

LSB assessment of market transparency action plan

Costs Lawyer Standards Board (CLSB)

Date action plan was published: 29 June 2017

The action plan is published [here](#).

LSB assessment: SUFFICIENT.

1. CLSB's operating context is a key factor in our assessment. CLSB is not an entity regulator.¹ It regulates 622 individual costs lawyers; 246 of these are employed by firms regulated by the SRA and so will be subject to the transparency measures by this regulator. Data provided by the CLSB shows that three quarters of costs lawyers receive instructions from the legal profession only. The remaining quarter receive some instructions from lay clients and other sources, although overall lay clients represent a small proportion of all instructions. By contrast, the CMA's recommendations were focused primarily on the retail market. Therefore, we are satisfied that it is appropriate for the CLSB to take more limited action compared to some of the other legal services regulators, although well-targeted activity could make a positive contribution to improving market outcomes for those within scope.
2. In this context, it is encouraging that CLSB intends to continue to engage with the work to improve transparency. In particular, we welcome its collaboration to date with the other regulators on joint initiatives, such as the development of Legal Choices and exploring the feasibility of creating a single digital register.
3. We highlight the following issues in relation to the action plan:
 - We encourage CLSB to seek to understand current charging structures and existing levels of price transparency among the relevant costs lawyers it regulates. The web sweeps carried out by some other regulators show how this can be achieved at little financial cost. Such a

¹ CLSB's code of conduct covers the behaviours of individuals working in entities, even though it has no remit over the business activities of these entities. For example, the code of practice includes obligations on the information that should be given to clients when instructions are first received.

step would help CLSB to decide whether any regulatory measures are necessary and if so where these are best targeted.

- The action plan does not differentiate clearly between pre engagement information (available to a consumer before engaging a costs lawyer) and information, such as client care letters, provided to consumers at the point of engagement. Information of the first type is the main focus of those CMA recommendations aimed at helping consumers to compare and select the best provider for their legal needs.
- CLSB plans to produce voluntary guidance on transparency, rather than introduce mandatory requirements. Given the profile of CLSB's regulated community we consider this is proportionate at this stage, but we would ask CLSB to keep this under review.
- We encourage the CLSB to consider the LSCP information remedies principles in its work in this area. These principles highlight areas to be aware of when developing information remedies which are helpful to consumers.
- The action plan refers to client surveys which have been created by the CLSB and are available to consumers on its website. CLSB encourages costs lawyers to use this survey. However, the CMA's report focuses on independent feedback platforms such as customer review websites. Both client surveys and feedback platforms are valuable, but they contribute in different ways. We would ask the CLSB to revisit this issue and consider providing guidance for costs lawyers on how best to engage with such platforms.
- Our suggested template asked regulators to provide information against a number of areas. The action plan is silent on options to enhance transparency around the quality of services provided by costs lawyers, such as publication of first-tier complaints or disciplinary information. The CMA's recommendations envisage that such information might also be integrated into the published register of costs lawyers on CLSB's website. As we set out in our document explaining how we will assess action plans, if this is not contemplated, we would ask the CLSB to give reasons why action is not planned and explain the governance process used to reach this decision.
- The action plan commits CLSB to 'assisting with implementation and funding [of Legal Choices] where considered appropriate by the CLSB board'. This language is less definite than the firm commitments provided by other regulators in their action plans. Since a costed three-year plan for

Legal Choices has been developed we encourage the CLSB to make a clearer commitment to this initiative.

- The action plan states that the CLSB is 'monitoring' the work on developing a joint register. Since the recommendation is limited to considering the feasibility of such an initiative, rather than committing the regulators to delivering it, we hope that the CLSB will consider pro-actively the feasibility of this initiative.