



BUSINESS PLAN 2018
Costs Lawyer Standards Board

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1. Forward

The last twelve months

During the past twelve months (from the date this document was CLSB board approved) the CLSB has undertaken numerous activities over and above its day to day functions. These included:

- A complete review of its approach to risk management.
- A new section on the CLSB website providing greater cost transparency.
- The introduction of a new board performance evaluation exercise.
- A revised supervision policy.
- A re-launched client satisfaction survey.
- A consultation paper on proposed changes to Training & CPD Rules.
- A consultation paper on a proposed alternative route to qualification.

Year 2018

The CLSB has used the findings of its risk and supervision reviews to form the basis of its 2018 planning process. During 2018, the CLSB will continue its day to day functions to uphold regulatory objectives in the public interest. Further, the CLSB will undertake to:

- Implement a proportionate response the Competition & Market Authority (CMA) recommendations where they apply to individuals (not entities).

- Continue to explore/implement an alternative route to qualification.
- Respond to any reviews on the future of legal regulation.
- Monitor the impact of expected changes in the profession e.g. electronic bill of costs and a potential increase in the current structure of fixed costs.

Our proportionate approach based on risk

Our revised approach to risk has informed this business plan. The CLSB has always adopted a proportionate approach to regulation and will continue to do so during 2018. Various factors contribute to the Costs Lawyer profession having a low risk profile, these include:

- (i) Costs Lawyers are specialists in one area of law only, unlike Solicitors, Barristers and Legal Executives who can practice in any area of law at any time.
- (ii) Costs Lawyers are not permitted to handle client monies (Code of Conduct Principle 3.6) unless they work for a firm that is regulated by the another approved regulator.
- (iii) Over 92% of a Costs Lawyers instructions are from a professional (not lay) client.
- (iv) Approx. 40% of Costs Lawyers work for an SRA regulated firm.

In adopting our approach, the CLSB remains mindful:

- Of the small business growth duty imposed on the CLSB under the Regulators Code.
- That the high cost of legal services is already a barrier in accessing justice.
- That the costs of regulation are ultimately passed onto the consumer, as accepted by the Legal Services Board in their 2016 cost transparency report which stated *“establishing the cost of regulation in legal services is important because these costs are borne by businesses and ultimately the consumer.”*

Challenges and uncertainties

The profession faces challenging times due to changes outside its control. The CLSB will monitor and react accordingly to such changes. Electronic bills of costs had been expected to become mandatory by October 2017, however implementation has now been delayed until 2018. A potential increase in the level of fixed costs continues to be advocated by Lord Justice Jackson under his revised plan set out in July 2017.

Uncertainties also prevail concerning the regulatory environment in which the CLSB operates. For example, the 2017 report of the CMA called for the Ministry of Justice to separate legal regulators from their representative bodies and conduct a review of the current regulatory framework.

A fall in the number applying to study for the Costs Lawyer qualification has prompted the CLSB to consider alternative methods of entry which would be more cost effective for trainees and their employers. The CLSB remains aware that there are more unregulated costs practitioners (Costs Draftsmen) than regulated (Costs Lawyers) and it will continue to explore options, within its legal remit to address this. In the event of any proposed change to its regulatory arrangements, the CLSB will consult.

Steve Winfield
CLSB Chair
24 October 2017

2. This document

This document forms both the strategic and business plan of the CLSB for 2018, it sets out what the CLSB will be doing to carry out core regulatory activities and how these challenges will be addressed during 2018. It is underpinned by strategies, policies, regulations and guidance which can be located on the CLSB website at www.clsb.info.

3. What the CLSB does

Authorised rights

A Costs Lawyer provides specialist legal services (costs law & practice) in England & Wales. A Costs Lawyer regulated by the CLSB is authorised to conduct the following reserved legal activities under the Legal Services Act 2007:

- The exercise of a right of audience.
- The conduct of litigation.
- The administration of oaths.

The CLSB authorises and regulates Costs Lawyers via their annual practising certificate. The CLSB is not an entity regulator, nor is it authorised to license alternative business structures. The CLSB holds Costs Lawyers personally accountable for any failure to comply with the Costs Lawyer Code of Conduct.

The Legal Services Act 2007

The work the CLSB undertakes is governed by this act and is subject to oversight by the LSB.

The regulatory objectives of the CLSB are set out in Part 1(1) of this act. These are:

- (a) protecting and promoting the public interest;
- (b) supporting the constitutional principle of the rule of law;
- (c) improving access to justice;
- (d) protecting and promoting the interests of consumers;
- (e) promoting competition in the provision of services;
- (f) encouraging an independent, strong, diverse and effective legal profession;
- (g) increasing public understanding of the citizens legal rights and duties; and
- (h) promoting and maintaining adherence to the professional principles.

The professional principles set out under Part 1(3) of this act require a Costs Lawyer regulated by the CLSB to:

- (a) act with independence and integrity;
- (b) maintain proper standards of work;
- (c) act in the best interests of their clients;
- (d) comply with their duty to the court to act with independence in the interests of justice; and
- (e) keep the affairs of their clients confidential.

Other parties

The Costs Lawyer profession has a representative body, the Association of Costs Lawyers (ACL). The CLSB operates with independence from the ACL, each body having separate fees with membership of the ACL being voluntary. The Costs Lawyer qualification is provided by

ACL Training, provision of which is audited annually by the CLSB. The CLSB is subject to oversight by the Legal Services Board pursuant to the Legal Services Act 2007.

Our approach

The CLSB has provided a stable, proportionate, effective regulatory service at the right price since it became an approved regulator under the Legal Services Act 2007 on 31 October 2011. The CLSB proposes to continue this approach throughout year 2018.

4. Strategy & policy

Addressing risk

The CLSB is a risk and evidence based regulator. The CLSB has in place a risk framework monitoring both regulatory risk (risks to regulatory objectives) and operational risks. Under this regulatory framework the CLSB identifies, assesses, records, prioritises, responds to, monitors, evaluates and adapts to risks. Since 31 October 2011:

- (i) No consumer informed professional conduct complaints have led, following independent investigation, to the convening of a Conduct Committee by the CLSB.
- (ii) Three Conduct Committees have been convened (and one Appeal Committee) following CLSB supervision activities. Each led to disciplinary action.
- (iii) The Legal Ombudsman has received four service complaints, one was dismissed, one was settled informally and two resulted in fines of £100 (maximum fine of £50,000).

Strategic focus for 2018

The key strategic focus of the CLSB for 2018 will be to:

- (i) Continue to regulate in the public interest.
- (ii) Ensure a strong and sustainable regulator.
- (iii) Investigate alternative means of entry into the profession.
- (iii) Comply with CMA requirements where applicable to a regulator of individuals, not entities.

5. Planned work

The following sets out the main ongoing and planned work for 2018 of the CLSB.

Costs Lawyer supervision

Date	Action
Ongoing	Regulatory risk analysis
Ongoing	Identify need for/update guidance notes
Ongoing	Address and action via disciplinary procedure (as appropriate) of consumer/third party led conduct complaints
Ongoing	Action disciplinary matters identified by CLSB through its supervision arrangements
Ongoing	Publish conduct complaint outcomes on CLSB website and in Costs Lawyer journal
Ongoing	Require evidence of current insurance (where appropriate) before a 2018 practising certificate is issued
Ongoing	Require evidence of a complaints procedure (where appropriate) before a 2018 practising certificate is issued
Ongoing	Require 2017 CPD record is filed before 2018 practising certificate is issued

Ongoing	Costs Lawyer to provide details of first-tier complaints during 2017
Ongoing	Board to consider CLSB actioned complaint record and identify trends/actions
Ongoing	Board to consider service complaints to Legal Ombudsman and identify trends/actions
Ongoing	Monitor impact of changes in the profession e.g. redundancy
Ongoing	Consider applications for accredited Costs Lawyer status and update public domain register
Ongoing	Consider applications under the MRPQR
Ongoing	Enter into individual licence agreements with Costs Lawyers for use of the CLSB mark of regulation
Ongoing	Identify those Costs Lawyers authorised to use the CLSB mark of regulation on the public domain register
Ongoing	Identify if a Costs Lawyer has any practising certificate conditions on the register on the CLSB website
Ongoing	Undertake insurance claim analysis
Ongoing	Consider outcome of any SRA actioned disciplinary against a Costs Lawyer working for an SRA regulated firm
Ongoing	Consider and evaluate any declarations made on fitness to practice
January	2018 register of authorised & regulated Costs Lawyers on the CLSB website
January	Send register of authorised & regulated Costs Lawyers to all Costs Judges
April	Board to consider first-tier complaint stats gathered for 2017
April	Board to consider relevant stats e.g. the profession, part-time working, geographical location, instructions, legal aid, insurance and identify any actions as a result.
May	Undertake random audit of 2017 CPD records

Education supervision

By	Action
30 June	Consider annual education audit report
Ongoing	Monthly update meetings with ACL council representative with special interest in education
Ongoing	Continue work with employer Trailblazer Group on potential new apprenticeship scheme
Ongoing	Continue work on Costs Lawyer Competence Test as an alternative route of entry into the profession

Regulation (general)

Ongoing	Quarterly board meetings
Ongoing	Continual evaluation of rules, codes and other documents forming the Costs Lawyer Handbook
Ongoing	Consider and respond to consultations
April	Board to consider report on outcome of how CLSB could improve regulation of the profession question on 2018 practising certificate application forms
May	Ensure process and procedures are in place to address new data protection regulations
July	Issue consultation on 2018 practising certificate fee

July	Assess actions against CMA recommendation e.g. stakeholder engagement, analyse current usage of Legal Choices, explore media and communication opportunities, analyse common data between regulators, work with other regulators on action plan, publish outcomes
November	Issue application packs for 2018 practising certificate to all Costs Lawyers on the 2017 register
December	Administration of 2018 practising certificate applications

Communication

By	Action
Ongoing	Issue by email to all Costs Lawyers and interested parties and post on CLSB website consultation papers on any proposed changes to regulatory arrangements
Ongoing	Keep public domain register updated with those authorised and regulated by the CLSB
Ongoing	Keep employer contact details up to date on the public domain register to assist consumers in locating a Costs Lawyer
Ongoing	Keep CLSB website information current
Ongoing	Post news items on the CLSB website
Ongoing	Continue to support the Legal Choices website, attending editorial meetings
Ongoing	Keep information up to date on Legal Choices website
Ongoing	Issue newsletters/emails to all Costs Lawyers on regulatory matters
Ongoing	Write articles for the Costs Lawyer journal as need is identified
Ongoing	Continue to cultivate a good working relationship with approved regulators via email, meetings and attending the Regulator Forum
Ongoing	Attend CEO meetings as arranged by the LSB
Ongoing	Attend Chair meetings as arranged by the LSB
Ongoing	Engagement with the LSB and Legal Services Consumer Panel
Ongoing	Engagement with the ACL
Ongoing	Engagement with the Legal Ombudsman
May	Attend Costs Lawyer national conference in Manchester
October	Attend Costs Lawyer national conference in London

CLSB operation

By	Action
Ongoing	Operational risk monitoring
Ongoing	Annual performance appraisals
Ongoing	Comply with Companies Act requirements e.g. annual returns, filing accounts, directorships
Ongoing	Comply with Pensions Act requirements
Ongoing	Comply with financial requirements e.g. accounting, payroll
Ongoing	Comply with employment law requirements
Ongoing	Continual evaluation of documents forming the CLSB Operation Manual
July	Board approve 2017 accounts for filing at Companies House
July	Board approve 2018 budget
October	Board approve 2018 business plan

6. Governance

The CLSB board

The CLSB is governed by a board made up of five non-executive directors with a lay majority (as required under the Legal Services Act 2007). A biography of each board member appears on the CLSB website. The board is responsible for the approval of CLSB policy and strategy. The board meets four times a year (scheduled board meetings) and additionally on a needs be basis. At the time of it approving this business plan, the CLSB board was made up as follows:

Chair & Lay NED:	Steve Winfield
Vice Chair & Lay NED:	Gillian Milburn
Lay NED:	David Gamble
Non-Lay NED:	Richard Allen
Non-Lay NED:	Tracyanne Ayliffe

Individual performance monitoring

Each individual board member's performance is assessed annually under an appraisal policy which also identifies development needs.

Overall performance monitoring

In January 2016, the CLSB introduced a board performance evaluation process. It was agreed this process would be conducted every three years, the next evaluation process will therefore take place January 2019.

Sub committees

Due to the small size of the CLSB, the only sub-committee in operation is a Remuneration Committee.

7. Operation model

The CLSB is the smallest of the approved legal regulators, as a result it has limited income. The CLSB therefore operates a business model under which it buys in services on a needs be basis as opposed to having employees. That said, under the Pensions Act 2008, the CLSB is deemed to have 13 employees as the CLSB executive, board and panel members are all remunerated through PAYE.

In addition to those 13 employees, the CLSB executive is supported on a day to day basis by a non-practising solicitor, admin support, a firm of solicitors, a firm of accountants, an insurance broker, payroll officer, pension officer, trademark attorney, IT specialist, independent investigator and an independent education auditor. The CLSB will continue its current operation model during 2018.

8. Internal governance

The CLSB has in place a portfolio of over 30 internal governance documents (Operations Manual) and will continue to review and maintain those documents throughout 2018 to ensure they remain current and fit for purpose.

9. Operating income

For year 2018, the CLSB will be financed by the 2018 practising certificate fee. The annual practising year is a calendar year (1 January to 31 December). This is the only source of income for the CLSB. The practising certificate fee can only be spent on activities that are permitted under S.51 of the Legal Services Act 2007, the CLSB spends all its income on regulation (a permitted purpose). The CLSB has kept the annual practising certificate fee at £250.00 since 2012 (seven consecutive years). Based on a regulated number of 650, this would provide the CLSB with a gross operating income of £162,500 for 2018. The CLSB is not registered for VAT.

10. Expenditure review

The CLSB monitors its annual budget at quarterly board meetings.

11. Reserve policy

The CLSB will continue to contribute towards its reserve fund year on year until it achieves a CLSB board approved reserve fund of one year's gross operating income.

12. Ownership of CLSB

Costs Lawyer Standards Board Ltd is a company registered in England & Wales under company number 04608905. It has an authorised share capital of 100,000 ordinary shares of £1.00 each of which 15,000 shares are currently in issue to the ACL (fully paid up). The CLSB carries a financial liability of £15,000 in relation to those paid up shares. There is no intention to issue more fully paid up shares during 2018.

13. Costs transparency

A section on the CLSB website sets out the following:

- (i) History of the annual practising certificate fee.
- (ii) Key costs of the CLSB e.g. salaries, rent, travel and subsistence.
- (iii) History of annual LSB levy.
- (iv) History of the annual LeO levy.

14. Contacting the CLSB

Post: Costs Lawyer Standards Board, Centurion House, 129 Deansgate,
Manchester, M3 3WR

Phone: 0161 956 8969

Email: enquiries@clsb.info

Web: Under the "contact us" section of website www.clsb.info

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