

Company number: 04608905

Costs Lawyer Standards Board Ltd
Wednesday 10 April 2013 at 9.30 am
The Studio, 7 Cannon Street, Birmingham

Present: Graham Aitken (Chair)
Phil Bellamy
Richard Allen
Marc Brooks
Gillian Milburn

In attendance: Lynn Plumbley (Chief Executive)

1. Quorum, Apologies & Declarations of Interest

The Chair welcomed new board member Gillian Milburn. The meeting was declared quorate and there were no declarations of interest.

2. Minutes

The minutes of the meetings held on 9 January 2013 and 1 March 2013 were approved as being a true record for signing, there were no matters arising.

3. Finance

The board reviewed and noted the Q1 financial report and was also afforded the opportunity to review the 2013 book keeping record to 31 March 2013. The board agreed that the 2012 accounts (as prepared by agg accountants) for signing and filing.

4. Risk Management

The risk matrix dated 9 January 2013 was reviewed and revised.

5. Review of Insurers Claims Experience

The board noted the claims experience of RSA, Hiscox and claims managed by broker Kerry London. It was noted that the main risks therein had already been recorded on the risk register, the board also felt this historical information endorsed its view that the profession was low risk to the consumer.

6. Insurance for the Profession

It was noted ACL currently worked with broker Kerry London in providing a route of access to insurance for the profession. After consideration of the two broker approaches it was agreed that this was not an area CLSB would pursue further.

7. ACLT Update

The board noted that intake for the Costs Lawyer qualification had been suspended for a year whilst the education programme was reviewed and revised. The Aims & Objectives document was noted but could not be approved due to late/part submission by ACLT of Schedule 2 information. Lynn advised she rather than ACLT was now working on Schedule 2 as a matter of priority.

8. 2013 Practising Certificates

The board noted 568 Costs Lawyers had applied for a 2013 practising certificate and that the separation of fees from the ACL had not therefore had any impact on practising certificate numbers.

9. Schedule of Practising Certificate Terminations

The board noted this schedule and reasons for terminations since 31 October 2011 and that it did not appear to evidence any pattern or risk.

10. Field Fisher Waterhouse Solicitors and Potential Conflict of Interest

The board noted FFW, who had been instructed by CLSB on an on-going basis for the last 2 years had joined the panel of Solicitors advising the LSB and that CLSB was only advised of this after the event. It was agreed this was a concern for CLSB and that FFW would only be instructed going forward on matters where LSB had no conflict with CLSB e.g. guidance note drafting.

11. Guidance Note Review

The CFA guidance note was approved for issuing. The draft ATE guidance note was revised before approval was given following changes at the FSA and rules on ATE insurance premiums no longer being recoverable from 1 April 2013. A response to the LSB on DBA's was considered and it was agreed that a DBA guidance note would be drafted once the position was clearer.

12. Diversity Survey (2013)

The board noted the outcome of this survey (Costs Lawyers & Trainee Costs Lawyers) and that the data did not evidence any trends, concerns or risks.

13. Client Instruction Analysis (2013)

The board noted the outcome of this evaluation, taken from information received on 2013 practising certificate application forms and that it did not evidence any trends, concerns or risks.

14. Legal Aid Analysis (2013)

The board noted the outcome of this evaluation taken from information received on 2013 practising certificate application forms. The analysis identified 108 Costs Lawyers engaged in Legal Aid work of more than 50% who would be affected therefore by recent legal aid reforms.

15. The Profession Analysis (2013)

The board noted the outcome of this evaluation taken from information received on 2013 practising certificate application forms. The board was interested to note the number of

Costs Lawyers working under self-employed status (98 as sole practitioners, 84 in costs law firms) as opposed to 187 employed on a PAYE basis in a costs law firms.

16. 2013 Costs Lawyer Register

It was noted the register of Costs Lawyers with a 2013 practising certificate had been sent to all Costs Judges with a covering letter, highlighting CLSB concerns of those practising outside of regulation and the offence of “pretend to be entitled” under the Legal Services Act 2007.

17. Review of Statement of Rights (SOR)

The current SOR was reviewed and it was agreed to seek authority to include costs budgeting/management under the right to litigate. It was noted comments on the appropriateness of the SOR was awaited from the new ACL Council and that once received, Counsels advice would be obtained before an application would be made for amendment.

18. CLSB Submission on LSB Draft Business Plan 2013/14

The board noted the contents of the letter dated 1 March 2013, as approved by the Chair prior to submission.

19. Practising Rule Review

The rules were reviewed following contact from an Insolvency Practitioner on the fairness to revoke a practising certificate in the event a Costs Lawyer enters into an IVA. It was agreed that there was no basis for a rule change but that in such circumstances a Conduct Committee could be convened to consider fairness.

20. LSB Appearance Before Justice Select Committee

The board was advised this attendance had been brought to the attention of the CLSB not by the LSB but by the MOJ. The board noted this attendance and the line of questioning put to the LSB which echoed certain concerns CLSB had about the LSB.

21. Entity Regulation Update

The board noted a locum had been employed 2 days a week to assist with this project. After consideration of the cost and onerous nature of ABS for sole practitioners which was likely to put the future of the profession in difficulties, CLSB agreed to proceed with entity regulation only on the basis sole practitioners would continue to be regulated by CLSB via their practising certificates. CLSB would request a meeting with LSB with ACL in attendance to discuss CLSB concerns about their intransigence on the problems being faced by the “one size fits all” approach to legal regulation being applied.

22. Post Legislative Review

The board noted the MOJ had initiated a review of the Legal Services Act 2007 and that CLSB had been given a short timeframe to comment. The board noted the letter of CLSB dated 2 April 2013 as approved by the Chair before submission. It was agreed an addendum would also be filed on ABS and its implications to the costs law profession.

23. AOB

The board noted:

- The Legal Ombudsman had received no complaints against Costs Lawyers since 31 October 2011.

- The open letter of Michael Bacon, ACL President to the ACL Council in the April edition of the Costs Lawyer Journal.
- The ACL Council election outcome and that Murray Heining had been elected as the new Chair.
- That LSB had refused CLSB consent to register the names Legal Services Standards Board Ltd, Legal Services Regulatory Board Ltd and Legal Services Regulator Ltd.
- The new Higher Apprenticeship in Legal Services.
- The LSB report on equality of pay in legal services.
- That the LSB had recommended, to the surprise of the CLSB, that only the drafting of wills be a reserved legal activity and not the administration of estates.
- That CLSB had assisted the SRA with research on “policing the perimeter”.

24. Date & Time of Next Meeting

Wednesday 10 July 2013 @ 10.30am, The Studio, 7 Cannon Street, Birmingham.

There being no further business, the Chair declared the meeting closed.

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Chairman