



Conveyancing Quality Scheme

Core Practice Management Standards

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## Introduction

- This document provides specific guidance on the Core Practice Management Standards (CPMS) of the Conveyancing Quality Scheme (CQS). These notes are aimed at legal practices which have already gained CQS accreditation, as well as those working towards accreditation for the first time. The CPMS contained in this document were published in February 2019 and will take effect for all CQS practices on **1 May 2019**. This means, all CQS organisations must ensure they are compliant with these CPMS from 1 May 2019. Any applications for initial accreditation, rather than re-accreditation, received from 1 May 2019 onwards, must also be able to meet the Standards below.
- Compliance with these Standards will be considered at the initial and annual re-accreditation assessment stage, as well as for organisations who are selected for a desk-based assessment (DBA) and / or on-site visit. DBA's and on-site visits will commence from 1 May 2019.
- These notes include the Standard requirements and aims to clarify the meaning of the Standard requirements as well as provide further guidance on implementing policies, procedures and plans.
- The CQS is designed for practices which are regulated by the Solicitors Regulation Authority (SRA). As such, accredited organisations and solicitors are bound by the SRA Code of Conduct. Nothing in the CQS CPMS should be read as to conflict with the SRA Code of Conduct.

## Questions?

If, after reading these notes, you have any questions regarding CQS or wish to provide feedback on the CPMS, please do not hesitate to contact us:

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## 1 - Risk management

<b>Requirement</b>	<p>1.1. Practices must have a risk management policy, which must include:</p> <ol style="list-style-type: none"> <li>a. a compliance plan</li> <li>b. a risk register</li> <li>c. defined risk management roles and responsibilities</li> <li>d. arrangements for communicating risk information</li> </ol>
<b>General Guidance Notes</b>	
<p>A compliance plan should set out the ways in which practices will comply with their regulatory obligations, such as:</p> <ul style="list-style-type: none"> <li>• SRA;</li> <li>• Solicitors accounts rules;</li> <li>• Health and safety;</li> <li>• Anti-money laundering;</li> <li>• Anti-bribery; and</li> <li>• Data protection.</li> </ul> <p>The risk register often divides risks into the following categories:</p> <ul style="list-style-type: none"> <li>• Strategic;</li> <li>• Financial;</li> <li>• Operational;</li> <li>• Compliance; and</li> <li>• Breaches (material and non-material).</li> </ul>	

<p><b>Requirement</b></p>	<p>1.2. Practices must have a policy in relation to Stamp Duty Land Tax (“SDLT”)* which must include:</p> <ol style="list-style-type: none"> <li>a. how to audit trail the SDLT calculation and advice</li> <li>b. how and when to make checks between the consideration stated in the sale contract and transfer deed and SDLT Return and the payments on the solicitors’ client account ledger for the transaction</li> <li>c. a procedure for verifying the amount of SDLT payable, where applicable.</li> </ol> <p><i>*SDLT includes Land Transaction Tax where applicable</i></p>
<p><b>General Guidance Notes</b></p>	
<p>Practices must ensure they have a policy on how to audit trail the SDLT information given by the client, the calculation of the SDLT due and the advice to the client.</p> <p>Practices must ensure there is a verification procedure for the amount of SDLT payable. Where possible, this should include another experienced individual, other than the fee earner, and the verification should be recorded on the file. Requirement 1.2.c. might not be applicable if the calculation is outsourced. Sole practitioners and smaller practices should consider what procedure they could put in place if no other experienced individual is available, this could simply involve checking the SDLT payment again at a later date.</p>	
<p><b>Requirement</b></p>	<p>1.3. 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 legislation. The policy must include:</p> <ol style="list-style-type: none"> <li>a. a documented, practice wide assessment that identifies and assesses the risks of money laundering and terrorist financing to which the practice is subject</li> <li>b. the appointment of a Nominated Officer usually referred to as a Money Laundering Reporting Officer (MLRO)</li> <li>c. a procedure for making disclosures within the practice and by the MLRO to the authorities</li> <li>d. a procedure for checking the identity of the practice's clients, and monitoring clients on an ongoing basis</li> <li>e. a procedure for checking the source of funds</li> <li>f. a procedure for dealing with the transfer of clients from one department of the practice to another</li> <li>g. a plan for the training of personnel</li> <li>h. a procedure for the proper maintenance of records</li> <li>i. a system for responding rapidly to AML enquires from the authorities</li> <li>j. where appropriate with regard to the size and nature of the practice:</li> </ol>

	<ul style="list-style-type: none"> <li>i. appoint a person of sufficient seniority as the officer responsible for the practice's compliance with the current money laundering regulations</li> <li>ii. carry out screening of relevant employees</li> <li>iii. establish an independent audit function to evaluate, monitor compliance with and improve the effectiveness of the practice's AML policies, controls and procedures</li> </ul> <p>Otherwise, practices must document why 1.3.j(i-iii) above are not appropriate</p>
<b>General Guidance Notes</b>	
<p>The current money laundering regulations are the Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. The Legal Sector Affinity Group has produced guidance on Anti-Money Laundering, please follow the link below.  <a href="http://www.lawsociety.org.uk/policy-campaigns/articles/draft-anti-money-laundering-guidance/">http://www.lawsociety.org.uk/policy-campaigns/articles/draft-anti-money-laundering-guidance/</a></p> <p>In requirement 1.3.e, practices should have procedures which enable them to sufficiently identify the source of funds which they receive 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. Where there is a doubt about the information provided or there is a lack of supporting documentation practices should have a procedure which enables conveyancers to seek further guidance from a manager.</p>	
<b>Requirement</b>	<p>1.4. Practices must have a policy in relation to the avoidance of involvement in property and mortgage fraud, which must include:</p> <ul style="list-style-type: none"> <li>a. carrying out relevant checks in relation to the conveyancer acting for the other party</li> <li>b. a documented risk assessment that identifies the warning signs of fraud and assesses the risks</li> <li>c. a documented procedure for dealing with transactions where there is a significant risk of fraud</li> <li>d. a documented procedure for enhanced checking of the identity of the practice's clients where a high risk of fraud is present</li> <li>e. a documented procedure showing how the practice will proceed when acting for a buyer where there is a significant risk of a fraudulent seller</li> <li>f. regular (at least annually) training to all relevant members of staff</li> </ul>

### General Guidance Notes

The policy should set out the typical warning signs of a potential mortgage fraud and who to contact if fee earners 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. Practices may also wish to refer to the Law Society's practice note on mortgage fraud, to help formulate the practice's policy. Please see the link below: <http://www.lawsociety.org.uk/advice/practice-notes/mortgage-fraud/>

<b>Requirement</b>	<p>1.5. Practices must have a policy in relation to acting in a purchase of a leasehold property which must include:</p> <ul style="list-style-type: none"> <li>a. a procedure for ensuring advice is given to the client regarding: <ul style="list-style-type: none"> <li>i. length of the term remaining</li> <li>ii. amount of ground rent and service charge</li> <li>iii. the review provisions and method of calculation</li> </ul> </li> </ul>
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### General Guidance Notes

The policy must set out that the lender is an equal client where a practice is acting for the purchaser and the lender. The policy must reference the need for Part 2 of the UK Finance Handbook to be checked as lender requirements vary.

<b>Requirement</b>	<p>1.6. Practices must have a policy setting out the procedures in place to prevent bribery in accordance with current legislation.</p>
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### General Guidance Notes

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 should 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. For further information please see the Law Society's anti-bribery practice note by following the link below: <http://www.lawsociety.org.uk/advice/practice-notes/bribery-act-2010/>

<b>Requirement</b>	<p>1.7. Practices must have a business continuity plan, which must include:</p> <ol style="list-style-type: none"><li>a. an evaluation of potential risks that could lead to business interruption</li><li>b. ways to reduce, avoid and transfer the risks</li><li>c. key people relevant to the implementation of the plan</li><li>d. a procedure to test the plan annually, to verify that it would be effective in the event of a business interruption.</li></ol>
<b>General Guidance Notes</b>	
<p>Key areas of risk that the practice should address in the business continuity plan are as follows:</p> <ul style="list-style-type: none"><li>•Geographic location (flood, fire, terrorist attacks);</li><li>•Loss of key personnel; and</li><li>•Loss of facilities (IT, access to the building).</li></ul> <p>Practices should identify what the 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 the potential risks that have been identified that could lead to business interruptions as required by 1.7.a.</p> <p>The Law Society produces a free practice note in relation to business continuity, which can be found at the following link: <a href="http://www.lawsociety.org.uk/advice/practice-notes/business-continuity/">http://www.lawsociety.org.uk/advice/practice-notes/business-continuity/</a></p>	

## 2 - Financial management

<b>Requirement</b>	2.1. Practices must document the person who has overall responsibility for financial management.
<b>General Guidance Notes</b>	
<p>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 at assessment.</p> <p>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.</p> <p>Assessors will 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 the COFA. For example, if personnel are aware of a breach of a practice's financial policies or procedures.</p>	
<b>Requirement</b>	<p>2.2. Practices handling financial transactions must have a procedure, which must include:</p> <ol style="list-style-type: none"> <li>a. the transfer of funds</li> <li>b. the management of funds received by the practice</li> <li>c. authorisations.</li> </ol>
<b>General Guidance Notes</b>	
<p>Practices must ensure that their procedures take into consideration the solicitors accounts rules, particularly in relation to office and client funds as well as mixed money.</p> <p>Authorisations should be construed widely. Details of how financial transactions are authorised must be encompassed within the procedure, for example, in respect of authorised signatories, disbursements, cheque requests, client to office and office to client transfers and write off requests.</p> <p>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.</p>	

<b>Requirement</b>	<p>2.3. Practices must be able to provide documentary evidence of their financial management procedure, including:</p> <ol style="list-style-type: none"> <li>a. annual budget including income and expenditure</li> <li>b. annual income and expenditure accounts</li> <li>c. annual balance sheet</li> <li>d. annual income and expenditure forecast to be reviewed quarterly</li> <li>e. variance analysis conducted at least quarterly of income and expenditure against budgets</li> <li>f. variance analysis conducted at least quarterly of cash flow and cash flow forecast</li> </ol>
<b>General Guidance Notes</b>	
<p>Practices need to provide their assessor with documentary evidence to confirm that they produce the financial management information set out in the requirements of section 2.3. There are two methods of achieving this. 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.</p> <p>This section does not prescribe how to budget only that it is carried out.</p>	

### 3 - Supervision and operational risk management

<b>Requirement</b>	3.1. Practices must have documentation setting out the management structure which designates the responsibilities of individuals and their accountability, where applicable.
<b>General Guidance Notes</b>	
Requirement 3.1 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 staff within the department. It is not necessary for sole practitioners to document requirement 3.1., however, they should be able to discuss their responsibilities with an assessor.	
<b>Requirement</b>	3.2. There must be a named supervisor for the conveyancing department (usually the SRO or HOC). The supervisor must have appropriate experience of the work supervised and be competent to guide and assist others.
<b>Requirement</b>	3.3. Practices must have a procedure to ensure that all personnel, both permanent and temporary, are actively supervised. Such procedures must include: <ul style="list-style-type: none"> <li>a. checks on incoming and outgoing correspondence where appropriate</li> <li>b. departmental, team or office meetings and communication structures</li> <li>c. reviews of matter details in order to ensure good financial controls and the appropriate allocation of workloads</li> <li>d. the availability of a supervisor</li> <li>e. allocation of new work and reallocation of existing work, if necessary</li> </ul>
<b>Requirement</b>	3.4. Practices must have a training policy which must include: <ul style="list-style-type: none"> <li>a. ensuring that relevant members of staff are aware of these Core Practice Management Standards and the ways in which the practice complies</li> <li>b. ensuring relevant members of staff understand and follow the National Conveyancing Protocol, where possible</li> <li>c. ensuring relevant CQS training is completed on time</li> <li>d. ensuring that relevant members of staff stay up to date in residential conveyancing, client care and risk management</li> </ul>

<b>Requirement</b>	3.5. Practices must have a procedure to ensure files are regularly monitored and that adequate cover is provided for the work of staff who are absent
<b>Requirement</b>	3.6. Practices must have a procedure for regular, independent file reviews, of both the management of the file and its substantive legal content. In relation to file reviews, practices must: <ol style="list-style-type: none"> <li>a. Define and explain file selection criteria</li> <li>b. define and explain the number and frequency of reviews</li> <li>c. retain a record of the file review on the matter file and centrally</li> <li>d. ensure any corrective action, which is identified in a file review, is acted upon within 28 days and verified</li> <li>e. ensure that the designated supervisor reviews and monitors the data generated by file reviews</li> <li>f. conduct a review at least annually of the data generated by file reviews</li> </ol>

### General Guidance Notes

The file selection criteria should set out the reasoning behind why and how files are selected for review. 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, then whether those files should be reviewed more frequently;
- Whether to select files based on activity or lack of activity; and
- Whether files which are at different stages of completion, should be selected.

In respect of 3.6.c, the requirement is not that the full review be held on the matter file, but rather that it be 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.

<p><b>Requirement</b></p>	<p>3.7. Practices will ensure that procedures are in place to:</p> <ol style="list-style-type: none"> <li>a. designate one overall risk manager for the firm's conveyancing department with sufficient seniority to be able to identify and deal with all risk issues which may arise</li> <li>b. establish appropriate reporting arrangements to ensure that risk issues are appreciated and addressed</li> <li>c. maintain lists of different conveyancing types of work that the practice will and will not undertake including any steps to be taken when work is declined on grounds that it falls outside acceptable risk levels. This information must be communicated to all relevant staff and must be updated when changes occur.</li> <li>d. maintain details of the generic risks and causes of claims associated with conveyancing. This information must be communicated to all relevant staff</li> <li>e. manage instructions which may be undertaken even though they have a higher risk profile, including unusual supervisory and reporting requirements or contingency planning</li> <li>f. ensure conveyancers are kept up to date with the latest guidance, articles and case law relating to residential conveyancing.</li> </ol>
<p><b>Requirement</b></p>	<p>3.8. Practices will analyse at least annually all risk assessment data generated within the practice. This must include:</p> <ol style="list-style-type: none"> <li>a. any indemnity claims (where applicable)</li> <li>b. an analysis of client complaints trends</li> <li>c. data generated by file reviews</li> <li>d. any matters notified to the COLP and/or COFA</li> <li>e. any material breaches notified to the SRA</li> <li>f. any non-material breaches recorded</li> <li>g. situations where the practice acted where a conflict existed</li> <li>h. the identification of remedial action</li> <li>i. risk of non-compliance with current policy to manage personal data.</li> </ol>

<b>Requirement</b>	<p>3.9. Practices must have a policy on the handling of conflicts, which must include</p> <ol style="list-style-type: none"> <li>a. the definition of conflicts</li> <li>b. training for all relevant members of staff to identify conflicts</li> <li>c. steps to be followed when a conflict is identified</li> <li>d. steps to be followed when acting on both sides of a transaction</li> <li>e. steps to be followed if a conflict subsequently occurs</li> <li>f. how to manage possible conflicts between a lay client and a lender client.</li> </ol>
<b>General Guidance Notes</b>	
<p>If acting on both sides of a transaction, practices should be able to clearly demonstrate that an effective risk assessment has been carried out and that both clients have been advised of the implications involved.</p> <p>The policy should 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.</p> <p>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 should practices not have a case management system.</p>	

## 4 - Client care

<b>Requirement</b>	<p>4.1. Practices must have a documented policy for client care, including:</p> <ol style="list-style-type: none"> <li>a. how enquiries from potential clients will be dealt with</li> <li>b. ensuring that before taking on a client, the practice has sufficient resources and competence to deal with the matter</li> <li>c. protecting client confidentiality including their data protection rights</li> <li>d. a timely response is made to telephone calls and correspondence from the client and others</li> <li>e. a procedure for referring clients to third parties</li> <li>f. the provision of reasonable adjustments for disabled clients.</li> <li>g. the provision for providing clients with suitable updates on their transaction, even when no progress has been made since the last report</li> </ol>
<b>General Guidance Notes</b>	
<p>In relation to 4.1.f, practices must comply with their obligations to ensure reasonable adjustments are made for disabled clients and personnel. Chapter 2, outcome 2.3 of the SRA Code requires practices to make adjustments for disabled clients without passing on the cost of such adjustments to the client. The Law Society has produced a practice note that provides additional guidance. The practice note can be found at the following link: <a href="http://www.lawsociety.org.uk/advice/practice-notes/equality-and-diversity-requirements--sra-handbook/">http://www.lawsociety.org.uk/advice/practice-notes/equality-and-diversity-requirements--sra-handbook/</a></p> <p>In relation to 4.1.d – g, practices should consider how they will ensure the clients expectations are met and how they will determine 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, the content, tone, frequency and speed of communications. Practices should consider how to give realistic expectations to their clients at the outset.</p>	
<b>Requirement</b>	<p>4.2. Practices must have a procedure to ensure compliance with chapter 1 of the SRA's Code of Conduct 2011</p>

<b>Requirement</b>	<p>4.3. Practices must operate a written complaint handling procedure, including:</p> <ol style="list-style-type: none"> <li>a. the definition of what the practice regards as a complaint</li> <li>b. informing the client at the outset of the matter, that in the event of a problem they are entitled to complain</li> <li>c. the name of the person with overall responsibility for complaints</li> <li>d. providing the client with a copy of your practice's complaints procedure, if requested</li> <li>e. once a complaint has been made, the person complaining is informed in writing:             <ol style="list-style-type: none"> <li>i. how the complaint will be handled; and</li> <li>ii. in what time they will be given an initial and/or substantive response</li> </ol> </li> <li>f. recording and reporting centrally all complaints received from clients identifies the cause of any problem of which the client has complained offering any appropriate redress, and correcting any unsatisfactory procedures</li> </ol>
<b>General Guidance Notes</b>	
<p>Practices should also note their obligations under the SRA Transparency Rules.  <a href="https://www.sra.org.uk/solicitors/resources/transparency.page">https://www.sra.org.uk/solicitors/resources/transparency.page</a>          For more information on transparency requirements see the Law Society's practice note:  <a href="https://www.lawsociety.org.uk/support-services/advice/practice-notes/price-and-service-transparency/">https://www.lawsociety.org.uk/support-services/advice/practice-notes/price-and-service-transparency/</a></p>	
<b>Requirement</b>	<p>4.4. Practices must have a procedure to monitor client satisfaction across all conveyancing clients</p>
<b>Requirement</b>	<p>4.5. Practices must have a documented procedure for reporting matters to lenders which should include:</p> <ol style="list-style-type: none"> <li>a. where available, the use of any specified reporting form provided by the lender</li> <li>b. identification of the nature of the matter being reported</li> <li>c. providing appropriate legal advice and indicate what action can be taken to minimise or eliminate any risk.</li> </ol>
<b>General Guidance Notes</b>	
<p>In relation to 4.5.c, 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.</p>	

## 5 - File and case management

<b>Requirement</b>	5.1. Practices must ensure that the strategy for a matter is always apparent from the matter file.
<b>General Guidance Notes</b>	
Even though sole practitioners may be the only fee earner in their practice, it is crucial to ensure that each matter file contains a record of all the relevant information. There may be occasions when those that are external to the practice, such as 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.	
<b>Requirement</b>	5.2. Practices must have a procedure to accept or decline instructions, which must include <ul style="list-style-type: none"> <li>a. how decisions are made to accept instructions from new and existing clients</li> <li>b. how decisions are made to stop acting for an existing client</li> <li>c. how decisions are made to decline instructions</li> <li>d. how decisions are made if a conflict of interest arises between a lay client and a lender client or between a seller and buyer client (if a practice is acting for both).</li> </ul>
<b>General Guidance Notes</b>	
Practices should include information in the terms of business that explain to clients the circumstances in which they may stop acting.	
<b>Requirement</b>	5.3. Practices must communicate the following to clients in writing, unless an alternative form of communication is deemed more appropriate, at the outset of the matter: <ul style="list-style-type: none"> <li>a. establish the nature of the transaction</li> <li>b. explain the likely timescale of the transaction and factors that may affect that timescale</li> <li>c. establish the method of funding</li> <li>d. costs estimate showing all anticipated disbursements and explaining any additional costs that may be incurred,</li> <li>e. agree an appropriate level of service</li> <li>f. explain the responsibilities and the practice and the client</li> <li>g. provide the client with the name and status of the person dealing with their matter</li> </ul>

	h. provide the client with the name and status of the person responsible for the overall supervision of their matter.
<b>Requirement</b>	5.4. Practices must have a procedure for ensuring the SRA's price and service transparency requirements are met.
<b>General Guidance Notes</b>	
For more information on transparency requirements see the SRA Transparency page and the Law Society's practice note: <a href="https://www.sra.org.uk/solicitors/resources/transparency.page">https://www.sra.org.uk/solicitors/resources/transparency.page</a> <a href="https://www.lawsociety.org.uk/support-services/advice/practice-notes/price-and-service-transparency/">https://www.lawsociety.org.uk/support-services/advice/practice-notes/price-and-service-transparency/</a>	
<b>Requirement</b>	5.5. Practices must have documented procedures to ensure that matters are progressed in an appropriate manner. In particular: <ul style="list-style-type: none"> <li>a. key information must be recorded on the file</li> <li>b. a timely response is made to telephone calls and correspondence from the client and others</li> <li>c. any variation to costs estimates, including anticipated disbursements is notified to the client in writing in a timely manner</li> <li>d. clients are informed in writing if the person with conduct of their matter changes, or there is a change of person to whom any problem with service should be addressed</li> <li>e. during the retainer the fee-earner must consider any change to the risk profile of the matter from the clients' point of view and report and advise on such circumstances without delay, informing the risk manager if appropriate</li> <li>f. key dates must be defined and recorded on the file and in a back-up system</li> <li>g. there must be a process to monitor key dates</li> </ul>
<b>General Guidance Notes</b>	
Sole practitioners do not need to document the procedures in relation to 5.5.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.	

<b>Requirement</b>	5.6. Practices must document procedures for the giving, monitoring and discharge of undertakings
<b>General Guidance Notes</b>	
<p>The procedures should address who within a practice is permitted to give undertakings and the consequences for personnel, should they be found to be in breach of the procedures.</p> <p>Conveyancing usually involves a large number of undertakings, as such, a central register of undertakings is preferred. If there is not a central register practices may be asked to explain how undertakings are monitored and how they ensure any given undertaking has been discharged.</p>	
<b>Requirement</b>	<p>5.5. Practices must have a procedure to:</p> <ol style="list-style-type: none"> <li>a. list open and closed matters, identify all matters for a single client and linked files where relevant</li> <li>b. ensure that they are able to identify and trace any documents, files, deeds, wills or any other items relating to a matter</li> <li>c. safeguard the confidentiality of matter files and all other client information</li> <li>d. ensure that the status of the matter and the action taken can be easily checked by other members of the practice</li> <li>e. ensure that documents are stored on the matter file(s) in an orderly way</li> </ol>
<b>General Guidance Notes</b>	
As a general rule all records relating to a matter should be capable of being traced either by being on the file itself or referred to thereon.	

<b>Requirement</b>	<p>5.6. Practices must have a procedure to ensure that, at the end of the matter, the practice:</p> <ol style="list-style-type: none"> <li>a. if required, 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</li> <li>b. accounts to the client for any outstanding money</li> <li>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)</li> <li>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</li> <li>e. advises the client whether it is appropriate to review the matter in future and, if so, when and why</li> <li>f. draws the client's attention to HMLR Property Alert Service and other fraud guidance published by HMLR</li> <li>g. archives and destroys files in an appropriate manner</li> </ol>
<b>General Guidance Notes</b>	
This requirement assists practices to conclude matters for clients in a systematic manner, providing a framework of the key elements	

## 6 - Information Management

<b>Requirement</b>	<p>6.1. Practices must have a policy to manage personal data which ensures compliance with data protection legislation and recognises other requirements, for example, UK Finance Handbook.</p> <ol style="list-style-type: none"> <li>a. the appointment of a Data Protection Officer (DPO), if required, and if not, practices should appoint one voluntarily. If a voluntary appointment is not made practices must document, why they have not made such an appointment and the suitable alternative arrangements they have put into place.</li> <li>b. keeping appropriate records of processing activities and additionally, the lawful basis for processing categories of data and providing information to data subjects including information about data transfers to third countries.</li> <li>c. a procedure for data subject access requests</li> <li>d. a procedure to manage and report data breaches</li> <li>e. regular data protection training for all staff</li> <li>f. a policy for reviewing processing operations in light of the obligation of data protection by design and default, which should include:             <ol style="list-style-type: none"> <li>i. a procedure for identifying when a data protection privacy impact assessment should be carried out</li> <li>ii. a procedure for identifying and periodically reviewing data retention timescales</li> </ol> </li> </ol>
<b>General Guidance Notes</b>	
<p><u>Designation of a DPO</u></p> <p>Where a mandatory or voluntary appointment of a DPO has been made, assessors may interview the DPO to confirm that they are fulfilling the requirements of the role as set out in GDPR Chapter 4, Section 4. Where an appointment has not been made the assessor may request written evidence of the decision not to make a mandatory or voluntary appointment which should also include details of the suitable alternative arrangements that have been put in place.</p> <p>Law Society guidance is that suitable alternative arrangements means that responsibility for data protection compliance is led by a suitably senior and qualified person with access to the necessary resources to ensure compliance.</p>	

### Record keeping

Keeping appropriate records of processing activities means keeping a record that contains all the information set out in Article 30(1) (a)-(g) of the GDPR. These records have to be kept by most data controllers under the GDPR. CQS practices have an additional requirement of keeping a record of the lawful basis on which they are processing each category of data set out in Article 30(1)(c). For processing of data to be lawful at least one of the grounds set out in Article 6 (1) (a)-(f) must be met; for processing of special categories of personal data as defined in Article 9(1) to be lawful, one of the grounds in Article 9(2)(a)-(j) must be satisfied. The record of the lawful basis for processing may be kept as part of the Article 30 record. Article 30(1)(f) requires data controllers where possible to keep, as part of the record, the envisaged time limits for erasure of the different categories of data. CQS regards this obligation as important and there is a high expectation that it should be possible to identify envisaged time limits for most categories of data. Where it is not, CQS practices should provide a clear justification.

The requirements for the provision of information to data subjects are set out in Articles 13 and 14 of the GDPR.

Assessors may request a copy of these records and confirm that it has been completed in respect of each of the requirements set out in 30(1)(a)-(g). Any apparent omissions may be clarified with the DPO or other person responsible for data protection compliance.

### Data subject access

Assessors may request the procedure for responding to data subject access requests. This should set out how all staff have been trained to identify data subject access requests, the action they should then take and who is responsible for responding within the time limit. The responsibilities of the DPO or other person responsible for data protection compliance should be clearly set out.

### Data breach notification

Assessors may request the procedure for making mandatory data breach notifications. As with data subject access requests, the procedure should set out how all staff have been trained to identify data breaches, the action they should then take and who is responsible for making notifications within the time limits. The responsibilities of the DPO or other person responsible for data protection compliance should be clearly set out.

### DPIAs and data protection by design & by default

Assessors may request the policy for ensuring data protection by design and by default, which should include a procedure for identifying when DPIAs must be carried out as set out in Article 35. Examples of historic DPIAs should be requested along with any examples of the application of data protection by design and by default.

### Data retention timescales

The procedure should include how retention periods for different categories of data are initially identified and how these anticipated retention periods are to be reviewed from time to time (and not less than once a year). It should also include procedures for reviewing individual cases as

appropriate within each category. Practices should also consider the UK Finance Handbook requirements when considering data retention timescales.

Any management records of historic data subject access responses or data breach notifications may be examined.

The Law Society produces general guidance on GDPR, which can be found at the following link:

<http://www.lawsociety.org.uk/support-services/practice-management/gdpr-preparation/general-guidance-on-gdpr/>

<b>Requirement</b>	<p>6.2. Practices must have an information management and security policy, which should be accredited against Cyber Essentials. The policy must incorporate the following controls:</p> <ol style="list-style-type: none"> <li>a. a register of relevant information assets of both the practice and clients</li> <li>b. procedures for the protection and security of the information assets</li> <li>c. procedures for the retention and disposal of information</li> <li>d. the use of firewalls</li> <li>e. procedures for the secure configuration of network devices</li> <li>f. procedures to manage user accounts</li> <li>g. procedures to detect and remove malicious software</li> <li>h. a register of all software used by the practice</li> <li>i. training for personnel on information security</li> <li>j. a plan for the updating and monitoring of software</li> <li>k. a procedure for the secure transmission of the practice's bank information to clients and receipt of banking information from clients</li> <li>l. a procedure for verifying the banking details of other conveyancers and third parties to whom money is sent</li> <li>m. a procedure for communications with the practice's bankers</li> </ol>
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## General Guidance Notes

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. Often the register will include the following main headings:

- The title;
- An identifier or unique reference number;
- A description;
- The date created;
- The frequency it is to be updated (e.g. monthly, annually);
- The date it was last modified;
- The format (e.g. word document, book);
- The author;
- The users' rights (e.g. rights to view, copy, redistribute or republish);
- The category (e.g. confidential, personal data);
- Retention period; and
- Destruction date.

CQS 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. Nonpersonal 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 has introduced the Cyber Essentials Scheme to help 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 CQS. <https://www.cyberessentials.ncsc.gov.uk>

Training for personnel on information security (6.2.i) should be appropriate and relevant to the role and should take place at least annually. Further information and training can be found from the following sources:

<http://cpdcentre.lawsociety.org.uk/course/6707/cyber-security-for-legal-and-accountancy-professionals>

<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/>

For requirement 6.1.m, practices 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.