

## **Consultation by the Costs Lawyer Standards Board (“CLSB”)**

**Issued: 1 August 2018**

### **Proposed amendment to Costs Lawyer Code of Conduct**

#### **1. Attachment**

Attached to this consultation paper is the current Costs Lawyer Code of Conduct dated 26 March 2014 (“Code of Conduct”) with the proposed amendment in red text.

#### **2. Introduction**

The regulatory objectives of the CLSB are set out under S.1 of the Legal Services Act 2007 and include protecting the consumer and protecting the public interest.

The act of “cold calling” is considered to be the solicitation of business from potential customers who have had no prior contact with the person conducting the call in an attempt to convince the person called to use their services.

An unsolicited approach, by way of phoning, writing, personal attendance or otherwise:

- Invades privacy.
- May put undue pressure on consumers.
- Represents a particular risk to vulnerable consumers.

The CLSB is of the view such conduct by a Costs Lawyer is contrary to principle 1 of the Code of Conduct (1.1 to act professionally and with integrity and 1.6 not to act in any way which is likely to diminish public trust in the profession) and the consumer is protected as a result.

On investigation, it was noted the regulators of “primary” legal services providers (Solicitor, Trade Mark Attorney, Patent Attorney and Licensed Conveyancer) have explicitly addressed unsolicited approaches in their regulatory arrangements. The regulators of “secondary” legal services providers (Barrister, Costs Lawyer) did not as it was never anticipated those professions, in their secondary capacity, would ever make an unsolicited approach offering their legal services to a private individual. Some Barristers are able to take work directly from the public. Although there are no express provisions that prohibit cold calling, the Bar Standards Board advise (as with the CLSB) they have generic core duties around honesty and integrity and not diminishing the trust and confidence the public places in them, that would apply in such situations.

Two options are open to the CLSB:

- (i) leave the Code of Conduct as is, and continue to rely on principles 1.1 and 1.6; or
- (ii) revise the Code of Conduct to be explicit that such activity is unacceptable.

To ensure the greatest level of private (lay) consumer protection, the CLSB has elected the latter option.

### **3. Proposed amendment**

The CLSB proposes to introduce a new specific code numbered 1.5 under principle 1 of the Code of Conduct (see attached) to read:

*You must not make an unsolicited approach (cold call) by any means to a private individual (lay person) or to domestic premises (unless a business is being conducted from there) in order to publicise your service as a Costs Lawyer or your business.*

The proposed new code has been drafted so as not to restrain trade between Costs Lawyers and businesses e.g. firms of Solicitors and other legal professionals.

### **4. Question asked under this consultation**

We would be grateful if you would respond to the following question:

*Do you agree with the proposed amendment to the Code of Conduct to include the proposed new code at 1.5, yes or no?*

If your answer is no, then it would assist if you would explain your reasons for this with reference to the regulatory objectives.

### **5. How to respond**

The closing date and time for responses is **Midnight on Friday 31 August 2018**.

Responses may be submitted by:

Email: [enquiries@clsb.info](mailto:enquiries@clsb.info)

Post: CLSB, Centurion House, 129 Deansgate, Manchester, M3 3WR

Dated: 1 August 2018