

## Summary of decision

The purpose of this summary sheet is to provide a high level and accessible overview of the Legal Services Board's ("LSB") decision. Readers are recommended to read the formal decision notice below for further detail. **This summary is not and should not be taken as a formal part of the LSB's decision notice under the Legal Services Act 2007 (the "Act").**

The LSB's decision is to grant in full the application from the Costs Lawyer Standards Board ("CLSB") to make changes to its regulatory arrangements in respect of its Practising Rules, which are rules contained in the CLSB Handbook.

The amended rules seek to:

- Remove excessive administrative details relating to practising certificate applications
- Amend the list of events that Costs Lawyers must disclose to the CLSB, in order to remove duplication within the same Rules (this leads to a consequential change in Training Rules to reflect the updated list)
- Introduce a more transparent and accountable decision-making framework for practising certificates
- Remove the need for a separate Practising Certificate Reinstatement Procedure
- Introduce a fairer system of fee reductions for Costs Lawyers returning from parental leave
- Align with other CLSB regulatory arrangements.

Following the assessment of the CLSB's application, the LSB has concluded that the changes do not trigger any of the refusal criteria set out within paragraph 25(3) of Schedule 4 to the Act.

## Decision notice

### The CLSB application for approval of changes to its regulatory arrangements in respect of its Practising and Training Rules.

1. The LSB has granted an application from the CLSB for alterations to its Practising Rules and a consequential minor change to its Training Rules.
2. This decision notice sets out the decision taken, including a description of the changes.
3. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements. The Association of Costs Lawyers (“ACL”) is an approved regulator for Costs Lawyers and the CLSB is the regulatory arm to which the ACL has delegated its regulatory functions.
4. This notice sets out the decision taken, including a description of the changes. The notes at page 6 of this notice explain the statutory basis for the decision.
5. The chronology of the LSB’s handling of this application is set out below.

## Chronology

- The LSB confirmed receipt of an application from the CLSB on 17 June 2020.
- The 28-day decision period for considering the application ends on 14 July 2020.
- This decision notice is effective from 13 July 2020.
- The decision notice will be published on the LSB’s website by 15 July 2020.

## Background

6. The Practising Rules are published in the CLSB Handbook and govern the practice of Costs Lawyers as well as the process relating to practising certificates that are issued or revoked by the CLSB. Under current arrangements, the Rules cover various requirements as regards the practising certificate application process, most of which are administrative by nature, as well as a list of events that an applicant must disclose in their application, relating to their fitness to practise (Rule 4). CLSB set out in its application that in 2019/2020 it reviewed its Practising Rules to ensure these Rules are sufficiently updated. The Practising Rules were last amended in 2014.
7. Following its review, the CLSB is proposing to introduce targeted changes to the current Practising Rules framework to ensure they remain fit for purpose. That is in order to address conflicts and inconsistencies observed within the Rules due to the administrative features of the application process. Further, it is also amending its supporting guidance and developing a Frequently Asked Questions (FAQs) page on the CLSB’s website, to give Costs Lawyers more comprehensive and practical guidance on the various requirements the practising framework imposes.
8. Consultation on the proposed changes took place from 13 February 2020 to 29 March 2020. Respondents were largely in support of the proposals. In April 2020, the CLSB published a consultation outcome report and a copy has been provided with the application. The report

provides details on the CLSB's consideration of consultation responses, including its rationale for revising its proposals or maintaining its existing position.

9. Subject to the timing of the LSB's approval, the CLSB intends to implement the changes with immediate effect from July 2020. This is to allow the launch of the digital practising renewal process for 2021.

## Summary of proposed changes

### *Amending administrative details of the practising certificate process*

10. Under new Rule 2 of the Practising Rules, the CLSB will prescribe when an applicant for a practising certificate must send the application form, fee and information. This would replace more prescriptive existing rules, which set out issues related to form, fee and information required within the rules themselves. CLSB has explained that the existing prescriptive rules do not accurately reflect current practice. It does not believe that this level of prescription is required within the rules. Rather, its proposed changes will allow for additional flexibility to amend the application form and respond to feedback from Costs Lawyers, when needed over time. The CLSB states that this flexibility will allow for reductions to processing costs, a saving which can be passed onto Costs Lawyers by reducing the administrative fee for in-year applications<sup>1</sup>. The additional flexibility also allows for digitisation of the process for practising applications and practicing certificate renewals.<sup>2</sup>

### *List of disclosable events and alteration to the Training rules*

11. The proposed changes reframe the list of disclosable events that a Costs Lawyer should include within a practising certificate application and which might affect their fitness to practice, such as, being subject to any criminal charge, conviction or caution, or an adjudication of bankruptcy.<sup>3</sup> In particular, new Rule 4 introduces a single non-exhaustive list of disclosable events and accordingly removes the confusion of having two separate lists of events within the current Rules. In particular, these requirements:
  - set out that Costs Lawyers need to inform the CLSB of any disclosable events that might have an impact on their fitness to practise;
  - set out the conditions as to when an applicant must disclose the events to the CLSB;
  - explicitly require Costs Lawyers to promptly inform the CLSB about changes to what has previously been submitted, including updating information on the register<sup>4</sup> when necessary.
12. The amended list of disclosable events must also be harmonised within the corresponding wording of the CLSB's Training Rules referring to the list of events that an applicant trainee must

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<sup>1</sup> The administrative fee is expected to fall from £30 to £25. Further rationale is documented within paragraph 5 of the CLSB's application, [https://www.legalservicesboard.org.uk/wp-content/uploads/2020/06/CLSB-rule-change-application-Practising-Rules-17-June-2020\\_compressed.pdf](https://www.legalservicesboard.org.uk/wp-content/uploads/2020/06/CLSB-rule-change-application-Practising-Rules-17-June-2020_compressed.pdf)

<sup>2</sup> CLSB sets out that it is planning to digitalise the process from the 2021 practicing year.

<sup>3</sup> See Annex A for the complete list in new Rule 4.1

<sup>4</sup> That is the register of Costs Lawyers who hold a current Practising Certificate

declare in their application.<sup>5</sup> As a result, CLSB has proposed changes to Rule 5.1 of the Training Rules, so that it has the same list of disclosable events as the amended Practising Rules.

#### *Decision-making framework for applications*

13. New Rules 3.3. and 3.4 of the Practising Rules introduce a decision-making framework that clarifies the criteria against which the CLSB might revoke an application or impose conditions. Notwithstanding this, the CLSB will retain full discretion when determining whether an application is successful or not, after assessing it on an individual basis each time, due to the unique nature of the disclosable events. These changes are set to increase transparency and promote consistency on how the CLSB may decide to refuse an application and/or to set conditions.
14. In order to support this framework, the CLSB developed both guidance and a statement of policy. The guidance establishes the conditions and factors that the CLSB makes when assessing an application to practice. The statement of policy sets out how the CLSB will consider any disclosable events that are declared by an applicant and applies to decision-making under both the Practising Rules and the DR&P. These documents were both submitted as part of the CLSB's application but are not regulatory arrangements that would require the LSB's approval.

#### *Practising Certificate Reinstatement Process*

15. Under the current Rules, the Practising Certificate Reinstatement Procedure supplements the Practising Rules with instructions on how to proceed with in-year applications for practising certificates, for example when returning from a period of parental leave. The CLSB proposes to amend Rule 12, to remove from the practising framework a separate procedural document that relates to in-year applications. The CLSB considers that this document is duplicative and adds nothing that is not already provided for by other regulatory arrangements. The new regulatory arrangements will instead allow Costs Lawyers to rely on the information within the general provisions of the Rules. CLSB considers that this will allow for a more streamlined process which will allow it to reduce the administrative fees charged for this process.

#### *Parental leave*

16. Under the current Rules, the fee dispensation that a Cost Lawyer will receive for parental leave can differ significantly dependent on when their parental leave begins. This is because there is no pro-rata dispensation for a Costs Lawyer intending to take parental leave. The CLSB is proposing to replace the existing provisions with a fee dispensation that will apply for (i) the period of parental leave and (ii) the remainder of the practising year which takes place after the period of leave has ended. As such, there should be greater consistency as anyone who takes parental leave will receive a dispensation for the whole period of their leave.<sup>6</sup>

#### *Alignment with other regulatory amendments*

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<sup>5</sup> The Training Rules were last amended in 2017. These cover the rules that a Trainee Costs Lawyer has to follow when applying for the Cost Lawyer qualification.

<sup>6</sup> The *Parental leave* section of FAQ guidance provides further explanations on how the fee dispensation is calculated, <https://clsb.info/for-costs-lawyers/practising-certificates/>

17. The CLSB proposes changes that, along with enhancing accessibility, will align the Practising Rules with the recent amendments in the CPD Rules and the Discipline Rules and Procedures (DR&P). In particular, as regards the CPD Rules, there will be no detailed reference to the list of requirements for CPD, as this already appears in the CPD Rules. Nevertheless, in the revised Rule 1 of the Practising Rules, there will be a general requirement for compliance with the CPD Rules.

### **Key issues considered in the assessment of the application**

18. We welcome the CLSB's intention to provide a more flexible and proportionate practising framework for Costs Lawyers.

19. We recognise that these changes are being made in part to address concerns identified by the CLSB in its review of the Practising Rules and from feedback it received from Costs Lawyers. We also acknowledge that these changes will allow the modernisation and digitalisation of the practising certificate process, which will also support a reduction in the administrative fee. We also welcome the changes to the method of calculating the fee dispensation for parental leave. We note this as a positive change which allows for a more proportionate and fairer practising fee for Costs Lawyers returning to practice.

20. No issues of significance were raised in our assessment. We note from the application that the CLSB consulted on the changes and there was no opposition raised. We also note that, as a result of a response from one consultee, the wording of Rule 3.6 was amended to confirm that consumer interest is a separate consideration to public interest. The LSB welcomes this clarification, which in turn harmonises with the regulatory objectives at section 1 of the Act.

21. The CLSB plans to review the Rules in the next three to four years in order to assess whether there is evidence that further alterations are needed. It also intends to closely monitor the impact of the digitalisation process, mainly through testing the process in advance. The CLSB will keep the LSB informed as to the outcome of any such reviews and monitoring.

### **Decision**

22. The LSB has considered the CLSB application against the refusal criteria in paragraph 25(3) of Schedule 4 to the Act. It considers that there is no reason to refuse this application and accordingly, the application is granted.

23. **Annex A** and **Annex B** of this decision notice contain a copy of the amended Practising and Training Rules respectively, which have been approved by the LSB (amendments shown in red).

**Matthew Hill, Chief Executive**

**Acting under delegated authority granted by the Board of the Legal Services Board**

*Notes:*

1. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.
2. Paragraph 25(3) of Schedule 4 to the Act explains that the LSB may refuse an application setting out a proposed change to the regulatory arrangements only if it is satisfied that:
  - (a) granting the application would be prejudicial to the regulatory objectives
  - (b) granting the application would be contrary to any provision made by or by virtue of the Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator
  - (c) granting the application would be contrary to the public interest
  - (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator
  - (e) the alteration would enable the approved regulator to license persons under Part 5 [of the Act] to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or
  - (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.
3. The designation requirements referred to in paragraph 2(b) above are set out in paragraph 25(4) of Schedule 4 to the Act and are:
  - (a) a requirement that the approved regulator has appropriate internal governance arrangements in place
  - (b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and
  - (c) the requirements set out in paragraphs 13(2)(c) to (e) of Schedule 4, namely that the regulatory arrangements are appropriate, comply with the requirements in respect of resolution of regulatory conflict (imposed by sections 52 and 54 of the Act) and comply with the requirements in relation to the handling of complaints (imposed by sections 112 and 145 of the Act).
4. In accordance with paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules<sup>7</sup> about the manner and form in which applications to alter regulatory arrangements must be made. Amongst other things, the rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. They also require applicants to provide information about each proposed change and details of the consultation undertaken.
5. If the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.

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<sup>7</sup> LSB's Rules for applications to alter regulatory arrangements – Version 2 April 2018

[https://www.legalservicesboard.org.uk/what\\_we\\_do/regulation/pdf/New%20folder%20\(2\)/FINAL\\_Rules\\_for\\_applications\\_to\\_alter\\_regulatory\\_arrangements.pdf](https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(2)/FINAL_Rules_for_applications_to_alter_regulatory_arrangements.pdf)

## Annex A

# Practising Rules

### *Introduction*

These Rules govern the practice of Costs Lawyers and the issue and revocation of practising certificates by the Costs Lawyer Standards Board. They replace any other practising rules or regulations previously issued by the Costs Lawyer Standards Board.

### *Interpretation of terms within these Rules*

ACL	Association of Costs Lawyers (named in the LSA as the Association of Law Costs Draftsmen)
Applicant	Any person who applies for a Practising Certificate
Approved Regulator	A body designated as an approved regulator under the Legal Services Act 2007
CLSB	Costs Lawyer Standards Board
Costs Lawyer	A person who holds a current Practising Certificate and is therefore authorised to carry on the following reserved legal activities: <ul style="list-style-type: none"> <li>• The exercise of a right of audience</li> <li>• The conduct of litigation</li> <li>• The administration of oaths</li> </ul>
Conduct Committee	Committee established by the CLSB to consider Costs Lawyer conduct matters, as defined in the Disciplinary Rules and Procedures
CPD	Continuing Professional Development
CPD Rules	CLSB's rules and requirements for continuing professional development that apply at the relevant date
Disciplinary Rules and Procedures	CLSB's rules and procedures governing disciplinary matters that apply at the relevant date
Practising Certificate	Certificate issued annually allowing a Costs Lawyer to practice under the title of Costs Lawyer and carry on reserved legal activities
Prescribed	Prescribed by the CLSB from time to time

Register	The register of Costs Lawyers who hold a current Practising Certificate
Regulatory Arrangements	The CLSB Handbook, including the Code of Conduct, and associated CLSB guidance, policies and procedures
Regulatory Objectives	The objectives listed in section 1(1) of the Legal Services Act 2007
Training Rules	The CLSB's rules and requirements for training and qualification that apply at the relevant date

### ***RULE 1: Right to practise as a Costs Lawyer***

1.1 No person shall be entitled to practise as a Costs Lawyer unless:

- (a) they have qualified as a Costs Lawyer in accordance with the Training Rules;
- (b) they have a current Practising Certificate which has been issued in accordance with these Rules and which is not suspended;
- (c) they comply with CPD requirements set out in the CPD Rules; and
- (d) they have professional indemnity insurance in accordance with Rule 9.

### ***RULE 2: Application for a Practising Certificate***

2.1 An application for a Practising Certificate must be made in the prescribed form, correctly completed, by the prescribed time, and be accompanied by:

- (a) the prescribed fee; and
- (b) any information and documents that may be prescribed or reasonably requested by the CLSB.

2.2 The application will only be made once the CLSB has received all of the payments, information and documents relating to it.

2.3 The applicant must ensure that all details provided in and in connection with the application are correct and complete, and if they become aware of any changes to the information supplied or any inaccuracy or relevant omission, they must notify the CLSB as soon as practicable.

### ***RULE 3: Decisions***

3.1 As soon as reasonably practicable after the receipt of a completed application for a Practising Certificate, the CLSB will notify the applicant of its decision.

3.2 The CLSB will either:

- (a) grant a Practising Certificate (with or without conditions); or
- (b) refuse the application.

3.3 The CLSB will refuse the application if the applicant:

- (a) does not meet, or has not demonstrated that they meet, the criteria in Rule 1 (a), (c) and (d);
- (b) has not complied with Rule 2;
- (c) has failed to pay any fixed costs or financial penalties imposed pursuant to the Disciplinary Rules and Procedures which are due at the date of the application;
- (d) is subject to an order suspending their Practising Certificate; or
- (e) is subject to an order permanently revoking their Practising Certificate.

3.4 The CLSB may refuse the application or impose conditions on the issue of a Practising Certificate if satisfied that:

- (a) the applicant is unsuitable to practice as a Costs Lawyer (or in the case of a condition, is unsuitable to undertake certain activities or engage in certain business or practising arrangements);
- (b) the applicant is putting, or is likely to put, at risk the interests of clients, third parties or the public;
- (c) the applicant will not comply with the CLSB's Regulatory Arrangements (and/or in the case of a condition, will require monitoring in relation to compliance with the CLSB's Regulatory Arrangements); or
- (d) in the case of a condition, the applicant should take specified steps conducive to the Regulatory Objectives; or
- (e) if it is otherwise in the public interest to do so in light of the Regulatory Objectives.

3.5 The CLSB may also impose or amend conditions on a Practising Certificate during its currency on one or more of the grounds set out in Rule 3.4. If the CLSB does so, it must give 21 calendar days' written notice with reasons to the Cost Lawyer in question, unless it is satisfied on reasonable grounds that it is not in the public interest to do so.

3.6 The CLSB may remove a condition on a Practising Certificate if it considers, on written application of the Costs Lawyer or on its own initiative, that there has been a change of circumstances such that it is no longer satisfied that any of the grounds in Rule 3.4 for imposing a condition apply.

3.7 The CLSB must notify its reasons in writing to the applicant in the event the CLSB:

- (a) refuses an application;
- (b) makes a Practising Certificate subject to conditions; or
- (c) refuses to remove a condition imposed on a Practising Certificate.

## ***RULE 4: Disclosure***

- 4.1 An applicant or Costs Lawyer must disclose the events set out in Rule 4.2 to the CLSB:
- (a) when making an application for a Practising Certificate;
  - (b) when making an application to remove a condition on a Practising Certificate (including to remove a condition imposed under an interim suspension order pursuant to the Disciplinary Rules and Procedures); and
  - (c) at any other time as soon as reasonably practicable after the event has occurred.
- 4.2 The events that the applicant or Costs Lawyer must disclose are that they have:
- (a) been subject to any criminal charge, conviction or caution, subject to the Rehabilitation of Offenders Act 1974;
  - (b) been subject to an adjudication of bankruptcy;
  - (c) been granted a debt relief order;
  - (d) entered into an individual voluntary arrangement or a partnership voluntary arrangement;
  - (e) been a director of any company or partner in an LLP or partnership that has been the subject of a winding up order, an administrative order or an administrative receivership, or has otherwise been wound up or put into administration in circumstances of insolvency;
  - (f) been disqualified from being a company director or the trustee of a charity;
  - (g) been the subject of disciplinary proceedings by any regulatory or professional body;
  - (h) been the subject of an adverse order or finding of a civil court or employment tribunal; or
  - (i) become aware of any other matter that might reasonably be expected to be disclosed in affecting their fitness to become or remain a Costs Lawyer.
- 4.3 The applicant must make a prompt report to the CLSB of any material changes of which the applicant is aware to information previously provided to the CLSB by the applicant or on their behalf relating to the applicant or their practice, including any change to the information recorded in the register.

## ***RULE 5: Register of Costs Lawyers***

- 5.1 The Register may be kept in electronic form.
- 5.2 The name of each Costs Lawyer will be entered onto the Register upon:
- (a) the issue of a Practising Certificate; or
  - (b) the expiry of any suspension of a current Practising Certificate.
- 5.3 The Register will contain the following information in respect of each Costs Lawyer:
- (a) name;
  - (b) registration number;
  - (c) date of qualification as a Costs Lawyer;

- (d) details of their practice or employment;
- (e) contact details, including an email address;
- (f) any conditions on their Practising Certificate; and
- (g) any other information required by law or deemed appropriate to be held.

5.4 A short version of the Register which shows the name and registration number of each Costs Lawyer, their date of qualification, the organisation in which they practice (if applicable) and any conditions on their Practising Certificate will be made available in an electronic format for public inspection through the CLSB website. Other information may appear in this public Register from time to time, unless the Costs Lawyer requests that it does not so appear. Disciplinary information relating to a Costs Lawyer may appear in the public Register in accordance with the Regulatory Arrangements.

5.5 If a Costs Lawyer is subject to an order (pursuant to the Disciplinary Rules and Procedures or otherwise) for suspension of their name from the Register, the Costs Lawyer's name will be removed from the Register for the period of the suspension. The Costs Lawyer's name will be reinstated to the Register upon expiry of the suspension if they have a Practising Certificate that is current at that time. If they do not have a Practising Certificate that is current at that time, their name will be reinstated to the Register upon successful application for a Practising Certificate.

5.6 If a Costs Lawyer is subject to an order (pursuant to the Disciplinary Rules and Procedures or otherwise) for permanent removal of their name from the Register, the Costs Lawyer's name will be removed from the Register and will be reinstated only upon successful appeal against the order.

5.7 A Costs Lawyer's name will be removed from the Register if they do not have a current Practising Certificate.

### ***RULE 6: Issue of Practising Certificates***

6.1 The Practising Certificate will be delivered to the address notified to CLSB as the applicant's practising address or to such other address as the applicant shall advise the CLSB in writing and may be delivered either by post or electronically.

6.2 The commencement date for the Practising Certificate will be the date on which it is entered on the Register and will also appear on the Practising Certificate.

6.3 The Practising Certificate will include the following details:

- (a) the full name of the Costs Lawyer;
- (b) the commencement date;

- (c) the date of expiry; and
- (d) any condition to which the Practising Certificate is subject.

6.4 In the event conditions are imposed on a Practising Certificate, a replacement Practising Certificate will be issued stating the condition and the date on which it was imposed.

6.5 A replacement Practising Certificate will be issued in the event a condition expires, is varied, is successfully appealed or is revoked.

### ***RULE 7: Expiration of a Practising Certificate***

7.1 A Practising Certificate will expire:

- (a) on the expiry date stated on the Practising Certificate;
- (b) when a replacement Practising Certificate is issued; or
- (c) on the death of the Costs Lawyer.

### ***RULE 8: Revocation and suspension of a Practising Certificate***

8.1 A Practising Certificate may be revoked by the CLSB if:

- (a) the Costs Lawyer no longer meets the criteria in Rule 1(a), (c) and (d), or it comes to light that the Costs Lawyer did not meet those criteria at the time of applying for the Practising Certificate;
- (b) the Costs Lawyer is subject to an order permanently revoking their Practising Certificate;
- (c) the Costs Lawyer discloses one or more of the events set out in Rule 4.2 to the CLSB and the CLSB is satisfied of one or more of the matters in Rule 3.4 (a), (b), (c) or (e).

8.2 If a Costs Lawyer is subject to an order suspending their Practising Certificate, they will not be able to practise as a Costs Lawyer for the period of the suspension. If the Practising Certificate is still current when the suspension ends, the Practising Certificate will remain valid. If the Practising Certificate has expired during the period of the suspension, the Costs Lawyer must apply for a new Practising Certificate.

### ***RULE 9: Indemnity insurance***

9.1 Costs Lawyers must ensure that they:

- (a) practice with the benefit of professional indemnity insurance of a minimum £100,000 (any one claim) to include loss of documents; and
- (b) on an ongoing basis, assess all financial risk associated with work being undertaken by them and ensure that professional indemnity insurance (including loss of documents insurance) is in place in excess of the minimum set out in Rule 9.1(a) at a level commensurate with that risk.

## ***RULE 10: Appeals***

- 10.1 An applicant or Costs Lawyer may appeal a decision of the CLSB to:
- (a) refuse to issue a Practising Certificate;
  - (b) impose conditions upon a Practising Certificate;
  - (c) refuse to remove a condition imposed on a Practising Certificate; or
  - (d) revoke a Practising Certificate.
- 10.2 An appeal must be made within 21 calendar days of the date on which the Costs Lawyer is notified of the decision they intend to appeal.
- 10.3 The appeal must be in writing to the CLSB and must set out the grounds on which the appeal is being made.
- 10.4 The only grounds for making an appeal are that the decision was flawed because:
- (a) there was a material error of law;
  - (b) there was a failure to take into account material information;
  - (c) the decision was irrational or based on irrelevant considerations;
  - (d) **there was a material failure to follow the Regulatory Arrangements;**
  - (e) the decision was unlawful; or
  - (f) new evidence has been obtained which could not have been made available when the decision was made and which will be material to the decision.
- 10.5 An appeal shall be by way of review by a Conduct Committee and the decision on the appeal shall be made on the papers.
- 10.6 The Conduct Committee may not impose any decision or condition that is harsher than the original.
- 10.7 There is no right of appeal beyond the Conduct Committee.

## ***RULE 11: Notification of decisions***

- 11.1 If it is considered **to further the Regulatory Objectives**, the CLSB may notify any or all of the following about decisions made under these Rules:
- (a) ACL;

- (b)** an Approved Regulator;
- (c)** the Legal Services Board;
- (d)** a law enforcement agency;
- (e)** the Legal Ombudsman.

**Annex B**

# Training Rules

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**29 June 2017 (version 3)**

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**Costs Lawyer Standards Board**



These rules replace all other Training Rules previously issued by the Costs Lawyer Standards Board (CLSB). They aim to ensure those who seek to achieve Costs Lawyer status through the Costs Lawyer qualification (Trainee Costs Lawyer) achieve detailed knowledge of costs law and practice, develop skills of legal analysis, reach a high level of competency and learn valuable transferable skills.

## **1. Accredited study provider**

1.1. Study for the Costs Lawyer qualification may only be undertaken with a provider accredited by the CLSB. The register of Accredited Study Providers (ASP) can be located on the CLSB website at [www.clsb.info](http://www.clsb.info).

## **2. Age requirement**

2.1 The minimum age of an applicant to become a Trainee Costs Lawyer (Applicant) is 18 at the date study will commence with an ASP.

2.2 If requested by an ASP, the Applicant will provide proof of their date of birth before their application is considered.

## **3. Entry level qualifications**

3.1 The minimum level of qualification (or equivalent) for an Applicant is:

- (i) four GCSE at grade C or above, English and maths being compulsory;
- (ii) two A level passes and 1 GCSE at grade C level to include English;
- (iii) three AS level passes to include either English or maths;
- (iv) GNVQ at intermediate or advanced level, provided a communications skills element is included; or
- (v) passing a written aptitude test set by an ASP and approved by the CLSB.

## **4. Application to an ASP**

4.1 It is not a requirement that an Applicant is a member of the Association of Costs Lawyers at the time of application to an ASP or during their period of study with an ASP as a Trainee Costs Lawyer.

4.2 An application must be submitted fully completed (signed, with all required information and documentation) by the date stipulated by the ASP.

- 4.3 Documentary evidence of entry level qualifications must be submitted with an application. Photocopies will be acceptable unless the ASP specifically requests a certified copy.
- 4.4 An Applicant must provide the name, address and phone number of two referees, one personal and one professional. Each referee must know the Applicant well enough to vouch for their character and know of any problems the Applicant may have had e.g. convictions, disciplinary issues, plagiarism.
- Personal referee: Should be a person who has known the Applicant for at least three years.
  - Professional referee: Should be a professional person who has worked with the Applicant, preferably as the Applicant's manager/supervisor.
- 4.5 The ASP will advise the Applicant in writing whether an application has been approved. In the event an application is refused, the ASP will state the reasons why.

## **5. Disclosure requirements**

- 5.1 On an application to an ASP, the Applicant must declare any information that might reasonably be expected to affect their suitability-fitness to become a ~~Trainee Costs Lawyer~~/Costs Lawyer. Such information will include that they have:
- (a) been subject to any criminal charge, conviction or caution, subject to the Rehabilitation of Offenders Act 1974;
  - (b) been subject to an adjudication of bankruptcy;
  - (c) been granted a debt relief order;
  - (d) entered into an individual voluntary arrangement or a partnership voluntary arrangement;
  - (e) been a director of any company or partner in an LLP or partnership that has been the subject of a winding up order, an administrative order or an administrative receivership, or has otherwise been wound up or put into administration in circumstances of insolvency;
  - (f) been disqualified from being a company director or the trustee of a charity;
  - (g) been the subject of disciplinary proceedings by any regulatory or professional body; or

(h) been the subject of an adverse order or finding of a civil court or employment tribunal.

- ~~• Any disciplinary action by any professional body.~~
- ~~• Any finding of cheating in exams or plagiarism during the course of study.~~
- ~~• If they are an un-discharged or discharged bankrupt.~~
- ~~• If they have entered into an Individual Voluntary Arrangement or Partnership Voluntary Arrangement under the Insolvency Act 1986, as amended.~~
- ~~• If they have been a director of a company or member of an LLP which has been wound up or the subject of an administration order, administrative receivership or a voluntary arrangement under the Insolvency Act 1986.~~
- ~~• If they have been disqualified from being a company director.~~
- ~~• If they have been committed to prison on civil or criminal proceedings or have been convicted of an indictable offence (subject to the Rehabilitation of Offenders Act 2014).~~
- ~~• If they lack capacity within the meaning of the Mental Capacity Act 2005.~~
- ~~• If they have been removed from the office of charity trustee or trustee for a charity by an order within the terms of section 72(1) (d) of the Charities Act 1993.~~
- ~~• If they are or have been the subject of a money judgment outstanding for more than 28 days.~~
- ~~• If they have been the subject of an order under section 43 of the Solicitors Act 1974.~~
- Any other matter that might reasonably be expected to be disclosed in affecting their fitness to study for the Costs Lawyer qualification or become a Costs Lawyer.

5.2 In the event of any declaration(s) under rule 5.1 the ASP will consider the suitability of the Applicant and the ASP may refuse the application.

5.3 On receipt of an application, the ASP may make any required checks, including criminal records checks, to ensure the suitability of an Applicant. A failure to disclose, or the provision of misleading information on an application will be taken

into account by the ASP when considering the suitability of an Applicant to become a Trainee Costs Lawyer.

## **6. *Qualifying experience***

- 6.1 There is no requirement that an Applicant or Trainee Costs Lawyer is employed in costs law and practice at the time of their application to an ASP or during the course of their study with an ASP.
- 6.2 To successfully complete the Costs Lawyer qualification a Trainee Costs Lawyer will be required to evidence to the ASP that they have also achieved three years' work experience in costs law and practice (Qualifying Experience). The three years' Qualifying Experience need not be continuous.
- 6.3 On successfully completing the Costs Lawyer qualification the ASP will audit Qualifying Experience to ensure it was achieved and was relevant i.e. in costs law and practice. The ASP will not issue a completion certificate of the Costs Lawyer qualification until:
- (i) all the Costs Lawyer qualification has been successfully completed; and
  - (ii) the ASP is satisfied Qualifying Experience required under rule 6.2 has been achieved.

## **7. *Learning support***

- 7.1 If an Applicant or Trainee Costs Lawyer has or develops any needs that may affect their learning then they are required to notify the ASP on application or when the need arises.

## **8. *The Costs Lawyer course***

- 8.1 The Costs Lawyer course is as set out by the CLSB, located on the CLSB website at [www.clsb.info](http://www.clsb.info). The pass rate for each yearly unit is 50%.
- 8.2 Once the Costs Lawyer qualification has been completed, there will be no further training obligations by a Trainee Costs Lawyer to an ASP.

## **9. *Exemptions***

- 9.1 A table of CLSB approved exemptions to modules/units for qualifications including a law degree, bar professional training course, legal practice course and CILEX qualification can be located on the CLSB website at [www.clsb.info](http://www.clsb.info).

- 9.2 Exemptions will be applied by an ASP where an Applicant has evidenced they have successfully undertaken study for the exempted module/unit. An Applicant will assist an ASP in validation of a qualification otherwise no exemptions will be applied.
- 9.3 Where exemptions are applied, an ASP will apply a reduction of 15% per exempted module on the overall unit fee. Where all six modules in a unit are exempted, no fee will be payable to the ASP for that unit.

## **10. Continuing professional development (CPD)**

- 10.1 A Trainee Costs Lawyer is not required to undertake any CPD during their period of study for the Costs Lawyer qualification.
- 10.2 On successfully completing the Costs Lawyer qualification a Costs Lawyer may then apply to the CLSB for a Costs Lawyer practising certificate. Only then is CPD to be achieved with accountability to the CLSB. A Costs Lawyer practising certificate authorises a Costs Lawyer to undertake the following reserved legal activities under the Legal Services Act 2007:
- The exercise of a right of audience
  - The conduct of litigation
  - The administration of oaths.

## **11. Appeal process**

- 11.1 In the event an application is refused by an ASP under rules 4, 5 and 6, the Applicant may, within 14 days, make a written appeal to the CLSB.
- 11.2 The Applicant must set out in full the reasoning for the appeal and attach all required evidence e.g. application, ASP decision and other relevant supporting documentation.
- 11.3 The CLSB will use all reasonable endeavours to consider the appeal within 14 days.
- 11.4 The CLSB will advise the Applicant in writing as to the appeal outcome, setting out its reasoning in full.
- 11.5 The CLSB will send a copy of the appeal outcome to the ASP.
- 11.6 In the event the CLSB upholds the Applicant's appeal, the ASP will comply with the appeal outcome of the CLSB.

**END**