

Explanatory notes

Historical information, regulation and reserved legal activities

The Association of Law Costs Draftsmen (the "ALCD") was founded in 1977 with the object of promoting the status and interests of the profession of Law Costs Draftsmen and ensuring maintenance of the highest professional standards within its membership.

In June 2003, ALCD applied for Authorised Body status i.e. the right to grant rights of audience and the right to conduct litigation as set out in the Courts and Legal Services Act 1990.

ALCD was designated an Authorised Body for the purposes of s27 (right of audience) & s28 (right to conduct litigation) of the Courts and Legal Services Act 1990 under the Association of Law Costs Draftsmen Order 2006 (SI 2006 no 3333) which came into force on 1 January 2007.

Under the Legal Services Act 2007, ALCD was confirmed as an Approved Regulator under s20(2) Part 1 of Schedule 4 of the following reserved legal activities:

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

During 2011, ACL managed the process of converting those who applied from being a Law Costs Draftsman, to becoming a Costs Lawyer. Those who did not undertake such a conversion will not be able practice under the title of Costs Lawyer and are not authorised to undertake the reserved legal activities listed above.

On 1 January 2011, ALCD changed its name to the Association of Costs Lawyers (the "ACL").

The CLSB & ACL

The Costs Lawyer Standards Board (the "CLSB") was established in 2011 to enable ACL to separate its representation role from its regulatory role in accordance with the requirements of the Legal Services Act 2007.

CLSB now undertakes in full the role and responsibilities of the Approved Regulator under delegated authority from ACL with ACL continuing its representation role.

The working relationship between ACL and CLSB is governed by a Memorandum of Understanding and an Operational Protocol. In cases of difference between the ACL and CLSB which cannot be resolved under that Memorandum of Understanding, recourse may be had to the Legal Services Board (the "LSB") for the resolution of such differences at any time.

Costs Lawyers/Trainee Costs Lawyers

With effect for 1 January 2012, only the following status levels will be recognised by ACL/CLSB:

Costs Lawyers: Regulated by CLSB
Trainee Costs Lawyers: Not regulated by CLSB, managed by ACL

The Practising Certificate Fee

Section 176(1) of the Legal Services Act 2007 obliges a regulated person (Costs Lawyer) to comply with the regulatory arrangements of the Approved Regulator. Under CLSB Practising Rule 2.1(b) a Costs Lawyer must have paid the Practising Certificate Fee in full within the deadline stipulated before a Practising Certificate can be issued.

The Practising Certificate Fee provides CLSB and ACL with sufficient funds to enable them to undertake Permitted Purposes, meet regulatory objectives and promote professional principles as required of them under the Legal Services Act 2007.

Permitted purposes

Permitted Purposes are defined by s51(4) of the Legal Services Act 2007 and Rule C6 of the LSB's Practising Fee Rules 2009. Putting the 2 sets of statutory requirements together the Permitted Purposes may be summarised as follows:

- The regulation of authorised persons.
- Accreditation of authorised persons.
- Education and training of relevant authorised persons including the maintenance and raising of professional standards and providing practical support about practice management.
- The payment of a levy due under s173 of the Legal Services Act 2007 to pay part of the costs of the LSB, the Legal Ombudsman and part of any expenditure by the Lord Chancellor in related setting up expenses.
- Law reform and related legislative process.
- Enabling relevant authorised person to carry on reserved legal services.
- Promoting the protection by law of human rights and fundamental freedoms.
- The promotion of relations between the Approved Regulator and relevant national and international bodies, governments or the legal professions of other jurisdictions.
- Increasing public understanding of the citizen's legal rights and duties.

Regulatory objectives to be achieved

These are set out in s1 of the Legal Services Act 2007:

- (a) protecting and promoting the public interest,
- (b) supporting the constitutional principle of the rule of law,
- (c) improving access to justice,
- (d) protecting and promoting the interests of consumers,
- (e) promoting competition in the provision of services within subsection (2),
- (f) encouraging an independent, strong, diverse and effective legal profession,
- (g) increasing public understanding of the citizen's legal rights and duties,
- (h) promoting and maintaining adherence to the professional principles.

Professional principles to be promoted

These are set out in s1 of the Legal services Act 2007:

- (a) that authorised persons should act with independence and integrity,
- (b) that authorised persons should maintain proper standards of work,
- (c) that authorised persons should act in the best interests of their clients,
- (d) that 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
- (e) that the affairs of clients should be kept confidential.

Consultation process

The proposed Practising Certificate Fee 2012 was consulted on with both Costs Lawyers and Trainee Costs Lawyers during a 4 week period September/October 2011. Consultation responses were considered and a resume of those responses was submitted when the CLSB subsequently filed its application under s51 of the Legal Services Act 2007 for the LSB to approve the proposed Practising Certificate Fee 2012.

As part of that consultation process, CLSB and ACL disclosed accounts for year ended 31 December 2009 and budgets for 2012 setting out required funding for 2012 on which the Practising Certificate Fee 2012 has been based, the consultation paper and those documents can be viewed on the CLSB website www.clsb.info