

## Lexcel v5 - overlaps with Code of Conduct 2011

Date issued: October 2011

1 Structures and policies		
Mandatory requirement	Outcome	Indicative Behaviour
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.	<b>O(7.1)</b> you have a clear and effective governance structure and reporting lines;	
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.	<b>O(7.3)</b> you identify, monitor and manage risks to compliance with all the Principles, rules and outcomes and other requirements of the Handbook, if applicable to you, and take steps to address issues identified	
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	<b>O(2.4)</b> your approach to recruitment and employment encourages equality of opportunity and respect for diversity;	Having a written equality and diversity policy which is appropriate to the size and nature of the <i>firm</i> and includes the following features: <b>(a)</b> a commitment to the principles of equality

<p>promotions within the practice</p> <p>b: the delivery of service</p> <p>c: the instruction of counsel and experts in all professional dealings</p> <p>d: a procedure to deal with complaints and disciplinary issues in breach of the policy</p> <p>e: a procedure to monitor diversity</p> <p>f: training of all personnel on compliance with equality and diversity requirements</p> <p>g: the person responsible for the policy</p> <p>h: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.</p>	<p><b>O(2.5)</b> complaints of discrimination are dealt with promptly, fairly, openly, and effectively.</p>	<p>and diversity and legislative requirements;</p> <p><b>(b)</b> a requirement that all <i>employees</i> and <i>managers</i> comply with the outcomes;</p> <p><b>(c)</b> provisions to encompass your recruitment and interview processes;</p> <p><b>(d)</b> details of how the <i>firm</i> will implement, monitor, evaluate and update the policy;</p> <p><b>(e)</b> details of how the <i>firm</i> will ensure equality in relation to the treatment of <i>employees</i>, <i>managers</i>, <i>clients</i> and third parties instructed in connection with <i>client</i> matters;</p> <p><b>(f)</b> details of how <i>complaints</i> and disciplinary issues are to be dealt with;</p> <p><b>(g)</b> details of the <i>firm's</i> arrangements for workforce diversity monitoring; and</p> <p><b>(h)</b> details of how the firm will communicate the policy to <i>employees</i>, <i>managers</i> and <i>clients</i>;</p> <p><b>IB(2.2)</b> providing <i>employees</i> and <i>managers</i> with training and information about complying with equality and diversity requirements;</p> <p><b>IB(2.3)</b> monitoring and responding to issues identified by your policy and reviewing and updating your policy.</p>
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## 2 Strategic plans

Mandatory requirement	Outcome	Indicative Behaviour
<p>2.4 Practices will have a business continuity plan, which must include:</p> <ul style="list-style-type: none"> <li>a: an evaluation of potential risks and the likelihood of their impact</li> <li>b: ways to reduce, avoid and transfer the risks</li> <li>c: key people relevant to the implementation of the plan</li> <li>d: the person responsible for the plan</li> <li>e: a procedure to test the plan annually, to verify that it would be effective in the event of a business interruption.</li> </ul>		<p><b>IB(7.3)</b> identifying and monitoring financial, operational and business continuity risks including complaints, credit risks and exposure, claims under legislation relating to matters such as data protection, IT failures and abuses, and damage to offices;</p> <p><b>IB(7.4)</b> making arrangements for the continuation of your firm in the event of absences and emergencies, for example holiday or sick leave, with the minimum interruption to clients' business.</p>

## 3 Financial management

Mandatory requirement	Outcome	Indicative Behaviour
<p>3.2 Practices will be able to provide documentary evidence of their financial management procedure, including:</p> <ul style="list-style-type: none"> <li>a: annual budget including, income and expenditure</li> <li>b: annual income and expenditure accounts</li> <li>c: annual balance sheet</li> </ul>	<p><b>O(7.4)</b> you maintain systems and controls for monitoring the financial stability of your firm and risks to money and assets entrusted to you by clients and others, and you take steps to address issues identified;</p>	<p><b>IB(7.2)</b> controlling budgets, expenditure and cash flow;</p> <p><b>IB(7.3)</b> identifying and monitoring financial, operational and business continuity risks including complaints, credit risks and exposure, claims under legislation relating to matters such as data protection, IT failures and</p>

<p>d: annual income and expenditure forecast to be reviewed quarterly</p> <p>e: variance analysis conducted at least quarterly of income and expenditure against budgets</p> <p>f: quarterly variance analysis which includes at least their cash flow</p>		abuses, and damage to offices;
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4 Information management		
Mandatory requirement	Outcome	Indicative Behaviour
<p>4.1 Practices will have an information management policy, which must include:</p> <p>a: the identification of relevant information assets of both the practice and clients</p> <p>b: the risk to these assets, their likelihood and their impact</p> <p>c: procedures for the protection and security of the information assets</p> <p>d: a process for training personnel</p> <p>e: the person responsible for the policy</p> <p>f: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.</p>		<p><b>IB(7.3)</b> identifying and monitoring financial, operational and business continuity risks including complaints, credit risks and exposure, claims under legislation relating to matters such as data protection, IT failures and abuses, and damage to offices;</p>

5 People management		
Mandatory requirement	Outcome	Indicative Behaviour
<p>5.1 Practices will have a plan for the training and development of personnel, which must include:</p> <ul style="list-style-type: none"> <li>a: the person responsible for the plan</li> <li>b: a procedure for an annual review of the plan, to verify it is in effective operation across the practice.</li> </ul>	<p><b>O(7.6)</b> you train individuals working in the firm to maintain a level of competence appropriate to their work and level of responsibility</p>	
<p>5.6 Practices must have a training and development policy including:</p> <ul style="list-style-type: none"> <li>a: ensuring that appropriate training is provided to personnel within the practice in accordance with its policy</li> <li>b: ensuring that all supervisors and managers receive appropriate training</li> <li>c: a process to evaluate training</li> <li>d: the person responsible for the policy</li> <li>e: a procedure for an annual review of the policy, to verify it is in effective operation across the practice</li> </ul>	<p><b>O(7.6)</b> you train individuals working in the firm to maintain a level of competence appropriate to their work and level of responsibility;</p>	

6 Risk management		
Mandatory requirement	Outcome	Indicative Behaviour
<p>6.8 Practices will have a policy on the handling of conflicts, which must include:</p> <ul style="list-style-type: none"> <li>a: the definition of conflicts by work type</li> <li>b: training for all relevant personnel to identify conflicts</li> <li>c: steps to be followed when a conflict is identified</li> <li>d: the person responsible for the policy</li> <li>e: a procedure for an annual review of the policy, to verify it is in effective operation across the practice.</li> </ul>	<p><b>O(3.1)</b> you have effective systems and controls in place to enable you to identify and assess potential conflicts of interests</p>	<p><b>IB(3.1)</b> training employees and managers to identify and assess potential conflicts of interests;</p>
<p>6.11 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:</p> <ul style="list-style-type: none"> <li>a: define file selection criteria</li> <li>b: define the number and frequency of reviews</li> <li>c: retain a record of the file review on the matter file and centrally</li> <li>d: ensure any corrective action which is identified in a file review is acted upon within 28 days and verified by the reviewer</li> <li>e: ensure that the designated supervisor reviews and monitors the data generated by file reviews</li> </ul>	<p><b>O(7.8)</b> you have a system for supervising clients' matters, to include the regular checking of the quality of work by suitably competent and experienced people;</p>	

f: conduct a review at least annually of the data generated by file reviews.		
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7 Client care		
Mandatory requirement	Outcome	Indicative Behaviour
<p>7.2 Practices will communicate the following to clients in writing, unless an alternative form of communication is deemed more appropriate:</p> <p>a: establish the client's requirements and objectives</p> <p>b: provide a clear explanation of the issues involved and the options available to the client</p> <p>c: explain what the fee-earner will and will not do</p> <p>d: agree with the client the next steps to be taken</p> <p>e: keep the client informed of progress, as agreed</p> <p>f: establish in what timescale that matter will be dealt with</p> <p>g: establish the method of funding</p> <p>h: consider whether the intended action would be merited on a cost benefit analysis</p> <p>i: agree an appropriate level of service</p> <p>j: explain your responsibilities and the client's</p> <p>k: the client is given the name and status of the person dealing with their matter</p>		<p><b>IB(1.1)</b> agreeing an appropriate level of service with your client, for example the type and frequency of communications;</p> <p><b>IB(1.2)</b> explaining your responsibilities and those of the client;</p> <p><b>IB(1.3)</b> ensuring that the client is told, in writing, the name and status of the person(s) dealing with the matter and the name and status of the person responsible for its overall supervision;</p> <p><b>IB(1.13)</b> discussing whether the potential outcomes of the client's matter are likely to justify the expense or risk involved, including any risk of having to pay someone else's legal fees;</p>

<p>I: the client is given the name of person responsible for the overall supervision of their matter</p>		
<p>7.4 You must give clients 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 you must:</p> <p>a: advise the client of the basis of your charging</p> <p>b: advise the client where the practice will receive a financial benefit as result of accepting instructions</p> <p>c: advise the client if the charging rates are to be increased</p> <p>d: advise your client of likely payments which you or your client may need to make to others</p> <p>e: discuss with the client how they will pay</p> <p>f: advise the client that there are circumstances where you may be entitled to exercise a lien for unpaid costs</p> <p>g: advise the client of their potential liability for any other party's costs.</p>	<p><b>O(1.13)</b> clients receive the best possible information, both at the time of engagement and when appropriate as their matter progresses, about the likely overall cost of their matter;</p> <p><b>O(1.15)</b> you properly account to clients for any financial benefit you receive as a result of your instructions;</p>	<p><b>IB(1.13)</b> discussing whether the potential outcomes of the client's matter are likely to justify the expense or risk involved, including any risk of having to pay someone else's legal fees;</p> <p><b>IB(1.14)</b> clearly explaining your fees and if and when they are likely to change;</p> <p><b>IB(1.15)</b> warning about any other payments for which the client may be responsible;</p> <p><b>IB(1.16)</b> discussing how the client will pay, including whether public funding may be available, whether the client has insurance that might cover the fees, and whether the fees may be paid by someone else such as a trade union;</p>
<p>7.5 Practices will operate a written complaints handling procedure, including:</p> <p>a: the definition of what the practice regards as a complaint</p> <p>b: informing the client at the outset of the matter, that in the event of a problem they are entitled to</p>	<p><b>O(1.9)</b> clients are informed in writing at the outset of their matter of their right to complain and how complaints can be made;</p> <p><b>O(1.11)</b> clients' complaints are dealt with promptly, fairly,</p>	<p><b>IB(1.22)</b> having a written complaints procedure which:</p> <p>(a) is brought to clients' attention at the outset of the matter;</p> <p>(b) is easy for clients to use and understand, allowing for complaints to be made by any</p>



<p>complain</p> <p>c: to whom the client can complain</p> <p>d: providing the client with a copy of your complaints procedure, if requested</p> <p>e: once a complaint has been made, the person complaining is told in writing:</p> <p style="padding-left: 40px;">(i) how the complaint will be handled; and:</p> <p style="padding-left: 40px;">(ii) in what time they will be given an initial and/or substantive response</p> <p>f: record and report centrally all complaints received from clients</p> <p>g: identify the cause of any problems of which the client has complained offering any appropriate redress, and correcting any unsatisfactory procedures</p> <p>h: the person responsible for the procedure</p> <p>i: a documented review of the procedures at least annually, to verify that they are in effective operation across the practice.</p>	<p>openly and effectively</p>	<p>reasonable means;</p> <p>(d) enables complaints to be dealt with promptly and fairly, with decisions based on a sufficient investigation of the circumstances;</p> <p>(e) provides for appropriate remedies;</p>
<p>7.6 Practices will have a procedure for referring clients to third parties</p>	<p><b>O(6.1)</b> whenever you recommend that a client uses a particular person or business, your recommendation is in the best interests of the client and does not compromise your independence;</p>	

**8 File and case management**

Mandatory requirement	Outcome	Indicative Behaviour
8.4 Practices will document procedures for the giving, monitoring and discharge of undertakings.		<b>IB(11.5)</b> maintaining an effective system which records when undertakings have been given and when they have been discharged