

Company number: 04608905

Costs Lawyer Standards Board Ltd
Wednesday 25 April 2018 at 10.30 am
The Studio, 7 Cannon Street, Birmingham

Present: Steve Winfield (Chairman/Chair)
Gillian Milburn (Vice-Chair)
Richard Allen
David Gamble
Tracyanne Ayliffe

In attendance: Lynn Plumbley (Chief Executive)

1. QUORUM, APOLOGIES, DECLARATIONS OF INTEREST & GUESTS

1.1 The Chair declared the meeting quorate, there were no apologies. Declarations of interest were declared by GM, RA, DG and TA in respect of their periods of appointment to be discussed under agenda item 3.1.

2. MINUTES

2.1 The board noted all actions from the minutes of the scheduled quarterly board meeting on 24 January 2018 had been undertaken. There were no matters arising that had not been scheduled as an agenda item. The minutes were agreed as being a true record for signing.

Action: LP: Post minutes on CLSB website

3. BOARD MATTERS

3.1 Capacity & capability: Board appointment rules

Following clarification of board appointment rules amongst the other legal ARs, it was agreed that CLSB board appointment rules (which had been in place since February 2011) be revised to reflect a maximum total 6 year term for both lay and non-lay NEDs and a maximum total 7 year term for the lay Chair. Concerns were raised this would result in much change on the CLSB board over a potentially difficult period, and discussion was had about a 9 year term being the norm in the finance industry. Despite this, it was agreed it was appropriate to follow the precedent set by fellow legal ARs. As a result, if all current NEDs were to fulfil their current contract/full terms their appointments would terminate on the following dates:

Steve Winfield (Chair): 17 March 2021
Gillian Milburn (Vice-Chair): 4 March 2019
David Gamble: 4 November 2019
Richard Allen: 25 January 2019
Tracyanne Ayliffe: 17 March 2020

Action: LP:

- **Log revised board appointment rules**
- **Issue a re-appointment letter to SW to 17 March 2021**
- **Issue re-appointment letter to TA to 17 March 2020**

- ***Issue re-appointment letter to GM to 4 March 2019***

3.2 Capacity & capability: David Gamble (lay NED)

DG advised the board that he would not be seeking re-appointment when his current term expires on 4 November 2018. The October 2018 board meeting would therefore be his last. The board noted and regretfully accepted his decision. It was agreed a recruitment process would be initiated early October 2018 to identify not just a lay replacement for DG but also GM (lay NED) and RA (non-lay NED) both of whose last board meeting would be January 2019.

Action: LP: Diarise to initiate recruitment process

3.3 Board terms of reference

The board agreed a revised version of its terms of reference, which has been in place since February 2011. The new version set out permitted purposes under the Legal Services Act 2007 and increased references to the company Articles.

Action: LP: Log revised board terms of reference

3.4 Board code of conduct

The board agreed a revised version of its code of conduct, which has been in place since February 2011, following consideration of the following by way of best practice:

- Code of Conduct for Board Members of Public Bodies.
- Code of Conduct for National Governance Association.
- Code of Conduct for Council for Non-profits.
- Code of Conduct for members of Ofcom.

Action: LP: Log revised board code of conduct

3.5 Equality & diversity policy

The board was advised this policy, which has been in place since April 2011, was reviewed to ensure it remained current. Having checked the policy against those in issue by other legal ARs, no change was recommended.

3.6 Feedback on effectiveness of CLSB under 2018 practising certificate applications

The board considered the comments made, some of which did not relate to the role of the CLSB as a regulator. The CLSB was pleased that in a difficult period for the profession 96.73% of Costs Lawyers were of the view the CLSB was an effective regulator.

Action: LP: Continue to define the role of the CLSB in its newsletters as opposed to the role of the ACL (representation)

3.7 2019 board dates

The dates were agreed as being Wednesday 23 January, 24 April, 24 July, and 23 October 2019.

3.8 Performance management data return

The board approved the information provided under the new data set.

Action: LP: File return with the LSB before end of April 2018

4. **FINANCE**

4.1 Q1 report

The board noted the position at Q1 end was as expected, having paid a £5,000 levy to the Legal Ombudsman and £11,699 levy to the Legal Services Board for 2017.

4.2 2018 LSB/LeO levy

The board noted that at 1 April 2018, the CLSB reported 662 regulated Costs Lawyers for the purposes of the annual levy calculation.

5. **RISK MANAGEMENT**

5.1 Regulatory risk

The board considered the register and made only minor changes.

Action: LP: Post updated regulatory risk register on the CLSB website

5.2 Operational risk

The board revised the impact risk score on the data protection risk, as new data protection legislation was imminent.

Action: LP: Post updated operational risk register on the CLSB website

6. **REGULATORY MATTERS**

6.1 Consumer focus: Guidance note on complaints procedure

The board was advised this guidance note had been revised following joint research by the SRA and Legal Ombudsman. The board approved the revised guidance note.

Action: LP: Post revised guidance note on the CLSB website

6.2 CMA: Legal choices website

Following the CMA recommendations, the approved regulators had been asked to invest £750k in the Legal Choices website over a three year period. The financial contribution of CLSB to Legal Choices had therefore increased from £1.2k to £14k over that three year period. The board was disappointed to note the level of visits to the site, one board member had asked two lawyer friends if they knew of the site and they did not. The board indicated it expected a major increase in visits as a result of this investment, over the next three years.

01 Jan 2014 – 31 Oct 2014: 7,731 visits

01 Nov 2014 – 31 Oct 2015: 21,747 visits

01 Nov 2015 – 31 Oct 2016: 39,198 visits

01 Nov 2016 – 31 Oct 2017: 102,876 visits

Action: LP: Communicate board views on expected cost/benefit to management team of Legal Choices website

6.3 Guidance note on GDPR

The board was advised two Costs Lawyers had contacted the CLSB asking if a guidance note was to be issued on compliance with this new law. The board was of the view it was not its role to interpret and advise Costs Lawyer how to comply. The board agreed the CLSB newsletter be used to assist Costs Lawyers in locating helpful means of reference.

Action: LP: Highlight the requirement to comply with GDPR in next newsletter referring to the ICO website

6.4 2018 register to all Costs Judges

The board was advised a hard copy of the 2018 register of regulated Costs Lawyers had been sent to all 35 SCCO judges. It had also been sent to 22 regional costs judges, but a few had been returned as we had not been able to establish a point of contact to check the position annually in relation to regional courts. RA suggested the Association of District Judges may be able to assist.

Board action: LP: Contact the Association of District Judges

6.5 Diversity approach (the profession)

The board noted the report of DG following his assessment of the LSB paper titled Update on Legal Services Regulators Progress Against Revised Diversity Outcomes (Autumn 2017). DG suggested impact assessments against protected characteristics be carried out on policy change going forward. This would identify whether there had been any indirect discrimination or unintentional consequence. It was agreed a proportionate approach be applied based on the fact the CLSB regulates individuals and not entities, and it is the entity that makes recruitment decisions for example.

Action: LP: Implement impact assessments where appropriate

6.6 Outcome of SRA research on pricing transparency

It was noted with interest this research had concluded there was no strong preference for a particular pricing consumer were equally likely to choose fixed fee, hourly rate or estimate.

6.7 Guidance note on Costs Lawyers working outside England & Wales

Following the experience of RA when he had applied to the Law Society of Scotland for recognition in Scotland, the board was advised guidance had been checked. As a result the section relating to Scotland has been revised to clarify there was no equivalent profession in Scotland, and the process of applying for registered foreign lawyer status in Scotland.

Action: LP: Post revised guidance note on CLSB website

6.8 Stats analysis: gender

The board noted there had been a 6.6% increase in female Costs Lawyers since 2012.

6.9 Stats analysis: Age

The board noted the largest age population in the profession was 30-39 followed by 40-49.

Action: LP: Identify reasons for leaving the profession for next meeting

6.10 Stats analysis: Geographical location

The board noted there had been a 4.9% increase in Costs Lawyers operating in the north of England in the last three practising years.

- 6.11 Stats analysis: Number of years in costs law and practice
The board noted the outcome of this new analysis however it was not considered of value going forward.
- 6.12 Stats analysis: Professional indemnity insurance
The board was reassured to note there were 2.6% less policies of £100k than the previous year, and that for the fourth consecutive year the number of policies under £1m had reduced.
- 6.13 Stats analysis: Part-time working
The board noted that over the last three years the % of the profession working full time had remained fairly static at 88-89%.
- 6.14 Stats analysis: Vulnerable consumer
The board noted the low number, likely as a result of over 90% of instructions coming from the professional client (Solicitor).
- 6.15 Stats analysis: Pro-bono work
The board noted the increase in reported pro-bono work, however this stat may have been flawed as some Costs Lawyers appear to have considered advice before taking an instruction on as pro-bono work.
Action: LP: On 2019 practising certificate application form, define pro-bono instruction
- 6.16 Stats analysis: The profession
The board noted the number of sole practitioners had remained fairly static since 2011 but that there had been an 11.3% shift towards Costs Lawyers working for an firm of Solicitors.
- 6.17 Stats analysis: Diversification
The board noted that there was still a general lack of diversification by the profession.
- 6.18 Stats analysis: Legal aid
The board noted that those who undertook 100% legal aid work had remained fairly static since 2012, this was likely due to the specialised nature of legal aid costs and the constant changes in its rules and process.
- 6.19 Supervision schedule
Whilst there were very few instances of complaints, it was noted that 2/3rds were in the older generation of Costs Lawyer. The board agreed it would be helpful if the schedule identified the nature of the Costs Lawyers employment at the time of the complaint e.g. sole practitioner, costs law firm or SRA regulated firm.
Action: LP: Revise supervision schedule to identify the nature of the Costs Lawyers employment at time of complaint

7. **LEGAL SERVICES BOARD (LSB)**

7.1 Research on innovation and technology

The board noted that in accordance with an LSB request, on 18 February 2018 the CLSB had circulated the LSB follow up report on innovation and technology.

8. **LEGAL SERVICES CONSUMER PANEL (LSCP)**

8.1 Chair resigns

The board noted that the Chair, who had only been in post since December 2016, had resigned.

9 **LEGAL OMBUDSMAN (LeO)**

9.1 Service complaints

The board was advised there had been no new service complaints to LeO since the last quarter board meeting.

10. **REPRESENTATION (ACL)**

10.1 LSB clarifies legal position in relation to CLSB monies

Clarification had been sought from the LSB on whether the ACL had any right of access to CLSB monies. The CLSB was of the view its monies had been collected for permitted purposes (regulation) only under the Legal Services Act 2007 and could not be used for any other purpose in law. The board noted that the LSB, following legal advice, were of the same view as the CLSB. The ACL were advised accordingly.

11. **EDUCATION (ACLT)**

11.1 Call for interest in qualification

The board was advised that in the ACL electronic newsletter dated 29.3.18 ACLT had called for anyone interested in the current three year Costs Lawyer qualification to register an interest by 1 June 2018. The board was advised that on 29 March 2018 the CLSB had asked how many had registered an interest to date but that no reply had been received.

11.2 Costs Lawyer Competence Test (CLCT)

The board noted the considerable work that had been put into a CLCT proposal and agreed it for consultation.

Action: LP: Issue consultation paper

12. **ANY OTHER BUSINESS**

12.1 July board meeting

It was agreed the venue would be Manchester on this occasion.

13. **DATE & TIME OF NEXT MEETING**

13.1 Date & time of next meeting: Wednesday 18 July 2018 @ 10.30am

Location: Manchester

Venue: TBA

There being no further business, the Chair declared the meeting closed.

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Chairman

Board document disclosure

The following documents were not considered confidential, sensitive or subject to prevailing data protection laws and have therefore been published in the location stated.

Paper	Publication location
CLSB minutes (24 January 2018)	CLSB website: Under "Minutes"
Risk register (regulatory risk)	CLSB website: Under "Policy Outcomes" then "Risk Management"
Risk register (operational risk)	CLSB website: Under "Policy Outcomes" then "Risk Management"
Guidance note: Complaint Procedures	CLSB website: Under "Costs Lawyer Handbook" then "Guidance Notes"
Guidance note: Working as a Costs Lawyer Outside England & Wales	CLSB website: Under "Costs Lawyer Handbook" then "Guidance Notes"
Consultation paper on proposed CLCT	Will appear under "Policy Outcomes" then "Consultations" once issued
LSB research on innovation & technology	LSB website