

BEST PRACTICE

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LEXCEL – PREPARING FOR ASSESSMENT...THE EASY WAY!

By James Treloar of Foot Anstey

Having spoken to a number of law firms about their first or subsequent Lexcel assessment experience some mention the hard work and effort but almost all, the fear and panic of "getting through"! But does it have to be this way?

As winners of the inaugural Law Society Award for Excellence in Practice Standards, here at Foot Anstey our approach has been to embed the "Lexcel" ethos in everything we do! This might be easier than you think...

POLICIES, PLANNING AND COMMUNICATION

Filling in the application form is probably one of the first things you should do. The checklist will provide an excellent starting point and assesses your strengths and areas for improvement. This will also show you clearly how "ready" you are for assessment.....and then inform your plan.

And plan realistically....are you going to be able to design, communicate, deliver and embed a supervisory structure from scratch within a short timescale? Give yourself time to embed a process, iron out any issues and to learn from the changes.

The communication of policies and procedures needs to be effective at all levels of your organisation to really succeed. From the receptionist to the managing partner... Ensure, at the very least, each person in your organisation has a high level of understanding of key policies/strategy.

Remember you need your people need to "buy in" to the principles of Lexcel. Those that see this as a tick box exercise, or pay lip service to the standard, won't help you succeed. Consider the delivery

of a structured campaign of communications..... newsletters, intranet, emails, workshops and training all help you embed the key messages you want to deliver.

Our view might be slightly controversial in that we don't "beat the Lexcel drum" too much with our lawyers....by setting standards and linking these to our professional obligations under the Solicitors Code of Conduct for example we have had much greater success in embedding the key messages

SUPERVISORY PROCESS AND FILE MANAGEMENT

When developing your supervisory system ensure that it enables a supervisor to check a matter and the beginning, middle and end...

You might in the first 6-12 months of embedding the system ask supervisors to conduct more audits....a small selection every month for example and reduce the number of audits once the system is embedded.

Ensure your supervisors embrace the principles of Lexcel and cascade this to their teams. This is really key to getting the buy in and support you will need to make Lexcel a success. In our experience, if the supervisor isn't interested in compliance or service standards, neither will their team...and you've probably got the wrong supervisor! This doesn't always have to be the most experienced or senior person in the team...empower someone up and coming with



James Treloar

the drive and appetite to make it work!

You could also consider a "mock" assessment using an internal manager or external consultant as the assessor. This will really help you understand your progress and give you some valuable experience of "what will happen" during the assessment as well as identifying areas for improvement.

FINALLY

Once you are ready, and the big day has arrived remember the drivers that led you to apply in the first place. ...The assessment is an opportunity for you to learn something about your business and improve it. If you take this approach I am sure that you, and your firm, will reap the benefits of Lexcel...but more importantly so will your clients.

For a starter pack, or free of charge visit to discuss Lexcel, please contact John Edwards on 0207 078 0840 or email: john.edwards@recognisingexcellence.co.uk

RECOGNISING
EXCELLENCE

Raising Performance

LEXCEL BEST PRACTICE COLUMN:

Staff are not able to open a file or ledger for any client without certification on the File Record that client due diligence has been completed.

The firm has developed policies and practices in relation to its social responsibility and the environment. It regularly supports local charities, with a series of events throughout the year and has policies for recycling and waste reduction. One of these is the long-standing aim of moving towards a paperless environment wherever possible, hence the continuous improvement of IT services and use.

There are facilities for remote working and the firms' intranet can be accessed by mobile phone if necessary.

The firm has always had a commendable focus on risk, and is now about to form a Risk and Quality Group comprising people from different sections of the firm. Through this it is hoped to strengthen compliance, reduce risk, improve client satisfaction levels, and widen understanding of risk throughout the firm.

Lexcel
Licensed Assessment Body
The Law Society

WHEN THE SRA COMES CALLING

by Bob Partridge, Lexcel Adviser and Assessor

Most firms are probably aware that in the next two or three years, they will receive notification of a visit from advisors of the SRA Practice Standards Unit (PSU). For some, this call could cause a degree of apprehension.

The reasons for visits are founded on risk based intelligence, and are summarised in the SRA's own words:

"We investigate firms primarily on the basis of intelligence and are developing a targeted investigative strategy. The risks are grouped under these headings":

- financial issues;
- legal competence;
- efficiency, management and administrative competence.

Regardless of the reasons for the visits, what most firms want to know is:

"What are they looking for, and how can we best prepare ourselves for the visit?"

By looking at a number of reports and other information, it is possible to get some idea of what the PSU will look at. Whilst there are slight variations in the sequencing of reports, the areas covered are consistent, and are described below. It must however be stressed that the list is not exhaustive, and that any actual or perceived areas of concern on the part of the PSU, will warrant closer scrutiny.

CLIENT CARE – RULE 2

- confirmation of instructions and client objectives;
- details of the name and status of the fee-earner(s);
- details of the supervisor;
- costs information including basis of costs (fixed fee, percentage of estate, time spent, charge out rate of

all fee-earners involved etc.);

- changes or additions to any of the above.

COMPLAINTS – RULE 2.05

- are clients informed in writing at the outset of a matter that they are entitled to complain, and to whom?
- is there a separate complaints procedure?
- is a copy of the complaints procedure provided to clients upon request?
- does everyone in the firm know to whom they should refer complaints?
- procedure when complaints are received;
- central register of complaints;
- analysis of complaints for trends.

COMMISSIONS – RULE 2.06

- do you receive commissions?
- what do commissions relate to?
- how do you deal with commissions?

BUSINESS MANAGEMENT – RULE 5

- appropriate supervision of staff and adequate supervision and direction of client matters;
- financial controls – who is responsible?
- Money Laundering Procedures – firm's approach, maintenance of records, training of staff etc.;
- general systems for compliance with Rule 2;
- compliance with regulatory requirements, e.g. practising certificates, PII, accounts reports delivered etc.;
- identifying and dealing with conflicts of interest – written policy, procedures, whether you have acted for buyer and seller in conveyancing transactions;

- control of undertakings;
- training to maintain competence. Also recruitment and disciplinary procedures;
- supervision of client matters, including checks on quality of work with reasonable regularity by suitably experienced and competent persons within the firm.

EMPHASIS ON SUPERVISION

includes:

- incoming/outgoing post and faxes;
- how staff are supervised;
- supervision of remote workers;
- file reviews;
- diary systems;
- client care letters and Terms of Business;
- Office Manual;
- management of risk – who is responsible?, risk assessment of new matters;
- business continuity (continuation of service).

EQUALITY AND DIVERSITY – RULE 6

- written policy – does it cover recent changes in the law, e.g. age, sexual orientation, religion, belief etc? (as a note of guidance, make sure that your Equality and Diversity Policy covers all of the areas mentioned in Rule 6.01;
- how have staff been made aware of the policy?
- accessibility to premises.

PUBLICITY – RULE 7

- updating of stationery to read, 'Regulated by the Solicitors' Regulation Authority';
- names of principals,

partners and directors included?

REFERRALS OF BUSINESS – RULE 9

- written agreements with referrers;
- have referral arrangements been reviewed?
- has a check been made with www.claimsregulation.gov.uk to see if each claim referrer is authorised or exempt or obtained a waiver?
- do referrers know of Rule 9 requirements?
- have you obtained undertakings from referrers that they will comply with Rule 9?
- do you and the referrers inform the clients in writing of the referral arrangements?
- what checks do you make to ensure compliance with rule 9 by all of your referrers?
- how do referrers 'obtain' the clients – do they comply with Rule 7?
- what proportion of the firm's work comes from each referrer?

FINANCIAL SERVICES – RULE 19 (WHERE APPROPRIATE)

- Knowledge of obligations under Solicitors' Financial Services (Scope) Rules 2001 and Solicitors' Financial Services (Conduct of Business) Rules 2001;
- appropriately registered with the FSA?
- do you have a compliance officer?
- do you receive any commissions?

SEPARATE BUSINESSES – RULE 21 (WHERE APPROPRIATE)

- if this is appropriate, checks are made to monitor your compliance with Rule 21.
- Solicitors' Accounts Rules 1998

- accounting systems used;
- accounts up to date;
- banks used;
- preparation of reconciliations;
- controlled trust accounts;
- outstanding balances on completed matters;
- withdrawals from client account;
- transfer of payment from client to office account;
- calculation of interest on client money.

- (OISC) before taking on unadmitted advisors?
- how do you get clients?
- who supervises immigration work?
- which fee-earners do immigration work?
- do you advise on the availability of legal aid?
- use of interpreters;
- are caseworkers working towards accreditation under the Immigration and Asylum Accreditation Scheme (IAAS)?

IMMIGRATION WORK

- does the firm conduct immigration work?
- do you check with the Office of the Immigration Services Commissioner

Interestingly, with a small number of exceptions, most of the areas of interest are those that must be covered during Lexcel assessment and annual maintenance visits.

BOB PARTRIDGE

Since retirement from the police service, Bob has worked in senior positions in the voluntary and leisure sectors before setting up his own training and consultancy organisation 13 years ago. He has been an Investors in People assessor since 1996, and a Lexcel assessor since 1998. In addition to assessment work, Bob undertakes training assignments for Recognising Excellence, Assessment North East and the Lexcel office at the Law Society.

Bob completes many assignments with his wife,



*Bob Partridge,
Lexcel Adviser and Assessor*

Lynda, and between them they have done between eight and ten percent of the national Lexcel recognitions. In all, they have undertaken more than 300 Lexcel assessment and annual maintenance visits.

ARE YOU READY WHEN THE SRA COME CALLING? WOULD YOU LIKE SOME HELP IN PREPARING FOR THE VISIT?

At Recognising Excellence we understand the pressures and stress that these visits can generate. Therefore to take some of the sting out of this why not use one of our Lexcel Assessors for a Pre SRA review of your systems. Not only can they help identify problems or potential problems they can also give useful advice on how to overcome them.

We can also arrange for a half day seminar to be delivered in-house to your key staff so that there are no real surprises on the day.

If you are interested to know more then call John Edwards on 0207 078 0840 or email: john.edwards@recognisingexcellence.co.uk

WELCOME
to the following practices who have moved to
Recognising Excellence Ltd as their certification body

Thompson Smith & Puxon Solicitors

Penny Raby & Co.



THE PRINCE AND THE BAR

You'd be forgiven for thinking that there are no shortcuts to a legal career but there may be one - become a prince first. Prince William was called to the bar in a ceremony at London's Middle Temple where he was also called to the Bench, the ancient Inns of Court's governing body. The Prince is the sixth member of the Royal Family to be made a Royal Bencher, following in the footsteps of the Queen Mother, and his mother Diana, Princess of Wales. In accordance with tradition, William, 27, described his hobbies and passions in a speech to nearly 300 guests.

"I play football, rugby and water polo, not very well, but particularly pride myself in being a quite magnificent armchair centre-back at football and flanker at rugby... and now you have made me a barrister - I promise not to practise, except for the odd speeding ticket," Disappointing for those lady lawyers who would relish the chance for some courtroom sparring.

JUST JOKING?

A secretary, a paralegal and a partner in a city law firm are walking through a park on their way to lunch when they find an antique oil lamp. They rub it and a Genie comes out in a puff of smoke. The Genie says, "I usually only grant three wishes, so I'll give each of you just one."

"Me first! Me first!" says the secretary. "I want to be in the Bahamas, driving a speedboat, without a care in the world." Poof! She's gone.

"Me next! Me next!" says the paralegal. "I want to be in Hawaii, relaxing on the beach with my personal masseuse, an endless supply of pina colodas and the love of my life." Poof! He's gone.

"You're next," the Genie says to the partner.

The partner says, "I want those two back in the office after lunch."

A woman was being questioned in a court trial involving slander. "Please repeat the slanderous statements you heard, exactly as you heard them," instructed the lawyer. The witness hesitated. "But they were unfit for any respectable person to hear!" "Then," said the attorney, "just whisper them to the judge."

TAILORED PROFESSIONAL INDEMNITY FACILITY FOR LEXCEL ACCREDITED PRACTICES.

With the 2009 solicitors Professional Indemnity Insurance renewal season imminent we asked Phil Tate of Griffiths & Armour, one of the UK's leading independent insurance brokers, for his comments.

The detailed knowledge gained on the Lexcel standard from Recognising Excellence, and how this can be integrated with a comprehensive professional liability risk management strategy, is invaluable in helping deliver a tailored Professional Indemnity facility for Lexcel accredited practices.

Working closely with our panel of supporting insurers, and maximising the positive features of the standard, allows us to negotiate premiums that are reflective of the positive risk profile. However, only through the pro-active management of claims and risk can this position be maintained. The Griffiths & Armour service goes beyond quality placement services; our supportive approach to claims management is valued by our clients and makes a real difference.

Upward pressure on premiums is apparent due to factors such as general claims trends, insurer sensitivity to property market exposures and the general economic environment. Whilst the total premium for compulsory cover is likely to increase this year, well managed quality practices with good or improving claims records will be able to secure favourable renewal terms if their risk profile is clearly and succinctly differentiated from the norm. In order to achieve this it is important to be working with the right adviser and to adopt a collaborative approach. The choice of adviser should be based on their experience, expertise and capabilities

and is a critical decision that is separate to the choice of insurer.

The main areas attracting insurer's attention this year are conveyancing, mortgage fraud and claims management company work.

There have been no significant changes made to the SRA's professional indemnity rules this year. One new qualifying insurer, Allianz, has entered the market. We are also aware of one insurer who is 'credit scoring' insureds this year.

The difficulties faced by smaller firms due to the contraction of the market is set to continue. Our focus is on practices with five or more partners who value the service we offer beyond broking. However, if a smaller firm is facing difficulty we are happy to provide advice to Recognising Excellence clients. Challenging times lie ahead for the legal profession as the effects of the economic recession continue, claims activity increases and competition in the legal services marketplace intensifies. The management of risk has never been more important.

Griffiths & Armour offer a unique broking and risk proposition: A professional partnership with strategic offices across the United Kingdom, who offer informed and truly independent advice based on over 60 years experience as a market leader in Professional Indemnity. Our reputation for innovation and sound strategic advice is widely acknowledged.

Phil Tate can be contacted on 07909 967671 or at ptate@griffithsandarmour.com. For more information and to register to receive complimentary guidance notes on risk and insurance issues visit www.griffithsandarmour.com

THE LEXCEL OFFICE COLUMN

by Clare Jarrett - The Law Society

PREPARING FOR PII

The cost of PII cover is a significant one for any law firm. Last years' renewal season saw challenges for numerous firms. Market expectations are that gaining PII cover at preferred levels will only become more challenging in 2009. This combined with the difficult economic environment, will undoubtedly generate challenges for some firms.

Firms with supportive, effective management frameworks in place such as Lexcel, could find the application process less challenging as the requirements of insurers will likely already exist or be in place. Those with embedded risk management systems should find demonstrating you have a well run firm less arduous.

Starting to plan for your submission should start in July at the latest. This will enable you to start preparing data or gathering evidence for your submission. This may help to reduce the potential of rushing towards the end. An early start should, therefore, have less of an impact on your resources over the longer term, irrespective of the size of your firm.

When you apply for insurance cover, insurers take many factors into account in assessing the potential risk that they will have to pay out on claims. Having easy access to this information or evidence from the start, should make the process less stressful and time-consuming. In addition, insurers are likely to ask for data or evidence to support good management within the firm, particularly with relation to risk management. Insurers recognise that tools such as Lexcel can support effective



Clare Jarrett

risk management in practices. In particular, Lexcel provides a framework for good management systems to help you improve your risk profile. This can assist, as many claims arise as a result of poor administration and lack of supervision, as opposed to lack of knowledge of the law. Common problems suggested by insurers and brokers include; failure to comply with time limits and communication problems with the clients.

While your relationship is at its most significant in September and October time, firms should have regular contact with their brokers and insurers. Communicating with them on a regular basis will help to ensure they are informed of any changes to your business which may impact your premium. With increasing demands for data and evidence of good practice, creating a positive relationship may help you identify key risk factors and future demands for information requests early on.

Law Society support
As part of its work, the Law Society is looking into the practicalities and impact of having a single or multiple renewal dates. The Society is consulting with the profession on this issue. To vote for your preferred option and for more information on the Society's work on PII, please visit: www.lawsociety.org.uk/professionalindemnity