

OPERATIONAL RISK REGISTER

As at 23 January 2019

1. RISK SCORING

(i) Risk to operation (and ultimately delivering on regulatory objectives)

Legal, financial, operation/continuity, capacity/capability, security, reputation, stakeholder.

(ii) Gross risk: Impact x Probability

<p>Impact (I): The consequences of an event occurring: The event will have:</p> <p>Negligible (1): Very little consequence</p> <p>Moderate (3): Some impact but will not have serious consequences</p> <p>Serious (5): Serious consequences</p>	<p>Probability (P): The likelihood of an event occurring: The event is:</p> <p>Low (1): Very unlikely to occur</p> <p>Medium low (2): Unlikely to occur</p> <p>Medium high (3): Likely to occur</p> <p>High (4): Very likely to occur</p>
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IMPACT	5	5 YELLOW	10 YELLOW	15 RED	20 RED
	3	3 GREEN	6 YELLOW	9 YELLOW	12 YELLOW
	1	1 GREEN	2 GREEN	3 GREEN	4 GREEN
		1	2	3	4
		PROBABILITY			

(iii) Adequacy of controls

Descriptor	Score	Description
Fully effective	5	Controls are well designed for the risk and address the root causes. The Executive and Board are comfortable that controls are effectively applied, monitored and assured
Substantially effective	4	Most controls are designed correctly and are in place and effective. Some more work to be done to improve operating effectiveness, or doubts about operational effectiveness and reliability

Partially effective	3	Controls in place but are not sufficient to fully mitigate risk. There are potential weaknesses in the application of controls and limited assurance or reporting available
Largely ineffective	2	Significant control gaps. Either controls do not treat root causes or they do not operate at all effectively
None or totally ineffective	1	Virtually no credible control and limited confidence in the application or oversight of risk activity

2. RISK REGISTER

Logged by board: 6/4/2011	Reference: OP1	Risk score: I(5) x P(4) = 20
Risk to operation	Changes to the profession impacting CLSB viability as more will leave than enter the profession.	
Impact	Financial, operation continuity.	
Evidence of risk	<p>(i) Electronic bills of costs New electronic bill of costs came into effect 6 April 2018 for work done after that date.</p> <p>(ii) Increased fixed costs levels Fixed costs currently apply on PI claims value up to £25k. Risk was this would be expanded outside of PI claims. LCJ Jackson seems to have accepted the argument that costs cannot be fixed when the procedure is not fixed.</p> <p>(iii) Increased level of provisional assessment Currently applies under CPR 47.15(i) where costs claimed are £75k or less for cases in High Court or County Court.</p> <p>(iv) Capped costs Pilot introduced effective 1 January 2019 on capped costs of £80k for High Court cases worth up to £250k. Pilot in Business & Property Courts of Leeds and Manchester (Chancery, Circuit Commercial and Technology and Construction Court) and London Commercial Court.</p>	
Controls	<ul style="list-style-type: none"> • Changes outside the control/remit of CLSB. • CLSB monitoring implementation. • CLSB monitoring impact: Assessment of impact study undertaken 2016 on changes (i) and (ii). 	
Control adequacy	4	
Priority area of risk	High.	

Actions outstanding/status	Continue to monitor numbers and reasons for leaving the profession.
Commentary	<ul style="list-style-type: none"> • LSB being kept informed on changes and potential impact. • ACL encouraging Costs Lawyers to diversify.

Logged by board: 13/1/2015	Reference: OP2	Risk score: I(5) x P2 = 10
Risk to operation	Operational continuity due to death/incapacity of CEO.	
Impact	Operation continuity, capacity, reputation.	
Evidence of risk	-	
Controls	3/10/12: Disaster recovery & business continuity plan implemented. 16/7/14: Disaster recovery & business continuity plan reviewed. 2015: Continual document backup to Cloud as well as manual backup. 2016: NED took possession of key business continuity items. 25/4/17: BSB CEO offered interim support in such an event. 25/7/17: Organisational structure written up. Bank account has back up signatory.	
Control adequacy	4	
Priority area of risk	Medium: provisions in place.	
Actions outstanding/status	On-going evaluation of actions that can be taken to minimise impact should the event occur.	
Commentary		

Logged by board: 25/7/2017	Reference: OP3	Risk score: I(5) x P(4) = 20
Risk to operation	CLSB ability to set and maintain standards.	
Impact	The future ability of the CLSB to set and maintain standards thus protecting consumer interest. Reputation, financial, operation/continuity.	
Evidence of risk	There is only one means of entry into the profession (three-year course) and one provider (ACLT). In 2017, ACLT reported a significant year on year decrease in interest in their three-year course (from 100 a year to 20). As a result, the ACL Chair advised the CLSB the current course was not financially viable.	
Controls	<ul style="list-style-type: none"> • October 2017: ACL Chair gave verbal assurance ACLT would provide the course for the current year 1 (2017 intake), year 2 (2016 intake) and year 3 (2015 intake) trainees. No assurance was given beyond this. To protect future trainees, the CLSB authorise ACLT to the end of 2020 for current trainees only (effectively a suspension on new intake). 	

	<ul style="list-style-type: none"> • 2017: CLSB considered applying to the government apprenticeship scheme but concluded this was not an option. It wrote to ACL advising of this and offering them all information gathered on the scheme should ACLT wish to consider it. • 25/4/18: Consultation on new Costs Lawyer Competence Test which would remove historical barriers to entry imminent • 24/10/18: CLSB continues to progress a new means of entry. • 23/1/19: Application to be filed imminently with LSB for their approval of new Costs Lawyer Competence Assessment (CLCA).
Control adequacy	3: Cause was outside the remit of the CLSB. Approval of the solution is within the remit of the LSB.
Priority area of risk	High.
Actions outstanding/status	On-going progress of proposed new means of entry via CLCA.
Commentary	A move away from one prescriptive method of entry to become outcomes focussed, as expected by the LSB also removes identified barriers to entry.

Logged by board: 24/10/17	Reference: OP4	Risk score: I(5) x P(2) = 10
Risk to operation	ACL, named in the Legal Services Act 2007 as Approved Regulator (role undertaken by CLSB under delegation) consulted on financial constraints in October 2017.	
Impact	The future ability of the CLSB to fulfil its regulatory objective and ensure professional principles are complied with to protect the interests of consumers	
Evidence of risk	ACL minutes, ACL accounts, ACL discussion paper to members and ACL EGM on 21 February 2018	
Controls	Controls being implemented by ACL: <ul style="list-style-type: none"> • October 2017: ACL issued discussion paper to its members. • October 2017: ACL discussed situation with its members at National Conference. • On-going: ACL working with accountants on their financial position. • On-going: LSB made aware of situation for oversight purposes. • 21/2/18: ACL held EGM. • 23/1/19: ACL increased its membership fee to £350 for year 2019. ACL advised on 17/1/19 that they had received approx. 500 applications for membership in 2019 at that time. Together with cost cutting measures it is hoped this will put the ACL in a better financial position for 2019. 	
Control adequacy	3: Outside control of CLSB.	
Priority area of risk	Medium: Currently being addressed by ACL.	

Actions outstanding/status	Work with ACL and LSB as required.
Commentary	This is impacting on the reputation of the profession which is small and requires stability.

Logged by board: 24/1/18	Reference: OP5	Risk score: I(3) x P(1) = 2
Risk to operation	Fine following non-compliance with general data protection legislation.	
Impact	Legal, financial, reputation.	
Evidence of risk	GDPR effective 25 May 2018 increasing risk.	
Controls	24/1/18: New Data Security Policy was implemented, supported by a new documented data audit and data control system.	
Control adequacy	4: A breach would not affect how the profession does business with clients.	
Priority area of risk	Low: Addressed under new process.	
Outstanding actions (status)	-	
Commentary	Revised approach to data protection introduced in January 2018 to address increased expectation under new GDPR.	

Logged by board: 23/1/19	Reference: OP6	Risk score: I(5) x P(4) = 20
Risk to operation	ACL and ACL Training not communicating with CLSB.	
Impact	Operation/continuity.	
Evidence of risk	This has been a long-standing concern which the CLSB has raised with the LSB in previous years. 23/1/19: The board noted this situation continues. It was noted the LSB had suggested a three-way meeting with the ACL with communication on the agenda. It was noted this has been raised before at three-way meetings and that nothing had changed.	
Controls	On-going monitoring.	
Control adequacy	Outside the control of CLSB.	
Priority area of risk	High.	
Outstanding actions (status)	Possible three-way meeting to be arranged in 2019.	
Commentary		

Logged by board: 23/1/19	Reference: OP7	Risk score: I(1) x P(4) = 4
Risk to operation	Brexit, deal or no deal.	
Impact	Operation.	
Evidence of risk	May impact on current arrangements for mutual recognition of professional qualifications.	
Controls	Awaiting outcome of Brexit. Will then have to wait to see what the Government proposes to do about UK legislation that implemented the requirement that the CLSB recognise the equivalent qualification achieved in other European countries.	
Control adequacy	4: Outcome outside remit of CLSB	
Priority area of risk	Low. No current European Costs Lawyers (or their equivalent) registered under MRPQ with the CLSB.	
Outstanding actions (status)	Watching brief.	
Commentary		

Logged by board: 23/1/19	Reference: OP8	Risk score: I(2) x P(2) = 4
Risk to operation	Board member recruitment.	
Impact	Operation.	
Evidence of risk	None, this was added to the risk register by request of the LSB following their assessment of CLSB performance for years 2016 and 2017.	
Controls	2018: A review was undertaken in 2018 on the period of service of board members in other ARs. It transpired the maximum period of service for a board member was generally six years. As a result, the CLSB board implemented a policy under which there would be a controlled change on the CLSB board i.e. one per year. The CLSB has experienced no concerns on the recruitment process itself, having more than adequate interest. For example, the CLSB received 60 applications when it recently recruited a lay NED in 2018.	
Control adequacy	5	
Priority area of risk	Low.	
Outstanding actions (status)		
Commentary		