

The emergence of the Costs Lawyer

Following on from former ACL honorary president Matthew Harman's February talk on the emergence of the profession, *Ben Rigby* speaks to ACL members about career development for Costs Lawyers – now and in the future

Readers of *Costs Lawyer* will have seen from former ACL chairman Murray Heining's comment in this issue how much progress the profession has made in recent years in gaining greater regulatory, client and judicial recognition.

Heining's comment that the Association has "changed beyond recognition" is reminiscent of Matthew Harman's February address to ACL members. What career development lessons can be gained from this?

Well, firstly, achieving statutory recognition through the Legal Services Act supplied "the first real recognition for the role" and was "the first time that any real formality was brought to the job", Harman said.

That formal recognition of the profession, along with regulation by the CLSB, was critical in creating a profession, supplying both assurance and consumer protection, he explained.

"Qualified and regulated practitioners are now called Costs Lawyers. This is not a term that can be applied to anyone other than a practitioner who meets the standards required by the CLSB," Harman said.

"The effect of this is that anybody who uses a Costs Lawyer can gain comfort from the fact that the Costs Lawyer has met the required level of training, has full indemnity insurance and is independently regulated."

The opportunities ahead

Harman said that "even without the Jackson reforms, the activity known formerly as costs drafting has grown up. We are now Costs Lawyers". From that standpoint, greater career

opportunities can naturally be derived.

Costs Lawyers, he added, "have become much more visible in the legal profession", but alongside such changes, there is "inherent danger... [that as] the job of the Costs Lawyer has become much more diverse... [we are] moving away rapidly from the position where we only come in at the end of the case" to a much-changed role – with associated risks and rewards.

Harman said that what had been "a very simple job" is "changing out of all recognition", and it is "vitaly important for each one of us to adapt as necessary and explore different areas of the job in order to survive in the profession".

To him, "the kitchen-table draftsman is disappearing under the onslaught of changes". While "for many years the small independents have been the backbone to the profession, providing cost services around the country", going forward Costs Lawyers will have to change.

They must, said Harman, be "prepared to adapt and look for other areas where [their] expertise can be best utilised. We have a future... people are going to have to be much more mobile, and much more proactive".

Market reaction

Michelle Vickery, a Costs Lawyer from Corsham, agrees with Harman that changes to legal aid have had a considerable impact on the kind of work ACL members do.

When she started work, "bills were normally either legal aid or legal aid/inter partes", while the relevant court rules, fixed fees and case law were much simpler. "A costs draftsman was expected to be able to draw civil and criminal

Advice to the young

How should trainee Costs Lawyers develop their careers further? John Ivory of Kain Knight says they should be as "experienced in as many different fields as possible – adverse, recovery, budgets [and] negotiations".

However, he says, they should "take on the ACL course only when they're ready. To be pushed too early to try to attain Costs Lawyer status could be detrimental to some, as it's a testing course".

Kelly Stedman, also at Kain Knight, agrees with Ivory, saying that trainees should "keep [their] fingers in all of the pies by dealing with all types of costs, not just one".

Simon Murray, CEO of Neo Law and a Costs Lawyer, says that to succeed trainees should "adopt a progressive attitude and tech-friendly working practices" – something Butler endorses, as "IT will play a significant role in the day-to-day role of a Costs Lawyer going forward".

The importance of communication

Harman's view was that Costs Lawyers need to be more proactive – one shared by Heining, who says in his comment that "challenges also bring opportunities that should be grasped".

Murray warns readers that "if [members] remain wedded to traditional attitudes and working practices, the opportunities will be limited and ever-diminishing".

Jon Lord of Costs Advocates agrees: "With the changes in funding and procedure over the years, along with advances in technology, Costs Lawyers are able to be more mobile and there is far more client interaction than there ever was."

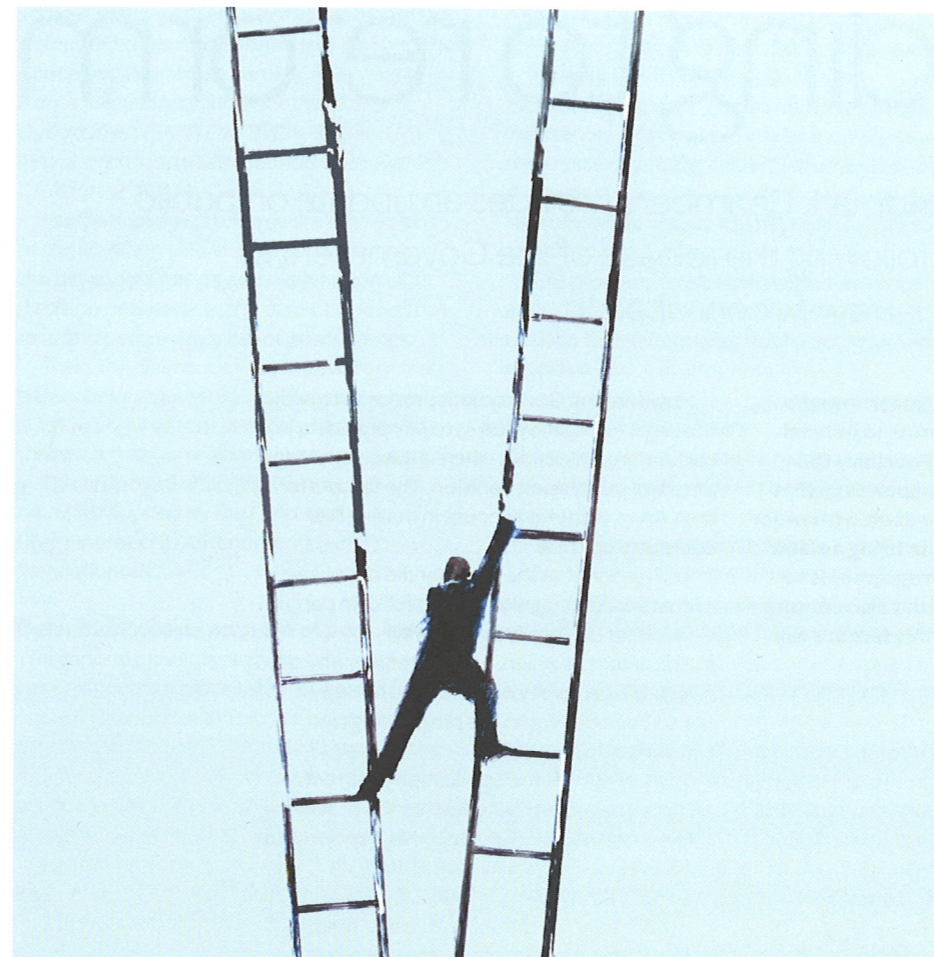
Lord stresses partnership, saying that "solicitors' firms are more business-minded nowadays and are therefore more reliant on Costs Lawyers becoming involved during the litigation process".

Like Lord, Murray says members should "build a good network of contacts that is as professionally broad as possible".

While "there have always been doom-mongers in the industry since I started as a costs draftsman 25 years ago", he says, "there are as many opportunities for costs professionals now as there were then, as long as they keep pace with change".

It's a view shared by trainees, too. David Hill, himself a trainee Costs Lawyer, says he envisages "the work of a Costs Lawyer growing as we move towards wider regulation and more complex work".

As Williams concludes, "adaptation is key, moving forward". ■



bills and to be able to draw a bill however the matter was funded – there was no 'specialising'," she notes.

While older pre-Jackson, pre-LASPO cases might supply the profession for a while, "restrictions on legal aid and the continued increase of fixed and standard fees" will mean that Costs Lawyers "may be fighting for work" in future.

That said, Vickery stresses that Jackson's reforms, of themselves, will fundamentally change "very little – files will still need to be costed 'to date' [whether as budgets or bills] and the same arguments as to recoverability continue to apply, although they may now become used more at the CMC stage than at detailed assessment".

Neil Sexton of Blake Laphorn agrees, saying: "There is great merit in maintaining a general practice but I would advise Costs Lawyers to get as much experience and knowledge of costs budgeting" as possible, as "this will

prove to be the main source of work for Costs Lawyers in the future."

While conceding that experience is important, Jon Williams of Williams Associates questions whether this will be so, "as budgeting will replace other aspects of a Costs Lawyer's work lost, or soon to be lost at least, by reason of the Jackson reforms".

Equally, Vickery feels – unlike Harman, who emphasised advocacy – that "the emphasis will be more on the 'preparation' element of the job than the advocacy, as the intention of effective case management seems to be to eradicate the need for detailed assessment in the long term".

However, Chris Butler of Kain Knight disagrees with Vickery, saying trainee Costs Lawyers should "attempt to gain as much front-line court experience as possible, including attending detailed assessments and CMCs", as acting for paying parties gives one the opportunity to develop a good knowledge of costs case law.