesitate to contact me if you have any questions or need any support or advice during the audit process.

## Annex B

# Audit Checklist – Full CPD Record

Name and CL number of Costs Lawyer			
Name of organisation (if relevant)			
	Requirement	Indicator	Assessment
1	CPD objectives have been set	Record includes objectives, goals or other forward-looking intentions for learning and development during the year	
2	Objectives have been set in light of responsibilities, and individual training and development needs have been considered	Objectives take account of current role and responsibilities	
		Objectives take account of possible future roles and responsibilities	
		Objectives take account of existing and required skills	
		Objectives include some elements of technical legal knowledge or competence	
		Other indicator(s)	
3	Objectives have been set in light of regulatory principles in the Costs Lawyer <a href="#">Code of Conduct</a>	Objectives are linked to categories of development from the guidance	
		Objectives are linked to specific regulatory principles	
		Other indicator(s)	

4	Effectiveness of the CPD has been evaluated against the CPD objectives	CPD activity is relevant to objectives	
		Each CPD activity and/or categories of CPD activities have been reviewed against objectives	
		Where CPD involves training others the impact of the activity on own CPD needs and objectives has been evaluated	
		Overall achievement of objectives has been evaluated	
		Potential further actions or development areas have been identified for the following year	
		Other indicator(s)	
<b>Overall assessment of whether the full CPD record demonstrates compliance with the CPD Rules</b>			