

The Conveyancing Quality Scheme (CQS): Core Practice Management Standards (CPMS)

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Introduction

This document sets out the Core Practice Management Standards (CPMS) as required by the Conveyancing Quality Scheme (CQS). It defines the required practice management **plans**, **policies** and **procedures** in 7 areas: Structure and strategy, Financial Management, Information Management, People Management, Risk Management, Client Care, File and Case Management.

The CPMS are a flexible and supportive framework. Practices have flexibility to implement the CPMS as appropriate to their practice.

Practices are required to achieve and maintain the requirements set out in the CPMS.

The first version of the CPMS was published in February 2019, enforceable from 1 May 2019.

This version will apply from 1 May 2022.

Compliance with the CPMS will be considered at the initial and annual reaccreditation application stages. Compliance against the CPMS will be assessed during onsite assessments, which practices may be required to undergo.

No requirement in the CQS CPMS should be read so as to conflict with the SRA Codes of Conduct. Although the CPMS will help practices comply with some aspects of legislation, it does not guarantee compliance. This remains the responsibility of the practice.

Glossary of core terms

For ease of reference, the generic term 'practice' is used throughout the CPMS.

Emboldened words (apart from document headings) in the CPMS are defined in the Glossary of core terms.

Term	Definition
Must	A mandatory requirement
Personnel	All persons working within the residential conveyancing department, team or section of the practice including permanent and temporary staff, those working remotely and/or onsite, and any working part-time or on a consultancy-basis to which the Core Practice Management Standards apply.
Plan(s)	A ' plan ' is a documented 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 destination in the future. In general, the CPMS permit practices to develop plans in a manner and detail that the practice considers appropriate, assuming a basic level of adequacy. All plans must have a named person who is responsible for the plan . They must also be reviewed at least annually.
Policy/policies	A ' policy ' is a documented general approach taken within the practice to the issue in question. A policy defines why a particular approach is adopted by the practice. All policies must have a named person who is responsible for the policy . They must also be reviewed at least annually.
Procedure(s)	A ' procedure ' is a written description of how an activity will occur within the practice. A procedure describes the steps that personnel are required to follow in order to complete an activity. A procedure can only be said to be complied with if it is in effective operation. All procedures must have a

	named person who is responsible for the procedure . They must also be reviewed at least annually.
Register	Multiple records that are held in hard copy or electronic format.
Relevant persons	Staff who are required to complete the CQS mandatory training.
Risk register	A risk register is a record of the risks facing the practice. There is no fixed format for the risk register . It should indicate who has responsibility for a particular risk and any measures taken by the practice to mitigate or reduce the risk.
SDLT	Includes LTT where applicable.
Should	An optional requirement. Practices may be required to explain why they have chosen not to implement a requirement.
Supervisor(s)	A person(s) who is (are) of sufficient seniority and in a position of sufficient responsibility with the appropriate skills and expertise to guide and assist others.
Training	Documented learning and development activity that is delivered at least annually to all relevant persons .

Section 1: Structure and Strategy

- 1.1 Practices **must** have documentation setting out the management structure which designates the responsibilities of individuals and their accountability.
- 1.2 Practices **must** have a business continuity **plan**, which **must** include:
- a. An evaluation of potential risks that could lead to business interruption.
 - b. Ways to reduce, avoid and/or transfer the risks.
 - c. Key people relevant to the implementation of the **plan**.
 - d. A **procedure** to test the **plan** annually, to verify that it would be effective in the event of a business interruption.

Guidance for Section 1

1.1

Requirement 1.1 only requires the management structure of the residential conveyancing department. This should be the same structure which is provided as part of accreditation and re-accreditation, outlining the **personnel** within the department.

It is not necessary for sole practitioners to document requirement 1.1.; however, they should be able to discuss their responsibilities with an assessor.

1.2.

Key areas of risk that the practice should address in the business continuity plan are:

- Hacking, cyber attacks and data theft or loss
- Loss of communications or facilities (IT, access to the building).
- Loss of key personnel and loss or unavailability of key role holders eg MLRO, COLP
- Physical, geographic and location risks (flood, fire, adverse weather, terrorist attacks);
- Pandemic

Practices should first identify what the potential risks are: for example, consideration should be given to the practice's physical location and the specific risks associated with that location. Practices should then evaluate those potential risks. Typical evaluation models that practices may use include a SWOT or PESTLE analysis. The business continuity plan should outline the ways the practice reduces, avoids or transfers those risks and identify the key people relevant to its implementation, including a consideration of deputies.

Sole practitioners will need to address key issues arising out of the risk of their being unavailable to manage their practice: e.g. how work will be progressed, who will act as COLP/COFA/MLRO, how payments will be made.

Resources:

<http://www.lawsociety.org.uk/advice/practice-notes/business-continuity/>

<https://www.sra.org.uk/solicitors/guidance/ethics-guidance/responsibilities-of-colps-and-cofas/>

Section 2: Financial Management

2.1 Practices **must** document the person who has overall responsibility for financial management.

- 2.2 Practices **must** be able to provide documentary evidence of their financial management **procedure**, including:
- a. Annual budget including income and expenditure.
 - b. Annual income and expenditure accounts.
 - c. Annual balance sheet.
 - d. Annual income and expenditure forecast to be reviewed quarterly.
 - e. Variance analysis conducted at least quarterly of income and expenditure against budgets.
 - f. Variance analysis conducted at least quarterly of cash flow and cash flow forecast.
- 2.3 Practices handling financial transactions **must** have a **procedure**, which **must** include:
- a. The transfer of funds.
 - b. The management of funds received by the practice.
 - c. Authorisations.

Guidance for Section 2

2.1

Sole practitioners do not need to document that they are responsible for financial management. However, they must be able to discuss the financial management of their practice if asked to do so at assessment.

In larger practices, it is likely that the person who has overall responsibility for the financial management of a practice is the COFA and this person should be named in the relevant documentation. It is acceptable to name the role rather than the individual, i.e. to state that the COFA is responsible for overall financial management of a practice.

Assessors may gather information to confirm that the person with overall financial responsibility of the practice has a clearly defined role and that other personnel understand when to contact him or her, for example, if they become aware of a breach of a practice's financial policies or procedures.

2.2

Practices may be asked to provide the accreditation office or their assessor with documentary evidence to confirm that they produce the financial management information set out in section 2.2.

Larger practices should be able to provide copies of their financial reports whilst a very small practice will be able to provide an explanation of what alternative methods they use to actively manage their financial position. This may be demonstrated by the production of

management figures showing monthly and year to date profit and cash balances set against the previous year's comparative figures, budget expectations and consideration of cash flow. Alternatively, a practice may make available to the accreditation office or their assessor a letter from their Accountants confirming all these financial records are administered by the Accountants.

This section does not prescribe how to budget, only that it is carried out .

2.3

Practices must ensure that their procedures adhere to the SRA Accounts Rules. Practices, including sole practitioners, should set out these procedures clearly. This is mandated by SRA Code for Firms requirements 2.1 and 2.2.

Authorisations should be construed widely. Details of how financial transactions are authorised must be encompassed within the procedures, for example, in respect of authorised signatories, disbursements, cheque requests, bank transfers, client to office and office to client transfers and write off requests.

Conveyancing often involves the transfer of large sums of money: a practice may consider requiring an additional layer of authorisation for transfers over a certain threshold.

In respect of the transfer of funds see guidance set out in 3.2 below.

Resource:

<https://www.sra.org.uk/solicitors/standards-regulations/accounts-rules/>

Section 3: Information Management

- 3.1 Practices **must** have a **policy** to manage personal data which ensures compliance with data protection legislation, which **must** include:
- Data protection **training** for **personnel** on information security.
 - Ensuring that all **personnel** are kept aware of developments in cybercrime and how they may affect the practice.
- 3.2 Practices **must** have an information management and security **policy** and **should** be accredited against Cyber Essentials.
- 3.3 Practices **must** have:

- a. A **register** of each **plan, policy** and **procedure** that is contained in the CPMS.
- b. A named person responsible for each **plan, policy** and **procedure** that is contained in the CPMS.
- c. A **procedure** for review of each **plan, policy** and **procedure** that is contained in the CPMS.

Guidance for Section 3

3.2

The policy should incorporate the following controls:

- A register of relevant information assets of both the practice and clients.
- Procedures for the protection and security of the information assets.
- Procedures for the retention and disposal of information.
- The use of firewalls.
- Procedures for the secure configuration of network devices.
- Procedures to manage user accounts.
- Procedures to detect and remove malicious software.
- A register of all software used by the practice.
- A plan for the updating and monitoring of software.
- A procedure for the secure transmission of the practice's bank information to clients and receipt of banking information from clients.
- A procedure for verifying the banking details of other conveyancers and third parties to whom money is sent.
- A procedure for communication with the practice's bankers.

Some of the key issues that the information management and security policy needs to address are how practices ensure that information is kept confidential, its integrity is maintained and that it is accessible. This is critical to practices on a day to day basis and also needs to be considered in the context of the business continuity requirements. The policy must encompass information that is held electronically and physically. A register may for example set out the type of information asset (for example, client files, personnel records), whether it is paper or digital, and where/how those assets are kept securely and for how long.

This section does not, however, prescribe the format of the register and practices have the freedom to decide how best to capture the information.

'Information assets' comprise both personal and non-personal data. Personal data are defined in data protection legislation and must be processed accordingly. Non-personal data are not subject to data protection legislation but may be subject to a duty of confidentiality and other rights including intellectual property rights.

The government's Cyber Essentials Scheme helps businesses deal with cyber security issues. Follow the link below to find out more information about the scheme. We recommend that practices carry out a free self-assessment against Cyber Essentials as this acts as a good starting point for practices in considering what cyber security measures they need to deploy. Whilst Cyber Essentials is recommended, it is not a mandatory element of this section.

Training for personnel on information security should be appropriate and relevant to the role.

Practices, including sole practitioners, should consider what secure communication procedures are needed with the practice's bankers. This could include communications only between designated individuals, through a unique procedure or other secure communications methods to avoid fraudulent communications.

While there is no requirement currently that plans, policies and procedures, registers and records will be in electronic format, practices are encouraged to do so. This is because records and registers are easier to curate, supervise and share when held digitally.

Resources:

<https://www.cyberessentials.ncsc.gov.uk>

<http://www.iso.org/iso/home/standards/management-standards/iso27001.htm>

<http://www.lawsociety.org.uk/advice/practice-notes/data-protection/>

<http://www.lawsociety.org.uk/advice/practice-notes/information-security/>

<http://www.lawsociety.org.uk/advice/practice-notes/cloud-computing/>

<https://www.sra.org.uk/solicitors/guidance/case-studies/cybercrime/>

Section 4: People Management

4.1 Practices **must** have a learning and development **policy**, which **must** include:

- a. Ensuring that appropriate **training** is provided to **personnel**.
- b. Ensuring that all **supervisors** and managers receive appropriate **training**.

- c. A **procedure** to evaluate **training**.
 - d. A learning and development **plan** for all **relevant persons**, ensuring that **relevant persons** stay up to date in residential conveyancing, client care and risk management.
 - e. Ensuring that **personnel** are aware of the CPMS and the Law Society Conveyancing Protocol and the ways in which the practice complies.
 - f. Ensuring CQS mandatory **training** is completed on time.
- 4.2 Practices **must** conduct an appropriate documented induction for all **personnel**, including those transferring roles from within the practice and **must** cover:
- a. Immediate **training** requirements.
 - b. Key **policies**.

Guidance for Section 4

4.1

Practices must ensure conveyancers are kept up to date with the latest guidance, articles and case law relating to residential conveyancing, client care and risk management. Practices must also ensure that such training is tracked and monitored in a way that demonstrates compliance with the supervision of competency requirements set out in the SRA Code for Firms requirements 4.2 and 4.3. Sole practitioners may opt to track this by reference to their own competency records and planning.

The methods used by practices to deliver training are not specified. Some practices hold regular team mini-briefings, others prefer the informality of supervisor chats, or regular email updates, or will run programmes of online bite-sized trackable learning. Staff often recall more accurately, and act upon, training which is delivered on a “little and often” basis. Not only does that approach help to deliver a consistent message, it may make better use of time and create less disruption.

Practices may wish to consider appointing a Training Manager whose documented responsibility it is to supervise training.

Resource:

<https://www.sra.org.uk/solicitors/resources/cpd/tool-kit/resources/templates/>

Section 5: Risk Management

- 5.1 Practices **must** have a risk management **policy**, which **must** include:
- A compliance **plan**.
 - A **risk register**.
 - Defined risk management roles and responsibilities.
 - Arrangements for communicating risk information.
- 5.2 There **must** be a named **supervisor** for the conveyancing department who will normally be the SRO or HOC if one has been appointed. The **supervisor must** have appropriate experience of the work supervised and be competent to guide and assist others.
- 5.3 Practices **must** have **procedures** to manage instructions, which may be undertaken even though they have a higher risk profile, including unusual supervisory and reporting requirements or contingency planning.
- 5.4 Practices **must** maintain lists of the types of conveyancing work that the practice will and will not undertake, including any steps to be taken when work is declined on the grounds that it falls outside acceptable risk levels. This information **must** be communicated to all **personnel** and **must** be updated when changes occur.
- 5.5 Practices **must** maintain details of the generic risks and causes of claims associated with conveyancing undertaken by the practice. This information **must** be communicated to all **personnel**.
- 5.6 Practices **must** have a **procedure** to monitor key dates, which **must** include:
- The definition of key dates for conveyancing.
 - How key dates are recorded on the file and in a back-up system.
 - How compliance with key dates is monitored by **supervisors**.
- 5.7 Practices **must** have a **policy** for handling conflicts, which **must** include:
- The definition of conflicts.
 - Training** for **personnel** to identify conflicts.
 - Steps to be taken when a conflict is identified.
 - Steps to be taken when acting on both sides of a transaction.
 - Steps to be taken if a conflict subsequently occurs.

- f. How to manage possible conflicts between a lay client and a lender client.
 - g. How to manage a conflict if one arises if acting for both seller and buyer.
- 5.8 Practices **must** have a **procedure** to ensure that all **personnel** are actively supervised. Such **procedures must** include:
- a. Checks on incoming and outgoing correspondence where appropriate.
 - b. Departmental, team and office meetings and communication structures.
 - c. Reviews of matter details in order to ensure good financial controls and the appropriate allocation of workloads.
 - d. The availability of a **supervisor**.
 - e. Allocation of new work and reallocation of existing work, if necessary.
 - f. Ensuring that **personnel** adhere to the Law Society Conveyancing Protocol, where possible.
- 5.8 Practices **must** have a **procedure** to ensure that files are monitored regularly for inactivity.
- 5.9 Practices must have a procedure to provide adequate cover for the work of personnel who are absent.
- 5.10 Practices **must** have a **procedure** for regular, independent file reviews of both the management of the file and the substantive legal content. Practices **must**:
- a. Define and explain file selection criteria.
 - b. Define and explain the number and frequency of reviews.
 - c. Retain a record of the file review on the matter file and centrally.
 - d. Ensure any corrective action, which is identified in a file review, is completed within 28 days and verified.
 - e. Ensure that the designated **supervisor** reviews and monitors the data generated by the file reviews.
 - f. Conduct a review at least annually of the data generated by file reviews.
- 5.11 Practices **must** have **procedures** to establish appropriate reporting arrangements to ensure that risk issues are appreciated and addressed.
- 5.12 Practices **must** have a **policy**, approved by senior management, to mitigate and manage money laundering and terrorist financing risks and to ensure compliance with anti-money laundering (AML) legislation. The **policy must** include:

- a. A documented, practice wide risk assessment that identifies and assesses the risks of money laundering and terrorist financing to which the practice is subject and which complies with Regulation 18 of the Money Laundering, Terrorist Financing and transfer of Funds (Information on the Payer) Regulations 2017.
 - b. The appointment of a nominated officer usually referred to as a Money Laundering Reporting Officer (MLRO).
 - c. A **procedure** for making disclosures within the practice and by the MLRO to the authorities.
 - d. A **procedure** for checking the identity of the practice's clients and for monitoring clients on an ongoing basis.
 - e. A **plan** for the **training** of **personnel**.
 - f. **Procedures** for the proper maintenance of records.
 - g. A **procedure** for responding rapidly to AML enquiries from the authorities.
 - h. Where appropriate with regard to the size and nature of the practice:
 - i. Appoint a person of sufficient seniority as the officer responsible for the practice's compliance with the current money laundering regulations (MLCO).
 - ii. Carry out screening of relevant employees.
 - iii. Establish an independent audit function to evaluate, monitor compliance with and improve the effectiveness of the practice's AML **policies**, controls and **procedures**.
 - i. A **procedure** for checking and analysing the source of funds/wealth and keeping on file both the evidence obtained and the documented analysis.
 - j. A **procedure** for dealing with the transfer of clients from one department of the practice to another.
 - k. A **procedure** for ensuring that a documented individual AML risk assessment is present on every file addressing the risks of money laundering specific to that file.
- 5.13 Practices must have a **policy** in relation to the avoidance of involvement in property and mortgage fraud, which **must** include:
- a. A **procedure** for carrying out relevant checks to establish the bona fides of the conveyancer acting for the other party.
 - b. A documented and up to date practice risk assessment that identifies the warning signs of fraud and assesses the risk.
 - c. A **procedure** to ensure that there is a documented fraud risk assessment on each file demonstrating that consideration has been given to any fraud risks associated with the transaction, the other party and the client.

- d. A **procedure** for dealing with transactions where a significant risk of fraud has been identified, which **must** include how the practice ensures that such transactions are effectively supervised including notifying the **supervisor**.
 - e. A **procedure** for enhanced checking of the identity (and retaining full records of such enhanced checking) of the practice's client in transactions where a high risk of fraud is present.
 - f. A **procedure** for acting for a buyer where there is a significant risk of fraudulent seller which **must** include how the practice ensures that such transactions are effectively supervised including notifying a **supervisor**.
 - g. **Training** on the avoidance of involvement in property and mortgage fraud for all **relevant persons**.
- 5.14 Practices **must** have a **policy** setting out **procedures** to prevent bribery in accordance with current legislation.
- 5.15 Practices **must** have a **policy** in relation to Stamp Duty Land Tax (**SDLT**), which **must** include:
- a. A **procedure** for giving clients clear and timely advice and information on **SDLT** including the meaning for **SDLT** purposes of 'First time buyer' and 'Major interest in a dwelling'.
 - b. A **procedure** for ensuring that the practice provides a clear written **SDLT** calculation to the client at the outset.
 - c. A **procedure** for verifying the amount of **SDLT** payable, where applicable, before exchange.
 - d. A **procedure** setting out how and when the practice makes checks between the consideration stated in the:
 - i. sale contract
 - ii. transfer deed
 - iii. **SDLT** Return and
 - iv. the payments on the solicitors' client account ledger for the transaction.
- 5.16 Practices **must** have a **policy** in relation to acting in a purchase of a leasehold property, which **must** include a **procedure** for ensuring that full, clear and accessible written advice is given to the client on the lease and any supporting documents, and on the practical and financial implications of that for the client, which **must** include:
- a. An explanation of the difference between freehold and leasehold property.
 - b. The length of the term remaining.

- c. The amount of ground rent and service charge.
- d. The rent review provisions and the method of calculation.
- e. Any other key information which may be appropriate to the particular lease.
- f. Any other matters which are specified in current lender requirements regarding leasehold transactions.

5.17 Practices **must** analyse at least annually all risk assessment data generated within the conveyancing department. This **must** include:

- a. Any indemnity insurance claims (where applicable).
- b. An analysis of client complaints trends.
- c. Data generated by file reviews.
- d. Any matters notified to the MLRO, COLP and/or COFA.
- e. Any facts, matters or breaches reported to the SRA.
- f. Any other facts, matters or breaches recorded by the practice.
- g. Situations where a conflict of interest arose.
- h. The identification of remedial action.
- i. Risk of non-compliance with current **policy** to manage personal data.

Guidance for Section 5

5.1

A compliance plan typically sets out the ways in which practices will comply with their regulatory obligations, including:

- SRA Codes of Conduct;
- SRA Accounts Rules;
- Anti-money laundering;
- Anti-bribery;
- Data protection; and
- Health and safety legislation.

A compliance plan may simply provide an overview of how the practice complies, with links to associated plans, policies and procedures. Other practices may prefer a longer document setting all these details out in full. For sole practitioners, their compliance plan might comprise their office manual.

The risk register often divides risks into the following categories:

- Strategic;

- Financial;
- Operational;
- Compliance/regulatory; and
- Breaches.

A risk register typically identifies current and emerging risks facing the practice and explains how they are managed. It is vital that it is kept up to date and comprehensive. While a risk register will need to cover all risks relating to the practice as a whole, practices may decide to combine it with the requirement at CPMS 5.5 (“Practices must maintain details of the generic risks and causes of claims associated with conveyancing undertaken by the practice...”), which relates specifically to residential conveyancing risks, by having a single encompassing document.

5.2

The supervisor for the conveyancing department should be the CQS-nominated Head of Conveyancing (“HOC”) or Senior Responsible officer (“SRO”). The relationship between the HOC and SRO is important especially where the SRO is not an experienced conveyancer. Sole practitioners will be the supervisor for their practice.

5.7

If acting on both sides of a transaction, practices should be able to clearly demonstrate by reference to written evidence that an effective risk assessment has been carried out, why the practice considers that there is no conflict or significant risk of conflict and that both clients have been advised fully and in writing of the implications involved. If the buyer is obtaining a mortgage and you are also acting for the lender you must notify the lender that you are acting for both buyer and seller and obtain the lender’s approval.

The policy should also set out the procedure to be followed if a conflict subsequently arises between buyer and seller.

The policy should also outline the duty to both the lay client and the lender client. The policy should include the need to notify the lender client of information which may affect their decision to lend and the need to seek consent to do so from the lay client. Where consent is not given, the policy should provide for the lender client to be advised that a conflict of interest has arisen which prevents the practice from continuing to act for the lender.

Sole practitioners should have a systematic method of checking for conflicts of interest. It is not acceptable to rely purely on memory to undertake a conflict check. A simple spread sheet or database to check against would suffice if practices do not have a case management system. The file should record that a conflict check has been done.

5.8

Where a failure to make expected progress has been identified, clients should be informed promptly in writing with the reason for the failure.

5.10

The procedure should set out the fully documented reasoning behind the design and operation of the file review system including why and how files are selected for review, as informed by any conclusions arising out of the annual review of file review data (requirement 5.11.f). When defining the file selection criteria, it is appropriate to consider the following:

- How to select a representative sample of the fee earner's files.
- Whether files should be selected randomly.
- If the fee earner is managing high risk matters, whether those files should be reviewed more frequently.
- Whether to select files based on activity or lack of activity.
- Whether files which are at different stages of completion should be selected.
- Whether, and to what extent, files being worked on by remote fee earners require enhanced supervision.

In respect of 5.11.c, the requirement is not that the full review must be held on the matter file, but rather that it is apparent from the file that it has been reviewed and where the central record of such review may be found. It is increasingly common to have a central record of file reviews which is in an electronic format. This will be compliant provided that it is apparent from the matter file that it has been subject to a file review and that the outcome of the file review can be easily traced.

Sole practitioners, as self-supervisors, will need to consider carefully how to achieve this requirement. It may be possible to make mutual file review arrangements with another practice or sole practitioner, to obtain the services of an independent provider, or to self-review files with help from any support staff. The procedures should be fully documented to meet requirements 2.2 and 4.4 of SRA Code for Firms.

5.11

The risk reporting arrangements should reflect the two-way nature of risk management: risks identified by fee earners on files need to be reported up appropriately to supervisors and managers for guidance and monitoring. Management and monitoring strategies will be identified by supervisors who must then ensure that these strategies are communicated back down to fee earners working on the files. Sole practitioners do not need to document these requirements unless they have fee earning staff. They should be prepared to discuss their risk procedures and risk awareness in general, with the accreditation office or their Assessor.

Having a deputy risk manager ensures that key skills are still available in the absence of the role holder. There is no need for sole practitioners to have a deputy.

5.12

The current money laundering regulations are the Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, as amended by the Money Laundering and Terrorist Financing (Amendment) Regulations 2019.

In requirement 5.13.i, practices should have procedures which enable them to sufficiently identify the source of funds/wealth in a transaction to ensure that they have complied with their obligations under the 2017 Regulations. Asking clients about the source of funds is the first step towards compliance but information provided by clients should be supported by relevant documentation. That information and documentation should then be analysed and a decision made and recorded. Where there is a doubt about the information provided or there is a lack of supporting documentation, practices should have a procedure which enables personnel to seek further guidance from a supervisor or manager.

Sole practitioners should document how they would resolve any AML concerns eg by obtaining external advice.

To demonstrate that practices have complied with Anti-Money Laundering obligations every file should contain a documented AML risk assessment so that the process followed is apparent to a third party.

5.13

The policy should set out current typical warning signs of a potential mortgage, property and registration fraud and who to contact if personnel have any concerns.

This policy should be kept under regular review as criminals frequently change tactics in an attempt to commit mortgage fraud. Regular communication and training in this area is critical to the success of the policy.

5.14

The policy should set out the purpose of the policy and establish boundaries for all personnel to work within. A register that records gifts and hospitality may assist with the internal controls used to monitor that the policy is being adhered to and is effective. Practices must ensure that the policy addresses current legal obligations.

5.15

The client should be asked to sign an appropriate declaration that will enable practices to accurately calculate the SDLT payable and make it easier for the calculation to be checked later. The client should be reminded to inform the practice of any change of circumstance which may affect that calculation.

Practices must ensure there is a procedure for verifying the amount of SDLT payable, before exchange of contracts. Where possible, this should involve another experienced individual, other than the fee earner, and the verification should be recorded on the file.

Requirement 5.16.c. might not be applicable if the calculation is outsourced.

Sole practitioners and smaller practices should consider what steps they could put in place if no other experienced individual is available: this could simply involve re-checking the SDLT payment at a later date and noting the file.

The amount of SDLT should be documented in a cash statement, readily accessible to supervisors, and be supported by evidence of payments into and out of client account.

5.16

Clients should be advised in writing of the difference between freehold and leasehold property and understand the practical implications and significance of being a leaseholder as opposed to owning a property outright. While Estate agents may have already provided some of the key terms of the lease, clear and accessible written information should be set

out at the earliest possible opportunity in a single document so that there is no risk of the client overlooking the information.

Key terms will include those which may affect the value of the property as set out in 5.16 and information about the period of rent review, service charges, and any arrangements for transfer of ownership. Where the length of the unexpired term may be significant, advice should also be given about the right to enfranchise, the marriage value and the costs associated with the procedure. This ancillary information may be provided in a generic advice document which could also explain the right to acquire the freehold and the right to manage.

The overarching requirement under 8.6 of the SRA Code for Solicitors that “You give clients information in a way that they can understand” is paramount: practices should ensure that the tone, volume, presentation and content of their communications is appropriate to their clients. It should also explain possible relevance e.g. upon saleability, mortgageability, future value.

Resources:

<https://www.sra.org.uk/solicitors/guidance/warning-notices/investment-schemes-including-conveyancing--warning-notice/>

<https://www.sra.org.uk/solicitors/guidance/ethics-guidance/conflicts-interest/>

<https://www.lawsociety.org.uk/topics/anti-money-laundering/anti-money-laundering-guidance>

<https://www.lawsociety.org.uk/topics/anti-money-laundering/lisag-advisory-note-covid-19-and-preventing-money-laundering>

<https://www.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing-transfer-funds-information-payer-regulations-2017/>

<https://www.sra.org.uk/solicitors/guidance/ethics-guidance/firm-risk-assessments/>

<https://www.sra.org.uk/solicitors/guidance/money-laundering/>

<https://www.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing/>

<https://www.sra.org.uk/solicitors/guidance/warning-notices/money-laundering-and-terrorist-financing---suspicious-activity-reports--warning-notice/>

<http://www.lawsociety.org.uk/advice/practice-notes/mortgage-fraud/>

<https://www.lawsociety.org.uk/support-services/advice/practice-notes/property-and-registration-fraud/>

<https://www.lawsociety.org.uk/support-services/advice/articles/property-and-title-fraud-advice-note/>

<https://www.lawsociety.org.uk/support-services/advice/articles/property-fraud/>

<http://www.lawsociety.org.uk/advice/practice-notes/bribery-act-2010/>

Section 6: Client Care

- 6.1 Practices **must** have a **policy** for client care, including:
- How enquiries from potential clients will be dealt with.
 - Ensuring that before taking on a client, the practice has sufficient resources and competence to deal with the matter.
 - Protecting client confidentiality including their data protection rights.
 - A timely response is made to telephone calls and correspondence from the client and others.
 - A **procedure** for referring clients to third parties.
 - The provision of reasonable adjustments for disabled clients.
 - Procedures** for providing clients with suitable updates on their transaction, even when no progress has been made since the last report.
- 6.2 Practices **must** communicate the following to clients in writing, at the outset of the matter:
- Explain the likely timescale of the transaction and factors that may affect that timescale.
 - Agree an appropriate level of service.
- 6.3 Practices **must** have **procedures** for ensuring the SRA's price and service transparency requirements are met.
- 6.4 Practices **must** have a **policy** for dealing with lenders which **must**:
- Explain that the lender is also a client where a practice is acting for both the purchaser client and the lender client.
 - Contain a **procedure** to ensure that Part 2 of the UK Finance Handbook is checked by a fee earner to ascertain the lender's standard requirements, as well as those specific to a transaction, and for verifying that all of those requirements have been satisfied, prior to exchange and recording on the file that the check has been carried out.

- c. Contain a **procedure** for reporting matters to lenders which **must** include:
- i. Where available, the use of any specified reporting form provided by the lender.
 - ii. Clear identification of the nature and potential implications of the matter being reported and stating whether the matter needs to be referred to the Lender's valuer.
 - iii. Providing appropriate written legal advice and indicate what action can be taken to minimise or eliminate any risk, within what timescale, and at what cost.
- 6.5 Practices **must** operate a written complaints handling **procedure**, including:
- a. The definition of what the practice regards as a complaint.
 - b. Informing the client at the outset of the matter, that they have a right to complain about the practice's services and charges.
 - c. The name of the person with overall responsibility for complaints.
 - d. How a complaint can be made and to whom, providing the client with a copy of the practice's complaints **procedure**, if requested, and ensuring that a copy is available on the practice's website.
 - e. Once a complaint has been made, the person complaining is informed in writing:
 - i. How the complaint will be handled.
 - ii. In what timescale they will be given an initial and/or substantive response.
 - iii. That the complaint will be dealt with promptly, fairly and free of charge.
 - f. How the practice ensures it complies with requirements 8.4 and 8.5 of the SRA Code for Solicitors.
 - g. Recording centrally all complaints received from clients, identifying the cause of any problem of which the client has complained, offering appropriate redress, and correcting any unsatisfactory **procedures**.
- 6.6 Practices **must** have a **procedure** to monitor client satisfaction across all conveyancing clients.
- 6.7 Practices **must** have a **procedure** to accept or decline instructions, which **must** include:
- a. How decisions are made to accept instructions from new and existing clients.
 - b. How decisions are made to stop acting for an existing client.
 - c. How decisions are made to decline instructions.
 - d. How decisions are made if a conflict of interest arises between a lay client and a lender client or between a solicitor and buyer client (if the practice has been acting for both).

Guidance for Section 6

6.1

In relation to 6.1.d – g, practices should consider how they will ensure the client's expectations are met and how frequently to update their client, understanding that different clients will have different expectations. Clients will often judge performance based not on the quality of conveyancing, but on the service provided. For example, on the content, tone, frequency and speed of communications. Practices should consider how to set realistic expectations for their clients at the outset.

6.2

Agreeing an appropriate level of service with a client is important, so as to manage a client's expectations at the outset of the transaction. Does a client require letters or are they happy to communicate by email? How quickly can they expect a response to an email? How often and when can the client expect to hear from you?

6.4

In relation to 6.4.c. ii, if the matter may affect the value of the property or its physical condition, the report should make it clear that the matter needs to be referred to the lender's valuer or surveyor.

The requirement for the policy to check and verify the lender's Part 2 of the UK Finance Handbook requirements is necessary to protect lender clients, as lender requirements vary significantly within Part 2.

6.7

Practices should include information in the terms of business that explain to clients the circumstances in which they may stop acting.

Resources:

[An ombudsman's view of good costs service | Legal Ombudsman](#)

<https://www.sra.org.uk/solicitors/resources/transparency.page>

<https://www.lawsociety.org.uk/support-services/advice/practice-notes/price-and-service-transparency/>

<https://www.sra.org.uk/solicitors/guidance/client-care-letters/>

<https://www.sra.org.uk/solicitors/guidance/confidentiality-client-information/>

<https://www.sra.org.uk/solicitors/guidance/case-studies/proper-standard-service/>

<https://www.sra.org.uk/solicitors/guidance/ethics-guidance/publishing-complaints-procedure/>

<https://www.sra.org.uk/solicitors/guidance/ethics-guidance/putting-matters-right-when-things-go-wrong-and-own-interest-conflicts/>

Section 7: File and Case Management

7.1 Practices **must** have a **procedure** for the giving, monitoring and discharge of undertakings.

7.2 Practices **must** have a **procedure** to:

- a. List open and closed matters, identify all matters for a single client and linked files where relevant.
- 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 and all key information relating to the matter and the action taken can be easily checked by other members of the practice.
- e. Ensure that documents and correspondence are stored on the matter file(s) in an orderly way.

7.3 Practices **must** have **procedures** to ensure that matters are progressed in an appropriate manner, which **must** include:

- a. How key information is recorded on the file.
- b. Ensuring that a timely response is made to telephone calls and correspondence from the client and others.
- c. Ensuring that any variation to costs estimates, including anticipated disbursements, is notified to the client in writing in a timely manner.
- d. That clients are informed in writing if the person with conduct of their matter changes, or there is a change of person to whom complaints should be addressed.
- e. Ensuring that during the retainer the fee-earner considers any change to the risk profile of the matter from the client's point of view and reports to and advises the client in writing of such circumstances without delay, informing the risk manager if appropriate.

7.4 Practices **must** have a **procedure** to:

- a. Minimise the risk of receiving avoidable requisitions from HMLR which **must** include how applications are checked for simple errors or omissions and how fee earners can access guidance on more complex applications.
- b. Ensure that clients are advised that the practice is able to **register** up to three addresses (including an email address) for service for them when registering their ownership of the property, at HMLR and the advantage of having more than one address registered.

7.5 Practices **must** have a **procedure** 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 it is appropriate to review the matter in future and, if so, when and why.
- f. Draws the client's attention to HMLR Property Alert Service and other fraud guidance published by HMLR and reminds the client of the importance to the client of ensuring that their address information as held by HMLR is kept up to date.
- g. Archives promptly and destroys files in an appropriate manner and in accordance with data protection principles.

Guidance for Section 7

7.2

For effective supervision, it should be possible for a supervisor or colleague to be able to understand, within a matter of minutes, the objective, strategy for achieving that objective and the current position, on any file. Practices may use whatever method they wish as long as these outcomes are achieved, but methods may include:

- Having a progress chart or log of actions on the screen which indicates steps taken towards and tasks remaining before completion.
- Using a printed tick list within the matter file, showing the dates that steps were taken and therefore relative progress to date.

Supervisors and others should be able to see quickly what level of progress has been made to date, and what remains to be done. This requirement applies equally to hard copy files and electronic files.

Even though sole practitioners may be the only fee earner in their practice, it is crucial to ensure that each matter file contains both a record of all the relevant information and a summary of progress. There may be occasions when those that are external to the practice, such as locums, insurers or regulators, will need to review a file and understand the strategy of the matter and what has taken place, without the opportunity to seek further information from the sole practitioner.

The procedure should address who within a practice is permitted to give undertakings and the consequences for personnel, if they are found to be in breach of the procedure.

As conveyancing involves numerous implied undertakings, a central register of such implied undertakings would be unwieldy, so it may be preferable to record only financial and non-standard undertakings in a central register. The procedure should explain clearly if that is the case and set out how undertakings are monitored and how the practice ensures any undertaking, whether given or received, has been discharged. A central register of financial undertakings should be monitored regularly by the Head of Conveyancing and the COFA for the practice.

7.3

As a general rule all records, documents and correspondence relating to a matter should be capable of being traced either by being on the file itself or clearly referred to on it.

The requirement to ensure that files are orderly will apply to both hard copy files and to electronic files. The latter must be clearly navigable and the normal principles of file organisation and management must be apparent. For example, many case management systems have separate sub-folders where compliance documents are stored. Emails and documents should be individually described and stored according to agreed protocols, for consistency and ease of access.

Sole practitioners do not need to document the procedures in relation to 7.3.d if they are the only fee earner in their practice. However, sole practitioners who use locums to provide holiday cover, will need to ensure that their clients are aware of who to contact in their absence.

Practices need a system to ensure that key dates (e.g. payment of SDLT within 14 days of the 'effective transaction date' or registration within the priority period of an OS1 or OS2 search) are met, as well as having a back-up system. For example, key dates might be centrally logged in a shared system calendar but may be backed up in a separate hard copy diary system.

The procedures should address how the practice ensures that during the retainer the fee-earner considers any change to the risk profile of the matter from the clients' point of view and reports to and advises the client in writing of such circumstances without delay, informing the risk manager if appropriate.

There is a clear obligation to pass on all information that a solicitor receives to the client (see *Orientfield Holdings Ltd v Bird & Bird LLP* [2017] EWCA Civ 384) and to seek further instructions having explained the possible relevance of the information.

7.4

Some unavoidable requisitions will be raised by HMLR e.g. if there is a delay in removing an existing charge or if consent under a restriction is required from a third party. However, HMLR have indicated that many others could be avoided by taking more care in submitting an application. A system of checking for simple errors and omissions should be in place. Some applications will not be straightforward and the procedure should set out the steps to be followed in such cases.

In 7.4.b, explaining the arrangements for registration of a proprietor's addresses at HMLR, and how that may assist in terms of property fraud, may be best done at the outset, perhaps by explaining this in the preliminary information-gathering form sent to clients with the client care bundle. Practices might also wish to remind clients of the necessity for keeping those addresses up to date in the file closing letter or in the letter sending the client a copy of the TID.

7.5

This requirement assists practices to conclude matters for clients in a systematic manner, providing a framework of the key elements. Having a standardised closing letter setting out requirements 7.5.a to f is a relatively simple but effective method.

Property fraud is a growing risk. Highlighting ways of minimising that risk is an important service to the client.

Resources

- HM Land Registry [Webinars](#)
- Application enquiries/Requisitions:
 - [How to avoid](#)
 - [Working together to reduce application enquiries](#)
 - [Avoidable and Unavoidable requisitions](#)
 - [Reply to Requisitions](#)