

Lexcel v4

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The standard requires practices to have a number of policies and plans. Please note that practices must document the person responsible for each policy and plan. In addition, a documented review of all policies and plans must take place at least annually.

As sole practitioners will be responsible for all policies and plans, it is not necessary for them to document this information.

1 Structures and policies

- 1.1 Practices will have documentation setting out:
 - a: the legal framework under which they operate
 - b: their business structure.
- 1.2 Practices will have a risk management policy, which must include:
 - a: strategic risk
 - b: operational risk
 - c: regulatory risk
- 1.3 Practices will have a quality policy, which must include:
 - a: the role that the quality system plays in the overall strategy of the practice
 - b: a process for personnel to suggest improvements to the quality system
- 1.4 Practices will have a policy on the avoidance of discrimination and the promotion of equality and diversity, to include:
 - a: employment and partnership, recruitment and selection, training and conditions of service and promotions within the practice
 - b: the delivery of service
 - c: the instruction of counsel and experts in all professional dealings
- 1.5 Practices will have a policy to ensure compliance with anti-money laundering legislation. The policy must include:
 - a: the appointment of a Nominated Officer usually referred to as a Money Laundering Reporting Officer (MLRO)
 - b: a process for making disclosures within the practice and by the MLRO to the authorities
 - c: identification checking
 - d: training of personnel
 - e: the proper maintenance of records

- 1.6 Practices providing services to clients in relation to property transactions will have documented procedures in relation to the avoidance of involvement in mortgage fraud.
- 1.7 Practices will have a policy in relation to the health and safety of all personnel and visitors to the practice.
- 1.8 Practices should have a policy in relation to community and social responsibility.

2 Strategy, the provision of services and marketing

- 2.1 Practices will develop and maintain a marketing and business plan.
- 2.2 Practices will document the services they wish to offer, including:
 - a: the client groups to be served
 - b: how services are to be provided
 - c: the way in which services are designed to meet client needs
- 2.3 A documented review of 2.1 and 2.2 will be conducted at least every six months.
- 2.4 Practices will have a business continuity plan, which must include:
 - a: an evaluation of potential threats and the likelihood of their impact
 - b: ways to reduce, avoid and transfer the risk
 - c: processes for testing and checking the plan

3 Financial management

- 3.1 Practices will document responsibility for overall financial management.
- 3.2 Practices will be able to provide documentary evidence of their financial management processes, including:
 - a: annual budget (including, where appropriate, any capital expenditure proposed)
 - b: variance analysis conducted at least quarterly of income and expenditure against budgets
 - c: annual profit and loss or income and expenditure accounts (certificated or audited accounts)
 - d: annual balance sheet
 - e: annual cash or funds flow forecast
 - f: quarterly variance analysis at least of cash flow
- 3.3 Practices will have a time recording process which enables the accurate measurement of time spent on matters for billing purposes.

4 Information management and facilities

Practices must ensure they comply with relevant legal and regulatory provisions in relation to all policies in section 4A and ensure that all personnel receive appropriate training to understand the policies.

4A Information management

4A.1 Practices will have an ICT plan, including:

- a: the application of all ICT facilities within the practice
- b: the role of ICT in facilitating services for clients

4A.2 Practices will have a policy in relation to data protection compliance issues, which must include:

- a: ensuring registration with the Information Commissioner
- b: training of personnel

4A.3 Practices will have an information management policy, including:

- a: relevant information assets of both the practice and clients
- b: the risk to these assets, their likelihood and their impact
- c: procedures for the protection and security of the assets
- d: a process for training personnel

4A.4 Practices must have an e-mail policy, including:

- a: the scope of permitted and prohibited use
- b: any procedures for monitoring personnel using e-mail
- c: procedures for proper management and security
- d: procedures for its proper storage and destruction

4A.5 If the practice has a website, the practice must have a website management policy, including:

- a: a process for document approval and publishing
- b: the scope of permitted and prohibited use
- c: procedures for the proper management of its security and contents

4A.6 If personnel in the practice have Internet access the practice must have an Internet access policy, including:

- a: the scope of permitted and prohibited use
- b: any procedures for monitoring personnel accessing the Internet

4B Facilities

- 4B.1 Practices will document the office facilities needed to provide a service, including:
- a: the use of premises and equipment, including security and safety issues
 - b: arrangements for clients to visit the offices
 - c: communication arrangements
 - d: procedures for the handling of financial transactions
- 4B.2 Practices will have a process for legal research, including the updating and sharing of legal and professional information.
- 4B.3 Practices will maintain an office manual or Intranet collating information on office practice, which must be available to all personnel of the practice. Practices will have a process to:
- a: control the office manual or intranet to ensure that only the current version is in use
 - b: review the manual or Intranet at least annually
 - c: update the manual or Intranet and record the date of amendments

5 People management

- 5.1 Practices will have a plan for:
- a: the recruitment of personnel, including likely recruitment needs
 - b: the training and development of personnel
- 5.2 Practices will list the tasks to be undertaken by all personnel within the practice and document the skills, knowledge and experience required for individuals to fulfil their role satisfactorily, usually in the form of a person specification.
- 5.3 Practices will have procedures to deal effectively with recruitment and selection, which must include:
- a: the identification of vacancies
 - b: the drafting of the job documentation
 - c: methods of attracting candidates and applicants
 - d: selection methods used
 - e: storage, retention and destruction of records
 - f: references and ID checking and any use of medical examination
 - g: checking fee earners' disciplinary record

- 5.4 Practices will conduct an appropriate induction process for all personnel, including those transferring roles within the practice and must cover:
- a: management structure and the individual's job responsibilities
 - b: terms and conditions of employment
 - c: immediate training requirements
 - d: key policies
- 5.5 Practices must have a training and development policy and will:
- a: ensure that appropriate training is provided to personnel within the practice in accordance with its policy
 - b: ensure that all supervisors and managers receive appropriate training
 - c: have a process to evaluate training
- 5.6 Practices will conduct a documented review of the responsibilities, objectives, performance and training of all personnel at least annually.

6 Supervision and operational risk management

- 6.1 Practices will have a written description of their management structure which designates the responsibilities of individuals and their accountability.
- 6.2 There will be a named supervisor for each area of work undertaken by the practice. The supervisor must have appropriate experience of the work supervised and be competent to guide and assist others.
- 6.3 Practices will have processes to ensure that all personnel, both permanent and temporary, are actively supervised. Such processes will include:
- a: checks on incoming and outgoing correspondence, including letters, e-mails and faxes
 - b: departmental, team and office meetings and communication structures
 - c: reviews of matter details in order to ensure good financial controls and the appropriate allocation of workloads
 - d: the exercise of devolved powers in publicly funded work
 - e: the availability of a supervisor
 - f: allocation of new work and reallocation of existing work, if necessary
- 6.4 Practices will have processes to ensure that all those doing legal work check their files regularly for inactivity.
- 6.5 Practices will have procedures for regular, independent file reviews, of either the management of the file or its substantive legal content, or both.
- In relation to file reviews, practices will:
- a: define file selection criteria

- b: define the number and frequency of reviews
 - c: retain a record of the file review on the matter file and centrally
 - d: ensure any corrective action which is identified in a file review is actioned within 28 days and verified by the reviewer
 - e: ensure that the designated supervisor reviews and monitors the data generated by file reviews
 - f: conduct a review at least annually of the data generated by file reviews, which will contribute to the review of risk assessment data
- 6.6 Practices will ensure that procedures are in place to:
- a: designate one overall risk manager for the practice with sufficient seniority, to be able to identify and deal with all risk issues which may arise
 - b: establish appropriate reporting arrangements to ensure that risk issues are appreciated and addressed
 - c: maintain lists of work that the practice will and will not undertake including any steps to be taken when work is declined on grounds that it falls outside acceptable risk levels. This information must be communicated to all relevant staff and must be updated regularly
 - d: maintain details of the generic risks and causes of claims associated with the area(s) of work that is/are undertaken by the practice. This information must be adequately communicated to all relevant staff
 - e: manage instructions which may be undertaken even though they have a higher risk profile than the norm for the practice, including unusual supervisory and reporting requirements or contingency planning
- 6.7 Practices will analyse at least annually all risk assessment data generated within the practice. This must include:
- a: any indemnity claims
 - b: an analysis of client complaints trends
 - c: data generated by file reviews
 - d: the identification of remedial action
- 6.8 Operational risk will be considered and recorded in all matters before, during and after the processing of instructions. Before the matter is undertaken the adviser must:
- a: consider if a new client and/or matter should be accepted by the practice, in accordance with section 8.2 below
 - b: Assess the risk profile of all new instructions and notify the risk manager in accordance with procedures under 6.6 of any unusual or high risk considerations in order that appropriate action may be taken
- During the retainer the fee-earner must:

- c: Consider any change to the risk profile of the matter from the client's point of view and report and advise on such circumstances without delay, informing the risk manager if appropriate
- d: Inform the client in all cases where an adverse costs order is made against the practice in relation to the matter in question

At the end of the matter the fee-earner must:

- e: Undertake a concluding risk assessment by considering if the client's objectives have been achieved and if the client could fairly complain or make a claim for damages in relation to the service provided
- f: Notify the risk manager of all such circumstances in accordance with documented procedures

7 Client care

- 7.1 Practices will have a documented policy for client care.
- 7.2 Practices will have processes to ensure compliance with rule 2 of the Solicitors' Code of Conduct.
- 7.3 Practices must have a record of any standing terms of business with regular clients. The practice must be able to produce such terms in relation to the issues covered by this section.
- 7.4 Practices will operate a written complaints handling procedure that ensures compliance with Rule 2 of the Solicitors' Code of Conduct and in addition:
 - a: defines what the practice regards as a complaint and sets out how to identify and respond to complaints
 - b: records and reports centrally all complaints received from clients
 - c: identifies the cause of any problem of which the client has complained offering any appropriate redress, and correcting any unsatisfactory procedures
 - d: practices will conduct reviews at least annually of complaints data and trends, such review(s) forming part of the review of risk
- 7.5 Practices will have a process to monitor client satisfaction

8 File and case management

- 8.1 Practices will document how client enquiries in relation to possible instructions are handled, with particular regard to:
 - a: telephone enquiries
 - b: clients who enquire in person in the reception area, including confidentiality

- c: enquiries by correspondence and e-mail
- 8.2 Practices will document how decisions will be made as to whether to accept new instructions from existing clients or instructions from clients who have not instructed the practice before.
- 8.3 Practices will document their arrangements to ensure that conflicts of interest are identified and acted upon in an appropriate manner.
- 8.4 At the outset of the matter the fee-earner will:
- a: establish as full an understanding as possible of the client's requirements and objectives (where incomplete this must be supplemented subsequently)
 - b: provide a clear explanation of the issues raised and the advice given
 - c: explain what the fee-earner will do and in what timescale
 - d: establish the method of funding, including the availability or suitability of insurance, trade union benefits, conditional or contingency fee arrangements, or costs insurance products
 - e: consider whether the intended action would be merited on a cost benefit analysis and whether, in public funding cases, the guidance in the funding code would be satisfied
- The issues covered in a–e above must be confirmed to the client, ordinarily in writing, unless it would be appropriate not to do so. In all cases, a note of these issues must appear on the matter file.
- 8.5 Practices will ensure that the strategy for the matter is always apparent on the matter file and that in complex cases a project plan is developed.
- 8.6 Practices will have documented procedures to ensure that matters are progressed in an appropriate manner. In particular:
- a: key information must be recorded on the file
 - b: key dates must be defined and recorded on the file and in a back-up system
 - c: there must be a process to monitor key dates
 - d: a timely response is made to telephone calls and correspondence from the client and others
 - e: continuing information on cost is provided
 - f: clients are informed in writing if the person with conduct of their matter changes, or there is a change of person to whom any problem with service should be addressed
- 8.7 Practices will document procedures for the giving, monitoring and discharge of undertakings.
- 8.8 Practices will have a documented procedure to:

- a: list open and closed matters, identify all matters for a single client and linked files where relevant and all files for particular funders
 - b: ensure that they are able to identify and trace any documents, files, deeds, wills or any other items relating to a matter
 - c: safeguard the confidentiality of matter files and all other client information
 - d: ensure that the status of the matter and the action taken can be easily checked by other members of the practice
 - e: ensure that documents are stored on the matter file(s) in an orderly way
- 8.9 Practices will have a documented procedure for using barristers, expert witnesses and other external advisers who are involved in the delivery of legal services, which will include provision for the following:
- a: use of clear selection criteria
 - b: where appropriate, consultation with the client in relation to selection, and proper advice to the client on choice of advocate or other professional
 - c: clients to be advised of the name and status of the person being instructed, how long she/he might take to respond, and where disbursements are to be paid by the client, the cost involved
 - d: maintenance of records (centrally, by department or office) on barristers and experts used, including evidence of assessment against the criteria
 - e: evaluation of performance, for the information of other members of the practice
 - f: giving clear instructions
 - g: checking of opinions and reports received to ensure they adequately provide the information sought (and, in litigation matters, comply with the rules of court and any court orders)
 - h: payment of fees
- 8.10 Practices will have documented procedures to ensure that, at the end of the matter, the practice:
- a: reports to the client on the outcome and explains any further action that the client is required to take in the matter and what (if anything) the practice will do
 - b: accounts to the client for any outstanding money
 - c: returns to the client any original documents or other property belonging to the client if required (save for items, which are by agreement to be stored by the practice)

- d: if appropriate, advises the client about arrangements for storage and retrieval of papers and other items retained (in so far as this has not already been dealt with, for example in terms of business) and any charges to be made in this regard
- e: advises the client whether they should review the matter in future and, if so, when and why
- f: archives and destroys files in an appropriate manner

New Lexcel requirements from 2004 to v4

1 Structures and policies

1.2 Practices will have a risk management policy, which must include:

- a: strategic risk
- b: operational risk
- c: regulatory risk

An annual review of the risk management policy

1.4 Annual review of the policy on the avoidance of discrimination and the promotion of equality and diversity

1.5 Annual review of money laundering policy

1.8 Practices should have a policy in relation to community and social responsibility and conduct an annual review

2 Strategy, the provision of services and marketing

2.4 Practices will have a business continuity plan, which must include:

- a: an evaluation of potential threats and the likelihood of their impact
- b: ways to reduce, avoid and transfer the risk
- c: processes for testing and checking the plan

Conduct an annual review of the business continuity plan

4 Information management and facilities

Practices must ensure they comply with relevant legal and regulatory provisions in relation to all policies in section 4A and ensure that all personnel receive appropriate training to understand the policies.

4A Information management

4A.1 Practices will have an ICT plan, including:

- a: the application of all ICT facilities within the practice
- b: the role of ICT in facilitating services for clients

4A.2 Practices will have a policy in relation to data protection compliance issues, which must include:

- a: ensuring registration with the Information Commissioner
- b: training of personnel

- 4A.3 Practices will have an information management policy, including:
- a: relevant information assets of both the practice and clients
 - b: the risk to these assets, their likelihood and their impact
 - c: procedures for the protection and security of the assets
 - d: a process for training personnel
- 4A.4 Practices must have an e-mail policy, including:
- a: the scope of permitted and prohibited use
 - b: any procedures for monitoring personnel using e-mail
 - c: procedures for proper management and security
 - d: procedures for its proper storage and destruction
- 4A.5 If the practice has a website, the practice must have a website management policy, including:
- a: a process for document approval and publishing
 - b: the scope of permitted and prohibited use
 - c: procedures for the proper management of its security and contents
- 4A.6 If personnel in the practice have Internet access the practice must have an Internet access policy, including:
- a: the scope of permitted and prohibited use
 - b: any procedures for monitoring personnel accessing the Internet

5 People management

5.1 Conduct an annual review

5.3 Practices will have procedures to deal effectively with recruitment and selection, which must include:

g: checking fee earners' disciplinary record

5.5 Practices must have a training and development policy and will:

- a: ensure that appropriate training is provided to personnel within the practice in accordance with its policy
- b: ensure that all supervisors and managers receive appropriate training
- c: have a process to evaluate training

Conduct an annual review of 5.5

6 Supervision and operational risk management

- 6.3 Practices will have processes to ensure that all personnel, both permanent and temporary, are actively supervised.
- 6.5 Practices will have procedures for regular, independent file reviews, of either the management of the file or its substantive legal content, or both.

In relation to file reviews, practices will:

- a: define file selection criteria
 - b: define the number and frequency of reviews
- 6.8 Operational risk will be considered and recorded in all matters before, during and after the processing of instructions.

7 Client care

- 7.1 Conduct an annual review of client care policy
- 7.2 Practices will have processes to ensure compliance with rule 2 of the Solicitors' Code of Conduct.
- 7.4 Practices will operate a written complaints handling procedure that ensures compliance with Rule 2 of the Solicitors' Code of Conduct and in addition:
 - a: defines what the practice regards as a complaint and sets out how to identify and respond to complaints
 - b: records and reports centrally all complaints received from clients
 - c: identifies the cause of any problem of which the client has complained offering any appropriate redress, and correcting any unsatisfactory procedures
 - d: practices will conduct reviews at least annually of complaints data and trends, such review(s) forming part of the review of risk

8 File and case management

- 8.6 Practices will have documented procedures to ensure that matters are progressed in an appropriate manner. In particular:
 - b: key dates must be defined and recorded on the file and in a back-up system
 - c: there must be a process to monitor key dates