

ANNEX 8

Quality

Not-for-profit sector and quality standards

Community Legal Service (CLS) Quality Mark

A range of quality marks was developed by the Legal Aid Board/Legal Services Commission (LSC) in the late 1990s/early 2000s, which covered all levels of information, advice and legal representation services, including the Bar. The CLS Quality Marks provided a range of compatible quality marks that could be applied through all levels of information and advice provision. However, it should be stressed that the Quality Mark was never going to be taken up by all solicitors as it was very much built around the concept of the Community Legal Service and was not relevant to commercial firms. The CLS Quality Mark concept came to an end with the introduction of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 on 1 April 2013 and there is no longer a consistent range of standards for the advice and legal support sector. Only the Specialist Quality Mark (SQM) remains – see below.

Citizens Advice

Management system quality standards have been embodied in Citizens Advice's 'Membership Scheme' for more than 30 years. These have included a form of peer review of quality of advice for almost 15 years. Accreditation is free. Citizens Advice's own staff assess compliance with them, and sanctions are taken in relation to bureaux that do not comply. They are aligned to be compatible with the Advice Quality Standard (see below for more information) and member bureaux have dual accreditation.

Shelter

Shelter has a 'quality of advice' framework, which it uses internally and also offers to local authorities as part of a consultancy service to enable them to benchmark the value-for-money of their housing options and homelessness services.¹

Advice Services Alliance (ASA)

The ASA inherited the General Help Quality Mark (part of the CLS Quality Mark family of standards) and re-named it the Advice Quality Standard (AQS). It focuses on management systems and does not include an external peer review of quality of advice. Centre for Assessment Ltd is currently the accreditation

¹ See *Value for money in housing options and homelessness services*, Shelter, 2010, available at: http://england.shelter.org.uk/__data/assets/pdf_file/0008/297224/VFM_in_housing_options_and_homelessness_services_full_report_Oct_2010.pdf.

body. Any advice agency may apply for accreditation. Accreditation can be at the level of ‘advice’ or ‘advice with casework’, depending on the level of service offered and/or funders’ requirements. When it was first developed as the General Help Quality Mark, accreditation was free and it was very popular. Take-up has declined since accreditation was outsourced about five years ago and agencies had to pay for it. However, it is currently held by approximately 720 agencies (including Citizens Advice Bureaux which are passported through the Citizens Advice Membership Scheme).

AQS definitions – Advice and Advice with casework

Advice

At this level you will be providing basic support to a client, but ultimately the client will retain responsibility for further actions. Organisations will need to demonstrate they provide the following services when applying for this level:

- give information and explain options available;
- identify further action that the client can take;
- give basic assistance, eg complete basic forms, contact third parties to seek information;
- refer or signpost to appropriate suppliers if further action needs to be taken.

Advice with casework

Organisations will need to demonstrate they provide the following services when applying for this level:

- take action on behalf of clients in order to move the case on;
- negotiate and advocate on the client's behalf to third parties on the telephone, by letter and face-to-face.

Solicitors and quality standards

Solicitors Regulation Authority (SRA)

The SRA sets many quality standards and outcomes which solicitors must achieve. It mainly relies on solicitors to be self-monitoring, although it will investigate and discipline solicitors who do not meet the prescribed standards if they come to its attention.

Lexcel

Lexcel focuses on management systems and does not include an external peer review of quality of advice. It is assessed by independent assessment bodies which are authorised to do so by the Law Society. Solicitors have to pay for accreditation. It has gained in popularity since the SRA adopted its ‘outcome

focused' approach, as it is a good way to demonstrate that firms are achieving many of the desired outcomes. Lexcel is a flexible standard which can be adapted to the needs of solicitors practising in a variety of settings. There is guidance on how to apply it for sole practitioners and local authority legal departments. Some Law Centres (but not many) hold Lexcel. The Law Society is currently reviewing the Lexcel standard and this would be a good opportunity for it to produce guidance on how Lexcel can be applied in the not-for-profit sector. This would enable Lexcel to meet the needs of organisations employing solicitors in any context, including the not-for-profit sector.

Specialist Quality Mark (SQM)

SQM has had some minor amendments since it was first created in 2002. Organisations, whether with or without solicitors, can apply for it, so long as the agency does specialist level casework and representation. Unfortunately, it has never been fundamentally reviewed and it has become out of date. There is no longer any active development of the standard by the Legal Aid Agency (LAA).

Assessment used to be free but has been outsourced to the SQM Delivery Partnership for several years. Fees are similar to Lexcel accreditation. It remains popular with some legal aid providers; but solicitors in private practice have increasingly become accredited to Lexcel.

Quality Assurance Scheme for Advocates (QASA)

The professional regulatory bodies – the Bar Standards Board, ILEX Professional Standards and the SRA – are introducing QASA. This will affect all those carrying out advocacy in the magistrates' court and above, as in addition to their existing professional qualification they will have to become accredited in order to provide advocacy in the criminal courts.

Development of the SQM and Lexcel

	Legal aid (SQM)	Law Society (Lexcel)
1993	Practice Management Standards	
1994	Franchising introduced – first Franchising Specification	
1998	Legal Aid Franchise Quality Standard (LAFQAS) introduced – 'franchising' became mandatory	Lexcel scheme introduced
1999	Access to Justice Act 1999 creates CLS – Legal Aid Board became LSC	

	Legal aid (SQM)	Law Society (Lexcel)
2000	Civil contracting	Lexcel second version
2001	Criminal contracting	
2002	SQM v.1 introduced	
2004		Lexcel third version
2005	SQM (reprint) v1.1	
2007		Lexcel fourth version
2009	SQM second edition	Lexcel v4.1 (international)
2010		LSC accepted Lexcel as a qualifying quality standard for legal aid contracts
2012		Lexcel v5 (compulsory for all assessments to the Lexcel standard after 1 July 2012)
2012	SQM reissued in May 2012	
2013	LASPO Act 2012 takes effect – 1 April. SQM now owned by the LAA (part of the Ministry of Justice), which replaces the LSC	Lexcel to be reviewed and updated to v6

Legal aid and quality standards

Organisations must have current accreditation to either the SQM or Lexcel in order to hold a contract with the LAA. There are also many quality standards embedded in the contract itself – for example, the requirement to employ a supervisor who has at least three years' experience in the contract category of law and has done a stipulated portfolio of cases or is a member of a specified panel.

Organisations must also be able to pass a peer review of the quality of legal advice, using the methodology created by the Institute of Advanced Legal Studies and administered by the LAA. However, not all legal aid providers are subject to peer review and the number of peer reviews carried out has been falling.