

Company number: 04608905

MINUTES
Costs Lawyer Standards Board Ltd
Wednesday 24 October 2018 at 10.30 am
The Studio, 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. GM declared an interest in that minuted under 3.1.

2. MINUTES

2.1 The board noted all actions from the minutes of the scheduled quarterly board meeting on 18 July 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: Gillian Milburn

Having declared an interest in this agenda item, GM left the meeting whilst it was discussed. There was concern that by now applying a maximum six year term for a NED the CLSB would lose three of its five NEDs between October 2018 and March 2019. As important work was being undertaken on future means of entry into the profession, the board agreed to offer GM an extension to her contract until 4 March 2020. GM returned to the meeting, the outcome of this agenda item was relayed to GM and she agreed to continue as a lay NED until 4 March 2020 which would result in the board meeting in January 2020 being the last GM would attend in her role as a lay NED.

Action: LP: Issue new LOE

3.2 Recruitment of new non-lay NED

The board was advised eight applications had been received and two had been shortlisted for interview on 16 November 2018.

3.3 Recruitment of new lay NED

The board was advised nearly 50 applications had been received so far, the closing date for applications being 5pm on Thursday 25 October 2018. Interviews will take place on 16 November 2018.

4. **FINANCE**

4.1 Q3 report

The board noted the position at Q3 end was as expected.

4.2 Reserve policy

The board noted its history on financial reserving and reviewed its policy dated 21 October 2015. Minor changes were made however no change was made to the reserve target.

5. **RISK MANAGEMENT**

5.1 Regulatory risk

The board considered the regulatory risk register, no new risks were added.

Actions: LP: Post October 2018 version of regulatory risk register on the CLSB website

5.2 Operational risk

The board considered the operational risk register, no new risks were added.

Action: LP: Post October 2018 version of operational risk register on the CLSB website

5.3 Review of approach

The board was advised the risk advisor who had assisted the CLSB previously, was currently unavailable to assist with a review on our approach. It was agreed that when the new lay and non-lay NED are appointed, one or both may have specific risk management experience or a view on current arrangements in place.

5.4 Judicial review insurance cover

Following a request for clarification on this cover, the board noted this cover remained in place but covered for costs and expenses only.

6. **REGULATORY MATTERS**

6.1 Gender recognition act

The board noted consultation on this proposed new legislation closed on 19 October 2018. The SRA advised they propose to amend their diversity questionnaire as a result of that consulted upon and had kindly shared their proposed way forward. The CLSB agreed to continue to follow the LSB template, reinstating the transgender question when it undertakes its next survey in 2019.

6.2 Diversity progress report

The board noted the CLSB report for period August 2017 to August 2018.

6.3 Revised guidance note: Principle 3.6

The board was advised that following a query, the opportunity had been taken to undertake a review of this guidance note to ensure it was clear. The board considered the revised guidance note and approved it.

Action: LP: Post new guidance note on CLSB website

- 6.4 Revised guidance note: Conduct Committee & Conduct Appeal Committee on decision making and penalties
Following the High Court decision in *Teasdale v General Osteopathic Council*, this guidance note and procedure had been revised. The board considered and approved the revised guidance note.
- 6.5 Revised code of conduct
Following the CLSB consultation outcome on a proposed change to the Costs Lawyer code of conduct to include (i) below, it was agreed that an application would be filed with the LSB to approve revised wording (ii) below.
- (i) You must not make an unsolicited approach (cold call) by any means to a private individual (lay person) or to domestic premises (unless a business is being conducted from there) in order to publicise your service as a Costs Lawyer or your business.
- (ii) You must not:
- make an unsolicited approach by any means to a private individual (lay person) or to domestic premises (unless a business is being conducted from there) in order to publicise your service as a Costs Lawyer or your business; or
 - accept referrals from third parties who have acquired the private individual (lay person) through such an unsolicited approach.
- 6.6 CMA recommendation: Revised guidance note on client care letters
Following the CMA recommendation that a client care letter states the qualification and experience of the person dealing with the matter, this guidance note was revised to reflect this. The board considered and agreed the proposed amendment.
Action: LP: Post revised guidance note on CLSB website
- 6.7 CMA recommendation: Revised guidance note on complaints procedure
Following the CMA recommendation that a complaints procedure be published on a website, the guidance note was revised to include a paragraph to reflect this recommendation.
Action: LP: Post revised guidance note on CLSB website
- 6.8 Conduct complaints
The board was advised that two conduct complaints had been referred to a Conduct Committee, one will be heard in November 2018, the other in December 2018.
- 6.9 2019 PCF
The board noted that the LSB had approved the fee for a 2019 practising certificate as being £250.00. The fee has been held by the CLSB at £250.00 for eight consecutive years.
Action: LP: Draft 2019 packs and post
- 6.10 Conduct Committee remuneration
The board reviewed remuneration paid when a panel member forms a Conduct Committee. It was agreed it be increased to £250.00 per panel member, per committee.

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

7.1 New internal governance rules

It was noted the LSB had made a statement indicating they intend to consult on new internal governance rules. The intention being to issue draft guidance in autumn 2018 with a proposed transition to new rules in spring 2019.

7.2 Further research on small business needs/costs transparency

The board noted further research had been announced by the LSB on 2 August 2018.

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

8.1 2018 tracker survey (choosing)

The board noted the outcome of the 2018 survey.

8.2 2018 tracker survey (using)

The board noted the outcome of the 2018 survey.

9 **LEGAL OMBUDSMAN (LeO)**

9.1 Service complaints

The board noted that monthly reporting by LeO had stopped once again. LeO were contacted on 5 October 2018 and we were advised the information would be sent by the end of the week, but it has still not been received. This is of concern as service complaints as well as conduct complaints inform CLSB supervision arrangements. Failure by LeO to provide this information impacts on the ability of CLSB to effectively supervise its regulated community.

Action: LP: Write again to LeO

10. **REPRESENTATION (ACL)**

10.1 Minutes 10 August 2018

The board considered the minutes of the ACL Council on 10 August 2018.

10.2 National conference in November

It was agreed it would be a better use of CLSB resource if the CLSB did not attend this event this year.

Action: LP: Notify the ACL

10.3 New Chair

The board noted Claire Green was unopposed in the election to replace Iain Stark as Chair of the ACL, when he steps down in May 2019.

10.4 Share buy back

The board was advised ACL had made contact on 13 September 2018 in relation to a potential buy back of CLSB shares, but that this had not progressed further.

11. **EDUCATION**

11.1 New qualifiers

It was noted 67 Costs Lawyers had qualified during 2018, but not all had applied for a practising certificate.

11.2 CLCA

The board considered the draft CLCA as presented and following discussion on key areas such as exemptions and work based experience, approved the CLCA in principle. The board discussed whether, based on the level of consultation that had already taken place, an application for LSB approval should now be made. It was agreed that one further consultation would take place with the profession and the ACL for a period of four weeks, before an application was filed with the LSB.

Action: LP: Initiate consultation process with Costs Lawyers and ACL

11.3 Potential providers of the CLCA

The board noted the report of the education consultant appointed to progress identifying potential providers of the CLCA. The board was pleased to note there were three high profile parties interested and that they had submitted written proposals, which the board considered. The board was disappointed to note that ACL Training had not responded to attempts made by the education consultant to engage them in this process.

12. **ANY OTHER BUSINESS**

12.1 Complaint

The board was advised a complaint had been made against the CLSB and that the Vice-Chair had investigated and found no merit in that complaint.

12.2 BSB

It was noted the BSB had been successful in changing their standard of proof in conduct disciplinary matters to being “on balance of probabilities” in line with other regulators of legal services.

12.3 David Gamble

As this was the last board meeting of DG, the board thanked DG for his years of service and wished him well with his plans for the future.

Action: LP: Notify Companies House of change of director

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

13.1 Next meeting: Wednesday 23 January 2019 @ 10.30am

Location: Birmingham

Venue: The Studio, Cannon Street, Birmingham

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 (18 July 2018)	CLSB website: Under “internal governance” then “board minutes”
Risk register (regulatory risk) July 2018	CLSB website: Under “policy outcomes” then “risk management”
Risk register (operational risk) July 2018	CLSB website: Under “policy outcomes” then “risk management”
Guidance Note: Principle 3.6	CLSB website: Under “Costs Lawyer Handbook” then “guidance notes”
Guidance note: Complaint procedure	CLSB website: Under “Costs Lawyer handbook” then “guidance notes”
Guidance note: Client care letters	CLSB website: Under “Costs Lawyer handbook” then “guidance notes”
2018 Legal Services Consumer Panel tracker survey on choosing legal services	LSB website
2018 Legal Services Consumer Panel tracker survey on using legal services	LSB website