

**Application to the Legal Services Board (“LSB”)
S.51 Legal Services Act 2007**

Applicant: Costs Lawyer Standards Board (“CLSB”)

1. Application

This application is made for LSB approval of the proposed Costs Lawyer practising certificate fee 2013 (“PCF 2013”) in the sum of £250.00.

2. Enclosures with this application

- (i) Consultation paper
- (ii) Consultation response resume
- (iii) CLSB budget for 2013
- (iv) CLSB accounts 2011

3. Separation of fees for regulation (CLSB)/representation (ACL)

For 2013 CLSB & ACL will be invoicing separately for their respective fees. This will now provide Costs Lawyers with choice i.e. whether they are a member of the representative body as well as being a Costs Lawyer with a current practising certificate. Through sound financial management CLSB has managed to keep its fee for a practising certificate at the same level for 2013 as it was for 2012 i.e. £250.00.

4. Income for 2013

For the purposes of this application CLSB has worked on the same Costs Lawyer numbers for 2013 as it had registered for 2012 i.e. 565. It is yet to be seen whether the separation of fees for representation and regulation and other recent factors affects the numbers of applicants CLSB receives for 2013.

CLSB is in the process of going out to consultation on its proposal to regulate Trainee Costs Lawyers with effect from 1 January 2013. If successfully then this will provide CLSB with additional income of approximately £20k per annum towards costs such as the independent audit of the Costs Lawyer qualification.

The PCF 2013 will allow CLSB to achieve the following regulatory objectives:

- (a) protect and promote the public interest; and
- (b) support the constitutional principle of the rule of law; and
- (c) improve access to justice; and
- (d) protect and promote the interests of consumers; and
- (e) promote competition in the provision of services; and

- (f) encourage an independent, strong, diverse and effective legal profession; and
- (g) increase public understanding of the citizen's legal rights and duties; and
- (h) promote and maintain adherence to the following professional principles in that:
 - (i) authorised persons should act with independence and integrity; and
 - (ii) authorised persons should maintain proper standards of work; and
 - (iii) authorised persons should act in the best interests of their clients; and
 - (iv) persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice; and
 - (v) the affairs of clients should be kept confidential.

The PCF 2013 will enable CLSB to meet its objectives which include, inter alia:

- Setting and maintaining professional standards within the profession.
- Ensuring statutory compliance as an Approved Regulator under delegated authority.
- Managing risks within the profession.
- Gathering and analysis statistical information within the profession.
- Investigating the possibility of entity regulation.
- Implementing a Mark of Regulation under licence.
- Increasing awareness on the difference between Costs Lawyers with a current practising certificate and Law Costs Draftsmen.
- Increasing the number of Costs Lawyers with a practising certificate.

5. The Costs Lawyer practising certificate

The PCF 2013 will cover the period 1 January 2013 inclusive to 31 December 2013 inclusive. CLSB will issue a sealed practising certificate to all successful applicants and their names will then appear on the public access register of Costs Lawyers with a current practising certificate.

A Costs Lawyer with a 2013 practising certificate issued by CLSB will be authorised to undertake the following reserved legal activities during that year:

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

6. Complaints

From 31 October 2011 to 31 December 2011, CLSB received no complaints. From 1 January 2012 to date one rule breach has been considered by a CLSB Conduct Committee, another is under investigation.

7. Practising Fee Rules 2009

Rule	Description	Observation/submission of CLSB
C.5	Permitted purposes	All monies raised by CLSB through the PCF 2013 will be used for permitted purposes only.
D.10 (a)-(d) inc.	Transparency	<p>CLSB went out to consultation with Costs Lawyers on the proposed PCF 2013 on 7 August 2012 with a closing date of 7 September 2012. The consultation did not provoke a great deal of response (see consultation response report). CLSB believes this is because the fee will remain the same for 2013 as it was for 2012. Further the consultation paper was posted on the CLSB website.</p> <p>ACL denied CLSB's request to print the consultation paper in the Costs Lawyer Journal issued beginning September 2012.</p> <p>CLSB had intended to consult with Trainee Costs Lawyers on the proposed PCF 2013, as it had on the PCF 2012 however ACL would not allow CLSB to do so (ACL holds their contact details).</p>
D.10(e)	Explanatory notes	As with 2012, these will be printed on the reverse of the Costs Lawyer Practising Certificate Fee Note.
D.11(b)	Budgets	CLSB believes that the proposed PCF 2013 is fair and reasonable and will provide CLSB with adequate funding to provide for a regulatory regime that is proportionate, accountable, consistent, transparent and targeted (see para 3 above).
D.11(c)	Breakdown of fee	<p>Under the consultation process, the consultees were advised the PCF 2013 would be divided as follows:</p> <p>£200.00: Practising Certificate & regulation (for retention and use by CLSB)</p> <p>£50.00: Provision for LSB/LeO levy</p>
D.11(d)	Contingency funds	CLSB has included a contingency sum in its 2013 budget of £5k. At year end 2011 CLSB had a reserve fund of £35k. At the time of submitting this application that reserve fund stood at £55k (excluding paid up share capital). CLSB may also seek additional funding from ACL if required.

D.11(e)	2012 spend on permitted purposes	<p>The following are approximate estimated spends during 2012:</p> <p><u>Rule 6(a)</u>: 25% : CLSB set and maintained standards in education and training by way of rules and working with the Authorised Study Provider.</p> <p><u>Rule 6(b)</u>: 5%: CLSB collected £50.00 towards payment of the 2012 levy.</p> <p><u>Rule 6(c)</u>: 20%: CLSB responded to consultations and otherwise on matters affecting the Costs Lawyer profession.</p> <p><u>Rule 6(d)</u>: 0%: CLSB did not involve itself in this area of work.</p> <p><u>Rule 6(e)</u>: 0%: CLSB did not involve itself in this area of work.</p> <p><u>Rule 6(f)</u>: 25%: Continued interaction and promotion of relations with LSB, LeO, ACL, government bodies, other AR's etc.</p> <p><u>Rule 6(g)</u>: 25%: Increased communication on the Costs Lawyer profession and consumer rights.</p>
D.11(f)	Regulatory & diversity impact assessment	The CLSB budget has taken into account issues relating to equality & diversity, including the proposed 2013 survey and any impact assessment.

8. Consultation

Further to notes under D.10 (transparency) above, CLSB did not consult with non-commercial bodies for the following reasons:

- (i) The proposed fee for a practising certificate has not increased from 2012 so there was no change impact to establish/assess.
- (ii) CLSB believes in excess of 90% of Costs Lawyer instructions are from professional informed clients e.g. Solicitors. This percentage figure will be established more accurately by survey during 2013.

9. In conclusion

Costs Lawyers practice in a wide variety of scenarios from Costs Law firms, Solicitors firms, sole practitioners, insurance companies, banks etc. During 2013, CLSB will be undertaking work to better identify how Costs Lawyers are employed and what percentage of their clients are litigants in person or informed clients. CLSB will also be introducing its Mark of Regulation under licence to further improve the standing of those Costs Lawyers with a current practising certificate. The proposed PCF 2103 will fund this work and much more.

10. Request for approval of Costs Lawyer PCF 2013

CLSB respectfully requests LSB approval of the Costs Lawyer PCF 2013 in the sum of £250.00.

11. Contact

Any request for clarification on this application should be addressed to:

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Dated: 10 September 2012