

Sent by email only to enquiries@clsb.info



13 November 2019

Dear Sir/Madam

Consultation: Disciplinary Rules and Procedures

The Legal Services Consumer Panel (Panel) welcomes the opportunity to respond to the Cost Lawyers Services Board (CLSB) consultation on updating and streamlining its Disciplinary Rules and Procedures (DR&P).

In the consultation document the CLSB mentioned that it considered evidence of the DR&P's effectiveness from previous disciplinary proceedings and evidence of best practice from the wider legal services community. However, the only evidence referenced in the consultation document is the findings of the Legal Services Board's (LSB) report on Enforcement in Legal Services Regulation. We would have found it useful if the CLSB had referenced and made available the documents it referred to.

Please find our views on the consultation questions below.

Question 1: Does the proposed interim order power (in rule 4) strike the right balance between proportionality, procedural fairness and workability?

We welcome the CLSB's proposal to introduce interim suspension orders under the new DR&P that will lead to the temporary suspension of a Costs Lawyer's practicing certificate if found guilty. This will comply with the LSB's recommendation and better protect the public and consumer's interest. It will bring the regulator in line with the key regulators in the legal services community.

Question 2: Do you agree with the proposal to introduce a Case Manager role?

We believe it would be helpful to introduce the Case Manager role. This way all the parties involved will have a single point of contact, including the Costs Lawyer, Complainant, witnesses and the Panel Members.

Question 3: Are there any specific circumstances in which Conduct Committee hearings should be held in private?

We do not envisage any other circumstances than the case being commercially sensitive.

Question 4: Are any other provisions needed to bring the CLSB's rules for the publication of outcomes into line with other proposed changes to the DR&P?

The Panel is extremely supportive of publishing the outcomes of the disciplinary process. It is important that the information is published in plain English in order for it to be easily understood by members of the public who are not familiar with the case. The documents should also be published in an accessible format for ease of access by third parties. We would also recommend that the CLSB and all the other regulators publish their outcomes of their regulatory process in a similar format.

Question 5: Do you agree that the DR&P should allow for the appointment of additional Panel Members on an ad hoc basis, subject to the safeguards described?

We are supportive of the proposed Conduct Committee and Conduct Appeal Committee compositions, i.e. two Lay Person Panel Members, one of whom will act as Chair of the Conduct Committee, and one Non-Lay Person Panel Member.

We find it sensible that the CLSB plans to appoint additional Panel Members to constitute Conduct Committees and Conduct Appeal Committees given the low numbers currently available. This would allow for a more flexible, responsive and timely reaction to its enquiries for all parties involved in a hearing.

Question 6: Are the proposed financial penalties sufficient to deter conduct that falls below the standards expected of a Costs Lawyer?

The Panel welcomes the revision of the financial penalties imposed under the DR&P in order to ensure that the impact of inflation over time does not undermine their deterrent effect. However, we can not comment on the individual amounts recommended given our lack of expertise. We would recommend considering the [guidance on the SRA's approach to financial penalties](#), where the regulator considers both the nature and impact scores of the penalty to calculate the financial penalties.

Question 7: Are there any other overarching considerations that should be taken into account? How do our proposals need to be changed to reflect those considerations?

The Panel is not aware of any other overarching considerations.

I hope you find these comments helpful. Please contact Lau Ciocan, Consumer Panel Associate, with any enquiries.

Yours sincerely,



Sarah Chambers

Chair

Legal Services Consumer Panel