

The Costs Lawyer Standards Board's (CLSB) regulatory standards action plan

LSB regulatory standards requirement ¹	CLSB actions	Review date(s) ²
Outcomes-focused regulation		
CLSB has high quality, up-to-date and reliable evidence on what legal services consumers need and how they use the services.	<p>1. <i>LSB asked all regulators to consider what activities they could undertake to contribute to this requirement. CLSB's response:</i></p> <p>1.1 This links to actions under 2, 3 & 4. 1.2 Collected data will continue to be submitted to the CLSB board who will analyse and risk assess. 1.3 Review type and volume of data collected and revise CLSB's collection process and objectives to a more consumer centric basis.</p>	At quarterly CLSB board meetings
CLSB has effective engagement with consumers.	<p>2. <i>LSB asked CLSB to consider how it could demonstrate improved understanding of the needs of consumers of costs lawyers' services. CLSB's response:</i></p> <p>2.1 Based on information given by Costs Lawyers undertake an analysis of lay/solicitor instruction during 2015. 2.2 Revise format of document (1) above to show percentage change from previous year and overall change since CLSB data collection began. 2.3 Based on information given by Costs Lawyers undertake an analysis of legal instruction during 2015 and how this has changed since data was collected by CLSB. 2.4 Revise format of document (3) above to show percentage change from previous year and overall change since CLSB data collection began. 2.5 Compile a document which states what services a Costs Lawyer offers. 2.6 Approach Legal Choices editorial panel regarding a questionnaire pop up under the Costs Lawyer section of the website. 2.7 Approach ACL regarding a questionnaire pop up under their website. 2.8 Carry out an annual review of all Tier 1 and 2 complaints to identify customer need issues. 2.9 Initiate targeted customer feedback activities focussed on most vulnerable consumer sectors.</p>	At quarterly CLSB board meetings

¹ Please refer to *The Costs Lawyer Standards Board's regulatory standards report 2015/16*, available at www.legalservicesboard.org.uk.

² *LSB and CLSB have agreed that CLSB will meet LSB to update on progress against the action plan in December 2016. CLSB will update LSB before then if there are any significant deviations from the plan.*

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	<p>2.10 “Consumer Focus” will become a standard Board agenda item.</p> <p>3. <i>LSB asked CLSB to undertake the planned pilot of the new method of collecting information on consumer needs. CLSB’s response:</i></p> <p>3.1 Continue with planned pilot: Issue a questionnaire (to be returned direct to CLSB) to all Costs Lawyers with a request they send it to their clients.</p> <p>3.2 Review findings with a view to ensuring adequate data is held to establish needs for lay and informed consumers.</p> <p>4. <i>LSB asked CLSB to review its consumer engagement strategy in light of LSB’s comments and consider and demonstrate how CLSB’s regulatory approach aligns with section 8(4) of the Legal Services Act 2007 (which states that the needs of existing and potential consumers should be considered). CLSB’s response:</i></p> <p>4.1 Strategy will be continually monitored and will be revised in the event of identifiable consumer need.</p> <p>4.2 See 3.2 above.</p> <p>4.3 Consider best practice by other ARs in identifying “potential” consumers and agree an engagement strategy accordingly.</p>	<p></p> <p>At quarterly CLSB board meetings</p> <p>At quarterly CLSB board meetings</p>
<p>CLSB can demonstrate that outcomes are being achieved.</p>	<p>5. <i>LSB asked all regulators to: consider best practice from other regulatory regimes to find a mechanism to demonstrate that regulation is delivering the outcomes consumers expect and rules are having the desired impact. CLSB response:</i></p> <p>5.1 It was agreed by all members of the Regulators Forum at a meeting held on 12 May that the forum would consider where the action might be undertaken as a joint initiative with a view to delivering a consistent and cost effective outcome.</p> <p>5.2 Consider best practice by other ARs to identify mechanisms to demonstrate regulation is delivering the outcomes consumers expect and are having the desired impact.</p> <p>6. <i>LSB asked CLSB to review its objectives to ensure that they are appropriately focused on its role and on promoting the regulatory objectives (as required under section 28 of the Act). CLSB response:</i></p> <p>6.1 Reference to “protecting the status and interests of Costs Lawyers” to be removed from the CLSB business plan.</p> <p>6.2 CLSB objectives will be reconsidered by the CLSB board in July 2016 when the draft 2017 business plan is considered.</p>	<p>At quarterly CLSB board meetings</p> <p>At quarterly CLSB board meetings</p>

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CLSB reviews and updates arrangements based on the evidence gathered.	<p>7. LSB asked all regulators to consider what activities they could undertake to contribute to this requirement. CLSB response:</p> <p>7.1 It was agreed by all members of the Regulators Forum at a meeting held on 12 May that the forum would consider where the action might be undertaken as a joint initiative with a view to delivering a consistent and cost effective outcome.</p>	At quarterly CLSB board meetings
	<p>8. LSB asked CLSB to consider how its regulatory rules could be evaluated (in alignment with best regulatory practice). CLSB response:</p> <p>8.1 CLSB rules will be continually monitored against best practice and will be revised in the event of identifiable need.</p>	At quarterly CLSB board meetings
Risk		
CLSB has formal, structured, transparent, evidence-based approaches to the collection, identification and mitigation of current and future risks which inform all regulatory processes.	<p>9. LSB asked CLSB to assess whether it is using the information it holds appropriately and whether it is collecting the right information to facilitate analysis of future risks to develop and strengthen its approach to risk management. CLSB response:</p> <p>9.1 Under 2016 practising certificate applications, the CLSB re-introduced the question on first-tier complaints against those individuals it regulates and will continue with the question going forward.</p> <p>9.2 Undertake an analysis of LSB assessments of the CLSB in relation to risk management.</p> <p>9.3 Contract with a risk specialist to consider and advise on a revised approach.</p> <p>9.4 Establish a Risk Committee.</p>	At quarterly CLSB board meetings
	<p>10. LSB asked CLSB to widen its evidence base to both inform CLSB's assessment of the risk posed by its regulated community and help develop a more proactive approach to risk identification and mitigation. LSB said that in strengthening its evidence base, CLSB should consider developing its understanding about the needs of consumers and those it regulates and what further evidence it could collect either from other organisations or costs lawyers. CLSB response:</p> <p>10.1 See 9.3 above.</p> <p>10.2 Continue to analyse client feedback via survey button on CLSB website.</p> <p>10.3 Allocate a risk score to all Costs Lawyers and focus activity to higher risk categories.</p>	At quarterly CLSB board meetings

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	<p>10.4 See responses in “outcome focussed regulation” section regarding data collection and consumer engagement.</p> <p>11. <i>LSB asked CLSB to review its risk register in light of the concerns highlighted by LSB in CLSB’s performance report. CLSB’s response:</i></p> <p>11.1 Lay directors and CEO to agree action plan to refocus risk strategy.</p> <p>11.2 Revise risk register to be consumer centric.</p> <p>11.3 Undertake an analysis of how other approved regulators under the LSA address risk.</p> <p>11.4 Contract with a risk specialist to advise on a revised approach.</p>	At quarterly CLSB board meetings
CLSB focuses risk analysis on vulnerable consumers and consumer detriment.	<p>12. <i>LSB asked CLSB to review its vulnerable consumers’ guidance in light of LSB comments. CLSB’s response:</i></p> <p>12.1 Review guidance note and reissue.</p> <p>13. <i>LSB asked CLSB to review client care guidance in light of the outcome of the joint regulators work on client care letters. CLSB’s response:</i></p> <p>13.1 Review once the outcome of the joint regulators group consumer engagement project on client care letters has been completed.</p>	At quarterly CLSB board meetings
CLSB can demonstrate that outcomes for risk are being achieved.	<p>14. <i>LSB asked all regulators to develop a way to monitor and assess whether risk-based approach is working in practice and achieving the expected outcomes. CLSB’s response:</i></p> <p>14.1 Risk will remain a standard agenda item at each quarterly board.</p> <p>14.2 Establish a Risk Committee.</p> <p>14.3 Contract with a risk specialist to make recommendations.</p>	At quarterly CLSB board meetings
Supervision		
CLSB has a supervision policy that is carried out with reference to identified risks and is underpinned by an evidence base.	<p>15. <i>LSB asked CLSB to develop and publish an evidence-based supervision policy that incorporates the use of a wider range of supervisory tools as necessary. CLSB’s response:</i></p> <p>15.1 Establish a complaints monitoring schedule, which looks at first-tier and second-tier complaints against individual Costs Lawyers to identify potential additional supervision requirements.</p> <p>15.2 Consider historical insurance claims as triggers for additional supervision.</p>	At quarterly CLSB board meetings

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	15.3 Review CPD self-certification as source of potential supervision requirements. 15.4 Investigate options for “desk based” supervisory techniques to support objectives. 15.5 Refocus supervision policy to target highest risk categories as per 10.3 of the “Risk” section. 15.6 Revise Supervision Policy as appropriate. 15.7 Publish Supervision Policy on CLSB website.	
CLSB has a range of supervisory tools and capacity and willingness to use them.	16. <i>LSB asked CLSB to review other regulators’ approaches to supervision to see if there are approaches CLSB can adopt or adapt in a proportionate manner. CLSB’s response:</i> 16.1 Consider best practice by other ARs on supervision. 16.2 Revise Supervision Policy as a result of 16.1 as appropriate.	At quarterly CLSB board meetings
Enforcement		
CLSB has published policies and guidance that enable others to understand the regulator’s criteria for taking or not taking actions.	17. <i>LSB asked CLSB to consider making decision-making guidance for the Conduct Committee available to assist decision-makers and better enable the complainant and regulated community to understand how a decision is made. CLSB’s response:</i> 17.1. Undertake an analysis of what guidance other ARs provide and draft a guidance note to support the process note taking procedure already in place for use by the Committees.	At quarterly CLSB board meetings
	18. <i>LSB asked CLSB to consider separating its published policy on ‘Expectations of a complainant and Internal Complaint Handling’ into two documents, setting out in one what is required of the complainant in terms of the enforcement process and in the other, the behaviours that are not acceptable to the CLSB, in order to be more consumer friendly. CLSB’s response:</i> 18.1 Separate documents will be produced and published on the CLSB website.	At quarterly CLSB board meetings
	19. <i>LSB asked CLSB to consider publishing the findings and outcomes of all disciplinary cases. CLSB should also name the professional if a finding is made against him or her, unless it involves matters relating to the health of individuals. CLSB’s response:</i> 19.1 <i>Notes: All CLSB findings and outcomes have been published since inception of the CLSB on 31 October 2011. A policy has been in place since 2014 which allows a Conduct Committee/Conduct Appeal Committee to exercise discretion in publically naming a Costs Lawyer in certain circumstances e.g. health.</i>	

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	<i>As the CLSB website evidences, Costs Lawyers subject to disciplinary proceedings have been named where the Conduct Committee/Conduct Appeal Committee have not considered there to be a just reason not to do so.</i>	
Capability and capacity		
CLSB has clear and consistent leadership that ensures the whole organisation has a strong consumer focus.	<p>20. LSB asked to CLSB to consider the contents of the regulatory standards performance report and thematic report and reflect the recommendations of the reports in approach. CLSB's response:</p> <p>20.1 A refocused "Consumer" centric approach has been addressed under previous sections.</p>	At quarterly CLSB board meetings
CLSB has regulatory budgets and staffing set at appropriate levels for the risks associated with the market.	<p>21. LSB asked CLSB to consider the contents of LSB regulatory standards performance report and thematic report and reflect the recommendations of the reports in approach. CLSB's response:</p> <p>21.1 Contract with a solicitor to work on a needs be basis as support to the CEO and the Board.</p> <p>21.2 Contract a risk specialist to work on a needs be basis as support to the CEO and the Board.</p> <p>21.3 Consider contracting a statistical analyst to work on a needs be basis to maximise benefit of the enhanced data availability.</p>	At quarterly CLSB board meetings
CLSB has a culture of transparency and improvement.	<p>22. LSB asked CLSB to consider publishing more information about CLSB's approach to regulation. For example, CLSB could consider publication of Board papers and consider reviewing approach to drafting Board minutes to see if they could provide more detail. CLSB's response:</p> <p>22.1 Board minutes to become more "meeting notes" in style to provide more information.</p> <p>22.2 The CLSB states it will provide a paper on request, subject to confidentiality. Non-confidential board papers already published include minutes, accounts, breakdown of CLSB operating costs, business plan, codes/rules/procedures, consultation papers, diversity survey outcomes. The CLSB will undertake to establish the approach of other ARs.</p> <p>22.3 Reference to this action plan will appear in the 2017 Business Plan.</p>	At quarterly CLSB board meetings
CLSB has management and governance processes which are capable of scrutinising the performance of the regulator.	<p>23. LSB asked CLSB to consider contents of LSB regulatory standards performance report and thematic report and reflect the recommendations of the reports in approach. CLSB's response:</p> <p>23.1 "Capability/Capacity" will become a standard agenda item for all Board meetings.</p> <p>23.2 Implement an annual "Board Governance" review.</p>	At quarterly CLSB board meetings

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