

## **GUIDANCE NOTE: CLIENT CARE LETTER**

**Regulator: Costs Lawyer Standards Board**

**Effective date: 24 October 2018**

### **1. Introduction**

This guidance seeks to assist you as a Costs Lawyer authorised and regulated by the CLSB (“Costs Lawyer”) in understanding the importance of the contractual relationship in your client care letter (“CCL”). It seeks to assist you when drafting a CCL and to serve as a useful check for an existing CCL in use.

A CCL forms the basis of the relationship between you and your client. A CCL allows you the opportunity to set out your standard or case specific terms and conditions. In providing this information at the outset, there is clarity for both parties and clients are appropriately protected.

### **2. Why has the original guidance note been updated?**

In 2016, the approved regulators jointly commissioned research to understand how clients engage with CCLs with a view to improving their effectiveness. It was found that *‘the perceived complexity of legal services communications is a major barrier to engagement, particularly for more vulnerable consumers’* and that, while *‘there are limitations in terms of how CCLs can be made visually appealing without detracting from perceived professionalism, the consensus is that CCLs can be seen as impenetrable, with limited signposting and an emphasis on generic rather than personalised information.’*

On 15 December 2016, the Competition and Markets Authority published a market study report on legal services under which it set out transparency expectations on the supply of legal services. A key outcome identified in the report was to address *“consumers understanding of the price and service, what redress is available and the regulatory status of their provider, and to enable them to compare providers.”* This guidance was therefore revised to take into consideration elements of that outcome.

### **3. Does this guidance apply to me?**

Yes, unless you work for a firm regulated or ABS licensed by another approved regulator e.g. the SRA, in which case their prevailing rules and guidance will apply in respect of your CCL.

### **4. Should both parties sign a CCL?**

In order to provide evidence that your client has received and agreed to the terms set out in your CCL it is good practice to ask them to sign and return a copy for your file.

## 5. Key principles to encourage engagement with the client

Eight key principles were identified during the 2016 research to encourage client engagement with CCLs and the information provided within them:

**(i) Show a clear purpose** – provide a clear rationale as to the role of the CCL and the importance of reading it upfront. Consider the title, ‘Instruction Confirmation Letter’ may have more resonance with the client than ‘Client Care Letter’.

**(ii) Keep it concise** – recognise that the ideal length would be 1-2 pages. If this is not feasible, break information down into smaller sections and use a short, to the point sentence structure. The research evidenced that headings are a good tool to engage the client’s attention. Consider whether some of the information would be better conveyed in a separate document such as a client care leaflet.

**(iii) Plain English** – seek to avoid using legal terms, archaic or complex language. Minimise the use of vague and/or heavily caveated sentences. Remember that accessible language is key to ensuring that all clients can understand CCLs regardless of their background.

**(iv) Prioritise information** – focus on the information which is perceived to be most relevant to your client and ensure a logical flow. Avoid putting generic information such as terms of business or complaints procedure on the first page of a CCL.

**(v) Personalise information** – using the CCL to demonstrate knowledge and understanding of your client’s case is important to build confidence. Use the CCL to provide details on your client case and estimated costs. Tailor the CLL so that irrelevant information is excluded. Use personal pronouns so that it is clear you are talking to the individual.

**(vi) Make it easy to read** – Use line spacing and a large font size (minimum size 12). Use headings to make the CCL easy to navigate and avoid dense paragraphs. Break down information by using tables or bullet points.

**(vii) Highlight key information** – Use visual tools such as bold text, headers, summary boxes, tables or diagrams to make it easier for clients to pick out key points.

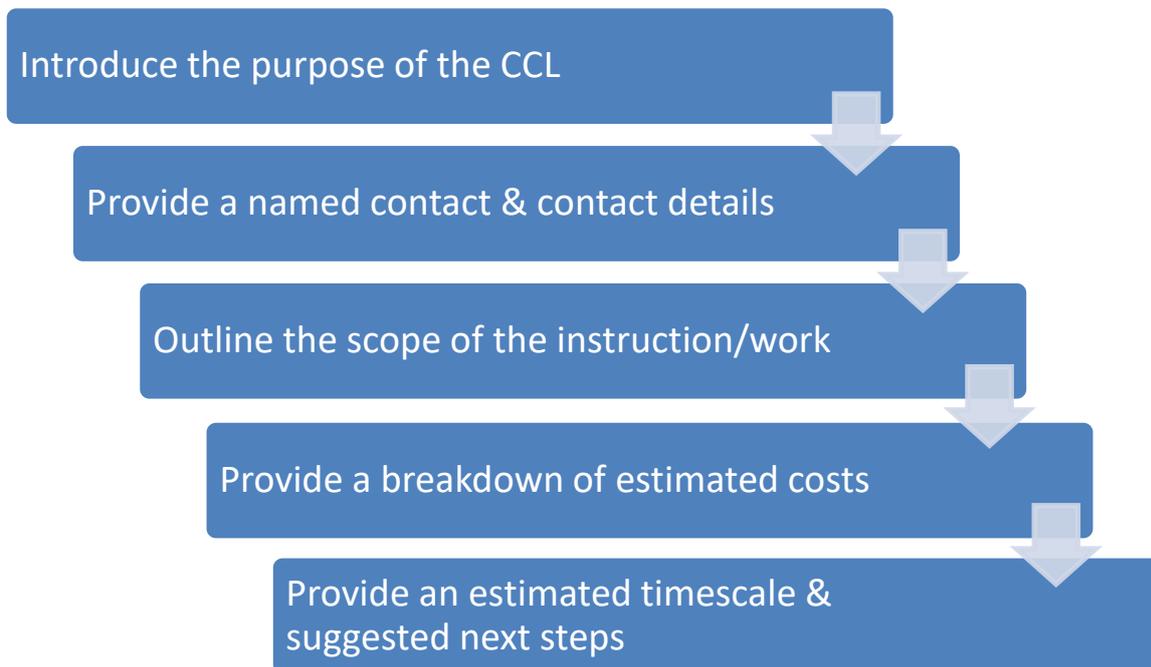
**(viii) Additional opportunities to engage clients** – It has already been suggested that some generic information, such as terms of business and complaints procedures, could be explained in a separate leaflet and referred to in the CCL. Remind your client of this information once your service is being provided, when they may be more receptive.

## 6. Vulnerable consumers

Engaging with CCLs may be particularly challenging for certain vulnerable clients. The CLSB has a separate guidance note on vulnerable consumers which can be accessed on the CLSB website. It is important to consider each client and whether steps can be taken to improve their experience and engagement, this may be as simple as using a larger font size.

## 7. Essential Information to be provided in a CCL

A suggested flow for information:



### (i) Contact details of person

Example of expected information:

*'Thank you for instructing XX to act for you in connection with .... (details of the nature of the instruction). XX is a Costs Lawyer and is authorised and regulated by the Costs Lawyer Standards Board under the Legal Services Act 2007 and has been qualified since XXX. XX will be your main point of contact on a day to day basis and can be contacted during office hours of 9am-5pm on weekdays; contact details are provided below. Should XX be unavailable then please ask for their colleague, XX, who should be able to assist you.'*

Phone: XX

Email: XX

### (ii) Scope of work and next steps

You should include:

- (a) A clear outline of the case/agreed work.
- (b) Confirmation of what you will do/not do.
- (c) Clear instructions on what is needed from the client.
- (d) Clear direction on what will happen next.

This needs to be specific to the individual case, not generic. An example of (ii)c and (ii)d can be found in the following text:

*'Please take time to read through this letter, and the Client Engagement Leaflet attached, as these two documents will form the basis of the agreement for me to act on your behalf. Please feel free to contact me if you require further clarification of their contents. Once you have read and understood them please can you sign one copy of this letter and one copy of*

*the Client Engagement Leaflet and return them to me in the envelope provided. I will then contact you by phone to take further instructions.'*

The CCL should note that if subsequent work is accepted then this will be the subject of a separate CCL.

### **(iii) Fees**

Consumers prefer letters that present a clear, concise breakdown of the costs on the first or second page of the CCL.

#### Example 1

|                               |                          |
|-------------------------------|--------------------------|
| <i>"Our professional fees</i> | <i>£750.00</i>           |
| <i>Court fees</i>             | <i>£500.00</i>           |
| <i>VAT</i>                    | <i>£150.00</i>           |
| <b><i>Total</i></b>           | <b><i>£1,400.00"</i></b> |

#### Example 2

*'Based on the information that you have provided to me, I estimate that your total bill for dealing with this matter will be in the region of £750 and £1,250 plus VAT and disbursements.'*

### **(iv) Likely timescale**

Whilst this is often difficult to estimate, due to contingencies outside of your control, there are average timescales for dealing with matters and clients would like to know what these are. We suggest that your CCL sets out the average timescales e.g. 8-12 weeks, and if necessary, also sets out examples of why this may change, for example delay by the other side, or by the client in providing documents.

### **(v) Provision of information that is perceived to be less relevant**

Some types of information are seen by the client as less relevant than others at the beginning of the legal process. These can include: terms and conditions of business, complaint information, data protection information, information about the Costs Lawyer as a legal services provider, regulatory information.

Whilst this information should be provided in order for you to comply with your regulatory obligations, it is not a priority for the client at this stage and in order to engage the client more successfully with the information in the CCL, it is recommended that this information either be placed at the end of the CCL or be provided in a separate leaflet which is referred to in the CCL.

The latter option is common with service providers such as insurers, and it provides the client with a reference document that can be kept and referred to at a later date. It is open to you to use the CCL to draw your client's attention to or highlight certain aspects of the leaflet.

### **(vi) Service levels**

The CCL should explain that you will communicate:

- Progress on the case.
- Timescales.
- Important changes in the law.
- Reasonably foreseeable risks which could affect the outcome.

**(vii) Redress in the event of a complaint**

The CCL should state your regulatory status and any supervision arrangements. It should also provide the contact details of the Legal Ombudsman and Costs Lawyer Standards Board for use in the event a service or conduct complaint cannot be resolved under your complaint handling procedure.

**8. Information to be provided either within the CCL or by including a separate document**

|                                  |  |
|----------------------------------|--|
| Professional Indemnity Insurance | Advise of the current level of professional indemnity insurance in place (including cover for loss of documents) and that an adequate level will be in place throughout the instruction to cover the risk of the work.   |
| Clauses limiting liability       | Advise of any clauses limiting liability and that if any such clauses become known about in the future, they will be brought to the attention of the client.   |
| What you cannot do               | Advise that in accordance with Principle 3.6 of the Costs Lawyer Code of Conduct, you cannot accept client money save for disbursements and payment of your proper professional fees.<br><br><i>(Note: Not applicable if you work for an SRA regulated firm)</i> |
| Documents                        | Advise of your right to keep copies of documents for your professional records and your arrangements in place for the return of all original documents.  |
| Obligations                      | Advise of how you are required to act in accordance with the prevailing Costs Lawyer Code of Conduct and Practising Rules issued by the CLSB as your regulator.  |
| Complaints                       | Attach or include your/your employer’s complaints procedure (the CLSB has issued a guidance note on complaints procedures which can be located on the CLSB website).   |
| Data protection                  | Advise of the current law and arrangements in place to ensure compliance with data protection.   |
| Outsourcing                      | Advise of proposed arrangements <i>(if applicable)</i> .   |
| Storage of documents             | Advise how you will store documents, retrieval arrangements and costs <i>(if applicable)</i> .   |
| Contract term and termination    | Advise how the contract may be terminated by either party.   |

|                       |   |
|-----------------------|---|
| Contract jurisdiction | The legal jurisdiction governing the contract e.g. England & Wales. |
|-----------------------|---|

## 9. Pro bono work

Where you carry out pro bono work, this should be clarified in the CCL. The following wording is suggested by The Access to Justice Foundation:

*'Pursuant to Section 194 of the Legal Services Act 2007 and Civil Procedure Rule 46.7, in the event you are successful in this matter or any of its stages, we will seek to recover "pro bono costs" from your opponent. This is a sum of money that represents how much the legal representation would have cost if we had charged for our services, and can be ordered by the court or be included in a settlement agreement. When pro bono costs are obtained the legislation requires such costs be paid to the prescribed charity, The Access to Justice Foundation, which supports the provision of free help to yet more people.'*

**END**