



MEMORANDUM OF UNDERSTANDING

Costs Lawyer Standards Board and the Legal Ombudsman

Introduction

This Memorandum of Understanding (“MOU”) sets out the framework for the Costs Lawyer Standards Board (“CLSB”) and the Legal Ombudsman (“LeO”) to work together in order to carry out their independent roles and separate functions in accordance with the Legal Services Act 2007 (“LSA”). It will be complemented and supported by written operational procedures (“Operational Protocol”) agreed between CLSB and LeO, in the event of contradiction between this MOU the Operational Protocol, this MOU will prevail. The Chief Executive of CLSB and the Head of Policy and Communications at LeO will be responsible for determining and agreeing Operational Protocol and putting in place effective working practices that meet the objectives of this MOU.

This MOU will take effect on the date the Association of Law Costs Draftsmen, known with effect from 1 January 2011 as the Association of Costs Lawyers (“ACL”) delegates to the CLSB its regulatory duty as an approved regulator.

Legal Ombudsman

LeO was established under the LSA by the Office for legal Complaints (“OLC”) and deals with **service complaints** against Costs lawyers who are members of the ACL. The LSA sets out the roles of the OLC, LeO and CLSB as an approved regulator under delegated authority. LeO is an independent and impartial service that a user of the services of Costs Lawyers through their Solicitors or direct (“Consumer”) can access to resolve complaints. The statutory objective of LeO is to resolve disputes quickly with minimum formality on the basis of what is fair and reasonable in the circumstances. The scheme has both a statutory and voluntary jurisdiction.

Cost Lawyers Standards Board

CLSB is the body set up to regulate Costs lawyers under delegated authority from the ACL and deals with **conduct complaints** against Costs lawyers who are members of the ACL. This ensures the representative (ACL) and regulatory (CLSB) functions of the Costs lawyer profession are separate. CLSB is therefore the independent regulator of Costs lawyers. It has responsibility for overseeing the education, qualification and practice standards of Costs lawyers and ensuring good standards of professional and personal conduct are maintained by them.



Purpose of MOU

The purpose of this MOU is to put into place clear arrangements and practices that will foster an effective and co-operative working relationship between CLSB and LeO. Each will:

- Have regard to the need to promote an effective system of redress for Consumers of the services of Costs lawyers.
- Seek to operate in accordance with good practice and therefore commit to cooperate and share knowledge and expertise to benefit Consumers of the services of Costs Lawyers.
- Continue to monitor the operation of this MOU and review it as necessary. A first review shall occur on or before 6 October 2012.

Statutory responsibilities

The LSA provides the statutory framework for the operation of LeO and provides specific responsibilities in respect of complaints and complaints information for both LeO and CLSB. In particular, the LSA requires:

- CLSB to take into account the views and operation of LeO in determining its regulatory arrangements.
- CLSB to report to LeO, when LeO requires action to be taken regarding a referral of a conduct matter. Should CLSB not produce such a report, and if LeO considers this a serious failure, then LeO may make a report to the Legal Services Board (Section 143(4) and (6)).
- CLSB and LeO to co-operate and share information which may benefit each other, this includes information CLSB would benefit from knowing in order to make or amend regulatory policy (Section 144).
- LeO to report to CLSB the failure of a Costs Lawyer to co-operate with a complaints investigation (Section 146).
- LeO to assist CLSB in carrying out its regulatory function.



Complaint referral to the Legal Ombudsman (second tier complaint handling)

A Consumer may refer a matter to LeO if their complaint is not resolved to their satisfaction by a Costs Lawyer under their first tier complaint handling procedure or within 8 weeks. All complaints shall be referred to LeO in the first instance for evaluation (CLSB will refer to LeO any complaints made directly to them). LeO will notify CLSB of complaints as part of its monthly reports. In the event LeO concludes the complaint relates to:

Service only and that the Cost Lawyer is a member of ACL: LeO will deal with the complaint within their scheme rules and report to the CLSB monthly on the numbers of complaints dealt with in this way.

Conduct only and the Costs Lawyer is a member of ACL: LeO will immediately refer the matter to CLSB.

Service and Conduct and the Costs Lawyer is a member of the ACL: LeO will investigate and conclude on the service element of the complaint before CLSB considers the conduct element, unless the conduct element is considered by CLSB to be serious in nature.

Co-operation and information sharing

Information sharing is subject to relevant restrictions on disclosure of confidential information. The information must be reasonably required to enable the other party to carry out their statutory obligations. CLSB and LeO agree that they will:

- Seek to make sure Consumers and others understand and are not confused by the different roles of Costs Lawyers and those not members of the ACL.
- Seek to achieve a complementary and consistent approach as far as possible in the context of their different roles.
- Meet and communicate regularly.
- Seek to share expertise where appropriate.
- Consult one another at an early stage on any issues which might have significant implications for the other organisation.
- Periodically review operational procedures on routine information sharing including: dealing with cases, operational arrangements, trends that raise broader regulatory, policy or other issues.



- Provide information in relation to proposed changes to rules or guidance on complaints handling by Costs Lawyers.
- Regularly feedback to each other about the quality of information sharing and referrals processes. This may also include training for LeO staff members.

LeO will provide monthly information to CLSB about the number, types of complaints received and outcomes of complaints made against Cost Lawyers to assist CLSB in carrying out its regulatory function. LeO will also inform CLSB should it identify serious shortcomings by a Costs Lawyer in relation to complaint handling or other issues that may require action by CLSB in its regulatory role. CLSB will alert LeO to key areas of risk or concern that it considers relevant to ensure that LeO is able to discharge its statutory obligations.

In conclusion

The CLSB and LeO agree to regularly review this MOU and Operational Protocol to ensure they are clear and fit for purpose.

A handwritten signature in black ink, appearing to read 'Adam Sampson', written over a horizontal dotted line.

Adam Sampson
Legal Ombudsman

A handwritten signature in black ink, appearing to read 'Graham Aitken', written over a horizontal dotted line.

Graham Aitken (Chair)
For and behalf of
Cost Lawyers Standards Board