

CLSB consultation paper
Proposed 2015 Costs Lawyer Practising Certificate Fee

Definitions herein:

ACL	Association of Costs Lawyers
CLSB	Costs Lawyer Standards Board
LeO	Legal Ombudsman
LSA	Legal Services Act 2007
LSB	Legal Services Board
PCF 2015	2015 Costs Lawyer Practising Certificate Fee (1 Jan 2015 to 31 Dec 2015 inc.)

1. Attachments

- (i) The CLSB budget for 2015
- (ii) The CLSB accounts for year ended 31 December 2013

2. Introduction

The remit of the CLSB as an Approved Regulator is to set and maintain standards within the Costs Lawyer profession. This remit is wider than purely complaints management with regulatory objectives set out under the LSA which include:

- Protecting and promoting the consumer/public interest.
- Improving access to justice.
- Encouraging an independent, diverse and effective profession.

3. Proposed PCF 2015

The CLSB undertakes only permitted purposes and raises its funds by way of your annual practising certificate fee. Through continued sound financial management the CLSB has been able to keep this fee at £250.00 for the fourth consecutive year.

4. The Association of Costs Lawyers (ACL)

Payment of your PCF 2015 will not afford membership rights in the ACL, the professions representative body, as it is a voluntary membership organisation. It is not a requirement that you are an ACL member to hold a Costs Lawyer practising certificate.

5. Benefits to a Costs Lawyer of holding a practising certificate issued by CLSB

A practising certificate identifies you to courts, clients and fellow practitioners as being a qualified and regulated legal costs professional adhering to their professional code of conduct, training and practising rules.

It affords you the following reserved legal activity rights under the LSA:

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

Your name will appear on the CLSB public domain register of regulated Costs Lawyers, which in February each year, is sent by CLSB to all Costs Judges. You may apply to become an Accredited Costs Lawyer for the purposes of providing CPD training to other legal professionals. You may use the Costs Lawyer Mark of Regulation, under licence, at no cost and you will have the benefit of LawCare services at no cost.

6. Permitted purposes and planned work for 2015

All activities in the CLSB 2015 budget are for permitted purposes, they include, inter alia:

Regulation, accreditation, education & training of Costs Lawyers maintaining and raising those professional standards

- Issuing practising certificates.
- Maintaining the public domain Register of Regulated Costs Lawyers.
- Maintaining as fit for purpose the Code of Conduct, Practising Rules, Disciplinary Rules & Procedures and the Training & CPD Rules.
- Issuing guidance notes.
- Investigating and addressing complaints.
- Monitoring and managing risks to both the profession and the consumer.
- Accrediting Costs Lawyers for the purpose of providing CPD within the legal profession.
- Random CPD auditing.
- Regulators Code compliance.
- Managing the Mark of Regulation.
- Gathering and analysis of statistical information.
- Consulting the profession and wider legal audience on regulatory change.
- Communicating via the CLSB website, newsletters, Costs Lawyer Journal and attending Costs Lawyer conferences.
- Implementing entity regulation.
- Evaluating feasibility of ABS licensing.

Regulation, accreditation, education & training of those wishing to become Costs Lawyers maintaining and raising those professional standards

- Training & CPD Rules.

- Auditing implementation of new Costs Lawyer qualification from September 2014.
- Auditing educational provision of current Costs Lawyer qualification.
- Gathering and analysis of statistical information.

Payment of LSB & LeO annual levy

The CLSB is required to pay an annual per head levy to both the LSB and the LeO out of the fee it receives for a practising certificate. Despite strong opposition by CLSB, the LSB has implemented an increase of the LeO levy to being a minimum £5k per year. This represents over a 4x increase in that expenditure (2012: £1,211, 2013: £1,135, 2014 £1,043). By revising its budget, the CLSB has been able to absorb that unwarranted cost increase without passing it on to you.

Participation by the Approved Regulator in law reform

- Consultation responses.
- Working with the LSB, MOJ and other Approved Regulators in law reform.

Promotion & protection of human rights and fundamental freedoms

- Rules and regulations.
- Transparent communication.
- On-going risk management.

Promotion of relations with national or international bodies, governments or the legal professions of other jurisdictions

- Working with relevant government bodies e.g. BIS on the Regulators Code.
- Working with the MOJ, LSB and LeO.
- Working with other Approved Regulators in the legal profession (SRA, BSB, IPS, IpReg, CLC & Master of Faculties).
- Maintaining EEA Register.

7. Tax Relief under SI 1126/2013: The Income Tax (Professional Fees) Order 2013

The CLSB secured this statutory instrument which came into effect on 10 May 2013. As a result “fees payable to the Costs Lawyer Standards Board on applying for a costs lawyer practicing certificate” were added to the table of those fees qualifying for relief under S.343 Income Tax (Earnings & Pensions) Act 2003. This means that if you personally pay your PCF 2015 you will be able to claim tax relief against your taxable income or there will be no tax and national insurance liability where your employer pays it on your behalf.

8. Questions & responding

1. Do you agree with the proposed 2015 PCF in the sum of £250.00?
2. Do you have any comments on our planned work (point 6)?

The closing date and time for post or email responses to the CLSB is **Friday 12 September 2014**.

Email: enquiries@clsb.info

Post: Costs Lawyer Standards Board
Centurion House
129 Deansgate
Manchester
M3 3WR

Dated: 24 July 2014

Consultation Response Report

Costs Lawyer Standards Board (CLSB)

Consultation commenced: Thursday 14 July 2014
Consultation closed: Friday 12 September 2014 (midnight)
Subject of consultation: Costs Lawyer Practising Certificate Fee 2015
Consultees: Costs Lawyers on current register

QUESTION 8.1	Received	Do you agree with the proposed 2015 PCF in the sum of £250.00?
---------------------	-----------------	--

QUESTION 8.2	Received	Do you have any comments on our planned work (point 6)?
---------------------	-----------------	---

GENERAL RESPONSE	Received	
CL	24.7.14	I am content with 8.1 and have nothing to add to 8.2.
CL	24.7.14	I agree with the proposal and have no further comments to make.
ACL Chair	12/9/14	<p>Thank you for letting me have further details on the proposed 2015 budget and the full accounts for 2013. I believe that it is in the common interest of both the regulator and the professional association to keep the cost of regulation as cost effective as possible (for the benefit of all our members). I therefore offer the following observations and suggestions:</p> <p>The CLSB has kept the cost of a PCF at the same level for 4 consecutive years. It offers one of the lowest cost PCFs if not the lowest in the legal regulated community. As the LSB is aware, the CLSB had to seek LSB intervention in 2012 to separate the 2013 fee for regulation from the</p>

		<p>ACL fee for representation as the ACL was seeking to impose a significant cost increase on the profession which the CLSB considered totally unjustified and would have had a major impact on regulated numbers.</p> <ol style="list-style-type: none">1. It appears that your planned expenditure for 2015 is some £37.5k more than in 2013, effectively a 33% increase. The CLSB budget for 2013 was £132,806. The CLSB budget for 2015 is £149,100. This equates to an increase of £16,294 and not £37.5k.2. Some £12k of this increase is attributed to additional expenditure on entity regulation, and another £4k to the sharp increase in LeO levy, but this still leaves a rise of some £21.5k, or some 19% increase in expenditure between 2013 and 2015. The ACL has identified the need for the increase of £16,294. It equates to 12% not 19%.3. The projected income from individual registration fees is broadly similar between 2013 and 2015. You might find it useful to know that we forecast that a minimum of 50 new qualified CLs should join the practitioner ranks after their finals this year, effectively boosting your income projection by some £12.5k for 2015. Even allowing for retirements we estimate that your income should increase by c£10k. ACLT is the Authorised Study Provider of the Costs Lawyer qualification, the CLSB would not base any budget on aspirational estimates from the representative body. As factual evidence shows, regulated Costs Lawyer numbers have been dropping very slightly year on year over the last three years (2012: 565, 2013:563, 2014: 562).The ACL has also failed to consider other factors that may possibly create instability in the profession e.g. effect on legal aid reforms, entity regulation and ABS licensing of sole practitioners.4. The estimated income from entity regulation of around £5k looks as if it has been balanced by a £5k 'Contingency' fund – do you have any more information about the likely revenue streams from entity regulation over the next few years? We think this could be substantial.
--	--	--

		<p>It is not yet certain entity regulation will be introduced during 2015. In any event, any income from entity regulation will be used to offset increased costs as a result.</p> <p>5. It is my recollection that when the CLSB was first established, the role of CEO was intended to be full time during the initial incorporation phase, and then move towards a part time requirement of around three days per week. Please correct me if I have got this wrong. If not, and should this be implemented for 2015, I believe it could achieve a saving of around £15k. The CLSB is satisfied that the CEO role is a full time role and will continue to be for the foreseeable future.</p> <p>6. Your reserves of some £90k would appear to be more than adequate for the size of organization and, arguably, some £20k of this could be used to fund the entity regulation work. The CLSB started in 2011 from a nil reserve position and through exceptional financial management has steadily built a reserve position without having to request that sum from the ACL. A reserve policy of one year operating cost, to ensure the CLSB is covered in the event of major financial exposure e.g. judicial review, is not uncommon as a benchmark for such situations e.g. ILEX.</p> <p>7. We would welcome your consideration that, if you were to take a combination of these factors into account and with further restraint on expenditure increases, the CLSB might well be able to cut £50 from the annual registration fee for individuals. The CLSB budget is as lean as it can be. In 4 years, the CLSB board have had no remuneration reviews and the CEO has had only one cost of living rise of 3%. The CLSB relies solely for its income from the annual PCF, unlike the ACL which has other income streams as well as its annual membership fee.</p>
--	--	---