

# Lexcel and Risk Management

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# Lexcel & Risk Management

- The Lexcel Scheme
- Benefits & Costs
- Supporting a Risk Management Programme
- Avoiding claims
- Business Risks



# WHY MANAGEMENT STANDARDS?

- Greater competition
- Cost of making mistakes
- More demanding clients
- Clients judge you on service
- New draft practice rules



## WHY LEXCEL?

- Written by solicitors for solicitors
- Any size and type of practice
- c700 accredited practices (c40 pending award)
- 295 on Commitment Scheme
- Demonstrate commitment to quality & good risk management



## Lexcel Statistics

- 13 of top 100 commercial practices
- 55 sole practitioners
- 286 with 2-10 partners
- 149 local authorities



## How Lexcel Works

- 55 requirements across 8 areas
- Framework for good management practice
- What to do; not how to do it
- Assures consistently good standards of service
- Doesn't apply to quality of legal advice



## The Standard

- 1 = Structures and Policies
- 2 = Strategy, the Provision of Services and Marketing
- 3 = Financial Management
- 4 = Facilities and IT
- 5 = People Management
- 6 = Supervision and Operational Risk Management
- 7 = Client Care
- 8 = File and Case Management



## Benefits of Lexcel

- Effective risk management leading to fewer claims or complaints;
- Better client service leading to increased client retention;
- Improved marketability and competitive advantage;
- Greater success in tenders, beauty parades and panel reviews;



## Benefits of Lexcel

- Per fee-earner, Lexcel accredited firms have 40% fewer complaints open at The Law Society than non-accredited firms.
- High percentages of accredited practices have found Lexcel to be beneficial re risk management.
  - 81%: Improved client care / client satisfaction
  - 79%: risk management / reduced complaints
  - 69%: lower insurance premiums



## Costs?

- Annual registration fee
- Assessment fee - paid to assessment body
  - c£600 a day / 10 fee-earners: 2 days
- Time
  - your time / management time



## Costs?

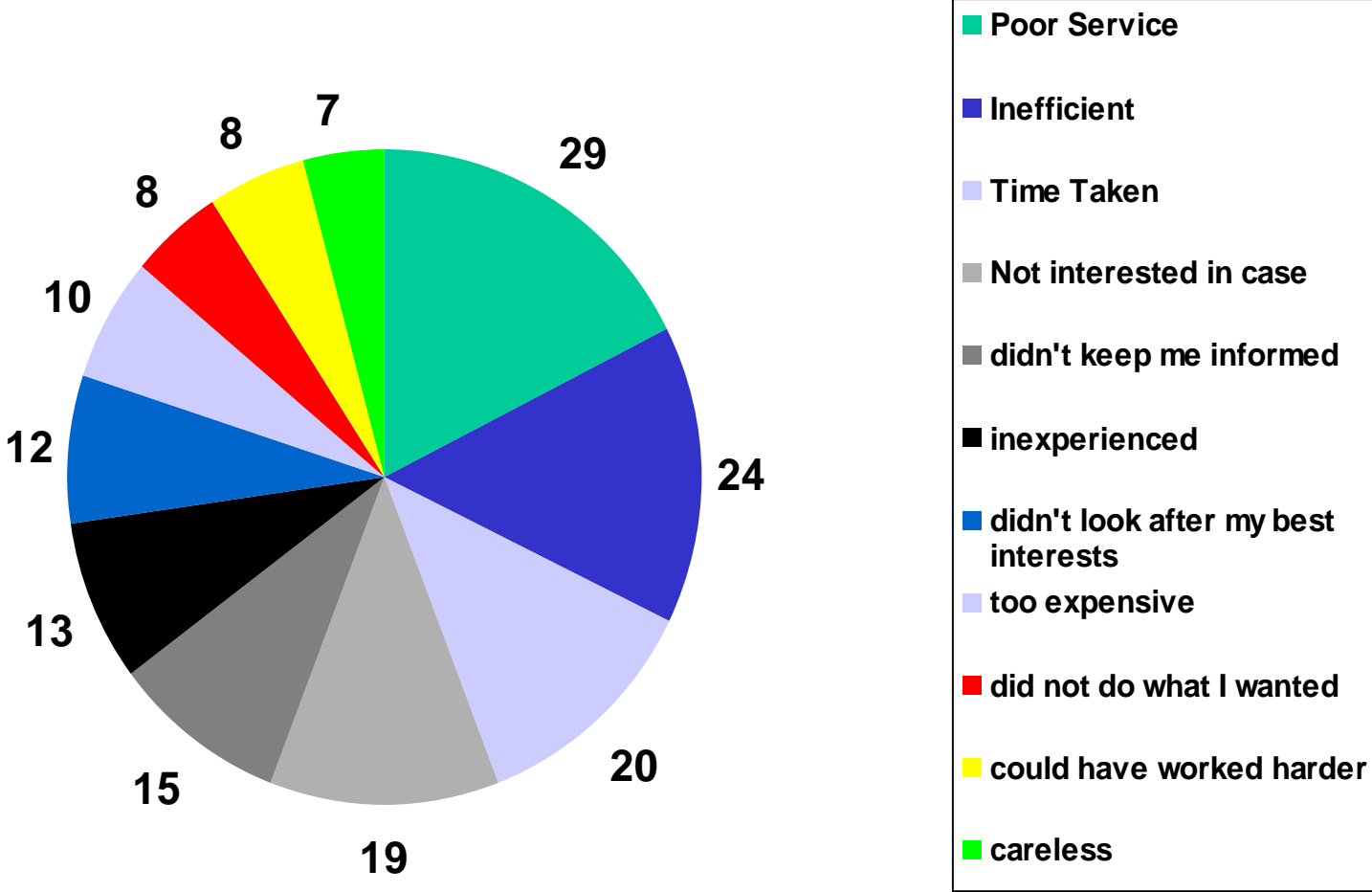
- An initial effort to save time/money later
- Compare cost of not having Lexcel:
  - ***cost of claim***
  - ***cost of losing clients***
  - ***less success in pitches***
  - ***cost of loss of reputation***
  - ***cost of loss of colleague***



## Risk Management - how Lexcel can help

- Supports a risk management strategy
- Framework for all activities which help to cut mistakes or manage risks
- Covers “risk hot-spots” - the processes most likely to create risks
- Discipline
- Audit process provides proof of risk management and quality management (as well as audit trail when defending claims)

# Reasons for client dissatisfaction





# Principles of Risk Management

- Responsibility at senior management level
- A framework for managing risks across all parts of the business
- Integration of risk management into everything the practice does
- Accountability in each practice area and support functions
- A risk evaluation process
- External assessment
- Business continuity planning

# Avoiding Claims

- Few claims arise from lack of knowledge in the law
- Most stem from poor administration and lack of supervision
- When claims arise, the prospect of defending or minimising them are reliant on the effectiveness of internal procedures
  - e.g. keeping file notes & other records: Lexcel 8.4



# Avoiding Claims

Below are some of the most common problems leading to claims:

- Failure to comply with time limits causes about 30% of claims and over 60% of personal injury claims
  - Lexcel 8.7b
- Communication problems, particularly cost disputes - firms have not given clients adequate information both at the outset and as the matter progresses,
  - Lexcel 7.1 / 8.5 / 8.7d



## Avoiding Claims

- Other failures in communication such as not confirming instructions, not defining the retainer, not agreeing clear objectives, not giving clear advice and not recording advice given on the file
  - **Lexcel 8.4**
- Lack of supervision, and cases being handled by the wrong person
  - **Lexcel 6.2-4**
- delay, often caused by mental blocks or overwork
  - **Lexcel 6.5 / 8.7c**
- **Conflict of interest, inaccurate billing, missed time limits, funding options, failure to assess or advise on significance of matter**



# Lexcel 2004: Supporting a Risk Management Programme

## Risk Management Requirements:

- 1.3 Practices will have a risk management strategy or framework.
  
- 6.7 Operational risk management is the control and reduction of prosecutions, claims and client complaints against the practice. Practices will ensure procedures are in place to:
  - Designate one overall risk manager for the practice.
  - Establish appropriate reporting arrangements to ensure that risk issues are appreciated and addressed.
  - Maintain and communicate lists of work that the practice will and will not undertake including any steps to be taken when work is declined.



# Lexcel 2004: Supporting a Risk Management Programme

## 6.7 cont.

- Maintain details of the generic risks and causes of claims associated with the area(s) of work undertaken by the practice. This information must be adequately communicated to all staff.
- Manage instructions which may be undertaken even though they have a higher risk profile than the norm for the practice.
- Conduct at least an annual review of all risk assessment data generated (claims records, client complaints trends and file reviews). Identify and review remedial action.



## Lexcel 2004: Supporting a Risk Management Programme

6.8 Operational risk needs to be considered in all matters before, during and after the processing of instructions.

Before the matter is undertaken the adviser must:

- a. Consider if a new client and/or matter should be accepted by the practice.
- b. Assess the risk profile of all new instructions and notify the risk manager in accordance with procedures under 6.7 of any unusual or high risk considerations in order that appropriate action may be taken.



# Lexcel 2004: Supporting a Risk Management Programme

During the retainer the fee-earner must:

- c Consider any change to the risk profile of the matter, advising the client and risk manager if appropriate.
- d. Inform the client in all cases where an adverse costs order is made against the practice.

At the end of the matter the fee-earner must:

- e. Undertake a concluding risk assessment.
- f. Notify the risk manager if appropriate.



# Top Tips for Effective Risk Management

- Appoint an overall risk manager - with seniority & authority
- Transparency / communication
- Design process to reduce ACTUAL not perceived risks - list/define them
- Assess each matter - before, during and after work
- Implement procedures to manage risky work
- Regular reviews of risk assessment data



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