

REGULATORY RISK REGISTER

As at 23 January 2019

1. RISK SCORING

(i) Risk to regulatory objectives

1. Protecting & promoting the public interest.
2. Supporting the constitutional principle of the rule of law.
3. Improving access to justice.
4. Protecting & promoting the interests of the consumer.
5. Promoting competition in the provision of services.
6. Encouraging an independent, strong, diverse and effective legal profession.
7. Increasing public understanding of the citizen's legal rights and duties.
8. Promoting and maintaining adherence to the professions principles:
 - Independence and integrity.
 - Proper standards of work.
 - Acting in a client's best interests.
 - Duty to the court: acting independently in the interests of justice.
 - Confidentiality of client affairs.

(ii) Gross risk: Impact x Probability

<p><u>Impact (I):</u> 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><u>Probability (P):</u> 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: 31/10/2011	Reference: R1	Risk score I(3) x P(1) = 3
Risk	First-tier complaints procedure not being communicated to clients.	
Risk to objectives	Regulatory objective: Protecting and promoting the public interest. Regulatory objective: Increasing public understanding of citizen’s legal rights and duties. Professional principle: Proper standards of work.	
Evidence of risk	Ongoing monitoring has not evidenced this is happening.	
Controls	<ul style="list-style-type: none"> • October 2011: Complaint procedure guidance issued, on CLSB website. • October 2011: Costs Lawyers not working for SRA firm required to file their complaints procedure with CLSB each year. • April 2015: Question asked on client feedback facility on CLSB website “Were you aware of your Costs Lawyers complaints procedure?” • October 2016: New client survey asks question: “Did that client care letter make you aware of your Costs Lawyers complaints procedure?” • 24/1/17: Following consumer research, jointly funded by all ARs, the CLSB guidance note reviewed and revised. • 25/4/17: Guidance note reviewed and revised to include a section on whether a Costs Lawyer can charge for complaint resolution. • 24/1/18: Guidance note was reviewed and revised. 	

	<ul style="list-style-type: none"> • 25/4/18: Guidance note was reviewed and revised. • 24/10/18: Guidance note was reviewed and revised.
Control adequacy	4
Priority area of risk	No, as no evidence this has happened since 31 October 2011.
Actions outstanding/status	Feedback from client survey (October 2016 to date) has not identified there are any issues with client care letters being issued or the level of information contained therein.
Commentary	Continue to monitor outcome of new client survey and review guidance note on on-going basis.

Logged by board: 31/10/2011	Reference: R2	Risk score: I(1) x P(3) = 3
Risk	Costs Lawyer (not working for SRA regulated firm) accepting client monies.	
Risk to objectives	Regulatory objective: Protecting and promoting the public interest. Professional principle: To act with integrity. Professional principle: To act in the best interests of the client.	
Evidence of risks	Ongoing monitoring has not evidenced this is happening.	
Controls	<ul style="list-style-type: none"> • Covered under Principle 3.6 of Code of Conduct. • August 2012: Guidance note on Principle 3.6 issued, on CLSB website. • October 2016: New client survey asks question "Did you send any monies to your Costs Lawyer other than in payment of an invoice?" • 24/10/18: Guidance note on principle 3.6 reviewed and revised. 	
Control adequacy	4	
Priority area of risk	No, as no evidence this is happening since 31 October 2011.	
Actions outstanding/status	No evidence from client survey (October 2016 to date) or complaints that this is happening.	
Commentary	Continue to monitor outcome of client survey.	

Logged by board: 31/10/2011	Reference: R3	Risk score: I(2) x P(2) = 4
Risk	Minimum level of professional indemnity insurance is not in place.	
Risk to objectives	Regulatory objective: Protecting and promoting the public interest. Professional principle: To act in the best interest of the client.	
Evidence of risk	None that this is happening.	
Controls	<ul style="list-style-type: none"> • 17/11/13: Guidance note issued. • April 2013: Annual analysis on the levels of insurance in excess of minimum put in place. First report to the CLSB board on insurance in place. 	

	<ul style="list-style-type: none"> • Costs Lawyers not working for an SRA regulated firm are required to file evidence of current PI insurance annually on applying for a practising certificate. • April 2014: Analysis presented to CLSB board on insurance in place identifying trends. • Following consultation, on 9/4/14 practising rule 10 on insurance was revised and communicated out to all Costs Lawyers. • 22/4/14: Guidance note revised following practising rule on insurance review. • April 2015: Analysis presented to CLSB board on insurance in place identifying trends. • January 2016: Report from insurers on level of insurance claims, none evidence a lack of insurance cover. • April 2016: Analysis presented to CLSB board on insurance in place identifying trends. It was noted that since 2014, Costs Lawyers not working for an SRA regulated firm have increased PI insurance cover. Policies of value £1m or less have dropped from 80.4% to 69.7%. • April 2017: Analysis presented to CLSB board on insurance in place identifying trends. • April 2018: Analysis presented to CLSB board on insurance in place identifying trends.
Control adequacy	4
Priority area of risk	No, as no evidence of inadequate insurance has been identified since 31 October 2011.
Actions outstanding/status	<ul style="list-style-type: none"> • On-going annual filing of insurance by a Costs Lawyer not working for SRA regulated firm when applying for an annual practising certificate.
Commentary	Continue to monitor trends.

Logged by board: 24/10/17	Reference: R4	Risk score: I(5) x P(2) = 10
Risk	ACL, named in the Legal Services Act 2007 as Approved Regulator (role undertaken by CLSB under delegation) consulted on financial constraints in October 2017.	
Risk to objectives	Regulatory objective: All. Professional principles: All.	
Evidence of risk	ACL minutes, ACL accounts, ACL discussion paper to members, 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. 	

	<ul style="list-style-type: none"> • 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. <p>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.</p>
Control adequacy	Outside control of CLSB.
Priority area of risk	Yes, as current and immediate.
Actions outstanding/status	Work with ACL and LSB (as required) on any ACL proposal.
Commentary	This is impacting on the reputation of the profession which is small and requires stability.