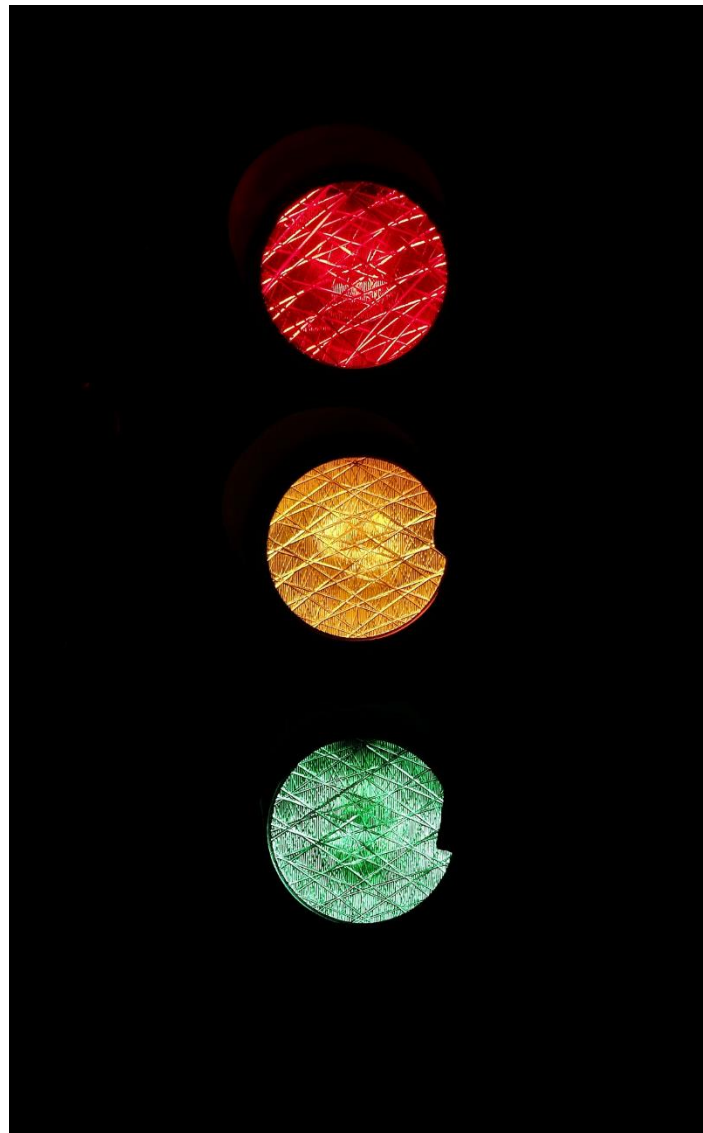

Disciplinary Rules and Procedures

Panel Member Appointment
Policy and Code of Conduct



Effective date: 1 May 2020

Costs Lawyer Standards Board

CLSB
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Overview

1. This policy sets out the criteria for the appointment of Panel Members under the CLSB's Disciplinary Rules and Procedures (DR&P). Terms in this policy have the same meaning as in the DR&P.
2. Panel Members have various roles under the DR&P, including being part of a Conduct Committee (Rule 6), being part of a Conduct Appeal Committee (Rule 7) and considering matters relating to interim suspension orders (Rule 4).
3. A Panel Member is defined in the DR&P as an individual appointed by the CLSB (including on an ad hoc basis) to serve on a Conduct Committee or Conduct Appeal Committee who:
 - is independent of the CLSB;
 - has been neither an ACL Council member nor a non-executive director of the CLSB for a period of two years before being appointed as a Panel Member; and
 - has agreed in writing to adhere to the terms of the CLSB's Panel Member Code of Conduct and any procedural guidance that the CLSB may issue for Panel Members from time to time.
4. The purpose of this policy is to ensure that all Panel Members have the requisite level of expertise, training, independence and ethical responsibility to perform the role effectively.

Appointment criteria

Minimum requirements

5. All Panel Members must meet certain minimum requirements to be considered for appointment. Those minimum requirements are set out in the table below. Some requirements apply only to Lay Person Panel Members and some apply only to Non-Lay Person Panel Members. Further details of the difference between Lay and Non-Lay Person Panel Members, and their roles, can be found in the DR&P.

A Panel Member must:

Lay Person Panel Members	Eligibility	Meet the description of a lay person as set out in Schedule 1 paragraph 2(4) of the LSA.
	Skills and experience	Have at least three years' experience as a member of the disciplinary panel (however described) of a regulatory or professional body, or of an equivalent institution (such as a Tribunal).
Non-Lay Person Panel Members	Eligibility	Not be a lay person as described in Schedule 1 paragraph 2(4) of the LSA.
	Skills and experience	Have at least five years' experience of providing legal services relating to costs (this may be as a Costs Lawyer, solicitor, barrister, member of the judiciary or other non-lay profession).
All Panel Members	Eligibility	Have been neither an ACL Council member nor a non-executive director of the CLSB for a period of two years prior to appointment as a Panel Member.
		Not have been a CLSB staff member for a period of two years prior to appointment as a Panel Member.
		Have no inherent conflict of interest in relation to serving as a Panel Member.
	Skills and experience	Understand the nature and purpose of regulatory arrangements in a professional services context.
		Have strong written communication skills, including the ability to give succinct reasons in plain language.
Personal attributes	Possess:	<ul style="list-style-type: none">• the ability to analyse complex information quickly• the ability to work constructively with others• sound judgement and reasoning• objectivity and willingness to listen to views• respect for diversity• the ability to inspire respect and confidence, and maintain authority when challenged

6. In relation to appointment as a Panel Member in a particular disciplinary case, a Panel Member must also meet the following criteria.

A Panel Member must:

All Panel Members	Have no undisclosed actual or perceived conflict of interest in relation to the particular case.
	Not have conducted a level one investigation in relation to the case.
	In terms of appointment to a Conduct Appeal Committee, not have been a decision-maker in relation to the decision under appeal (for example, as a member of a Conduct Committee or by imposing an interim suspension order).
Non-Lay Person Panel Members	Not work within an organisation (such as a firm or chambers) that has an undisclosed actual or perceived conflict of interest in relation to the case.

7. Evidence that these requirements are met by a prospective Panel Member may be obtained by any combination of at least two of the following means:

- resume;
- references;
- supporting documents;
- interview;
- sample work outputs;
- written exercise or mock scenario;
- any other methods that the CLSB considers appropriate.

Commitments

8. Panel Members must also make the commitments set out in the Panel Member Declaration prior to appointment. A signed copy of the Panel Member Declaration must be provided to the CLSB before an appointment will take effect.

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9. Panel Members will also be required to sign a letter of appointment, covering issues such as the processing of personal data, liability for conduct, remuneration and termination of appointment.

Provision of assistance, training and materials

10. Prior to appointment, Panel Members will be provided with guidance and training documents to assist them in performing their role effectively and ensure they comply with CLSB policies and procedures. While the precise materials may change over time, they will include documents such as:

- Costs Lawyer Handbook (including the Costs Lawyer Code of Conduct and DR&P)
- CLSB Workbook on Conducting Hearings
- Disciplinary Process Notes (levels one, two and three)
- Templates for the production of documents
- Guidance on the role of the Case Manager
- Guidance on Decision Making and Penalties
- Policy on Publication of Disciplinary Outcomes
- Panel Member Travel and Subsistence Policy
- Equality and Diversity Policy
- Data Protection Manual
- Jargon buster

The Case Manager can also assist Panel Members with the administrative elements of their role in the context of a disciplinary case.

11. Panel Members should inform the CLSB prior to appointment, or promptly if the appointment has already taken place, if they become aware of an area in which additional training or guidance is required. Panel Members are also expected to maintain their own professional development and ensure their skills and expertise are current.

Ad hoc Panel Members

12. If a person meets the criteria set out in this policy, they may be appointed as a Panel Member. Given the low volume of disciplinary cases involving Costs Lawyers, the CLSB's current policy is to retain a small pool of permanent Panel Members and to recruit additional Panel Members on an ad hoc basis where required. The terms of this policy apply equally to permanently appointed Panel Members (including Panel Members who were appointed prior to this policy coming into effect) and Panel Members appointed on an ad hoc basis.
13. The term of a Panel Member's appointment will be set out in the relevant letter of appointment. Where a Panel Member is permanently appointed, there will be no limit on the number of disciplinary cases they may be involved in during their tenure. The CLSB will make checks from time to time, as it considers appropriate, to ensure that permanently appointed Panel Members still comply with the requirements of this policy.
14. Ad hoc Panel Members will be appointed in relation to one disciplinary case at a time. If they wish to be appointed in relation to additional cases, they must demonstrate continued compliance with this policy on each occasion. If a Panel Member is appointed on an ad hoc basis more than three times, the CLSB will consider (in consultation with the Panel Member) whether a permanent appointment would be appropriate.
15. The CLSB will check the availability of permanently appointed Panel Members before seeking candidates for ad hoc appointments. Other than in exceptional circumstances, a Conduct Committee or Conduct Appeal Committee should include at least one permanent Panel Member. Exceptional circumstances might include, for example, lack of availability of all permanent Panel Members such that waiting for availability would cause substantial delay. Where a Conduct Committee or Conduct Appeal Committee includes one or more permanent Lay Person Panel Members, a permanent Lay Person Panel Member will act as Chair.

16. Where the need for an ad hoc appointment arises, the role will be publicly advertised in appropriate places (such as the CLSB website) until a suitable candidate is found. Panel Members appointed on an ad hoc basis may deal with any matter that is within the remit of a Panel Member under the DR&P.

Panel Member Code of Conduct

All Panel Members must conduct themselves in accordance with this Code of Conduct.

1. Act with honesty and integrity

Honesty is concerned with being open and transparent. Panel Members must:

- a) Express genuine views clearly and in plain language.
- b) Be truthful and disclose all relevant matters.
- c) Make reasoned decisions and be prepared to explain those reasons.

Integrity is concerned with motive and being consistent with espoused values. Panel Members must:

- a) Avoid actual and perceived conflicts of interest wherever possible.
- b) Disclose any actual or perceived conflicts of interest that cannot be avoided to the CLSB, or to those involved in disciplinary proceedings, as appropriate.
- c) Withdraw from acting as a Panel Member if an actual or perceived conflict of interest cannot be appropriately managed.
- d) Not accept gifts or favours which may influence, or be perceived to influence, decision making.
- e) Not misuse the role of Panel Member for personal gain or other improper motive.
- f) Be mindful that conduct in all aspects of life can reflect on standing as a Panel Member and the reputation of the CLSB.

2. Act fairly and impartially

Fairness and impartiality are concerned with being objective and unbiased in the pursuit of justice. Panel Members must:

- a) Consider all relevant facts objectively and avoid making assumptions that are not supported by evidence.
- b) Treat everyone with dignity and respect and foster a culture that is free from intimidation and bullying.
- c) Make reasonable adjustments where this is needed to ensure equality of treatment.
- d) Exercise powers in the public interest, free from malice.

3. Use information appropriately

Using information appropriately is concerned with respecting confidentiality and using discretion and prudence. Panel Members must:

- a) Only use information gained as a Panel Member for the purposes intended by the CLSB.
- b) Handle information in line with internal CLSB policies and procedures.
- c) Recognise sensitive or confidential information and treat it accordingly.
- d) Not seek any unfair benefit from information obtained as a Panel Member.

4. Exercise due care, skill and diligence

Exercising due care, skill and diligence are concerned with being prudent, committed and professional. A Panel Member must:

- a) Be focused on the matter under consideration.
- b) Read papers and prepare adequately for hearings.
- c) Consider issues in their entirety, taking into account all relevant evidence.
- d) Be professional in all dealings with fellow Panel Members and participants in the disciplinary process, including by considering the views of others.
- e) Comply with applicable policies, procedures and laws, including in relation to:
 - data protection and privacy;
 - equality and non-discrimination;
 - human rights.
- f) Act in accordance with the CLSB's responsibilities under the Legal Services Act 2007.
- g) Uphold the Nolan Principles of public life.

5. Be and remain of good character

A Panel Member must disclose certain events relating to their character to the CLSB at the first available opportunity. This obligation applies to events that occur both prior to and during a Panel Member's appointment. The events that a Panel Member must disclose are that they have:

- a) been subject to any criminal charge, conviction or caution, subject to the Rehabilitation of Offenders Act 1974;

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- b) been subject to an adjudication of bankruptcy;
 - c) been granted a debt relief order;
 - d) entered into an individual voluntary arrangement or a partnership voluntary arrangement;
 - e) been a director of any company or partner in an LLP or partnership that has been the subject of a winding up order, an administrative order or an administrative receivership, or has otherwise been wound up or put into administration in circumstances of insolvency;
 - f) been disqualified from being a company director or the trustee of a charity;
 - g) been the subject of disciplinary proceedings by any regulatory or professional body;
 - h) been the subject of an adverse order or finding of a civil court or employment tribunal; or
 - i) become aware of any other matter that might reasonably be expected to be disclosed in affecting their fitness to become or remain a Panel Member.

Panel Member Declaration

I declare as follows in relation to my role as a Panel Member under the Disciplinary Rules and Procedures (DR&P) of the Costs Lawyer Standards Board (CLSB).

- a) I will act in accordance with the Panel Member Code of Conduct at all times when carrying out my role.
- b) I will act in accordance with the DR&P at all times when carrying out my role.
- c) I have informed the CLSB of any disclosable events (as defined in paragraph 5 of the Panel Member Code of Conduct) that apply to me and I will inform the CLSB of any disclosable events that arise while I am a Panel Member.
- d) I will comply with all CLSB internal policies and procedures that have been provided to me, insofar as they are relevant to my role.
- e) I will keep my knowledge of the Costs Lawyer Handbook up to date while I am a Panel Member.
- f) I will make use of the training materials and workbooks provided by the CLSB and will follow any procedural guidance that applies to Panel Members or to CLSB disciplinary proceedings generally.
- g) I will promote the CLSB's independence from the Association of Costs Lawyers and comply with the Legal Services Board's Internal Governance Rules.

Signed _____

Name _____

Date _____