

LEXCEL: IMPROVING MANAGEMENT STANDARDS

Sole Practitioners' Lexcel Advice Line:

020 7316 5776

For a free Lexcel Information Pack:

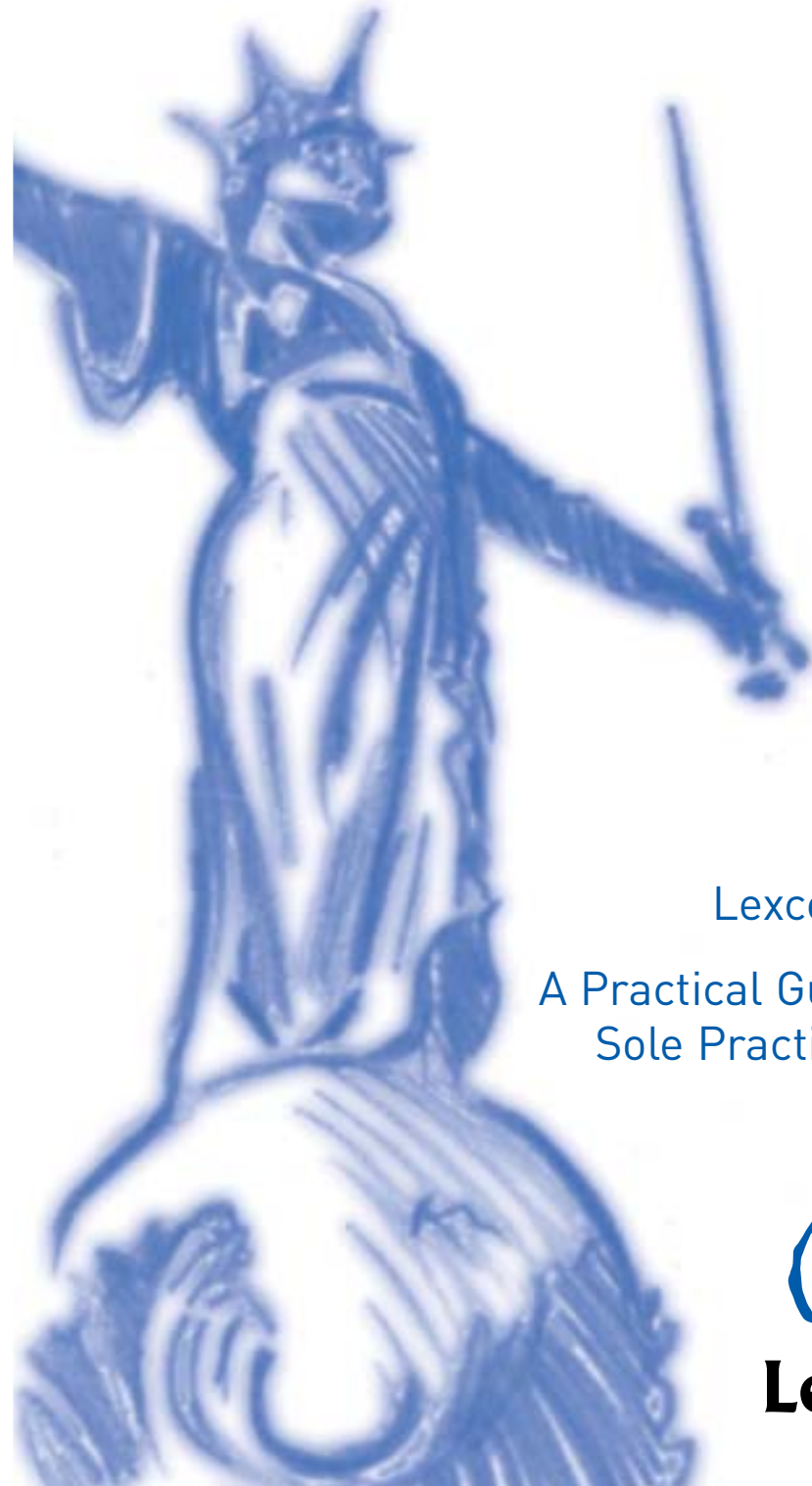
020 7320 5756

For all other Lexcel enquiries, please contact the Lexcel Office on:

020 7320 5749 or email: lexcel@lawsociety.org.uk

Lexcel: **2004**

A Practical Guide for
Sole Practitioners



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"I would greatly recommend any sole practitioner to look at Lexcel – it's not just for the larger practices. As a firm our service to clients has improved markedly and we haven't looked back."

Fiona Bruce, Fiona Bruce & Co

INTRODUCTION

This guide is designed to provide practical advice to Sole Practitioners on how to implement the Lexcel quality standard.

Following extensive consultation during 2004, including amongst others the Law Society's Solicitor Sole Practitioners Group, the requirements of the Lexcel Practice Management Standards have been revised.

This guide has been written to outline the practical application of these revised requirements to Sole Practitioners.

This guide must be read in conjunction with the full Lexcel brochure, and the "Lexcel Assessment Guide" – both of which contain a copy of the full requirements of the Lexcel Practice Management Standards.

WHAT IS LEXCEL?

Lexcel is the Law Society's practice management quality mark. Written specifically for the legal profession, it allows any type and size of practice to benefit from an independent assessment to certify that the Lexcel Practice Management Standards are being met – including Sole Practitioners.

LEXCEL'S APPLICABILITY TO SOLE PRACTITIONERS

Whilst all Sole Practitioners tend to have some form of administrative support, there tend to be two types of Sole Practitioner:

- the "true Sole Practitioner" – who operates as the only partner/fee-earner in the practice
- Sole Principal – who may have a number of additional fee-earners working with them.

This publication is written predominantly for the "true" Sole Practitioner - ie one fee-earner with perhaps one or two support staff.

The Lexcel Assessment Guide fully outlines the assessment criteria for Lexcel and its full operating procedures.

When assessing Sole Practitioners, Lexcel Assessors will tailor the assessment to the circumstances appropriate to a Sole Practitioner or Sole Principal. This can be achieved because whilst Lexcel identifies the areas that must be covered, it leaves you free to choose procedures that are most appropriate to your practice – providing you can explain and justify your choices to the Assessor.

- If you have any questions about any part of the Lexcel Standard, how to achieve Lexcel, or implement the requirements of the Standard, you can receive free advice by calling the Lexcel Sole Practitioners' Advice Line on 020 7316 5776.
- You can also receive free assistance in completing your application by ringing the Advice Line.
- You are probably already complying with a number of requirements of the Lexcel standard.
- The assessment for a Sole Practitioner to achieve Lexcel could take as little as one day to complete.
- It could cost as little as £600.
- If you have any other quality marks such as the Legal Services Commission's Specialist Quality Mark, ISO 9000 or Investors in People, then your assessment could take even less time and also cost less, since you will be allowed exemptions for any areas already covered. In many cases, a joint assessment might be possible.

THE BENEFITS OF LEXCEL FOR SOLE PRACTITIONERS

By systemising your work and adopting simple checklists and procedures, you should be able to ensure that mistakes are minimised and that standards are upheld at the busiest times, thus benefiting from improved risk management.

Whilst you are allowed the flexibility to tailor standards to meet your own needs, your management standards will be set against a profession-wide management quality mark.

Within the legal profession, client retention is key. Since an important focus of Lexcel is on improving client care, Lexcel will help you to attract and retain clients. Lexcel also provides an independent assessment of the management systems and procedures in your practice – a sign which all clients would welcome.

Sole Practitioners can also benefit from the fact that compliance with the Lexcel Practice Management Standards does not need to be complex. Providing they can be justified, simple and relatively informal procedures will satisfy Assessors.

Sole Practitioners can also benefit from the fact that it is often easier to implement change in smaller practices.

Lexcel contributes to:

- Increasing profitability
- Improving client care
- Enhancing risk management – with possible consequential savings on indemnity insurance premiums
- Increasing management efficiency
- Providing a competitive advantage
- Improving marketability to prospective and current clients
- Promoting excellence as standard.

THE IMPACT OF LEXCEL ON RISK MANAGEMENT

Being a Sole Practitioner in itself is risky, since you bear sole responsibility for the risks within your practice.

It has become more important than ever to demonstrate a genuine commitment to risk management. It is therefore important that you are able to demonstrate to your insurer/broker that you take risk management seriously and that you have effective systems and procedures in place to minimise risk.

Most complaints and claims stem from some form of management failure.

Lexcel includes requirements that are designed to help minimise or eradicate such causes of claims.

In addition to helping you to address the management causes of complaints and claims, the Lexcel quality mark also requires simple, systematic risk management procedures to be in place.

Essentially, practices that continually manage risk effectively will benefit from lower indemnity insurance premiums as levels of complaints and claims are reduced.

The Law Society's Solicitor Sole Practitioner Group (SPG) has issued further risk management guidance on "Supervision of Offices" and "Protecting Your Practice in Emergencies". Whilst this guidance does not include the full Lexcel requirements per se, it does include recommended best practice by the SPG. Please refer to these and additional documents, which are available on the SPG website at: www.spg.co.uk or from the Lexcel Office on request.

THREE THINGS YOU CAN DO TODAY

- Ring the Lexcel Sole Practitioners' Advice Line if you have a query about any aspect of the Lexcel quality mark.
- Ring and request the full Lexcel information pack, which contains all you need to know about the Lexcel assessment process.
- Look through the Lexcel requirements contained in this booklet to broadly assess how far you are already complying with the Lexcel requirements.

"When arranging insurance, Alexander Forbes' team of specialists assess a legal practice on its individual merits. However, the Lexcel quality mark is seen as an integral and important part of the risk management philosophy. There is no doubt that any evidence you can provide to your insurer to demonstrate that you are a good risk – such as the Lexcel quality – will be viewed favourably. Lexcel clearly demonstrates a positive, long-term attitude to risk management."

Alexander Forbes Professions is the recommended broker to the Law Society's Solicitor Sole Practitioners Group

PRACTICAL IMPLEMENTATION OF THE LEXCEL PRACTICE MANAGEMENT STANDARDS FOR SOLE PRACTITIONERS:

Rather than repeating the full requirements of the Lexcel Practice Management Standards, this section identifies the practical implications and differences regarding the implementation of the Lexcel requirements for Sole Practitioners.

A full copy of the Lexcel Practice Management Standards is contained within a separate Lexcel information pack.

Further guidance on how to comply with the Lexcel requirements is included in the Lexcel Assessment Guide (3rd Edition), which is sold as part of the Law Society's Lexcel Practice Excellence Kit (an order form is included in the full Lexcel information pack).

1 Structures and policies

No matter how simple, the management structure of the practice must be documented.

If you are the only fee-earner in the practice, you must be responsible for quality management, risk management and anti-money laundering. Such responsibilities must be documented and cannot be delegated. Likewise, you will be "self supervising" and will need to demonstrate how you objectively supervise your own caseload.

If there is more than one fee-earner in the practice, you must also document clear lines of responsibility for supervision of work types, management responsibilities, together with all relevant supporting policies such as anti-discrimination, equality of opportunity, anti-money laundering, data protection, health and safety, etc.

You must make documented provision for the continuity of the practice in the event of your incapacity or an emergency. This could either be dealt with in a will, or by documenting instructions with others (eg a fellow practitioner or relative).

2 Strategy, the Provision of Services and Marketing

You must document and review a business and marketing plan. This can be as simple or as complex as is deemed fit for the practice. You should be able to demonstrate that you have considered appropriate factors, and should broadly cover the following areas:

- Where the practice is now
- Services provided and brief outline of client groups to be served
- Where you want the practice to be in three years
- A number of strategic objectives for the following year
- What resources are required to achieve the objectives
- Capital expenditure
- Premises
- Staff
- Succession planning/retirement - consider ongoing Professional Indemnity Insurance issues
- Holiday support or cover for the practice
- Marketing strategy for the practice that outlines existing activity, any new or additional activity plus the allocation of a marketing budget
- Timescales for the review of all planning documentation, which must be at least every six months.

3 Financial Management

You must document who is responsible for the financial management of the practice – this is likely to be yourself.

Many of the documentary evidence requirements may be dealt with by your practice's accountant and therefore can be met by producing an accounts certificate.

Time recording may be via an IT based or manual system. Whilst time recording on all matters is accepted as best practice, where the matter is charged on a fixed fee basis, it is recommended that time recording be carried out on a periodic sample basis.

4 Facilities and IT

You will need to document the needs of the practice and all its personnel in relation to office accommodation, having regard to:

1. The importance of a comfortable and secure working environment including:
 - The use of premises and equipment, including security and related Health and Safety issues
 - Arrangements for the maintenance of office equipment: ie IT systems, photocopying machines, telephones, fax etc.
 - Procedures for handling financial transactions
 - The projection of an appropriate image to clients.
2. You must also conduct and document an annual review of Health and Safety issues with particular focus on the following:
 - Equipment
 - Safe handling and use of substances
 - Information, instruction and supervision on Health and Safety issues
 - Any training required
 - Accidents, first aid and work-related ill health
 - Monitoring of systems and conditions of work
 - Emergency procedures, fire and evacuation of premises.
3. As a Sole Practitioner, it is important that you document, and are able to demonstrate, that there is an effective business continuity plan in place.
4. You must have a plan for IT covering a 12 month period – including any planned changes, a budget, training requirements, data protection statement, user safety, appropriate use of email and any back-up facilities.
5. You must document the ways in which you, or any other fee-earners, are kept up to date with changes in the law. This could include your library facilities, magazine subscriptions, internet access or other appropriate means of updates.

6. You must maintain a documented office procedures manual. The manual does not need to be lengthy, but it should be a true reflection of how your practice operates. It must be kept up to date and all amendments to the manual must be dated.

5 People Management

You will need to be able to describe your own personal responsibilities and objectives.

These responsibilities should be documented, for example in a person specification and job description. At least annually, you should review and document your own responsibilities, objectives and tasks, and document any identified areas for training and development.

If you are not the only member of staff, this requirement will also apply to all other staff in the practice.

If you intend to recruit any new staff (this would be stated in your business plan document), you will need to devise and document procedures for recruitment, induction, equal opportunity and staff appraisals, before recruitment takes place.

You must also have an appropriate training plan which reflects all training requirements for yourself and your staff, including CPD, management, IT and any other training needs. There must also be a budget allocated to support the training plan.

6 Supervision and Operational Risk Management

You must document all your areas of responsibility. The responsibilities of other staff must also be documented as appropriate.

You must have processes in place dealing with supervision of all staff – including support staff.

If you are the only fee-earner, you will be “self supervising” and will need to demonstrate how you objectively supervise your own caseload.

You will need documented procedures to demonstrate how you control operational risk for the practice and how your caseload is effectively supervised on an ongoing basis.

You will be the named risk manager for the practice.

Procedures should include particular consideration for the following areas:

- Ensuring all files are regularly reviewed for inactivity to avoid client dissatisfaction and claims arising from delay
- Regular documented file reviews – if you are the only fee-earner in the practice, you should conduct a procedural review, perhaps with a re-consideration of the legal issues. Where there are additional fee-earners, file reviews should be undertaken by another fee-earner.

If you are the only fee-earner in the practice, you will need to document and undertake the following. If you are not the only fee-earner, then all fee-earners must be aware of, and undertake the following:

- The types of work you will accept instructions in, and which types of work you will not accept instructions in
- Guidelines in relation to the generic risks associated with the work types you usually deal with
- Any specific risk which may occur on individual matters and procedures for dealing with the risk
- Assessing and documenting on the file the risk profile of all new instructions, and procedures. If you are not the only fee-earner, you must have a procedure so that others can notify you of any issues
- Documenting all relevant key dates for the practice. Systems should be in place for the recording of key dates on all files and in back up systems
- Informing the client of changes in the risk profile of the matter, and in all cases where an adverse cost order is made
- Undertaking a concluding risk assessment (other fee-earners to notifying yourself if required)
- Carry out an annual review of all risk assessment data collected and amend procedures as required.

“Lexcel is an essential part of the growth and development of a firm, and the benefits far outweigh the costs involved.”

Steven Cross, Cross Solicitors

7 Client Care

You should have documented policies in relation to your commitment to providing good client care. Areas to be covered must include:

- Compliance with Practice Rule 15 and the Solicitors’ Costs Information and Client Care Code on all matters
- Ensure all clients are made aware of your practice’s complaints procedure
- Procedures to ensure all clients receive copies of terms and conditions. With regular clients, standing terms and conditions can be applied
- Some form of client survey should be conducted on an annual basis to obtain client feedback on the service provided.

8 File and Case Management

You must have documented procedures to demonstrate how file and case management is undertaken from the initial enquiry right through to the conclusion of the matter and file storage arrangements, in particular:

- How all initial enquiries are dealt with from whatever source they originate from
- Documented procedure for determining whether new matters should be accepted or not
- Documented arrangements to ensure a conflict of interest check is carried out on all new matters, the results of which must be documented on the file
- Ensure there is a documented record of the client’s instructions on the file, which must include the client’s objectives, issues raised and advice given, and what action will be taken next
- Confirm all of the above to the client ensuring the method of payment and whether intended action is merited on a cost benefit analysis
- Have procedures to ensure the client is kept up to date with progress or lack of progress in the matter at pre set or relevant intervals
- Ensure all relevant key information is recorded on the file including the client’s details, key dates, any undertakings and funding information

- Document procedures for giving, monitoring and discharging of undertakings
- Document how a list of all matters is kept, how all documents are traced to files, including deeds, wills or any other documents. Files must be stored in a consistent, orderly way
- Maintain a central record of all third party service providers, including barristers, expert witnesses, etc. There must also be clear criteria for their selection and instruction, checking adequacy of reports and opinions, payment of fees and consultation with the client
- Documented file closing procedures.

As you will see, many of the practical requirements for Sole Practitioners to achieve Lexcel are not complex – many are simply best practice.

It is likely that you will already be complying with a number of the requirements.

The Law Society commends the Lexcel Practice Management Standards to all practitioners (regardless of the size of practice or the types of work your practice undertakes) as a way of managing your practice more efficiently and effectively, thereby helping to reduce complaints and claims within the legal profession.

Applying for Lexcel will enable you to demonstrate your commitment to operating a well managed practice, better able to deliver good client care and achieve improved profitability.

TEN STEPS TO ACHIEVING LEXCEL

- 1 Obtain a free Lexcel information pack from the Lexcel Office by calling 020 7320 5756.
- 2 Reassure yourself that you are probably already meeting many of the Lexcel requirements by completing the Lexcel Self Assessment Checklist (contained in the general Lexcel information pack).
- 3 Discuss Lexcel with your insurer to see how much of a difference it could make to your indemnity insurance premiums.
- 4 Decide whether you wish to employ an independent management consultant to provide assistance with complying with the Lexcel requirements. Many practices decide not to employ a consultant, however for some practices, especially Sole Practitioners, they can be a useful extra pair of hands and a source of expert advice.
- 5 Improve your knowledge of practice management issues and best practice. The Lexcel Practice Excellence Kit (as advertised in the general Lexcel information pack) contains the Lexcel Assessment Guide and template Lexcel Office Procedures Manual.
- 6 Using your Lexcel Self Assessment Checklist, identify areas for improvement and set a realistic timetable for yourself to address your action points. Perhaps tackle one action point per week.
- 7 Contact the Sole Practitioners' Advice Line on 020 7316 5776 if you have any queries about how to comply with the Lexcel requirements.
- 8 Once you are satisfied that you can meet all of the requirements, contact the Lexcel Office to obtain a Lexcel application pack.
- 9 Submit your application form to the Lexcel Office at the Law Society.
- 10 Contact your chosen independent Lexcel Assessment Body to arrange your assessment date.

Good luck! And remember that the Lexcel Office at the Law Society will assist you wherever possible.