

# Costs Lawyer Standards Board

21 April 2021

## Impact of coronavirus on Costs Lawyers 2021 survey results

In May 2020, we surveyed Costs Lawyers for the first time about the [impact of the coronavirus pandemic](#) on their practice. In February and March 2021, we ran a comparative survey to obtain an up-to-date picture of how coronavirus is affecting the profession and to see whether early predictions were accurate. 20% of Costs Lawyers contributed to the survey (compared to 21% in 2020), including practitioners working in solicitors' firms (38% of respondents), in costs law firms (35%), as sole practitioners or consultants (22%) and in-house (4%).

**In general, the Costs Lawyer profession is faring very well.** While nearly a third of Costs Lawyers predicted a fall in instructions during 2020, only a small minority had less work to do than before the crisis. **Over a third of Costs Lawyers reported an increase in their workload.** The level of concern about future impacts of the pandemic has reduced across the board, but there are still pockets of the profession that are worried about mid-term viability, including legal aid costs practitioners. **Nearly half of all Costs Lawyers expect to work remotely most or all of the time after the pandemic.**


This report contains a detailed analysis of the survey results. The tables and graphs show data for all respondents, while the statistics in the accompanying text relate to discrete parts of the profession. If you would like more information about the survey or our findings, please email [enquiries@clsb.info](mailto:enquiries@clsb.info). Readers should be aware of limitations in the survey data due to sample sizes for some categories. These are explained on page 11.

# Personal impacts during 2020

We asked Costs Lawyers which of the following impacts they (personally) experienced during 2020, that they believed to be caused mainly by the coronavirus pandemic.

This column shows the proportion of respondents to our May 2020 survey who indicated they had already experienced the relevant impact at that time, or believed they were likely to experience it during 2020.

This column shows the proportion of respondents to our follow-up survey, conducted in early 2021, who reported having actually experienced the impact during 2020.



Impact on individual Costs Lawyers	Prediction for 2020	Actual for 2020
Working predominantly from home when they weren't before	80%	72%
Embracing new technologies or innovations	80%	58%
Having less work to do than they had before	31%	14%
Having more work to do than they had before	26%	34%
Being furloughed	4%	7%
Losing their job	2%	0%
Having difficulties providing a full or timely service to their clients	23%	6.5%

**56%** of Costs Lawyers working in costs law firms embraced new technologies in 2020 despite 83% predicting that they would. Costs Lawyers in solicitors' firms also over-predicted, with 70% embracing new technologies compared to 84% who thought it was likely they would. Conversely, 43% of sole practitioners reported embracing new technologies, up from 35% who predicted they would.

**23%** of sole practitioners had less work in 2020 than they did before, compared to 48% who predicted they would, while another 23% had more work. Across all other practice types and work areas, there were more Costs Lawyers reporting an overall increase in their workload than those reporting a decrease. The biggest differential was for those in solicitors' firms, where 40% had more work while just 4% had less.

**8%** of legal aid Costs Lawyers reported being furloughed during 2020, along with 8% of those working in personal injury or clinical negligence (PI/CN) costs. This fell to just 4% of those working in commercial litigation costs.

# Practice area impacts during 2020

We asked Costs Lawyers which of the following impacts they, their clients or their organisation experienced during 2020.

This column shows the proportion of respondents to our May 2020 survey who indicated they were quite concerned or very concerned about the relevant impact being experienced in their main area of costs practice during 2020.

This column shows the proportion of respondents to our follow-up survey, conducted in early 2021, who reported having actually experienced the impact during 2020.

Impact experienced	Prediction for 2020	Actual for 2020
The number of client instructions falling	30%	24%
Disputes taking longer than usual to conclude	29%	35%
Delays in clients paying fees	26%	21%
Difficulties supervising colleagues due to home working	13%	24%
Their firm or business ceasing to trade	14%	0%
Inability to carry on practising as a Costs Lawyer	2%	-
None of the above impacts	-	36%

64% of respondents indicated that they, their clients or their organisation (as relevant) experienced at least one of the impacts that we asked about. Sole practitioners fared best, with 47% experiencing none of the impacts, compared to 40% of those working in solicitors' firms and just 23% of those in costs law firms reporting the same.

42% of Costs Lawyers specialising in PI/CN costs saw disputes taking longer than usual to conclude. This compared to 36% for those specialising in commercial litigation costs and 25% for legal aid Costs Lawyers.

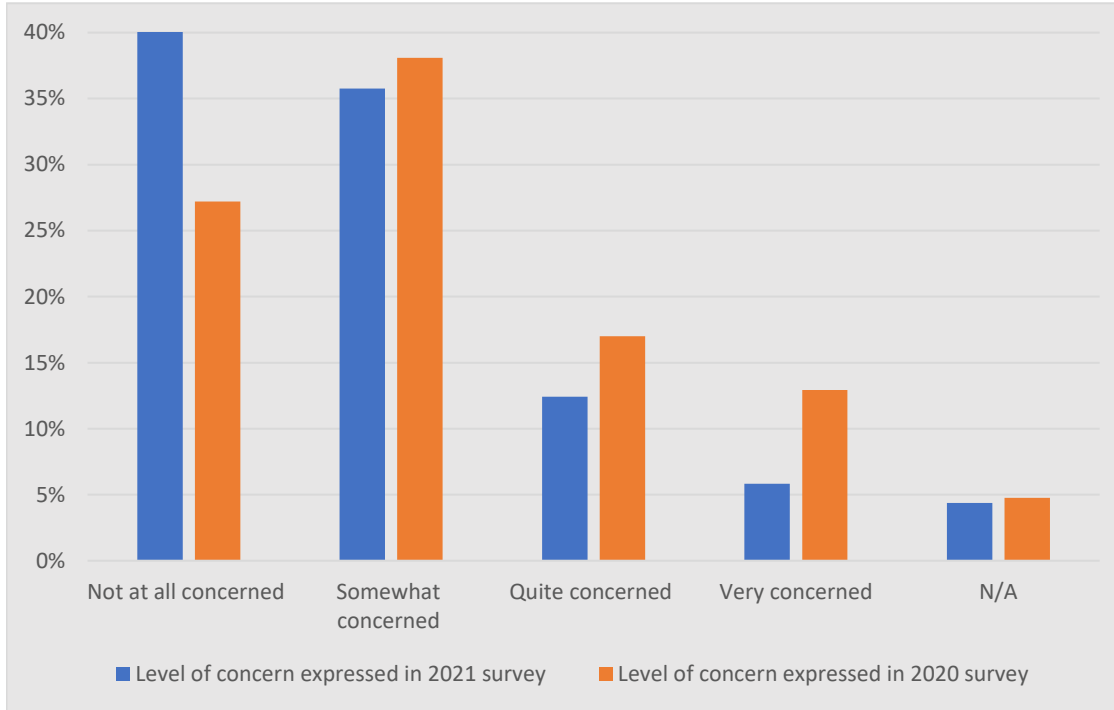
48% of Costs Lawyers specialising in commercial litigation costs experienced difficulties supervising colleagues due to home working, compared to 24% of PI/CN specialists and 4% of legal aid Costs Lawyers.

Former Costs Lawyers who ceased practising at the end of 2020 were not included in the survey. However, our data shows that 1% of Costs Lawyers did not renew their practising certificate in 2021 for reasons relating to the coronavirus pandemic. Reasons included ill health, unemployment, full-time childcare, bereavement, uncertainty and lack of available CPD.

# Practice area impacts in the short and medium term

We asked Costs Lawyers how concerned they were about the following impacts of coronavirus over the next 12 to 36 months on their own area of costs practice.

The number of client instructions falling



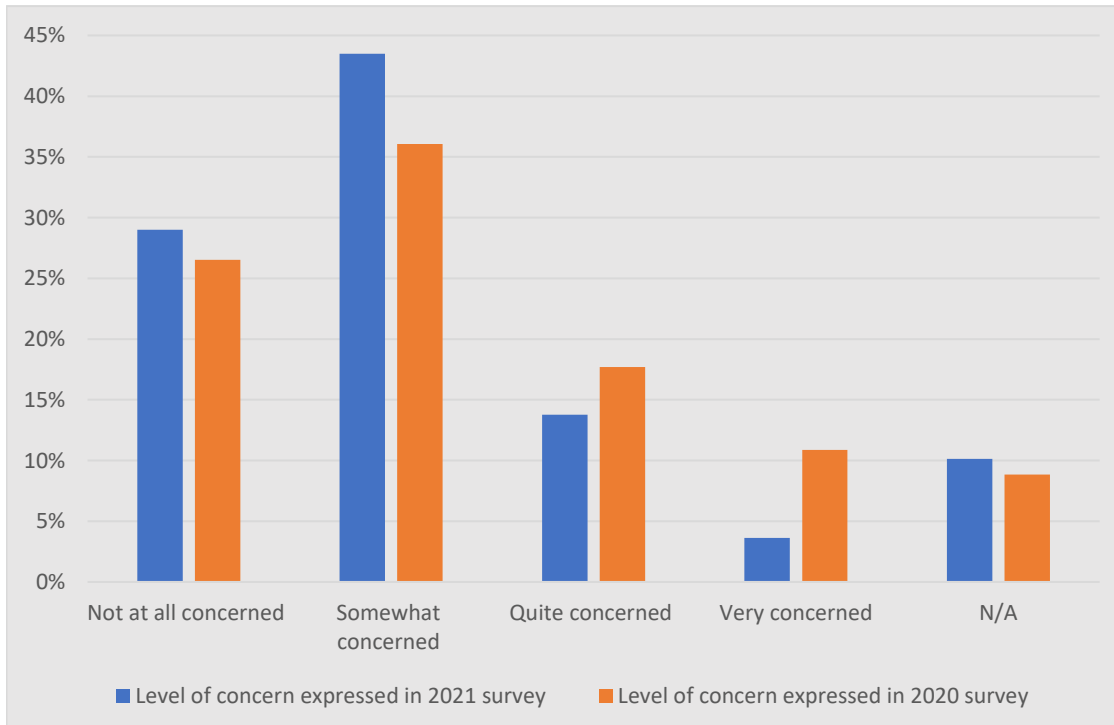
22%

fewer Costs Lawyers working in PI/CN costs are now quite concerned or very concerned that client instructions will fall than a year ago. 39% of PI/CN specialists reported being quite or very concerned about falling instructions in our 2020 survey, compared to just 17% now.

56%

of Costs Lawyers working in solicitors' firms are now not at all concerned about falling client instructions in the next 12 to 36 months, compared to 37% of sole practitioners and 29% of those working in costs law firms.

Disputes taking longer than usual to conclude



31%

of Costs Lawyers working in PI/CN costs are not at all concerned about litigation delays going forward, marginally above those specialising in legal aid costs (29%) and commercial litigation costs (28%). This is despite PI/CN specialists being the most likely group to experience delays in 2020.

36%

of Costs Lawyers working in costs law firms remain quite concerned or very concerned about delays in receiving their fees over the next 12 to 36 months; exactly in line with the results of our 2020 survey. 20% of sole practitioners are similarly concerned, down from 24% when we asked them in 2020, while only 4% of those working in solicitors' firms remain concerned, down from 13% previously.

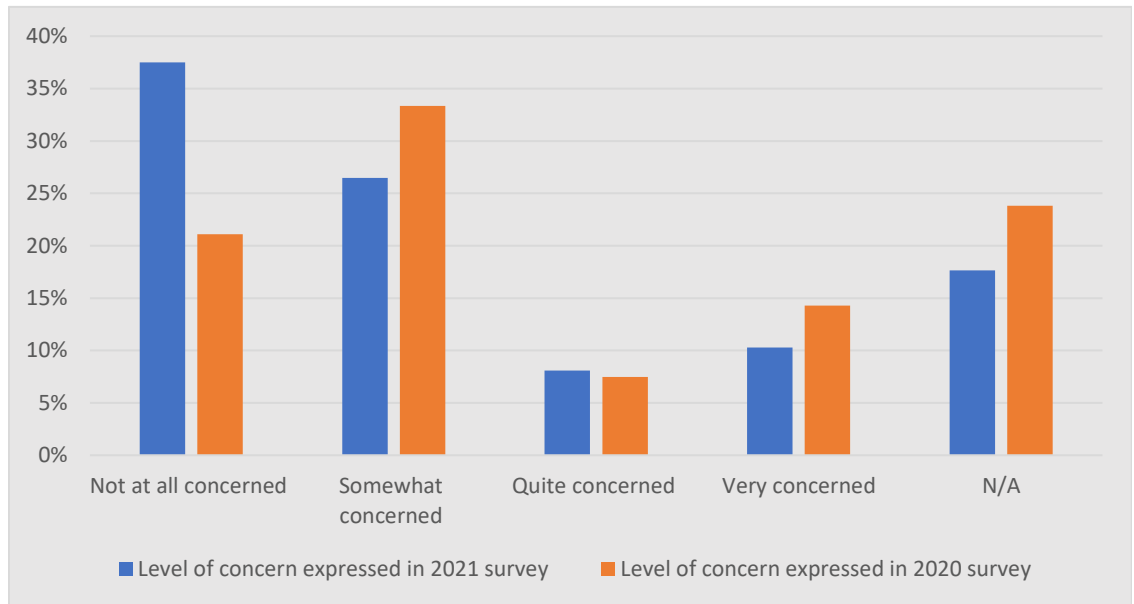
12.5%

of legal aid Costs Lawyers are now very concerned about their firm or business ceasing to trade in the next 12 to 36 months. This is higher than for those specialising in PI/CN costs (4%) or commercial litigation costs (0%).

11%

of Costs Lawyers working in costs law firms remain very concerned about the viability of their business in the medium term, compared to 15% who were very concerned in 2020. This compares to 0% of sole practitioners (down from 8% in 2020) and 2% of those in solicitors' firms (down from 6%).

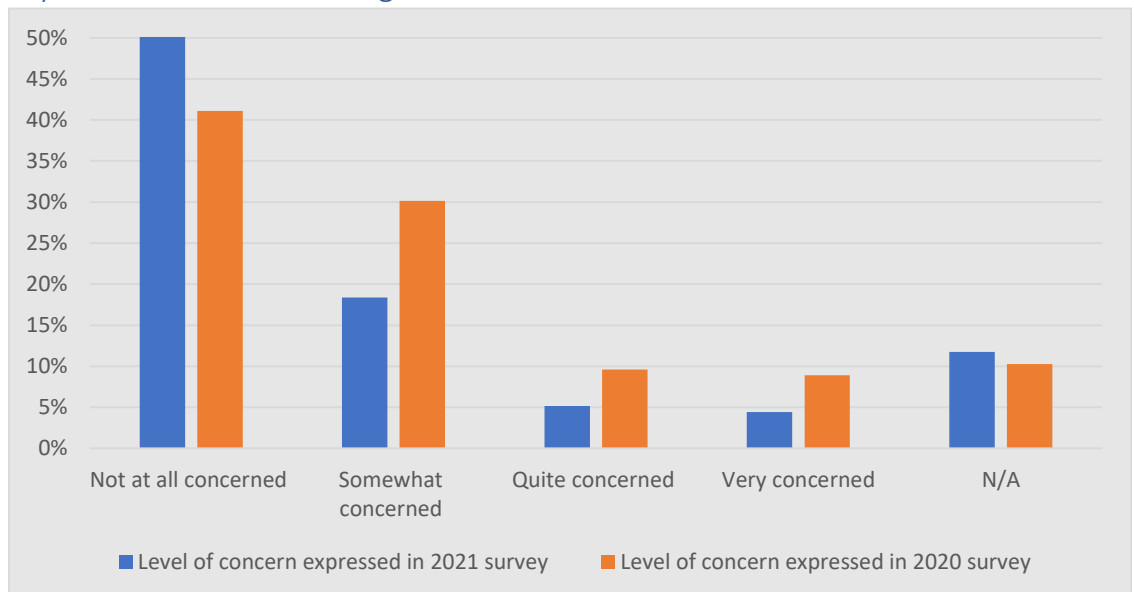
### Delays in clients paying fees



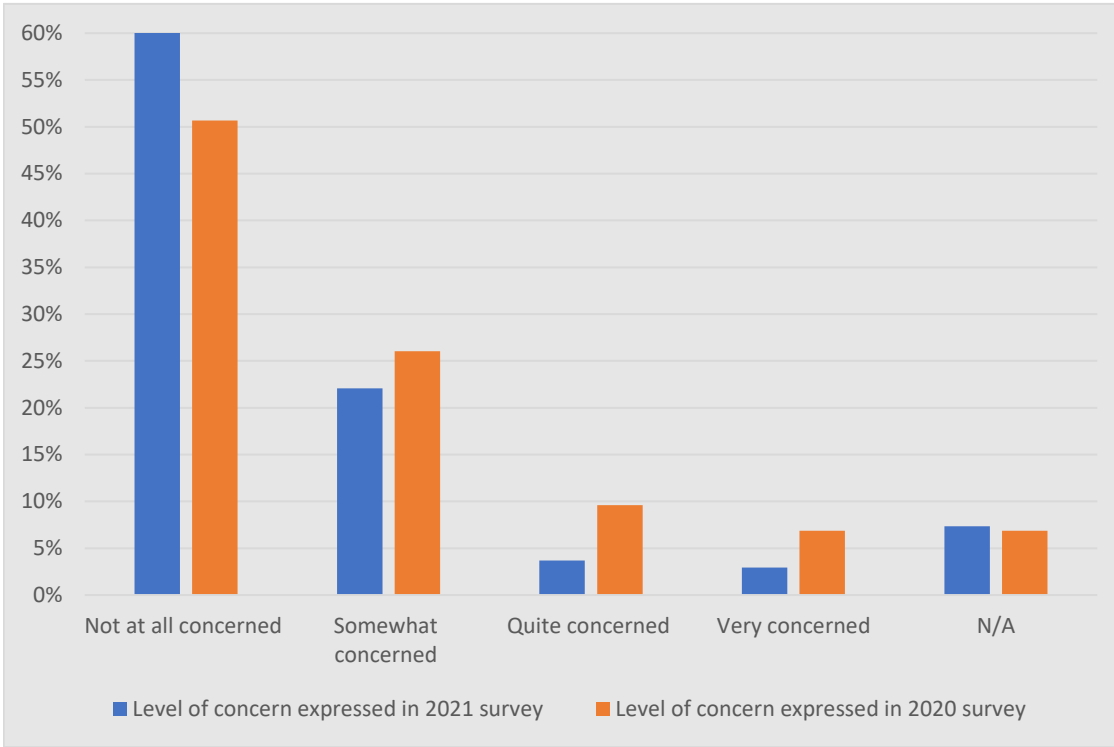
### Difficulties supervising colleagues due to home working



### My firm or business ceasing to trade



## Inability to carry on practising as a Costs Lawyer



25%

of legal aid Costs Lawyers are now quite concerned or very concerned about being able to carry on practising over the next 12 to 36 months, up from just 4% when we asked them in 2020. This compares to 1% of PI/CN costs specialists (down from 19% in 2020) and 0% of those working in commercial litigation costs (down from 20%).

## Remote working

We asked Costs Lawyers about their expectations for remote working following the pandemic.

By remote working, we mean working from home or a personal office as distinct from a commercial office space.

We asked Costs Lawyers whether they expect to continue working remotely when it becomes safe to return permanently to an office environment.

Amount of remote working	Before the pandemic	Expectation for after the pandemic
Working remotely most or all of the time	23%	45%
Working remotely some (but not all) days each week	18%	28%
Working remotely from time to time on a flexible basis	25%	17%
Little or no remote working	34%	7%
No expectations either way at this stage	-	4%

70% of sole practitioners already worked remotely most or all of the time prior to the pandemic.

10% of Costs Lawyers working in costs law firms expect to do little or no remote working when it is safe to return permanently to the office. This drops to 7% for sole practitioners, 4% for those in solicitors' firms and 0% for in-house Costs Lawyers.

45% of Costs Lawyers working in solicitors' firms expect to work remotely most or all of the time after the pandemic. This compares to 63% of sole practitioners, 33% of those in costs law firms and 20% of in-house Costs Lawyers.

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## General impacts of coronavirus on Costs Lawyers

We again asked Costs Lawyers to tell us about any other impacts of coronavirus (positive or negative) on their practice, their clients or their ways of working. Following our 2020 survey, we drew out five themes from the responses to this question.

### Themes from May 2020

<b>Theme 1:</b> The profession has embraced technological change more quickly than it would have done in the absence of coronavirus.	<b>Theme 4:</b> There is some concern about decreasing instructions and job security, but not across the board.
<b>Theme 2:</b> There are advantages to working from home, but there are challenges too. Generally, balance and flexibility are preferable.	<b>Related to theme 4:</b> Pressures facing clients in the current environment are having knock-on effects for Costs Lawyers.
<b>Theme 3:</b> Sole practitioners are insulated from some of the practical impacts of coronavirus, given their existing ways of working.	<b>Theme 5:</b> Courts are trying to keep up with technological change, but there is still uncertainty, delay and practical challenges (particularly in relation to detailed assessment hearings).

Responses to the same question in 2021 provided up-to-date insights, particularly around theme 1 (technological change), theme 2 (working from home) and theme 4 (volume of work). These themes have been updated on the next page, along with a sample of comments from our 2021 survey.

In relation to theme 5, there were reports of continued delays to costs hearings and other challenges within the court system, but not to the same extent as we saw early in the pandemic.



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**Updated theme 1:**  
On the whole, technological change has had a positive impact, and it is here to stay.

*"Whilst it has been a very difficult 12 months and some of those difficulties continue, we must look to some good coming out of the way things are run and embrace the changes that prove positive for clients and the business."*

*"Although there were initial issues with the technology and adjustments, it is now positive from the point of view of flexibility."*

*"[I've] definitely become more tech savvy."*

*"Clients have become more open to allowing remote access to their systems which I hope will continue."*

*"Remote conferences with clients and Counsel and online hearings work very well, provided one has adequate broadband. Very positive."*

*"Has required a big investment in additional hardware purchases."*

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*"I prefer working remotely, my productivity has increased significantly."*

*"It has shown my employer that people working from home is beneficial and, most importantly, can be achieved on a large scale."*

*"Much prefer working from home overall."*

*"I miss my monthly meetings with colleagues. Although we do one through Zoom, it's not the same so we feel more fragmented as a team."*

*"I miss the camaraderie of the office desperately."*

*"It has demonstrated travel is not necessary to meet face to face, but it makes establishing personal relationships and friendships more difficult."*

*"The effect on mental health as a result of furlough."*

*"I am concerned about the imposition of homeworking on the ability to informally share information or to address queries internally in the company."*

*"It's a shame that there is now limited finances to run an office and working from home will be permanent for me."*

*"Fewer options for BD [business development]."*

*"I miss every day face to face interaction with everyone."*

**Updated theme 2:**  
Remote working brings considerable benefits, but we must address its impact on relationships and wellbeing.



**Updated theme 4:**  
Concerns about decreasing instructions and job security have largely been defrayed, but we are now seeing other kinds of pressure on Costs Lawyers' working arrangements.

*"Cases dropped during 2020 but have picked up at the beginning of 2021. The nature of my practice means the work still needs to be costed so we are now dealing with backlogs of work from 2020!"*

*"Those who continue working are picking up files of furloughed colleagues. So individually the employee has as much, if not more, work than before the pandemic, even if overall the business environment is a reduction to instruction referrals."*

*"Covid 19 for me coincided with a change in focus by a major provider of instructions. I now deal with less small cases with the emphasis on larger multi-track matters in their place."*

*"As a costs lawyer within a COP department, provision of work has largely been unaffected."*

*"It made me decide to set up my own business."*

*"My concern is that we are at the end of the process so the impact in fewer instructions to solicitors will hit us in 12 to 24 months' time."*

*"I continued to work full time but my wages were reduced to 70% for a few months and I am now being paid 80% and I have been informed that the wages I have lost will not be given to me at a later date."*

*"It has been quite stressful as the firm has insisted on staying open, with staff coming into the office despite guidelines stating that staff should work from home."*

*"The biggest impact on my earning capacity has been childcare / home schooling commitments."*

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## Key message for the CLSB still relates to CPD

We asked Costs Lawyers what else the CLSB could do to support them in meeting their professional obligations in the current climate.

In 2020, 18% of survey respondents expressed concern about achieving 12 CPD points in 2020, as required under the CLSB's Continuing Professional Development Rules.

When we asked the same question in 2021, the vast majority of responses again related to Costs Lawyers' ability to obtain CPD remotely. However, the picture was much more positive.

No survey respondents expressed concern about not being able to meet their CPD obligations in 2021. But there is still a clear desire within the profession for signposting to high-quality CPD resources. This issue is explored in more detail on the next page.

## What the CLSB did to help in 2020.

- We changed the way we supervised and enforced CPD requirements in 2020, so Costs Lawyers could obtain all 12 of their required CPD points through online learning activities during the year.
- We worked with service providers to create a catalogue of relevant e-learning opportunities that were available free or at low cost, and secured exclusive discounts for regulated Costs Lawyers.
- We introduced a new CPD regime, applying from 1 January 2021, giving Costs Lawyers more flexibility and choice around their CPD activities.

## Examples of how the profession responded.

*"I panicked a little last year in relation to CPD, but feel that I can manage now."*

*"I think the change in how we are able to achieve CPD is a huge help in being able to select more courses that are relevant to us (not just on costs) and also the way the CPD can be achieved. It has proved that we do not have to spend hundreds and hundreds of pounds on attending conferences ... when you can learn just as much when attending these events remotely. Even though we are a big firm, our Learning and Development team still have budgets and the financial impact of this pandemic will change the way they view how CPD can be achieved in the future ... Thank you for your support."*

*"A new list of providers offering free or low cost CPD points would be great, this was so helpful last year."*

## Costs Lawyers want more online learning opportunities in 2021.

In response to the question of what the CLSB can do to support Costs Lawyers in meeting their professional obligations in the current circumstances, responses included:

*"Please arrange more online webinars to allow us to gain our CPD for the year."*

*"Providing as much information on or opportunities for CPD which can be undertaken safely at a distance."*

*"Database of / links to costs specific CPD including recommended publications."*

*"Provide more online learning for CPD."*

## Other things we can do to help.

Encouraging providers to offer more variety in e-learning activities:

*"Obtaining CPD points proved to a bit of a challenge so I solely relied upon online conferences/webinars and a lot of them covered the same topics."*

Recognising part-hour CPD activities:

*"Consideration to recognising 1/2 CPD points per 30 minutes. For example if training or a seminar is 1 hour 45 minutes, then at present the CLSB recognises 1 point for this activity."*

We will address both of these points within our new CPD regime in 2021.

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## Endnote: Limitations of the survey data

Readers of this report should be aware of limitations in the survey data. The sample size for certain types of practitioners – particularly those working in-house and those specialising in own-client costs – were inevitably small, due to the small population of Costs Lawyers to draw from in these areas.

While all Costs Lawyers were invited to complete the survey, it is possible that the Costs Lawyers who responded were particularly interested in the survey because they felt personally impacted by coronavirus. This may lead to an overstatement of impact in some areas.

While we have tried to ensure that all Costs Lawyers received the survey, it is possible that some Costs Lawyers might have been furloughed following the CLSB's last communication with them, such that they did not receive the survey. Factors such as this could lead to an understatement of impact in some areas.

Despite these limitations, as for our May 2020 survey the composition of respondents broadly reflected the demographics of the profession as a whole, in terms of both work areas and practising arrangements. The survey therefore provides a helpful indication of where challenges and opportunities might lie for Costs Lawyers in the wake of the pandemic.

## Other resources

For data about how coronavirus is affecting the legal services sector more widely, visit the Legal Services Board's [coronavirus impact dashboard](#).