

# THE SOLICITORS OFFICE PROCEDURES MANUAL LAW FIRMS VERSIONS

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**NAME OF FIRM****PART 1 - INTRODUCTION**

Please note the following that the explanatory text in the box that follow compiling this part of your Practice Manual and does not form part of the themselves.

**An Introduction to Part 1**

The first part of the Manual is intended as an introduction to the firm and so is helpful for staff induction processes. The main regulatory requirements address relating to structures and management responsibilities as required by Lexcel management standards along with, to a lesser degree, the Codes of Conduct and 2019.

Cross references are to other parts of the Manual where relevant - e.g. "2.5 Policies and Conduct". Further guidance on the more obviously optional contents is shown in italics.

**1.1 Introduction to the Firm and this Manual**

1.1.1 Welcome to [*name of firm*]. The aim of this practice manual is to explain the law firm, how we operate and the values and standards we expect of those who work here. This Practice Manual is arranged in nine [*eight if you do not have a Legal Aid Supplement*] parts as follows:

- 1 Introduction,
- 2 Policies and Standards,
- 3 Anti-Money Laundering and Financial Crime,
- 4 Computer Use, Data Protection and Cyber-Crime,
- 5 Supervision, Case and File Management,
- 6 Accounts,
- 7 Health and Safety, and Office Facilities,
- 8 Staff Handbook,
- 9 Legal Aid Supplement.

1.1.2 Through the Practice Manual we hope to achieve a system of procedures which will enable us to provide an excellent service to our clients on the basis for a happy and successful practice. Please ensure that you meet the requirements of the Practice Manual in all of your day-to-day activities. If you are unsure of what is required of you, please ask.

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- 1.1.3 The authoritative version of the Practice Manual is always that appearing on the intranet *[or state other location for the authoritative version of the document management system]* and you are asked not to store other copies for reference in case those copies become out of date. It is important that all revisions of the Practice Manual comply with the requirements of the Regulations and any other quality standards to which the firm is committed.

*[Alternatively, you will need to show how paper copies of the manual are kept up to date if you are relying on hard copy manuals instead, e.g. "The manual is version X. You may be required to update certain pages if changes are required. The full log showing the correct and updated version is maintained by [name or title] who also maintains the authoritative version. You display the Manual on screen only you should still maintain a log of changes you have made to it, when, and why. See Appendix 1.]*

*Either*

- 1.1.4 The Manual is the responsibility of *[name or title]* who will ensure it is accurate and up-to-date and who will review its entire content regularly. Suggestions for improvements, updates or corrections are always welcome and should be addressed to *[him/her]* and are always appreciated.

*Or*

- 1.1.4 The Manual is the responsibility of *[name or title]* who will ensure it is accurate and up-to-date and who will review its entire content regularly. Various other people in the firm are also responsible for different parts of the Manual and report to *[name or title]* in this regard. Please see Appendix 1 for these responsibilities. Suggestions for improvements, updates or corrections are always appreciated and should be addressed to the relevant person in the Manual.

## 1.2 The Departments

- 1.2.1 In order to ensure that the service we provide to clients has the highest quality that will be required the Firm is managed through various departments. Each of the eight main parts of the Manual each department maintains responsibility for dealing with those issues and concerns that are limited to that part. Heads of Department are responsible for keeping their Departmental Manual up to date. The departmental structure is as follows:

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## PART 2 - POLICIES AND STANDARDS

Please note the following that the explanatory text in the box that follows is for guidance only and is not intended to be used as a template for compiling this part of your Practice Manual and does not form part of the Practice Manual itself.

### Introduction to Part 2

The aims of this part of the practice manual are to set out all the main policies and standards that you should have in place, and to highlight other key processes that are dealt with elsewhere. As with the other parts of the manual, the sample provisions are intended to assist you in doing so.

### Section A: Main Policies and Processes

#### 2.2 The importance of compliance

Although it would be unfortunate to set too negative and intimidating a tone, it is important to make the point that compliance with the Manual is not optional.

#### 2.3 An introduction to the firm

This section highlights the overlap with the preceding “Welcome to the firm” section.

#### 2.4 Our objectives as a firm

Although many lawyers are wary of broad policy statements, it is important to promote the values that you have as a practice, and the sort of business you aspire to develop or maintain. The sample policy wording provided in the manual addresses the need for a client care policy, found in Lexcel at section 1.1. There is to be considerable overlap between the policy and the wording of the client care policy and the need for a risk management policy. This should produce a number of better client satisfaction; fewer errors, claims and complaints; improved business performance and thus profitability.

It is advisable to link any commitment that the firm has to maintaining any quality accreditations so that it is made clear that these are seen as the way in which to improve the operational effectiveness of the firm, rather than being peripheral “badges” that do not impact on the core activities of the firm.

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## 2.5 Professional standards and conduct

It is a good idea to advise the whole firm that the SRA jurisdiction work within the firm to some degree. Non-solicitor employees work to the same principles, nonetheless. In practice the risks of enforcement by the SRA against non-solicitors are unlikely, but they do depend on the nature of the work. The greatest risk of action being taken against non-solicitors remains where a complaint is made against them that they should not be employed in a solicitor's firm in the future under section 43 of the Solicitors Act 1974 – usually as a result of dishonesty on their part.

So far as solicitors are concerned, remember the duties contained in the Code for Individuals and the Code for individuals extend beyond their professional duties. Principle 2 and the need to uphold the standing of the profession are noted that paragraph 1.2 of the Code for Individuals continues to be in place for some time to the effect that solicitors must not take actions that could bring the profession into disrepute in either their professional or personal life.

## 2.6 Equality and diversity

Ensuring that the practice operates in accordance with the requirement not to discriminate and to promote diversity is a requirement of Principle 1. There is no set requirement to adopt an appropriate policy along with the Standards and Regulations. It is, however, a recommendation in the SRA's guidance note on this topic (dated 25<sup>th</sup> November 2017, "approach to equality, diversity and inclusion") and a requirement in the SQM (A3.1) in any event, along with the need for training in diversity (4.2.d).

There is often confusion as to the terms that are used in this area. Discrimination should be regarded as the minimum level of behaviour that should be expected within any organisation, whereas the concepts of equality and diversity are more aspirational in their nature. The issue of "equality" is usually referred to the former "strands" of discrimination law, or the "protected characteristics" they are referred to in the Equality Act 2010, whereas "diversity" is a broader concept that also includes issues that are outside the scope of the Equality Act.

The Legal Aid Specialist Quality Mark ("SQM") requires firms to comply with the legal requirements in particular ways, depending on the size of the firm.

- 2.10.3 As required by para 2.5 of the Code for Firms [*and as required by Lexcel*], we maintain a compliance plan and risk register as part of our overall risk management system. [see *Appendix 4*]

## 2.11 Compliance Officer for Legal Practice ('COLP') and Compliance Officer for Administration ('COFA'): Reporting of non-compliances

- 2.11.1 The SRA Handbook introduced for all law firms an enhanced duty to report any "material" breach of the SRA rules, including the Accounts and Financial Statements Standards and Regulations this has become a duty on individuals. In particular, COLPs and COFAs to report promptly all "serious" breaches of the Standards and Regulations which they might reasonably believe should be brought to the SRA's attention. They must do so "promptly".
- 2.11.2 The firm's COLP is [*name and add details of deputy if relevant*] and the COFA is [*ditto*]. Details of how they meet the obligations imposed on them by the SRA can be found in their role profiles [*see Appendix 4*].
- 2.11.3 Where you are unsure whether any problem that arises is a breach of the SRA Standards and Regulations please consult with either of the above named individuals. The nature of the possible breach. It is important to note that solicitors have an enhanced duty to report to the SRA any facts or matters that they are aware of which are capable of amounting to a serious breach of their regulatory obligations. This duty also extends to any facts or matters that they reasonably believe should be brought to the regulator's attention in order that they may investigate where a serious breach has occurred or where they might wish to exercise their enforcement powers. These duties, which will be found at paragraphs 7.7 and 7.8 of the Handbook for Individuals, will be satisfied if you bring them to the attention of the relevant officer depending on the nature of the breach, in accordance with paragraph 7.9 of the Handbook for Individuals.
- 2.11.4 For other managerial and risk management responsibilities see *Appendix 4*.

## 2.12 Potential claims against the firm

- 2.12.1 The firm sets great store by the quality of its work. Nonetheless, errors and omissions can happen from time to time. Whatever the problem, delay in reporting a problem can make things much worse and may therefore be treated as a serious breach of the SRA rules by the [*partners/directors*]. There are also professional obligations to clients in certain circumstances to clients (when errors or omissions on our part could bring a claim against us). See para 7.11 of the Code of Conduct for Firms.
- 2.12.2 Following the implementation of the GDPR it might also be necessary to report significant data breaches to the Information Commissioner's Office.

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being no arrangement in place in this regard between the SRA and the firm - to include failing to take certain steps - must therefore be reported to [name or title] as soon as possible.

- 2.12.3 The firm is committed to helping lawyers to resolve situations where a client has made and will be supportive, providing that early notification is made.

## 2.13 SRA Accounts Rules

- 2.13.1 For the most part compliance with the SRA Accounts Rules (the Accounts Rules) is controlled in place [by the Accounts Manager/Cashier/other person in the Accounts/Cashiers/Accounts team] who [has/have] expertise in the obligations of the Accounts Rules. All others are responsible for the Accounts Rules provisions of our Accounts Manual but, in addition, please note that the Accounts Rules where fee earners could inadvertently cause the firm to breach the Accounts Rules regulator.

- 2.13.2 Rule 2 of the Accounts Rules covers dealing with client accounts. The following are of relevance are:

- all client account receipts must be banked “promptly” which means to take to mean on the same or next working day where possible. *as there is more discretion here to state how you would define promptly, as firms seem now to have switched to a 7-day target and longer periods might be acceptable.*]. Cheques are generally taken from the client account, but it is possible that the presence of a cheque could be overlooked, or you may receive a cheque at a meeting with the client by hand delivery. It is essential that you forward or hand the cheque to [Accounts Department/Other] immediately upon receipt by the firm.
- we are likewise also obliged to clear all outstanding client accounts. In particular, this means that unless there are clear and precise instructions to explain why funds are in our client account, to return the funds to the client as soon as possible. This provision is closely linked to the Accounts Rules which provides that law firms may not provide a banking facility for clients because they are not legally permitted to do so under the Financial Services and Markets Act 2000. This is in part because law firms could be inadvertently involved in money laundering activities or could be abetting perverting the course of justice, as where funds are retained in divorce proceedings. It is essential, therefore, that you return the funds to [Accounts Department/Other] in returning such funds to the client as soon as possible when there is no adequate reason to justify the firm retaining the funds.

- 2.13.3 On occasions we will be left with outstanding client balances where we cannot trace

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to use the number in the professional directory rather than the number on the notepaper in front of you as that notepaper might be false and 'bogus firm' scam. Where repeat usage is made of a particular mortgage broker who introduces multiple matters to the firm have this copy on every matter file.

- 3.4.6 In these circumstances we would also undertake a more basic based on the copy documents and details provided to reveal any personal details given by the client and the information on the against and to reveal any PEP (politically exposed person) connections [see 3.32]

### 3.5 Checking Companies

- 3.5.1 The CDD information required of company clients and their main by the MLR 2017 r.28(3) to be its:

- name;
- registered number;
- registered office and principal place of business if different
- the law it is subject to;
- the full names of the board of directors, or equivalent, and senior persons responsible for its operations.

- 3.5.2 In addition it is now a formal requirement that you must under  
noted on your file unless the client is well known to us from previous  
of the company's ownership and control structure (now r.28(3A)  
 to take "reasonable measures" to establish the identities of the defined as all who have more than a 25% shareholding in all co listed public companies or who will be regarded as the "ultimate under r.5 MLR 2017. These requirements were also subject to a 2020 and it is now provided at the MLR 2017 r.30A that when company client (by way of a "business relationship", as the regular words we take on a new company client) we must consult the uncover anomalies between the identity of the beneficial owner instructions and those noted in the register of Persons of Significant then we are under a duty to report any such discrepancy to the authoritative guidance on the point we should obtain the client the reporting obligation is stated to be subject to legal professional client's instructions on this point are likely to amount to privileged information.

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- 3.5.3 Please note that the main requirement now in relation to company directors is to ensure that we take “reasonable measures” to ensure that we obtain the names (no need for addresses other than those who may be in the UK) of all directors. It is no longer necessary to conduct personal identity checks on one or more directors, but we should continue to regard this as good practice and where possible we should conduct checks unless those directors are already well known to us. *[This reflects the fact that in many firms where personal checks are also conducted on directors/shareholders. It is no longer a requirement to do so but the main requirement now in this regard is, however, to obtain a list of the names of all directors.]* It is also important to check that those who put the company in the organisation are actually entitled to do so.

### 3.6 Beneficial owners

- 3.6.1 If we are acting for an entity (e.g. a limited company) we must identify who ultimately controls the client and also who has a 25+% shareholding and therefore as beneficial owners. We are generally not required to identify beneficial owners to the same level as a client, but we must have their names and details of their suspicions as to the nature of their involvement or background. We must also need to inspect the register of persons of significant control. *[This refers to the need to take “reasonable measures” to identify beneficial owners.]*
- 3.6.2 Since a trust is not an entity as such, we would instead have to identify the trustees, for example – as being individual clients. In some cases we would be able to rely on their instructions on the identification of beneficial owners, for example, to meet our duty to establish the identities of the beneficial owners. Those counting as the beneficial owners in trusts are:
- the settlor;
  - the trustees;
  - the beneficiaries (by class if the interest is contingent or by name if it is not);
  - any individual who controls the trust or who has power of appointment.
- 3.6.3 We may be obliged to register details of the beneficial owners of a trust with the Beneficial Ownership Registration Service (“TRS”) if it is an express trust which is liable to tax. This requirement was extended by the Money Laundering and Terrorist Financing (Transparency and Exit) Regulations 2020 with a full implementation date of the 1 January 2022. *For more on this topic if required see the Infolegal Compliance Bulletin. See also para 6.14.12.6 in the revised Affinity Group AML Guidance on this point.]*

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- CDs;
- videos;
- recorded magnetic media;
- photographs;
- digitised information;
- electronic communication systems; and
- personnel files.

#### *Storage and destruction of emails*

4.9.6 Client emails are stored in the client's electronic file or as clear text files. We maintain back-ups and electronic copies of emails as set out in our data management policy. *[Practices vary considerably on this sort of thing and you wish according to your firm's own policies including printing off emails and your filing system. If you use a case management system you need to refer out to any separate user guide]*

4.9.7 Some organisations such as local authorities and the criminal justice system use platforms for email communication. Where such a protocol is in place you need to co-operate with it.

#### *Encryption/secure platforms [if adopted within the firm]*

4.9.8 Keep master copies of important data on the network server rather than on a local C drive or data sticks. Data will not be backed up unless it is on the server and so it is at risk.

4.9.9 Ask for advice if you need to store, transmit or handle large files, particularly images or audio and video. These large files use up bandwidth and can bring the network to a standstill.

4.9.10 Similarly, do not copy files that are on the network server into your local drive unless you have good reason (i.e. you are updating them, or you need them for a special purpose) since this uses up disk space.

### **4.10 Use of the internet and emails**

4.10.1 The use of the Firm's email and internet access facilities is encouraged to ensure the efficient conduct of the Firm's business. We are committed to ensuring that internet and emails in a lawful and professional manner, and so

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usage, as by using it for any purpose that could be considered illegal or in a manner that would be capable of bringing the profession into disrepute. The use of the Firm's facilities to access pornography or any other material deemed to be in breach of our Equality and Diversity or Dignity Policy (2.6 and ??), unless it is necessary to do so in pursuance to client instructions, will not be permitted. The Firm reserves the right to monitor and control the use of its facilities and has received.

- 4.10.2 The internet access facilities and all messages distributed via the Firm's email system, including personal emails, are the Firm's property. Consequently, the Firm reserves the right to monitor internet activities and incoming and outgoing emails to ensure that the Firm's policy is adhered to. If there is evidence that the guidelines are being breached, the Firm reserves the right to take action in accordance with its disciplinary policy. Breach of the policy could include immediate termination of employment and/or legal action.

#### *Use of email*

- 4.10.3 When using email, you should:

- Always consider whether email is the right medium for the communication. Although it appears to be an informal communication tool, email should be regarded as being published information and should be treated with the same degree of formality as a letter.
- Take the same care in drafting an email as you would in drafting a letter. Capital letters should be avoided as they can be interpreted as "SHOUTING".
- Avoid sending an email which might inadvertently be taken as an offer of undertaking. Also beware of defamatory comments in relation to other parties (deliberate or otherwise). Abrupt, inappropriate use of language can lead to a bullying tone and possible offence. Even a single word can even amount to harassment. Please also note that the Solicitors Regulation Authority (SRA) has fined solicitors in recent years for rude or insulting comments. A solicitor who addressed his opponent with the message "You are a piece of shit" was fined £15,000 at the SDT for the same reason. Solicitors should behave like a normal human being and not be such a professional. A solicitor concerned was fined £15,000 at the SDT for the same reason.
- Avoid the use of long email trails as it is easy to forget the main point of the material contained nearer the start and, by re-transmitting the whole trail, your responsibility or it might be received by someone who does not need it.
- For the same reason avoid the use the "reply to all" function – it is always better

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possible.

- 8.23.4 The *[partner/director/manager]* who conducts the meeting will explain the decision that is made and of any right of appeal if you are not satisfied with the action taken.

#### *Appeal*

- 8.23.5 If you are unhappy with the decision that is made at the grievance meeting, you can appeal to *[name or title]* within seven working days.

- 8.23.6 In this case you will be invited to attend an appeal meeting with the *[partner/director/manager]* by another *[partner/director/manager or the senior partner]*. You must take all reasonable steps to attend the appeal meeting. If you cannot attend, you must be represented at it by a colleague or appropriate trade union representative. The objective will again be to try to reach an agreement on the grievance. After the appeal meeting you will be notified of any decision, which will be final.

#### *Concurrent disciplinary proceedings*

- 8.23.7 In the event that a grievance is raised while a disciplinary proceeding is ongoing, it may be appropriate to either temporarily suspend the disciplinary proceedings or allow the grievance can first be examined or deal with both issues together.

### 8.24 Staff records

- 8.24.1 Each member of staff has a file containing relevant documents. The procedures above. Staff files are generally kept for seven years after they leave.
- 8.24.2 We also keep the following records for the periods as set out below:

Type of record	Retention period
Application forms/interview notes for unsuccessful candidates	One year
Documentation proving right to work in the UK	Two years after end of employment
Parental leave	Five years from birth of child is 18 if disabled
Pensioners' records	12 years after benefit ceases
Disciplinary and working time	Six years after end of employment
Redundancy details	Six years from date of redundancy

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