

# The Lexcel v4.1 standard

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## 1 Structures and policies

- 1.1 Practices will have documentation setting out the:
  - a: legal framework under which they operate
  - b: management structure which designates the responsibilities of individuals and their accountability.
- 1.2 Practices will have a risk management policy, which must include:
  - a: strategic risk
  - b: operational risk
  - c: regulatory risk
  - d: the person responsible for the policy
  - e: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.
- 1.3 Practices will have a quality policy, which must include:
  - a: the role the quality policy plays in the strategy of the practice
  - b: a process for personnel to suggest improvements to the quality system
  - c: the person responsible for the policy
  - d: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.

- 1.4 Practices will have a policy on the avoidance of discrimination and the promotion of equality and diversity, which must 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
  - d: the person responsible for the policy
  - e: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.
- 1.5 Practices will have a policy in relation to the health and safety of all personnel and visitors to the practice, which must include:
- a: the person responsible for the policy
  - b: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.
- 1.6 Practices should have a policy in relation to community and social responsibility, which must include:
- a: the person responsible for the policy
  - b: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.

## **2 Strategic plans**

- 2.1 Practices will develop and maintain a marketing and business plan that includes measurable objectives for the next 12 months, which must include:
- a: the person responsible for the plan
  - b: a procedure for a review of the plan to be conducted every six months to verify the plan is in effective operation across the practice
- 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: a procedure for a review of services to be conducted every six months.
- 2.3 Practices will have a business continuity plan, which must include:
- a: an evaluation of potential risks and the likelihood of their impact
  - b: ways to reduce, avoid and transfer the risks
  - c: key people relevant to the implementation of the plan
  - d: the person responsible for the plan
  - e: a procedure to test the plan annually, to verify that it would be effective in the event of a business interruption.

- 2.4 Practices will have an information communication technology (ICT) plan, which must include:
- a: the application of all ICT facilities within the practice
  - b: the role of ICT in facilitating services for clients
  - c: the person responsible for the plan
  - d: a procedure for an annual review of the plan, to verify it is in effective operation across the practice.

### **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
  - d: annual balance sheet
  - e: annual cash or funds flow forecast to be reviewed quarterly
  - f: quarterly variance analysis which includes at least their cash flow
- 3.3 Practices will have a time recording process which enables the accurate measurement of time spent on matters for billing purposes.
- 3.4 Practices will have a procedure in relation to billing clients, including:
- a: the frequency and terms for billing clients
  - b: credit limits for new and existing clients
  - c: the person responsible for the procedures
  - d: a documented review of the procedures at least annually, to verify they are in effective operation across the practice.
- 3.5 Practices will have a procedure for the handling of financial transactions including:
- a: the person responsible for the procedures
  - b: a documented review of the procedures at least annually, to verify they are in effective operation across the practice.

#### **4 Information management**

- 4.1 Practices will have an information management policy, which must include:
- a: the identification of 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 information assets
  - d: a process for training personnel
  - e: the person responsible for the policy
  - f: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.
- 4.2 Practices will have an e-mail policy, which must include:
- a: the scope of permitted and prohibited use
  - b: procedures for monitoring personnel using e-mail
  - c: procedures for the management and security of e-mails
  - d: procedures for the storage and destruction of e-mails
  - e: the person responsible for the policy
  - f: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.
- 4.3 If the practice has a website, the practice must have a website management policy, which must include:
- a: a process for document approval and publishing
  - b: the scope of permitted and prohibited use
  - c: procedures for the management of its security and contents
  - d: the person responsible for the policy
  - e: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.
- 4.4 If personnel in the practice have Internet access the practice must have an Internet access policy, which must include:
- a: the scope of permitted and prohibited use
  - b: procedures for monitoring personnel accessing the internet
  - c: the person responsible for the policy
  - d: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.
- 4.5 Practices will have a process for legal research, including the updating and sharing of legal and professional information.

- 4.6 Practices will maintain an office manual or equivalent Intranet documentation collating information on office practice, which must be available to all personnel of the practice. This will include:
- a: a process to control the office manual or intranet to ensure that only the current version is in use
  - b: a process to update the manual or Intranet and record the date of amendments
  - c: a central register of all policies and plans and the person responsible for them
  - d: a procedure for an annual review of the manual, to verify it is in effective operation across the practice.

## **5 People management**

- 5.1 Practices will have a plan for the recruitment of personnel, which must include:
- a: likely recruitment needs
  - b: the person responsible for the plan
  - c: a procedure for an annual review of the plan, to verify it is in effective operation across the practice.
- 5.2 Practices will have a plan for the training and development of personnel, which must include:
- a: the person responsible for the plan
  - b: a procedure for an annual review of the plan, to verify it is in effective operation across the practice.
- 5.3 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.
- 5.4 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
  - g: checking fee earners' disciplinary record.

- 5.5 Practices will conduct an appropriate induction 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.
- 5.6 Practices will have a procedure which details the steps to be followed when a member of staff ceases to be an employee, which must include:
- a: the handover of work
  - b: exit interviews
  - c: the return of company property.
- 5.7 Practices must have a training and development policy including:
- a: ensuring that appropriate training is provided to personnel within the practice
  - b: ensuring that all supervisors and managers receive appropriate training
  - c: a process to evaluate training
  - d: the person responsible for the policy
  - e: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.
- 5.8 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 must 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.
- 6.2 There will be a named supervisor for each area of work undertaken by the practice.
- 6.3 Practices must have procedures to manage instructions which may be undertaken even though they have a higher risk profile, including unusual supervisory and reporting requirements or contingency planning.
- 6.4 Practices must maintain lists of work that the practice will and will not undertake, including any steps to be taken when work is declined on the grounds that it falls outside acceptable risk levels. This information must be communicated to all relevant staff and must be updated when changes occur.

- 6.5 Practices providing services to clients in relation to property transactions will have procedures in relation to the avoidance of involvement in mortgage fraud including:
- a: the person responsible for the procedures
  - b: a documented review of the procedures at least annually, to verify they are in effective operation across the practice.
- 6.6 Practices must 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 communicated to all relevant staff.
- 6.7 Practices must document key dates, including:
- a: the definition of key dates by work type
  - b: key dates recorded on the file and in a back-up system.
- 6.8 Practices must have a process to monitor key dates to reduce the risk of key dates being missed.
- 6.9 Practices will document how they will ensure that conflicts of interest are identified and acted upon in an appropriate manner.
- 6.10 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.
- 6.11 Practices will have processes to ensure that all those doing legal work check their files regularly for inactivity.
- 6.12 Practices will have a procedure 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 acted upon 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.

- 6.13 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 8.1 below
  - b: Assess the risk profile of all new instructions and notify the risk manager in accordance with procedures under 6.3 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 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
  - f: Notify the risk manager of all such circumstances in accordance with documented procedures.
- 6.14 Practices will analyse at least annually all risk assessment data generated within the practice. This must include:
- a: any indemnity insurance claims (where applicable)
  - b: an analysis of client complaints trends
  - c: data generated by file reviews
  - d: the identification of remedial action.

## **7 Client care**

- 7.1 Practices will have a policy for client care, including:
- a: how enquiries from potential clients will be dealt with
  - b: ensuring that before taking on a client, the practice has sufficient resources and competence to deal with the matter
  - c: protecting client confidentiality
  - d: the person responsible for the policy
  - e: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.



- 7.2 Practices will communicate the following to clients in writing, unless an alternative form of communication is deemed more appropriate:
- a: establish the client's requirements and objectives
  - b: provide a clear explanation of the issues involved and the options available to the client
  - c: explain what the fee-earner will and will not do
  - d: agree with the client the next steps to be taken
  - e: keep the client informed of progress, as agreed
  - f: establish in what timescale that matter will be dealt with
  - g: establish the method of funding
  - h: consider whether the intended action would be merited on a cost benefit analysis
  - i: agree an appropriate level of service
  - j: explain your responsibilities and the client's
  - k: the client is given the name and status of the person dealing with their matter
  - l: the client is given the name of person responsible for the overall supervision of their matter
- 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 issues covered by this section.
- 7.4 Practices must give your client the best information possible about the likely overall cost of the matter, both at the outset and when appropriate, as the matter progresses, in particular practices must:
- a: advise the client of the basis of your charging
  - b: advise the client if the charging rates are to be increased
  - c: advise the client of likely payments which your practice or your client may need to make to others
  - d: discuss with the client how they will pay
  - e: advise the client that there are circumstances where you may be entitled to exercise a lien for unpaid costs
  - f: advise the client of their potential liability for any other party's costs.
- 7.5 Practices will operate a written complaints handling procedure, including:
- a: the definition of what the practice regards as a complaint
  - b: informing the client at the outset of the matter, that in the event of a problem they are entitled to complain
  - c: to whom the client can complain
  - d: providing the client with a copy of your practice's complaints procedure, if requested

- e: once a complaint has been made, the person complaining is told in writing:
    - (i) how the complaint will be handled; and
    - (ii) in what time they will be given an initial and/or substantive response
  - f: recording and reporting centrally all complaints received from clients
  - g: identifying the cause of any problems of which the client has complained offering any appropriate redress, and correcting any unsatisfactory procedures
  - h: the person responsible for the procedure
  - i: a documented review of the procedures at least annually, to verify that they are in effective operation across the practice.
- 7.6 Practices will have a procedure to monitor client satisfaction across all areas of the practice.

## **8 File and case management**

- 8.1 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.
- 8.2 Practices will ensure that the strategy for a matter is always apparent on the matter file and that in complex cases a project plan is developed.
- 8.3 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: a timely response is made to telephone calls and correspondence from the client and others
  - c: continuing cost information is provided
  - d: 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.
- 8.4 Practices will document procedures for the giving, monitoring and discharge of undertakings.
- 8.5 Practices will have a procedure to:
- a: list open and closed matters, identify all matters for a single client and linked files where relevant and all files for a particular funder
  - b: ensure that they are able to identify and trace any documents, files, deeds, wills or any other items relating to the 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.
- 8.6 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, consult with the client in relation to selection of advocate or other professional
  - c: advising the clients 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.
- 8.7 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.