
Supervision Framework

Point of complaint monitoring



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Costs Lawyer Standards Board

CLSB
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Introduction

1. This framework sets out how the CLSB supervises compliance by a Costs Lawyer with CLSB rules and regulations at the point when a complaint is received about that Costs Lawyer.
2. This framework forms part of a wider supervision programme, which involves the use of similar frameworks for other supervision activities. It should be read in conjunction with the CLSB's [Supervision Policy](#).

Regulatory context

3. Costs Lawyers who hold a current practising certificate are required to comply with the CLSB's regulatory rules, including the Code of Conduct and Practising Rules. Those rules, along with supporting guidance, are collated in the [Costs Lawyer Handbook](#).
4. The CLSB proactively supervises compliance with certain rules – as set out in its Supervision Policy – through, for example, annual audits and checking documents submitted with practising certificate applications. The CLSB also collects general compliance data about Costs Lawyers, to allow for targeted supervision where there is an increased risk of noncompliance with the rules.
5. One indicator that there is an increased risk of noncompliance by an individual practitioner is that a complaint or allegation of unprofessional conduct has been made against that person. The CLSB deals with complaints in accordance with its [Disciplinary Rules and Procedures](#). Complaints may be instigated by a third party complainant or on the CLSB's own initiative (for example, following a routine audit).
6. Even where a complaint is not ultimately upheld, or falls outside the CLSB's jurisdiction (as established by the Disciplinary Rules and Procedures), the complaint might indicate that something has gone wrong in the provision of a service to a client or suggest that the Costs Lawyer does not have the right systems and processes in place to ensure compliance in all cases.

7. Therefore, when a complaint is received that relates to a practising Costs Lawyer, the CLSB carries out additional supervision of that practitioner. The additional supervision is aligned to the nature of the complaint and targeted at the heightened risk of non-compliance indicated by the complaint. This is referred to as “point of complaint monitoring”.
8. The aim of this type of supervision is to use our resources and data in a way that is most likely to identify and tackle instances of noncompliance, keeping the cost of regulation proportionate to the beneficial outcomes achieved.

Approach to point of complaint monitoring

9. Upon receipt of a complaint, the CLSB will consider which of the following supervisory checks should be carried out, depending on the nature of the complaint and the risks of noncompliance that the complaint highlights.

	Supervisory check	Carry out the check when a complaint indicates (for example):
1.	Compliance with any conditions on practising	<ul style="list-style-type: none"> • Failure to provide a good quality of work and service
2.	Nature, prevalence and age of any disclosures	<ul style="list-style-type: none"> • Unethical or financially imprudent conduct • Lack of integrity or professionalism
3.	Compliance with CPD Rules in the preceding two years	<ul style="list-style-type: none"> • Failure to meet the expected technical standard and apply up to date knowledge • Client did not understand information communicated to them
4.	Nature, prevalence and outcomes of first tier complaints since commencing practice	<ul style="list-style-type: none"> • Client was not treated with dignity and respect • Client was not provided with important information upfront
5.	Nature, prevalence and outcomes of second tier complaints since commencing practice	<ul style="list-style-type: none"> • Complaint was not appropriately handled at first tier • General lack of awareness of regulatory obligations

6.	Professional indemnity insurance cover is appropriate to the Costs Lawyer's risk profile	<ul style="list-style-type: none"> • Insurance cover details not provided to client • Insurance cover does not extend to the complaint
7.	Compliance of complaints procedure with CLSB guidance	<ul style="list-style-type: none"> • Client did not understand when, how or to whom they could complain
8.	Disciplinary outcomes relating to the Costs Lawyer's organisation (where regulated)	<ul style="list-style-type: none"> • Failure to properly onboard the client • Improper or confusing billing
9.	Periods of unauthorised practice	<ul style="list-style-type: none"> • Costs Lawyer held themselves out as something they were not • Costs Lawyer was acting outside the remit of their authorisation
10.	Compliance with the Accredited Costs Lawyer Rules	<ul style="list-style-type: none"> • Poor quality training or supervision

10. Where a supervisory check reveals noncompliance, suspected noncompliance or poor practice that falls short of noncompliance, the CLSB will write to the Costs Lawyer setting out the results of the point of complaint monitoring. The Costs Lawyer will be asked (as appropriate in the circumstances) to:
- provide further information about the results;
 - explain how and when they will remedy the results; and/or
 - explain why no such remedy is warranted.
11. Depending on the Costs Lawyer's response, the CLSB will pursue a supervision outcome as set out below.

Supervision outcomes

12. The purpose of point of complaint monitoring is not to punish or single out noncompliant practitioners. Rather, the objective is to identify and remedy substandard practice before it leads to any (or any further) poor outcomes for consumers. The CLSB will support practitioners in making changes in pursuit of this objective.

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13. However, point of complaint monitoring may, in some cases, lead to an additional or related complaint being made on the CLSB's own initiative under the Disciplinary Rules and Procedures. Action is most likely to be taken under the Disciplinary Rules and Procedures where:
- a serious failure to comply with the CLSB's rules is identified (for example, a failure that involves conduct which is dishonest or discriminatory, or which renders a Costs Lawyer ineligible to hold a practising certificate);
 - the Costs Lawyer fails to remedy substandard practice within a reasonable timeframe; or
 - the Costs Lawyer otherwise fails to cooperate with the CLSB, in breach of the Code of Conduct.
14. Issues identified through point of complaint monitoring will only be taken into account in investigating and determining the complaint that triggered the monitoring where those issues are directly relevant to that complaint and constitute admissible evidence under the Disciplinary Rules and Procedures.
15. Any noncompliance identified through point of complaint monitoring will be dealt with in line with the CLSB's [policy statement on enforcement and sanctions](#).