

LEXCEL PUBLICATIONS

Electronic copies:

Please note that electronic copies of most of the Lexcel documentation can either be obtained from the Lexcel Office or can be downloaded from the website at: www.lexcel.lawsociety.org.uk

Supporting publications:

Lexcel Practice Excellence Kit (comprising of the Lexcel Office Procedures Manual and Lexcel Assessment Guide), can be bought from:

Marston Book Service
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Oxon OX14 4YH
Tel: 01235 465656

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Lexcel training:

For enquiries in regard to training for Assessors/Consultants and Practices, please contact the Lexcel Office on 020 7320 5749 or e-mail: lexcel@lawsociety.org.uk



The Law Society



Lexcel

Lexcel Standard: **2004**



Lexcel



contents

4	WHAT IS LEXCEL?
4	HOW WILL MY PRACTICE BENEFIT?
5	REVISIONS TO LEXCEL
5	ENQUIRIES
6	INTRODUCTION
8	THE STANDARD
	Structures and Policies
	Strategy, the Provision of Services and Marketing
	Financial Management
	Facilities and IT
	People Management
	Supervision and Operational Risk Management
	Client Care
	File and Case Management
22	2004 CONVERSION TABLE
24	LEXCEL PUBLICATIONS

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 practices to undergo independent assessment to certify that the Lexcel Practice Management Standards are being met.

HOW WILL MY PRACTICE BENEFIT?

By investing in Lexcel, your practice is likely to benefit in a wide variety of ways:

- Increased profitability
- Reduced mistakes and effective risk management
- Establishing a framework to meet Legislative requirements e.g. Money Laundering
- Improved client care
- Provides a competitive advantage
- Improves marketability to prospective clients
- Management efficiency
- Excellence will become standard
- Assist with compliance with the proposed new practice rules i.e Business Operations and Client Relation Rules
- Assistance with Best Value compliance for local authorities.

REVISIONS TO LEXCEL

Since the launch of Lexcel in 1998, the Law Society has been closely monitoring the operation of the scheme and developments in the field of practice management. As a result, a number of amendments have been made to the scheme following extensive consultation with practices, assessors and various key individuals and interest groups within the profession and The Law Society.

The Lexcel Standard has been rearranged into eight more balanced sections in place of the former six. There are new sections dealing with strategic policies, client care, supervision and risk management. The opportunity has also been taken to address issues that were not so pressing in 2000 at the time of the last revisions: business continuity, computer use and combating money laundering are the most obvious examples. It is hoped that the changes will improve the benefits that practices receive from implementing the Standard, as well as improving client confidence in the scheme.

An important change is the removal of the need for documented procedures in the case of a number of provisions. It is recognised that if compliance can be shown by other means, this may sometimes be appropriate.

ENQUIRIES

Enquiries should be directed to the Lexcel Office, but technical enquiries about the assessment process should be made to your chosen Assessment Body.

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INTRODUCTION

Organisations wishing to be recognised as meeting the Lexcel standard will need to show compliance with the eight sections of the standard. The application of the requirements will vary from practice to practice and will need to take into account all the special circumstances of each organisation. The aim of the standard is to enable practices to address the improvements that are appropriate and gain public recognition for having done so.

The objective of Lexcel is to enhance the service given by a practice to its clients and to improve the management of the practice and the morale and motivation of its staff.

Lexcel encourages practices to consult with clients to ensure that the views of the users of legal services have an impact on the way the service is delivered. There is an emphasis within the standard on continuous improvement.

There is reference in the standard to 'policies', 'processes', 'procedures' and 'plans'.

- A 'policy' is a general approach taken within the practice to the issue in question. A policy defines why a particular approach is adopted by the practice. Since it is only a general approach there may be stated exceptions from it, but it would be assumed that the policy will apply unless otherwise stated. An example from the standard is that practices are required to have a written policy in relation to client care (see section 7.1).
- A 'process' is a description of the sequence of related activities required to achieve desired outputs. A process must be observable even if there is no documented procedure requiring it to occur. An example is the requirement for an induction process at section 5.4. There is no requirement for a documented procedure in relation to induction, but it must be observable nonetheless.
- A 'procedure' is a written description of how an activity will occur within the practice. A procedure describes the steps that staff should follow in order to complete an activity. At an assessment, a procedure can only be said to be complied with if the assessor can observe that the procedure contained in the practice's documentation is in effective operation.

- A 'plan' is an outline of where a practice desires to be in the future and describes how it intends to arrive at that destination. A plan can be described as a map which supports practices to arrive at their desired destination in the future. An example is the requirement for marketing and business plans which could be combined in one document, at section 2.1. In general the Lexcel standard permits practices to develop plans in the manner and detail that the firm considers appropriate, assuming a basic level of adequacy.

Most organisations will document all procedures within an office manual, but there is no reason why they should not be set out in a number of different sources.

For ease of reference the term 'practice' is used throughout the standard. This should be taken to include any organisation that can be subject to the standard, including partnerships, limited liability partnerships, sole practices, incorporated law firms and legal departments. Various provisions of the standard may be inapplicable to certain types of practice, in which case they should be excluded, e.g. time recording may not be applicable in a local authority practice. The Lexcel Office provides guidance on the application of the standard to particular types of practice.

The standard consists mostly of mandatory requirements, which are indicated by the use of the words 'will' or 'must'. There are also some optional requirements, which will be appropriate in most cases but are not mandatory; these are indicated by the use of the word 'should'.

THE STANDARD

1 Structures and Policies

- 1.1 Practices will have documentation setting out the legal framework under which they operate.
- 1.2 Consideration should be given to the most appropriate business structure and this should be kept under review as part of the business planning process (section 2).
- 1.3 Practices will have a risk management strategy or framework.
- 1.4 Practices will have a written quality policy. This is a high level document setting out the organisation's commitment to quality and overall policy. Practices will also have documented procedures as set out in this standard, which will be distributed and published throughout the practice showing:
 - a: The role that the quality system plays in the overall strategy of the practice.
 - b: Who has responsibility for the management of the quality system.
- 1.5 There must be one designated individual who has particular responsibility for the quality system. Practices must be able to show that this individual has sufficient authority and seniority to raise concerns regarding the quality system and to have any such issues resolved.
- 1.6 There must be a review of the operation of the quality system at least annually and a process for people within the practice to suggest improvements to the system. The review must show the part that the quality system is intended to play in the future strategy of the practice over the next 12 months at least.
- 1.7 Practices will document procedures on non-discrimination, and have regard to guidance from the Law Society on non-discrimination in accepting instructions from clients, the use of experts and counsel and the provision of services to clients.
- 1.8 Practices will document procedures on equality and diversity including recruitment and employment procedures and have regard to guidance on equality and diversity issued by the Law Society from time to time.

- 1.9 Practices will have documented procedures to ensure compliance with money laundering legislation. The documented procedures should cover:
 - a: The appointment of a 'Nominated Officer' usually referred to as a Money Laundering Reporting Officer (MLRO).
 - b: Reporting of suspicious circumstances within the practice and by the MLRO to the authorities.
 - c: Identification checking.
 - d: Partner and staff training in anti-money laundering awareness.
 - e: The proper maintenance of records.Any exemptions to these requirements must be stated in the practice's documented procedures.
- 1.10 Practices providing services to clients in relation to property transactions will have documented procedures in relation to the avoidance of involvement in mortgage fraud.
- 1.11 Practices will have a documented procedure in relation to data protection compliance issues.
- 1.12 Practices will have a documented policy in relation to the health and safety of partners, staff and visitors to the practice.

2 Strategy, the Provision of Services and Marketing

- 2.1 Practices will develop and maintain a marketing and a business plan.
- 2.2 Practices will document the services they wish to offer, the client groups to be served, how services are to be provided (including any special features) and the way in which services are designed to meet client needs.
- 2.3 The documents, required by section 2.1 must be reviewed every six months and the review must be documented. The services and marketing plan or documentation required by section 2.2 must be produced or reviewed at least annually and must be current at the time of any assessment.

3. Financial Management

- 3.1 Practices will document responsibility for financial management procedures.
- 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 cashflow.

Financial management data is best evidenced by showing all appropriate data or paperwork to assessors, but practices may decline to do so if they wish. In such cases the assessor will consider other evidence that is available, including correspondence from the practice's auditors and interviews with the partners and/or managers.

- 3.3 Practices will have a time recording process which enables the accurate measurement of time spent on matters for billing purposes and/or management analysis of the cost effectiveness of work and the efficiency of the practice.

4 Facilities and IT

- 4.1 Practices will document the office facilities needed to provide a service to clients, including:
 - a: The use of premises and equipment, including security and related health and safety issues.
 - b: Photocopying, including maintenance and support.
 - c: Arrangements for clients to visit the offices, including reception, directions and car parking, if appropriate.
 - d: Staff facilities.

- e: Mail, fax and other communication arrangements.

- f: Procedures for the handling of financial transactions.

- 4.2 Practices will conduct a documented review of health and safety issues at least annually. They must show that it has received due consideration by top management and implementation has been acted upon or is planned, as appropriate.
- 4.3 There should be a business continuity plan envisaging the nature of catastrophic events that could beset the practice and the contingency plans that should be put into effect should they become necessary.
- 4.4 Practices will have a plan for IT use setting out the use of IT facilities within the practice and any planned changes. The IT plan should cover:
 - a: Responsibility for IT purchasing, installation, maintenance, support and training.
 - b: The current and planned applications within the practice of IT.
 - c: A data protection compliance statement in relation to staff, clients and others and registration with the Information Commissioner.
 - d: Compliance with all appropriate regulations and requirements.
 - e: User safety, see also 4.2 above.
 - f: Appropriate use of e-mail and attachments, both externally and internally, including storage of messages and the implications of not observing such procedures.
 - g: Computer data and system back up, to the extent not covered in any disaster recovery plan.

The IT plan must address at least a period of the current or next 12 months and may form part of the practice's overall strategy documentation, the office manual, or a separate document.

- 4.5 Practices will document arrangements for legal research and library facilities, whether in the practice or externally and whether through books and periodicals or computer-based services. A process must exist for the updating and sharing of legal and professional information.

- 4.6 Practices will maintain an office manual collating information on office practice, which must be available to all members of the practice. Practices will document their arrangements to:
- a: Note each page with the date and/or issue.
 - b: Review the manual at least annually.
 - c: Update the manual and record the date of amendments

5 People Management

- 5.1 Practices will have a plan for the recruitment, development and welfare of their personnel, including:
- a: Likely recruitment needs, whether for the practice as a whole, its departments or offices, which may form part of the practice's overall business plan or departmental or other operational plans.
 - b: Training and development.
 - c: Welfare and entitlements.
- 5.2 Practices will list the tasks to be undertaken by all personnel within the practice – including partners – and document the skills, knowledge and experience required for individuals to fulfil their role satisfactorily, usually in the form of a person specification and job description.
- 5.3 Practices will have procedures to deal effectively with recruitment into the practice, including:
- a: The identification of vacancies.
 - b: The drafting of consequential job documentation, usually in the form of a job description.
 - c: Methods of attracting candidates and applicants.
 - d: Selection methods used.
 - e: Storage of interview notes.
 - f: Provision of information by way of feedback to unsuccessful candidates.
 - g: Any use of medical examination and/or references.

- h: Confirmation of job offers.
 - i: Maintenance of communication during the pre-joining period and starting instructions.
- 5.4 Practices will conduct an appropriate induction process to cover:
- a: The practice's aims.
 - b: Management structure and the individual's job responsibilities.
 - c: Terms and conditions of employment, personal and banking details for personnel records.
 - d: Initial and future training requirements.
 - e: Key policies, including equality and diversity and client care and office procedures.
- 5.5 The induction process must occur within a reasonable period of time of taking up the role.
- 5.6 Appropriate induction processes must apply when existing personnel transfer roles within the practice.
- 5.7 Practices will operate a process for:
- a: An annual review at least of responsibilities, objectives and performance for all partners and staff members.
 - b: Written appraisal records, which will be confidential to the jobholder and named persons under the practice's data protection policy and may be inspected as evidence of compliance only with the consent of the jobholder.
 - c: An annual review at least of the training and development needs of all personnel within the practice, recorded in an individual training and development plan.
- 5.8 Practices will ensure that appropriate training is provided to personnel within the practice in accordance with its policy on training and development. Training may be arranged on an in-house or external basis and may be on-line or through more traditional means. Where appropriate the training should be recognised for CPD purposes under the scheme operated by the Law Society of England and Wales or other professional body or bodies.

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. This will be updated within three months of any change.
- 6.2 There will be a named supervisor for each area of work undertaken by the practice. A supervisor may be responsible for more than one area of work. 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 supervision of all staff, both legal and support staff, is effective. Issues which should receive consideration may include:
 - a: Checks on incoming and outgoing post, including e-mails and faxes.
 - b: Departmental, team and office meetings and communication structures.
 - c: Reviews of matter print-outs in order to ensure good financial controls and the appropriate allocation of workloads.
 - d: The exercise of devolved powers in publicly funded work.
- 6.4 Practices will have processes to ensure the effective supervision of legal work, to include:
 - a: The availability of adequate supervision.
 - b: Appropriate procedures to allocate new work and reallocate existing work if necessary.
- 6.5 Practices will have procedures to ensure that all those doing legal work check their files regularly for inactivity to avoid client dissatisfaction and possible claims arising from delay.
- 6.6 Practices will have procedures for regular, independent file reviews, of either the management of the file or its substantive legal content, or both. The number and frequency of such reviews will be documented. There is no requirement that designated supervisors should conduct all such reviews in person, but they will need to show that they control or monitor the process and that the process is effective.

In relation to file reviews, practices will have procedures to ensure that:

- a: A record of the file review is kept on the matter file and centrally, whether for the practice or office as a whole or by team or department.
 - b: Any corrective action which is identified in a file review must be actioned within 28 days and verified by the reviewer.
 - c: There is a review at least annually of the data generated by file reviews, which will contribute to the review of risk assessment data (section 6.7f).
- 6.7 For the purposes of this section, operational risk management is the control and reduction of prosecutions, claims and client complaints against the practice. 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 should be communicated to all staff and should 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 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.
 - f: Conduct at least an annual review of all risk assessment data generated within the practice, including claims records, an

analysis of client complaints trends and data generated by file reviews. The practice should identify remedial action, which should then be reviewed at management level in the practice.

- 6.8 Operational risk needs to be considered 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 6.7 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 without delay.

7 Client Care

- 7.1 Practices will have a documented policy for client care, which will include:
- a: The practice's commitment to provide services to clients in an appropriate manner.
 - b: Procedures to ensure compliance with Practice Rule 15 and its accompanying code in relation to client care and costs information.

- 7.2 Practices will have processes to ensure that clients are informed in writing of the terms of business under which instructions are received and will be handled, including:
- a: The name and status of the fee-earner and the person(s) responsible for overall supervision.
 - b: Whom the client should approach in the event of a problem with the service provided.
 - c: The basis under which charges will be calculated including the best information possible on the likely overall costs of the matter.

The information required by this section should usually be provided in writing unless there are professional considerations that make this unsuitable in any particular matter.

There must be a record of any standing terms of business with regular clients, such as many commercial clients. The practice must be able to produce such terms in relation to the issues covered by this section.

- 7.3 Practices will operate a written complaints handling procedure that:
- a: Is made readily available and accessible to clients when it is apparent that they may wish to have recourse to it.
 - b: Defines what the practice regards as a complaint and sets out how to identify and respond to complaints.
 - c: Records and reports centrally all complaints received from clients.
 - d: Identifies the cause of any problem of which the client has complained, offering any appropriate redress, and correcting any unsatisfactory procedures.

Practices must conduct reviews at least annually of complaints data and trends, such review(s) forming part of the review of risk assessment under 6.7f above.

- 7.4 Practices must conduct an annual review to check that the practice's commitment to provide quality services is being met in the perception of clients.

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: The treatment of 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 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. Although this is a particular consideration when receiving instructions it may also be an issue later in the matter, as when third parties are subsequently joined in proceedings.
- 8.4 At the outset of the matter the fee-earner will establish:
- a: As full an understanding as possible of the client's requirements and objectives (where incomplete this must be supplemented subsequently).
 - b: A clear explanation of the issues raised and the advice given.
 - c: What the fee-earner will do and in what timescale.
 - d: Whether the fee-earner is the appropriate person to deal with the matter or whether it should be referred to a colleague.
 - e: Method of funding, including the availability or suitability of insurance, trade union benefits, conditional or contingency fee arrangements, or costs insurance products.
 - f: 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-f above must be confirmed to the client, ordinarily in writing, unless it would be appropriate not to do so under the Solicitors' Costs Information and Client Care Code. In all cases a note of these issues must appear on the matter file.

- 8.5 Practices will ensure compliance with the requirements of the Solicitors' Costs Information and Client Care Code in relation to initial costs information and, in particular, the provision of the 'best information possible on the likely overall costs of the matter, including a breakdown between fees, VAT and disbursements' (4a). Where there are special circumstances making the provision of this information inappropriate, the special considerations must be noted on the matter file. In relation to standing agreed terms with regular clients see section 7.2.
- 8.6 Practices will ensure that the strategy for the matter is always apparent on the matter file and that in complex cases a separate case plan is developed. Save in exceptional cases the client must be consulted upon and kept informed of the strategy in the matter and any planned changes to it.
- 8.7 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 recorded on the file and in a back-up system.
 - c: A timely response is made to telephone calls and correspondence from the client and others.
 - d: Information on cost is provided at least every six months and, in publicly funded matters, the effect of the statutory charge, if any, is provided to the client in accordance with the Solicitors' Costs Information and Client Care Code.
 - e: 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.
- 8.8 Practices will document procedures for the giving, monitoring and discharge of undertakings.
- 8.9 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.
- 8.10 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, which do not discriminate on grounds of race, colour, ethnic or national origins, sex, creed, disability, sexual orientation or age.
 - 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 of instructions, which clearly describe what is required and which, in litigation matters, comply with the rules of court and any court orders.
 - 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.

- 8.11 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 or destroys files in an appropriate manner.

LEXCEL 2000 – 2004 CONVERSION TABLE

Lexcel 2000	REQUIREMENT	Lexcel 2004
A1	Documented Management Structure	6.1
	Named supervisor for each area of work	6.2
B1	Business plan (a)	2.1
	Services plan, including approach to marketing (b and c)	2.1 and 2.2
	Six monthly review (d)	2.3
B2	Equal Opps	1.8
C1	Responsibility for financial management	3.1
C2	Required financial information	3.2
C3	Time recording	3.3
D1	Job descriptions	5.2
D2	Recruitment procedures	5.3
D3	Induction	5.4
D4	a: objectives and responsibilities for all personnel	5.7.a
	b: staff appraisals held annually at least	5.7.b
	c: documented record of appraisals	guidelines
	b: review of training and development	5.7.c
	c: management training	guidelines
	d: training records	guidelines
D6	Good communication	5.1
D7	Non-casework supervision	6.3
D8	Anti-discrimination	1.7
E1	Office Admin: maintenance and support, health and safety, annual review of risk	4.1-4.4
E2	Office Manual: control of issue and revisions	4.6
E3	Library Information and updates on changes to the law	4.5
F1	Index of matters	8.9.a
	Conflict of interest	8.3
	Monitor workloads	6.3.c

Lexcel 2000	REQUIREMENT	Lexcel 2004
	Key dates	8.7.b
	Undertakings	8.8
	Risk Management	6.7, 6.8
F2	Identifying funders	8.9.a
F3	Compliance with Costs Information and Client Care Code (PR15)	7.1
F4	a: Procedures for taking instructions	8.4.a
	b: Above confirmed with client	8.4
	c: Written information on complaints procedures	7.2.b
	d: record key dates on file and in back-up system	8.7.b
	e: discuss cost-effectiveness with client	8.4.f
	f: consider risk to practice	6.8.a
	g: manage risk if unacceptable	6.8.b
F5	a: timely response	8.7.c
	b: information on changes	8.6
	c: continuing risk assessments	6.8.c
	d: timely response to phones and correspondence	8.7.c
	e: Costs updates	8.7.d
	f: adverse costs orders	6.8.d
F6	Traceability	8.9.b
F7	Closing Review	8.11
F8	Counsel and Experts	8.10
F9	a: Status of Files:	
	can be easily checked	8.7.a
	b: documents orderly	8.9.e
	c: key information on file	8.7.a
F10	Supervision and file reviews:	
	a: availability of supervisor	6.4.a
	b: work allocation	6.4.b
	c: file reviews	6.6