

STRICTLY PRIVATE AND CONFIDENTIAL

**MINUTES OF THE COUNCIL MEETING OF THE ASSOCIATION OF COSTS LAWYERS
HELD ON FRIDAY 24 JANUARY 2014 AT THE CROWNE PLAZA HOTEL,
19 NEW BRIDGE STREET, LONDON EC4V 6DB**

PRESENT	Mr M Heining	Chairman
	Mr S Averill	Treasurer
	Mrs C Green	Secretary
(Council)	Mr J Barrett	
	Mrs S Nash	
	Mr R Connelly	
	Mr F Kendall	
(Ex-officio)	Mr M Cheng (CEO)	
	Mrs D Pattenden (Operations Manager)	

The meeting started at 11.00am

1. Welcome

The Chairman welcomed all to the meeting.

2. Apologies for Absence

Mr Barrett sent his apologies in advance of the meeting for a slightly late arrival (arriving at 11.15am for 8 of the actions arising)).

3. Minutes of the Council Meetings Held on 21 November 2013

The minutes were approved as being an accurate reflection of the meeting.

4. Matters arising

1	Mrs Green	Look at implications of legally changing ALCD to ACL. On hold pending future structure of ACL/ACLT being agreed.	Carried forward.
2	Mrs Green/Mr Robotham	Prepare briefing note to accredited trainers. Jenny James is preparing the note.	Delete. No longer a requirement. Covered by the CLSB guidance.

3	PR subcommittee	Develop a brochure for the CAB and LeO to inform the public about costs issues.	Mr Kendall will join the PR Committee and draft the details for the brochure. (Mr Connelly will now sit on the Law Reform Committee).
4	PR subcommittee	Prepare a simple guide for publication on the ACL website regarding the role of a Costs Lawyer and how members of the public can get help with costs issues.	Mr Kendall agreed to action this.
5	Council	All council members to provide Mrs Pattenden with their declaration of any interest. If they do not have a declaration of interest this should also be confirmed in writing. Declarations of interest to be added to the new website.	Any outstanding declarations to be emailed to Mrs Pattenden.
6	Mr Barrett	Progress the idea of students being encouraged to form regional groups. A London group will be up and running by January 2014. To be discussed further.	First London meeting at 39 Essex Street on 13 March. Speakers followed by a social event.
7	Mr Heining	Draft a deed to the Charities Commission regarding a benevolent fund. This has been done and will be sent. Awaiting reply from the Charities Commission.	Carry forward.
8	Mr Heining	Submit the document on the grounds for submission to the Office of the Privy Council. Submitted. Awaiting reply.	The LSB has confirmed receipt of the application from the Privy Council.
9	Mr Heining/Mrs Pattenden	Encourage members to become members of the local Court User Groups. Mr Heining to use the Costs Lawyer as a vehicle for this. Mr Heining felt that there should be a more formal approach than an article in the Costs Lawyer. Mrs Pattenden to email all members asking if they belong to a court user group.	Members have been emailed. 3 replies received so far.
10	PR Committee		

11	Mrs Green	Provide details to Mr Heining on the suggested entertainment for the May Annual Costs Conference.	Provided to Mr Heining.
12	Mr Robotham	Report back on structure of the new training company.	Mrs Green will cover later in the meeting.
13	Mr Robotham	Draft paper with a proposal for an accelerated route to qualification as a Costs Lawyer.	Carry forward.
14	Rules Committee	Consider a mechanism for dealing with the situation where a court has clearly made an error.	Now with the Law Reform Committee to develop a proposal for an amendment to the practice direction to reflect this situation.
15	Mrs Green	Write an article for the Costs Lawyer on the New Format Bill Committee.	Completed.
16	Mr Averill	Consider transferring more funds into the Nucleus account. Report back to council first on the notice period.	Reported later in the meeting.
17	Law Reforms Committee	Ensure that the practice direction which refers to assisting litigants in person is amended (it still refers to members of ALCD).	In hand. Carry forward. The next Rules Committee is in March. Anything which needs to go to the Rules Committee must be sent well in advance.
18	Commercial issue		
19	Contractor issue		

5. Chairman's Report

- **LSB**

Mr Heining reported back from his annual meeting with the LSB. The relationship with the LSB is very strong and a new Chairman will be announced soon.

- **CLSB**

Graham Aitken, Chairman of the CLSB has recently stood down from his position as has Mark Brooks. A notice has gone out from the CLSB to members regarding this.

- **Guideline Hourly Rates**

A survey regarding rates has recently been circulated and the committee has met to discuss the results. Interested groups are due to present evidence soon. ACL is due to give evidence on 12 February. Mr Heining asked that an email was sent to all costs lawyers inviting them to submit any materials which they feel may be useful to present to the committee.

- **Honorary Members**

Mr Heining felt that members who have contributed significantly to the progression of the Association should be recognised as honorary members. He stressed that such members should be retired. He also said that honorary members should be listed on the website. A discussion followed on whether as a professional body it was appropriate to have honorary members and to list retired members on the website. Mr Barrett felt that it did not fit with ACL's progression. Mrs Nash felt that this category of members should be considered along with other categories of membership and suggested that this was carried forward to a future meeting. All agreed.

- **Use of Term Costs Lawyer**

XXX advertise on their website that they employ Costs Lawyers. Mr Heining asked Mr Cheng to write to XXX and ask them to amend this as in fact they do not employ any Costs Lawyers.

A similar situation exists with XXX. Mr Cheng will also write to them.

Mr Barrett said that the ACL should have a proper policy regarding such issues. Mr Heining said that in the past a policy has been written. Mrs Pattenden will investigate and send a copy to Mr Barrett.

- **The Nottingham Decision**

This was discussed at the last council meeting. Mr Heining said that he has a hearing on 20 February questioning his right to conduct litigation.

A discussion followed about this and the email received from [a member] regarding rights to conduct litigation. [The member] is obtaining the transcript in order to challenge the decision. Mr Heining advised the council that he would be instructing Counsel independently regarding his matter and that he had reported the matter to the CLSB.

Mr Heining said that the matter had serious implications for members and proposed that ACL instructed Counsel for advice on the issue. Mr Barrett seconded this. It was agreed that Roger Mallalieu should be approached. Mrs Green will draft instructions and will circulate these to council members.

- **Position of Chairman**

Mr Heining reminded the council that his term of office ends in April and said that nominations for the position of new Chairman should be sought forthwith. He felt it

would be helpful if any new Chairman could sit in on some council meetings before his departure to allow a handover period. Nominations should also be sought for the vacancy on council which arose at the end of last year due to Mr Robotham's resignation.

Mr Cheng agreed to prepare a governance paper covering issues such as timings of elections.

6. PR Report

Mrs Nash expressed slight concern that circuit judges will not be represented at the judicial roundtable on 19 February. Mr Connelly will approach a circuit judge in Cambridge. A White Paper will be produced from the meeting. This will be circulated with the Costs Lawyer.

Mrs Pattenden said that a strategy for advertising rates needed to be agreed. Long standing advertisers are currently paying the same rate as they had in the old Costs Lawyer publication and the e-bulletin rates have not yet been formally agreed. The take up from current recruitment advertisers for the 'banner ad' has not been as quick as had been anticipated.

Mrs Nash said that she was pleased with the re-launch of the Costs Lawyer. There will be a 6 month review of the e-bulletin with a view to amending the format.

Mrs Nash advised that the Costs Lawyer Editor has not been using the ACL twitter account to best advantage and that the PR committee would endeavour to ensure that the account is used more.

7. Law Reforms Committee Report

Mr Averill welcomed Mr Connelly to the committee. He advised that the committee was reviewing all the rules to see which rules were assisting or otherwise. The committee would like to canvass the membership via the e-bulletin for opinions.

8. Treasurer's Report

Mr Averill advised that there was currently a balance of £54,681 in the ACL current account and £290,314 in the ACL Training account. There is approximately £200,000 on investment.

Year-end accounts are currently being prepared by the ACL accountant.

Mr Averill would like transfer £200,000 from the Training account to invest into the Nucleus fund, on the basis that funds could be accessed within a few days. Mrs Nash proposed that the money should be transferred. Mrs Green seconded this and all the council agreed.

Budgets for 2014 are currently being worked on.

10. Education Report

Mrs Green advised that a significant number of candidates sitting the exam in November failed. A number of requests for feedback have been received and there have been 2 requests for papers to be remarked. Exam re-sits will take place in London on 21 March.

Matthew Smith will be selecting the questions for the re-sits.

[A long discussion took place re the results and the steps to be taken]

Carol Cook has been positive about the work of the education committee. However she has asked that the M1 students who have been switched to M2 are transferred on to the new course. Some concern was expressed that this would delay these students in qualifying by one year. Mrs Pattenden expressed concern and advised that there would still be some students who have already done one or two modules and therefore M1 one would still have to be run for a final year. It was agreed that Mrs Green would write to students giving them the choice to start the new course.

Mrs Green advised the committee that the new course would use e-learning. The question of how this would be implemented was raised and some concern expressed as to whether realistically there was time to have this implemented for September. Mr Cheng felt that whilst e-learning was the way forward, it was expensive and for the first year at least could not be implemented on time. Mr Heining felt that this was aspirational and that with pressure to deliver the course for September it was unrealistic to think that e-learning could be delivered for September.

Mrs Green advised that an email had recently been sent to Costs Lawyers asking for their help with writing the materials for the new course. Mrs Nash expressed deep concern that the email sent out the wrong message and that the process was flawed in that there would not be enough interest from the membership.

Mrs Nash suggested that a professional should be recruited to help ensure delivery of the course on time. Mrs Green emphasised that what required was someone or a team of people to write the materials and expressed some reservation about appointing a Project Manager. Mrs Nash proposed that a Project Manager be recruited on an interim basis and that Mr Cheng draw up a role specification. Mr Connelly seconded this. The role specification will be circulated to all council members for agreement.

11. Operations Manager's Report

Mrs Pattenden asked whether a 'Manchester Conference' would be held in October. It was agreed that it would and that she should investigate venues as soon as

possible. It was agreed to hold the event mid-October, avoiding the school half term at the end of the month.

There is a joint seminar with 4 New Square on 7 February in London. ACL is organising this and Mr Robotham, who made the initial approach to 4 New Square, will chair the event. Bookings to date are in excess of 65.

The ACL administration assistant was recruited on a 6 months contract from last August. It was agreed that her contract would be made permanent from 1st February and that her salary can be increased. Mrs Pattenden will agree the details with the Treasurer.

12. Any Other Business

- A question, which had been circulated to council members in advance of the meeting, has been raised by a costs lawyer:-

“What would be the position if a firm of Costs Draftsmen (some regulated and some non-regulated) were, together with a third-party funder, offering a costs advance facility to solicitors?”

Mr Connelly said that there were several schemes covering this and a discussion followed.

Mr Connelly will draft a reply to the member.

- Mrs Nash has had conversations with Antony Smith regarding legal project management training. A session will be held in Manchester and London in the next two months; each session would have around 6 – 8 delegates.

The proposed date for the London session is 21 March. Mrs Green will source a venue for the Manchester session.

Mr Heining said that a number of costs lawyers had approached him regarding the area of training on practice management. Mr Barrett pointed out that there is an Association of Practice Managers. Mr Barrett will do some research into this.

- Prior to the meeting Mr Averill circulated a paper on the restructuring of ACL/ACLT. Mr Averill and Mr Cheng will explore the optimum methods for doing this.

All council members agreed to the recommendations.

- Mr Robotham resigned recently as Vice Chairman and Mr Heining said that he felt it appropriate to acknowledge this. Mrs Green/Mrs Pattenden to arrange for an appropriate gift.

There followed a brainstorming/SWOT /PEST analysis session facilitated by Mr Cheng.

The meeting closed at 5.20pm