



NEWSLETTER: Number 4: 26 March 2014

New Chair of CLSB

Steve Winfield joined CLSB as Chair with effect from Monday 17 March 2014. Steve has worked in the financial services industry for nearly 30 years where he gained significant experience of new financial regulatory regimes including the introduction of regulation into the mortgage market.

Steve's experience of regulation increased further when in 2007 he became a Non-Executive Director of Administration of Gambling on Tracks. Between 2008 and 2012, he was Chair of the Greyhound Regulatory Board with overall responsibility for all regulatory, disciplinary and integrity issues.

In 2013, Steve joined the Regulatory Panel of ARMA, the trade body for Residential Managing Agents in the UK, where he has been involved in the creation of a new self-regulated regime and sits on its Disciplinary Panel.

New non-lay NED on the CLSB board

On Monday 17 March 2014, Tracyanne Ayliffe also joined the CLSB board. Tracyanne has been practising in costs for over 25 years and has worked in-house for a number of solicitors and externally with well-known costs consultancies on a national basis. She became an Associate of the ALCD, subsequently a Fellow and then a Costs Lawyer in 2007.

Tracyanne has twice served on the ACL Council. She served during their campaign for rights of audience and sat on both the Education & Training and Rules Committees prior to the ACL separating its representative and regulatory function. For the last three years, Tracyanne has been Team Leader in the Costs Management Team at the Manchester office of Irwin Mitchell.

Revised Costs Lawyer Code of Conduct effective 26 March 2014

Following consultation and Legal Services Board approval, the previous Statement of Rights for Costs Lawyers has been revised to ensure that it is current following changes in the law. In accordance with the Legal Services Act 2007, those rights will now be known as Authorised Rights and will appear in the Costs Lawyer Code of Conduct.

The revised Code of Conduct effective 26 March 2014 including Authorised Rights is set out below. If at any time you believe those Authorised Rights require review, please bring this to the attention of CLSB.

CODE OF CONDUCT
COSTS LAWYERS

Regulator: Costs Lawyer Standards Board

Effective Date: 26 March 2014

Definitions herein:

Costs Lawyer	A Costs Lawyer with a current practising certificate issued by CLSB and regulated by CLSB (Authorised Costs Lawyer)
Code	This Code of Conduct made pursuant to the LSA
CLSB	The Costs Lawyer Standards Board (Approved Regulator)
LSA	Legal Services Act 2007

Introduction

This Code is made pursuant to the LSA and sets out the principles to be followed by you as a Costs Lawyer. Further, it sets out your authorised rights and works in conjunction with prevailing legislation in such a way as to regulate what you can and cannot do under your authorisation.

Under s176(1) of the LSA you must comply with this Code. Breach of this Code may result in disciplinary proceedings being brought against you by CLSB. This Code is effective on the date stated above and replaces the previous Code of Conduct effective 31 October 2011.

Authorised rights

As a Costs Lawyer you are a regulated person under the LSA and are authorised to carry on the following reserved legal activities:

- The exercise of a right of audience
- The conduct of litigation
- The administration of oaths

Provided that you are instructed to deal only with matters that relate to costs, you may conduct proceedings and represent clients in any court or tribunal, including any criminal court or courts martial, the Supreme Court or the Privy Council where:

- the proceedings are at first instance; or
- the proceedings include an appeal below the level of the Court of Appeal or Upper Tribunal, are on a first appeal (other than in the Court of Appeal) and the appeal itself relates to costs; or
- the proceedings do not fall within either of the categories above, but your instructions are limited to dealing with the costs of the proceedings; or

- the court or tribunal grants permission for you to conduct proceedings or to represent a client (or both).

Where proceedings relate to other matters, in addition to costs, the rights referred to above apply only to those parts of the proceedings (if any) that:

- relate solely to costs; or
- when they relate to other issues, solely those issues that are not in dispute.

A matter 'relates to costs' if it relates to payments for legal representation, including payments in respect of pro bono representation under s194 of the LSA and/or to payments made for bringing or defending any proceedings, but only if and to the extent that those monies are not damages. For the avoidance of doubt, this includes:

- Costs between opposing parties including costs management and budgeting.
- Solicitor and client costs but not if and to the extent that issues of negligence arise when a Lawyer competent to deal with allegations of negligence ought to be instructed instead.
- Legal aid, criminal costs, wasted costs or costs against third parties.

Further, you may administer any oath.

Seven principles of regulation

There are seven principles to which Costs Lawyers must conform to ensure public confidence in you and the profession. Adherence to these principles is mandatory.

You must:

1. Act with integrity and professionalism.
2. Comply with your duty to the court in the administration of justice.
3. Act in the best interests of your client.
4. Provide a good quality of work and service to each client.
5. Deal with the regulators and Legal Ombudsman in an open and co-operative way.
6. Treat everyone with dignity and respect.
7. Keep your work on behalf of your clients confidential.

PRINCIPLE 1: Act with integrity and professionalism

- 1.1 You must act honestly, professionally and with integrity in all your dealings in your professional life and not allow yourself to be compromised.
- 1.2 You must not attempt to carry on a reserved legal activity other than one you are authorised to undertake under the LSA.
- 1.3 You must not give false or misleading information to anyone with whom you deal.
- 1.4 You must not be misleading or inaccurate when you publicise yourself as a Costs Lawyer or your business.
- 1.5 You must not enter into any fee arrangements which are unlawful.

- 1.6 You must not act in any way which is likely to diminish the trust the public places in you or in the profession of Costs Lawyers.

PRINCIPLE 2: Comply with your duty to the court in the administration of justice

- 2.1 You must at all times act within the law.
- 2.2 You must not knowingly or recklessly either mislead the court or allow the court to be misled.
- 2.3 You must comply with any court order which places an obligation on you and you must not be in contempt of court.
- 2.4 You must advise clients to comply with court orders made against them.

PRINCIPLE 3: Act in the best interests of the client

- 3.1 You must act at all times to ensure the client's interest is paramount except where this conflicts with your duties to the court or where otherwise permitted by law. You must decline to act if it would not be in the client's best interests or if that client's interests conflict directly with your own or with those of another client.
- 3.2 You must provide for an effective complaints procedure (first-tier complaints handling procedure) which is simple and transparent and ensures that a complaint can be made by any reasonable means and which takes into account the individual needs of clients (in particular the needs of vulnerable clients).
- 3.3 You must ensure that complaints are dealt with promptly (within a maximum 8 week period from date of receipt) openly and fairly and that appropriate provisions for redress exist.
- 3.4 You must advise new clients in writing when instructions are first received of:
 - (i) An estimate of fees / details of charging structure and where that estimate subsequently becomes inaccurate or that charging structure changes provide an updated estimate / notice of revised charges.
 - (ii) The right to complain.
 - (iii) How to complain i.e. first-tier complaints handling procedure.
 - (iv) The period within which you will deal with complaints under first-tier complaints handling procedure.
 - (v) The clients right to refer their complaint to the Legal Ombudsman in the event the matter is not resolved to the satisfaction of the client or the matter has not been resolved within 8 weeks of the complaint being made.
 - (vi) Applicable time limits for referring the complaint to the Legal Ombudsman.
 - (vii) Legal Ombudsman contact details.
- 3.5 You must identify and rectify any systemic client complaint issues, taking steps to do so promptly upon discovery.
- 3.6 You must not accept client money save for disbursements and payment of your proper professional fees.
- 3.7 You must provide required documentation and information on an application for a practising certificate and in the event of any complaints investigation conducted by CLSB or the Legal Ombudsman.
- 3.8 You must ensure that you maintain professional indemnity insurance which complies with the requirements of the CLSB prevailing at the time and promptly provide

evidence of that insurance cover if requested by a client, CLSB, ACL or Legal Ombudsman.

PRINCIPLE 4: Provide a good quality of work and service to each client

- 4.1 You must ensure that you only undertake work for which you are properly qualified.
- 4.2 Work must be undertaken with due skill, care and attention, with proper regard for the technical standard expected of you. If you do not have the knowledge, skills or experience to undertake the work you must decline it.
- 4.3 You must ensure that you carry out your professional work in a timely manner with proper regard for standards of professional service and care.
- 4.4 You must keep your professional knowledge up to date by undertaking relevant training in accordance with current Practising Rules.
- 4.5 You must keep the client regularly informed as to the progress of the work and keep accurate records of that work.
- 4.6 You must ensure that clients are able to make informed decisions about the work being undertaken on their behalf and the cost of that work.

PRINCIPLE 5: Deal with the regulators & Legal Ombudsman in an open & co-operative way

- 5.1 You must be open, honest and co-operate in your dealings with the CLSB, ACL, other regulators and the Legal Ombudsman responding to any requests promptly and fully within 14 calendar days.
- 5.2 You must promptly notify the CLSB of any breach of this Code by yourself or other Costs Lawyers.
- 5.3 You must not take any action to prevent anyone from reporting you to the CLSB or Legal Ombudsman.

PRINCIPLE 6: Treat everyone with dignity and respect

- 6.1 You must treat all clients, staff or third parties with dignity and respect. You should encourage equality of opportunity and must not unlawfully discriminate against them, either directly or indirectly, victimise or harass them on the grounds of age, disability, race, colour, ethnic or national origin, sex, gender reassignment, pregnancy and maternity, marital status (including civil partnerships), sexual orientation, religion or belief.
- 6.2 You must have / adhere to a written policy which prevents discrimination and harassment and must investigate any allegation of discrimination, victimisation or harassment and take disciplinary action where appropriate.
- 6.3 You must make reasonable adjustments for those with a disability to ensure they are not at a disadvantage in comparison with those without disabilities.

PRINCIPLE 7: Keep your work on behalf of your clients confidential

- 7.1 You must keep the affairs of clients or former clients confidential unless disclosure is required or allowed by law or if the client consents in writing to disclosure, having had the consequences of such consent explained to them. You must ensure that your

client is able, in your reasonable opinion, to give informed consent to waiving their right to confidentiality.

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