

Response of the Association of Costs Lawyers to the Legal Services Board's Consultation on policy statement on 'Encouraging a diverse legal profession'

March 2026



OUR BACKGROUND

The Association of Costs Lawyers (ACL) is a membership organisation representing Lawyers, students and retired practitioners in the field of legal costs.

ACL was founded in 1977 as the Association of Law Costs Draftsmen (ALCD) with the aim of promoting the status and interests of its members. In 2007, Fellows of the ALCD were granted the right to conduct costs litigation and rights of audience under the Legal Services Act.

In 2011 the ALCD was renamed as the Association of Costs Lawyers (ACL) and became the statutory regulator of qualified costs practitioners. In line with the Legal Services Act, the ACL delegated regulatory obligations to the Costs Lawyers Standards Board (CLSB).

There are currently 591 members (comprising 442 qualified Cost Lawyers, 112 Students, 31 Affiliate members and 6 Retired members) of the ACL who represent both paying and receiving parties in all forms of costs litigation. Many members also act for Litigants in Person and the ACL is committed to delivering better access to justice in all costs related matters. All of our members have experience in costs disputes and the vast majority deal with costs on a day-to-day basis.

INTRODUCTION

The ACL agrees with the overall proposals as set out within the LSB's consultation document and fully supports the promotion of diversity through the medium of regulation where it can have a suitably positive impact on the profession and broader society. Furthermore, the ACL broadly agrees that the proposed outcomes and expectations will assist in promoting a diverse legal profession moving forward. The ACL has always worked hard in its representative role to promote diversity amongst the cost lawyer community and to assist its members from different backgrounds where possible and within its remit.

The ACL responds to this consultation in its capacity as the representative body for Costs Lawyers. We recognise the statutory regulatory objectives under the Legal Services Act 2007, including the objective of encouraging an independent, strong, diverse and effective legal profession. We consider that increasing awareness of the Costs Lawyer profession and widening access to qualification routes directly supports those objectives and enhances access to justice in costs disputes.

The ACL considers that it has strong foundations upon which to continue to build and deliver upon the diversity issues raised by the LSB. The qualification route for a costs lawyer is considered an 'alternative' route into the legal profession compared to other 'traditional' routes to qualify as a solicitor or a barrister.

This is primarily due to a lack of awareness about the role impact of Cost Lawyers as a legal professionals and arguably is, in part, a result of costs lawyers not being included or referenced within initial legal education materials. For example, there are many anecdotal tales within the costs profession revealing that Costs Lawyers 'fell into costs' as the main reason why they subsequently qualified and continued to practice as Costs Lawyers.

Whilst this unorthodox/unintended route into the profession is not ideal, the ACL is working hard in its representative role on further improving the recognition and promotion of costs as a genuine legal profession to be actively pursued by prospective lawyers. The ACL has worked collaboratively with the Costs Lawyer Standards Board (CLSB), the LSB and other organisations to promote costs and the Costs Lawyer profession.

Furthermore, the ACL has worked to remove any unnecessary barriers to entry to qualification. This has included reducing the length of the ACLT qualification course from three years to two years, introducing a scholarship for the ACLT qualification course and through actively pursuing a new route to the profession through an apprenticeship trailblazer scheme. This has been prompted due to the recognition that there were barriers to entry to the profession. The ACL has also ensured that any changes were balanced against the importance of maintaining the high standards expected of a qualified Costs Lawyer as an authorised and regulated person under the Legal Services Act.

As a result of the work carried out above, the ACL notes that it has resulted in the Costs Lawyer community arguably becoming a more diverse sector due to normal perceived barriers to entry being removed or reduced. This is something that the ACL is very proud of and the ACL continues to fully support the ongoing work carried out by the CLSB to promote diversity amongst the qualified and regulated costs profession.

An additional note to the ACL's consultation response is that the ACL considered that the CLSB is best placed to comment on the consequences of the implementation of the proposed policy. The ACL has corresponded with the CLSB in respect of this consultation response and, as such, has prepared its response from a representative perspective content that the CLSB's response would cover the impact of the proposals on their ability to comply from a regulatory perspective.

Q1a. Do you agree that these proposed outcomes will help to address the barriers to encouraging a diverse legal profession? Are there any further, or alternative, outcomes we should consider?

Yes, the ACL believes that the proposed outcomes will help to address the barriers to encouraging a diverse legal profession in so much as its impact can be felt. Arguably there are some barriers which are far larger than solely the legal sector and would require national or governmental work to achieve. However, the ACL considers that the proposals are suitable to reflect what is within the regulators' control.

Q1b. Do you agree that the proposed outcomes should be pursued by regulators through a set of specific expectations?

The ACL considers that the proposed approach with outcomes and specific expectations to which regulators can demonstrate their progressive and positive work is suitable and promotes an evidence and policy based approach to be adopted by all regulators.

Such an approach provides a required degree of flexibility given the significant differences in the size and financial position of differing regulators across the legal sector. This flexibility is important to ensure that each regulator can meet the expectations in their own reasonable and proportionate way.

To impose rigid frameworks on all regulators, regardless of size, would likely create a disproportionate burden on smaller regulators who cannot benefit from economies of scale

like larger regulators. Therefore, this could lead to the unintended consequence of increasing the costs of regulation for smaller sections of the legal profession and inadvertently creating a barrier to entry.

Q1c. Do you agree that the proposed structure of core and enhanced expectations under the general outcomes offers an effective way to set a clear minimum standard for all regulators, while also encouraging regulators to consider additional steps, where appropriate?

The ACL agrees that the proposed structure is suitable for the reasons highlighted above. There are a wide variety of regulators across the legal sector, and each has its own demographic of regulated individuals. Therefore, a broad approach which offers a minimum standard whilst providing guidance on further steps which could be taken to further improve diversity across that specific sector appears to be a reasonable and proportionate approach.

As with all things, a restrictive or rigid 'one-size fits all' approach is not suitable and will likely lead to some regulators expending time and effort on issues which may not be as significant to their sector as it could be for a different regulator.

Furthermore, the ACL considers that the approach with enhanced expectations will also assist regulators who have significantly limited resources (financial and time) given that they are a relatively small regulator compared to some of the other regulatory bodies within the legal profession. It will provide the required flexibility to those regulatory bodies to identify the areas of diversity that they can target with their limited resources which could have the largest impact.

Q2a. Do you agree with the proposed Outcome 1?

The ACL is broadly in favour of the proposed Outcome 1. We note that the wording could be broadened to include 'inclusion' as another important factor to ensure that a diverse legal profession is also a highly functioning legal profession with all members feeling that they are included. As stated above, the ACL recognises that the Costs Lawyer qualification route may be considered unorthodox but significant progress has been achieved in the past decade to increase and improve the standing of Costs Lawyers' skills and expertise amongst the wider legal profession.

Q2b. Do you agree that the proposed expectations will help regulators to pursue Outcome 1? Are there any further expectations beyond those we have included that would support regulators to pursue this outcome?

The ACL broadly agrees with the proposed expectations set out to assist regulators to pursue and achieve Outcome 1. The ACL would strongly recommend that an element of flexibility remains in place in respect of the obligations imposed on regulators on the methods to which they are able to demonstrate that they have met or undertaking work to meet the proposed expectations.

The ACL refers to comments above regarding the significant disparity in size of different regulators and that there should always be a qualification to ensure that a regulator is able to meet such expectations in a reasonable and proportionate way.

Q2c. Are there any enhanced expectations that would be better placed under core expectations under Outcome 1? Are there any core expectations that would be better placed under enhanced expectations under Outcome 1?

The ACL considers that there is already sufficient overlap with some areas of the core expectations and enhanced expectations to ensure that regulators are able to meet the required minimum threshold and can easily build upon this to achieve the enhanced standard which can only have an increasingly positive impact.

Q3a. Do you agree with the proposed Outcome 2?

The ACL broadly agrees with the proposed Outcome 2 and agrees that this is arguably the cornerstone of ensuring that a diverse legal profession is fostered going forward.

Q3b. Do you agree that the proposed expectations will help regulators to pursue Outcome 2? Are there any further expectations beyond those we have included that would support regulators to pursue this outcome?

The ACL agrees with the proposed contents of the expectations to be met by regulators and reiterates points made above to ensure that flexibility remains a fundamental characteristic of the proposed expectations to ensure that regulators can achieve the expectations in the most reasonable and proportionate way.

Q3c. Are there any enhanced expectations we could set for regulators to pursue Outcome 2?

The ACL does not have any further enhanced expectations to propose.

Q4a. Do you agree with the proposed Outcome 3?

Yes, the ACL agrees with the proposed Outcome 3. As set out above, the ACL strongly believes that this is one of the most important aspects to achieve a diverse and thriving legal profession and has seen firsthand the benefits that this can provide.

Q4b. Do you agree that the proposed expectations will help regulators to pursue Outcome 3? Are there any further expectations beyond those we have included that would support regulators to pursue this outcome?

The ACL does consider that a broad brush approach should be provided when it comes to the provision of data and information regarding the numerous different routes to enter the legal profession. The ACL would strongly recommend broader information be made available at higher levels regarding the significant number of different legal professionals and career options available to undergraduates and school-leavers.

The ACL considers that this should not just be left to the respective regulator or representative body because the smaller sectors are unlikely to have the same level of resources as more traditional sectors.

This ultimately can create an inadvertent barrier to entry. This is because it creates an imbalance with some routes into the profession, which may be more suitable for members from different socio-economic backgrounds, not being as well publicised as others.

The ACL would particularly welcome initiatives led or coordinated by the LSB to improve awareness of the full range of authorised legal professions, including Costs Lawyers, at school

and university level. A significant number of Costs Lawyers report that they entered the profession inadvertently rather than through informed career planning. Improved visibility of structured qualification routes, including apprenticeship pathways, would assist in broadening socio economic access to the profession.

Arguably, once someone has entered the legal profession they may then continue to develop and diversify within the legal profession resulting in a net benefit to the wider legal profession and not just their initial entry sector.

Q4c. Are there any enhanced expectations that would be better placed under core expectations under Outcome 3? Are there any core expectations that would be better placed under enhanced expectations under Outcome 3?

No, the ACL repeats its comments above to ensure that obligations placed on regulators are done so with sufficient flexibility so that the regulator can achieve the required expectations in a reasonable and proportionate fashion.

Q4d. Are there any additional expectations, either core or enhanced, we should set under Outcome 3 to reduce barriers faced by authorised persons when moving between and/or re-entering the professions (e.g., following a prolonged absence from practice for health, caring or other reasons)?

The ACL refers to its comments above in that it is hoped that the expectations aimed at removing barriers to entry to the profession would also assist individuals who are already a part of that profession.

Q5a. Do you agree with the proposed Outcome 4?

The ACL broadly agrees with the proposed Outcome 4.

Q5b. Do you agree that the proposed expectations will help regulators to pursue Outcome 4? Are there any further expectations beyond those we have included that would support regulators to pursue this outcome?

The ACL considers that the proposed expectations should be reviewed to ensure that they provide sufficient clarity as to what is meant by the expectations. Some of the terms referred to within the expectations could be considered to be more subjective than objective which may place regulators in a difficult position when it comes to providing evidence that they have met the required expectations.

For example, 'healthy workplace cultures' can mean significantly different things to different people and, therefore, it could place regulators in some difficulty in being able to properly regulate a diverse legal profession.

Ultimately, a regulator should be focused on achieving regulation of their legal sector which enables all of its regulated legal professionals to be able to thrive and prosper in their own way, and in some cases allowing individuals to embrace their diversity as a strength and positive benefit to the profession.

Q5c. Are there any enhanced expectations that would be better placed under core expectations under Outcome 4? Are there any core expectations that would be better placed under enhanced expectations under Outcome 4?

The ACL considers that the split between core and enhanced expectations is reasonable and that it provides sufficient flexibility for regulators (see comments above).

Q6a. Do you agree our proposed timelines for implementation are achievable?

The ACL is not in a position to answer this and would defer to the CLSB's response. However, the ACL is aware that implementation should be considered separately to measurable results given that it can take a significant amount of time before the impacts can be truly and measurably felt.

Q6b. Are there any reasons why a regulator would not be able to meet these milestones? Please explain your answer.

The ACL is not in a position to answer this and would defer to the CLSB's response.

Q6c. Do you have views on whether and how the LSB could take additional steps to support compliance with the proposed statement of policy (e.g., through either formal or informal outputs, such as guidance and/or other relevant resources)?

The ACL defers to the CLSB's response who will be best placed to respond to this question.

Q7a. Have you identified any equality impacts (both positive and negative), we haven't considered which, in your view, may arise from our proposed statement of policy?

The main concern that the ACL has is that the placing of too onerous or rigid frameworks in a 'one size fits all' approach may negatively impact smaller regulators and inadvertently create a barrier to entry through increased costs.

The ACL therefore recommends that concepts of reasonableness and proportionality should be factored into account within the expectations to ensure that all regulators have a fair chance of complying with both the core and enhanced expectations.

Q7b. Do you have any evidence relating to the potential impact of our proposals on specific groups with certain protected characteristics, and any associated mitigating measures that you think we should consider?

The ACL does not have any evidence to submit in respect of this question.

Q7c. Are there any other wider equality issues or impacts that we should take into account and/or any further interventions we should take to address these in our proposed statement of policy?

The ACL does not have any further comments in respect of this question.

Q8. Do you have any comments on the potential impact of the draft statement of policy, including the likely costs and anticipated benefits?

The ACL refers to its comments above, particularly at Q1b and Q7a.

Q9a. Do you have any comments on how the LSB, either independently and/or in partnership, might develop further measures alongside the proposals set out in the consultation to encourage a diverse profession?

The ACL refers to its comments above in respect of promotion of the numerous 'alternative' or 'non-traditional' routes into the profession above.

Q9b. Do you have any views on whether the LSB could take additional steps alongside setting expectations for regulators in the draft statement of policy to encourage a diverse profession? If yes, please share your reflections on the most appropriate and potentially effective routes the LSB could take to achieve this.

The ACL refers to its comments above in respect of promotion of the numerous 'alternative' or 'non-traditional' routes into the profession above.

Q9c. Do you have any further comments on our proposals that you would like to share?

The ACL remains committed to working collaboratively with the CLSB, the LSB and other stakeholders to improve awareness, access and progression within the Costs Lawyer profession and to support evidence based initiatives aimed at fostering a diverse and inclusive legal profession.