

**Consultation Response Report**  
**Costs Lawyer Standards Board (CLSB)**

Consultation commenced: Tuesday 11 September 2012  
Consultation closed: Tuesday 23 October 2012 at 5.00pm

Documents consulted on: (i) Proposed regulation of conduct of Trainee Costs Lawyers by CLSB effective 1 January 2013  
(ii) Proposed minor revisions to CPD table for Costs Lawyers

<b>QUESTION 1</b>	<b>Received</b>	<b>Do you agree with the CLSB's proposal to regulate Trainee Costs Lawyers with effect from 1 January 2013?</b>
Costs Lawyer	11 Sept	Yes
Costs Lawyer	12 Sept	Yes
ACL President	14 Sept	Yes
Trainee Costs Lawyer	28 Sept	After reading the consultation paper I confirm I agree with the CLSB's proposal to regulate Trainee Costs Lawyers. I don't have any specific comments at present but will be sure to submit these prior to the deadline if any arise.
Costs Lawyer	22 Oct	No
Costs Lawyer	22 Oct	Yes
Trainee Costs Lawyer	23 Oct	I do not agree with the idea of a student successfully completing the course to a high standard, only to find that they must then under-go 3 years of relevant employment experience in order to become Authorised. I believe this totally contradicts the whole reason of originally choosing to take the course. Why waste time studying for the qualification when an individual can quite as easily learn everything necessary and more from employment within a competent legal firm. I argue that 1 year is more than sufficient and gives qualified students an honest chance of actually successfully building a client base as a Costs Lawyer.  <i>CLSB Response: This provision was in place when ACL undertook regulation and was carried on by CLSB. It was the regulation of Trainees as a whole that was under consultation.</i>
Trainee Costs Lawyer	23 Oct	No, I don't find it necessary.

<b>QUESTION 2</b>	<b>Received</b>	<b>Do you have any comments to make on the proposed governance documents (Documents 1,2&amp;3) on the regulation of Trainee Costs Lawyers?</b>
Costs Lawyer	11 Sept	No
Costs Lawyer	12 Sept	So far as age is concerned I would be unhappy for a 16 year old

		<p>to apply. Some practical knowledge is required and to allow very young applicants will not enhance the profession generally as these folks have no experience of life let alone a complex profession such as this. Is there some requirement that we allow such young applicants? If not then I would prefer to see the age increased to no lower than 21. I would also prefer to restrict the course to those who are actually employed or we will be having applications from academics and others who have no aptitude or intention of working in this area of law. We would also run the risk of having too many qualified people with no chance of getting any work. This has already happened in ILEX and The Law Society resulting in too many people looking for a small number of jobs. Training for training sake is not proportionate or a benefit to our profession.</p> <p><i>CLSB response: Because entry level qualification criteria which does not include A level, it would be unfair to expect a potential student of 16 to wait around for 5 years before they can embark on a professional career. To do so would be age discrimination. The safety net comes in the 3 year's work experience. In respect of someone training and then not finding a job, this can happen with all career choices and CLSB cannot restrict a person's choice to follow a certain path.</i></p>
ACL President	14 Sept	All proposals quite acceptable.
Trainee Costs Lawyer	28 Sept	I am also agreeable to the proposed revisions across the board.
Costs Lawyer	22 Oct	In light of my answer to Q1 these are irrelevant.
Costs Lawyer	22 Oct	No, these seem entirely appropriate and well drafted.
Trainee Costs Lawyer	23 Oct	<p>I strongly disagree with Document 3 (Training &amp; CPD Rules: Trainee Costs Lawyer) Point 8.2 / 8.3 in the sense that this introduces huge barriers to the likelihood of successful students becoming Authorised. The very fact that students have undergone a 3 year course and passed to a high standard should be better appreciated by the CLSB. <u>To attain an additional 3 years experience following study virtually devalues the course itself.</u> Why waste 3 years when you can quite as easily go directly into employment within a competent legal firm and learn from practical experience. Is that not what the CLSB are encouraging students to do so much, gain practical and relevant experience? The course now seems a mere tactic to extract funds and waste valuable time qualifying, which could be better spent gaining practical on the job experience.</p> <p><i>CLSB response: This provision is not new, it was in place under ACL and has remained in place since CLSB took over regulation on 31 October 2011.</i></p>
Trainee Costs Lawyer	23 Oct	No, I don't.

<b>QUESTION 3</b>	<b>Received</b>	<b>Do you consider the proposed annual fee for regulation of a Trainee Costs Lawyer (£100.00 proposed for 2013) is appropriate and reasonable?</b>
Costs Lawyer	11 Sept	Yes
Costs Lawyer	12 Sept	Yes
ACL President	14 Sept	Yes
Trainee Costs Lawyer	28 Sept	I also confirm I feel the £100 proposed fee for 2013 is appropriate and reasonable and similarly content that the Register of Trainee Costs Lawyers appears on the CLSB website.
Costs Lawyer	22 Oct	By reference to my response at sub-paragraph 1 above, the answer has to be no.
Costs Lawyer	22 Oct	Yes
Trainee Costs Lawyer	23 Oct	This is reasonable on an annual basis, though it should be remembered that through the introduction of the point system, students are now indirectly accumulating higher expenses in attendance and event registration fees.  <i>CLSB Response: Under current ACL rules Trainee Costs Lawyers were able to achieve their required 7 CPD points simply by completing study assignments for the year, this gave no training &amp; development outside of their required study. Under the CLSB proposal they can now only achieve 4 points by way of assignment. Following consultation the table has however been changed. See revised proposal submitted to LSB.</i>
Trainee Costs Lawyer	23 Oct	I don't find it appropriate but it is not excessive.

<b>QUESTION 4</b>	<b>Received</b>	<b>Do you feel it is right that the Register of Trainee Costs Lawyers appears on the CLSB website alongside the Register of Costs Lawyers?</b>
Costs Lawyer	11 Sept	Yes
Costs Lawyer	12 Sept	Yes
ACL President	14 Sept	Yes
Costs Lawyer	22 Oct	See my answer to question 3
Costs Lawyer	22 Oct	Yes
Trainee Costs Lawyer	23 Oct	No, I don't.
Trainee Costs Lawyer	23 Oct	I agree with the concept of reducing unqualified Cost Lawyers' capacity to gain work by publishing names of Trainee and Qualified professionals online. It would be encouraging to see

		<p>the website used by clients as a filter of academic achievements when sourcing a Costs Lawyer, and will surely be utilised now as the introduction of price comparison sites for legal services rapidly grows online. I feel that through enforced regulation by the CLSB, qualified Cost Lawyers will gain a noticeable competitive advantage, which should ultimately increase clientele and business volume.</p> <p>However, by listing Trainee Costs Lawyer names alongside those that are already qualified and authorised, clients may assume that Trainees are inadequate of charging competitive salaries and therefore damage any prospects of customer fulfilment for those Trainees. Though this argument would be totally irrelevant should the tragedy of Rule 8 (Qualifying Employment/Experience) become a reality, meaning Trainees could not seek to build a private clientele without firstly being employed for 3 long years.</p>
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<b>QUESTION 5</b>	<b>Received</b>	<b>Do you have any comments to make on the proposed revisions to the CPD table for Costs Lawyers (Document 4)?</b>
Costs Lawyer	11 Sept	No
Costs Lawyer	11 Sept	<p>I would like to make the following submissions with regard to the CPD Table and in particular 1[f].I consider it unreasonable that it is proposed that no points should be allowed for preparation for seminars. I am an accredited training provider. It can take me anywhere from 1 to 2 days to gather and prepare material/notes for a seminar that lasts between 3-4 hours. I consider that it should be either 1 point per hour for course presentation or alternatively 1 point per hour spent in preparation for the course/seminar. In the event of the latter a note to be kept of the time spent by the training provider. This would reflect more the effort required to put the material together.</p> <p><b>CLSB Response: This was not allowed following discussion with ACL on first draft for the following reasons (i) preparation was not considered development (ii) as evidenced above, up to 2 days could be claimed for the preparation of one course (iii) auditing of time spent on preparation would be difficult.</b></p>
Costs Lawyer	11 Sept	<p>Request addition under 1(c) of Costs Lawyer CPD table: <i>“or CPD accredited costs conferences”</i></p> <p><b>CLSB Response: We agree with this change</b></p>
Costs Lawyer	11 Sept	<p>My only comment is in relation to the issue of training provided “in-house” and the definition of the same. I work for Eversheds LLP and for the majority of the solicitors and partners in the practice, most, if not all CPD is obtained “in-house” by attending internally organised events with internal speakers, or on</p>

		<p>occasion, an external guest. However, hardly any of the solicitors or partners in the firm would be considered to have fulfilled their CPD requirement under the strict wording of the proposed CLSB requirements. I fully support the requirement for 6 hours on dedicated costs training, that sort of training in any event, does not exist internally, but I struggle with the 3 hour limit on CPD obtained internally and I believe this should be relaxed or clarified to confirm that Law Society approved internal CPD courses which entitle the attendee to Law Society CPD points, be excluded from the 3 hour cap on internal training.</p> <p><i>CLSB response: Tables have been revised so that in-house CPD accredited training can be claimed under Table 1 (unlimited) but non CPD accredited (max of 3 points) can be claimed under Table 2 e.g. training on use of new legal aid software being introduced by LSC not likely to be CPD accredited by provider but essential for Legal Aid Costs Lawyers.</i></p>
Costs Lawyer	12 Sept	No comment to make as it looks to be reasonable & proportionate.
ACL President	14 Sept	Fair division of subjects & points
Costs Lawyer	22 Oct	No, these seem appropriate and provide adequate opportunity to obtain the necessary CPD requirements.
Trainee Costs Lawyer	23 Oct	No comments.
Trainee Costs Lawyer	23 Oct	No comments in regards to the proposed revision of the CPD table.

	Received	General Responses
IpReg	12 Sept	<p>IPReg does not hold trainees to account for professional conduct and we have no scope for disciplining trainees. We take the view that regulatory responsibility lies with the firm and/or registered person(s) supervising the training. In our qualification regulations, however, we require supervision by a patent or trade mark attorney (as applicable) or a solicitor or barrister actually undertaking or having substantial experience in intellectual property work. Therefore the responsibility always rests with a fully qualified person subject to our regulation (or that of the SRA or BSB). It may be the case that your trainees are more directly client facing and work far more independently. Otherwise it would appear harsh to make someone liable for regulatory conduct when they are not qualified.</p> <p><i>CLSB response: ACL/CLSB recognise only two status's (Costs Lawyer/Trainee Costs Lawyer). By bringing both in line with each other CLSB believes consumer protection will be increased. Further, CLSB believes trainees should pay a financial contribution</i></p>

		<i>towards their “regulation, accreditation, education, training, raising and maintaining of their professional standards” otherwise the cost of the annual education audit for example would fall to Costs Lawyers. CLSB does not believe it adequate to leave matters such as the regulation, raising and maintaining professional standards to an employer or to a study provider. Whilst not authorised to undertake RLA’s in using the title Trainee Costs Lawyers they represent clients and the profession in which they are training.</i>
ACL President	14 Sept	My main concern is about the ‘Authorised Provider’. Whilst I am in favour of the CLSB regulating trainees I am not at all sure that it should devise and maintain the actual curriculum for the modules etc. It is not clear whose responsibility this will be but I feel strongly that this should remain with the ACL as should the tutoring and marking of assignments in respect of which the CLSB has little or no experience.
Trainee Costs Lawyer	22 Oct	<p>I am a Trainee Costs Lawyer having enrolled on the course in 2010. At the time of starting the course it was my intention only to complete the legal aid module since this is the only work that I undertake. Obviously I could go on to take further modules if I so wished. When applying for membership I was told that I could remain a trainee indefinitely although I appreciate that rules do change.</p> <p>From looking at the consultation paper and other documents I see that all modules must be completed within 10 years. Presumably therefore, unless I complete the remaining modules, my membership as a trainee will cease in 2020.</p> <p><b>Yes, that is the proposal of CLSB.</b></p> <p>Para 3 of the consultation paper states that CLSB will only apply to a Trainee Costs Lawyer who is currently undertaking the three year modular course. Although I enrolled on the modular course I am currently not undertaking a further module. Does this mean that I am regulated by CLSB or not? Does the fact that you enrol on a further module trigger regulation by CLSB? If so then if a trainee undertakes a module every couple of years presumably the years when they are not studying will mean that they are not regulated. If a trainee has 10 years within which to complete all modules are they regulated for the whole 10 years or until they complete the course whichever is the sooner?</p>
Costs Lawyer	22 Oct	<p>I have previously commented on what I believe to be the inadequacy of the CPD requirements for Costs Lawyers. I refer to that previous response but for the avoidance of doubt make the following observations:-</p> <ol style="list-style-type: none"> <li>1. Table 1 – this is too narrow – at the new paragraph 1(d)</li> </ol>

		<p>this should include training courses run by widely accepted CPD providers e.g. BPP, CLT and PIBU to name but three. All of their courses and webinars are attributed for CPD by ILEX, The Law Society and the Bar Standards Board.</p> <p>2. Table 2 – I still disagree strongly that “reading all Costs Lawyer journals throughout the CPD year” should attract any CPD points whatsoever. Whilst all Costs Lawyers should read it (after all they have paid for it) how on earth do you propose to monitor them to ensure that they have read “The Costs Lawyer” cover to cover? It is quite simply impossible and what you are in effect doing is giving all Costs Lawyers 2 “free” CPD points. This should be deleted with immediate effect.</p>
Costs Lawyer	22 Oct	No, these seem appropriate and provide adequate opportunity to obtain necessary CPD requirement.
Trainee Costs Lawyer	23 Oct	No comments in regards to the proposed revision of the CPD table.
Trainee Costs Lawyer	23 Oct	No comments