



LawWorks clinics - resources

Development, support and impact





Resources project – In Brief

- Resources facilitate and develop pro bono practice (complimenting professional bodies' tools such as the Law Society's Pro Bono Manual).
- Resources' project can lead to new insights which can shape the regulatory landscape in pro bono.
- Resources support clinics through developments in the law, e.g. GDPR
- Review, update and revise existing resources, e.g. supervision guidance
- Develop new resources, e.g. clinics regulatory guidance
- Collaborative internal review process with Clinics team





Improvements to the way resources function on LawWorks' website

- Resources arranged by topic
- Home-pages directing to further research, resources and hyperlinks
- Improved functionality / user-friendliness
- Assistance
-
- *Watch this space* – in the pipe-line ...





Legal developments

Take a look ...

- General Data Protection Regulation ((EU) 2016/679)
- www.lawworks.org.uk/gdpr-toolkit





GDPR

Home » For solicitors and volunteers » Resources » General data protection regulation toolkit (GDPR)

General data protection regulation toolkit (GDPR)

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This toolkit applies the main General Data Protection Regulations (GDPR) provisions to a pro bono/legal advice clinics' setting and provided links to further reading. Each clinic should consider the issues addressed throughout this toolkit so as to satisfy itself that its data processing is GDPR compliant.

Contents

- [GDPR in brief](#)
- [Reasons for processing data](#)
- [What to do next](#)
- [Action points](#)
- [Subject access requests](#)
- [Data retention policy](#)
- [Retention of data](#)
- [Further reading/guidance](#)
- [Resources and downloads](#)

GDPR in brief

Clinics are **Data Controllers** for the purpose of the GDPR.

A Data Controller means 'the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data'. The GDPR states that the Data Controller 'must be able to demonstrate compliance'.^[1]

As clinics regularly deal with vulnerable individuals, including those who suffer mental and physical health problems, as well as children, the risks associated with data processing are self-evidently greater. These individuals will be entitled to greater protection under the GDPR. For example, it might not be sufficient to merely include a bald reference to a complaints procedure in letters of engagement, as this would require a complainant to contact the clinic directly, possibly even the person whom they wish to complain about, in order to establish how and to whom to complain. Clearly, for some individuals this would have the effect of dissuading them from complaining. Clear information, provided up-front in clinics' paperwork, should be the rule of thumb. Clinics' complaints procedures should generally encourage clients to address their concerns with the clinic in the first instance. Please refer to LawWorks' complaints handling resources on our website.

It is a requirement of the GDPR that everybody involved in clinics have the necessary skills and knowledge to be able to apply the law in their day-to-day work. To that end, clinic coordinators should keep a log of who has been trained and when, and build this into the induction process for any new staff, volunteers and trustees.

For solicitors and volunteers

[Legal aid and pro bono](#)

[Get Involved](#)

[Training and events](#)

[Resources](#)

[Volunteer resources](#)

[Clinic resources](#)

[The Knowledge Centre](#)

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Get involved!

Pro bono opportunity with Ealing Advice Service
Greater London

What to do next?

Using the table below, you should review clinic's processes to obtain information regarding the collection, handling, processing or storing of personal data. This will lead to a better understanding of what personal data clinics process and create a tangible overview of:

- the nature of the personal data collected by the clinic;
- the purposes for which personal data is processed;
- how such data is stored and details of any relevant policies and security measures in place;
- who the clinic shares personal data with; and
- how the clinic shares and transfers that data.

The three main areas where clinic coordinators should consider whether any remedial action should be taken are as follows:

1. **Lack of formal data protection/retention policies**
2. **Lack of compliance training/guidance for staff (including volunteers)**
3. **Inadequate security measures to protect personal data**

Action points

The tables below sets out a number of suggested action points, which will help to address the risk areas listed above and further ensure that the clinic adequately protects the personal data that it collects and processes it in accordance with the law.

▼ [Clinic coordinator](#)

▼ [Data Audit](#)

▼ [Staff, including volunteers](#)

▼ [Marketing](#)

▼ [IT](#)

▼ [Legal](#)

Subject access requests

On receipt of a Subject Access Request, the requested personal data must be provided within one month and free of charge.^[4]



Resources developed

Take a look ...

- Clinics, client confidentiality and disclosure resources
www.lawworks.org.uk/cccd





Confidentiality

Clinics, client confidentiality and disclosure

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Clone content

This resource covers confidentiality, client confidentiality and disclosure within a pro bono/legal advice clinics' setting. Download and adapt the model volunteer confidentiality agreement for use in your clinic.

Contents

- Sources of confidentiality rules
- Introduction to confidentiality
- What information is confidential
- How to maintain confidentiality
- Client access to records
- Conflict situations
- Breach management
- Resources and downloads

Sources of confidentiality rules

The law of confidence is part of the common law (i.e. case law). Clinics and volunteers are also subject to the rules contained in SRA Handbook which contains specific provisions in relation to client confidentiality (see [Chapter 4, Confidentiality and disclosure](#)). See also the [General Data Protection Regulations \(GDPR\)](#) which imposes duties as regards the processing of data.

Introduction to confidentiality

Clinics are placed under duty to keep clients' affairs confidential. Volunteer solicitors and barristers are also under a professional duty to keep all clients' affairs confidential – this duty continues long after the clinic's involvement in the client's matter has come to an end and in most circumstances, will continue long after the client's death. The term "client" therefore is not limited to current clients, but also to former clients of the clinic.

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What information is confidential?

To be protected by the law of confidence, information must be:

- **Confidential in nature**
Meaning that it must have the "necessary quality of confidence". Additionally, it must not be something which is already in the public domain or public knowledge. Examples include: client files, instructions, advice and medical and other sensitive personal information, including certain financial information. [*Remember*, even if client information is already in the public domain and therefore not protected by the law of confidence, data protection law will still apply, potentially preventing disclosure or other data processing: see LawWorks' data protection guidance].
- **Disclosed in circumstances importing an obligation of confidence**
Advisers, such as solicitors, as well as student volunteers, are subject to strict confidence with regard to client's information by virtue of the solicitor – client relationship.

How to maintain confidentiality

As a general observation, sensitivity should be given when setting up clinics, spatially and otherwise, so as to ensure that clinic clients' privacy and comfort, as well as confidentiality, are maintained.

There are two main ways to protect information under the law of confidence:

1. Information disclosure

2. Access to information

Client access to records

Clients have the right to see their own case records and letters written or received on their behalf. Copies may be given to clients, but the originals should be retained in clinics' files.

Where a client has made a complaint or a claim involving liability for wrong advice against the organisation any records or correspondence relating to the claim or complaint is confidential to the organisation and should be stored separately to the original case record.

Conflict situations

In rare situations the duty of confidentiality and the duty to disclose may come into conflict with each other. If you are in any doubt you should consult the SRA Handbook and contact the SRA ethics line on 0370 606 2577.



Existing resources refreshed

Take a look ...

- Supervision resources

www.lawworks.org.uk/superv-guide





Supervision

Home » For solicitors and volunteers » Resources » Supervision guidance and resources

Supervision guidance and resources

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Clone content

Supervision of work is a legal and professional requirement. All solicitors and managers should have a system for supervising clients' matters. Clinics must also comply with the statutory requirements for the direction and supervision of reserved legal activities. This guidance provides information and tips, as well as collecting a number of supervisory related resources in one place.

Contents

- Introduction
- What is supervision?
- SRA code of conduct and competence
- Quality standards
- File reviews in pro bono work
- Resources and downloads

Introduction

Clinics' supervisors and/or coordinators (as well as supervised solicitors themselves) are encouraged to listen to the recording of a recent [roundtable event concerning clinics' supervision](#), as well as consulting the [Law Society's guidance](#)¹. The roundtable event was an opportunity for clinics to share knowledge and experience of supervision in practice.

The Law Society has issued helpful [guidance on the regulatory requirement for supervision](#)² to be in place in respect of certain pro bono work, including practical guidance as to how to comply. The Law Society's guidance should be read by solicitors in legal practice or employment in England and Wales who are responsible for the supervision of another individual in legal practice or employment, and any supervised solicitor or trainee who would like to know what they should expect from their supervisor.

The headline points for clinics affiliated to LawWorks are:

- The regulatory requirement for supervision to be in place for pro bono work is relevant where:
 - Reserved legal activities are being undertaken on a pro bono basis and/or
 - Individuals are 'practising' when volunteering.

What is supervision?

Supervision is the action or process of watching and directing what someone does or how something is done. It can be helpful to think about supervision both in terms of development (which is related to ongoing professional learning) and performance (which is related to standards of legal practice and expectations).

It includes day to day support, guidance and advice, and supervisory file review of the technical quality of legal work and case management.

Supervision should involve people in shaping their work environment and provide support in personal growth. Effective supervision requires technical and interpersonal skills of listening and communication. The benefits of effective supervision are:

- An organisation can be confident in the consistent quality of legal advice and service provided
- Development of individuals and team building
- Minimising the risk of bad advice on clients' lives and insurance claims for negligent advice
- To meet regulatory requirements

SRA code of conduct and competence

[Chapter 1 of the code of conduct](#) puts client care at the heart of a solicitor's practice. There are compulsory outcomes which mean that supervision is mandatory

O(1.5) the service you provide to clients is competent, delivered in a timely manner and takes account of your clients' needs and circumstances;

O(7.8) you have a system for supervising clients' matters, to include the regular checking of the quality of work by suitably competent and experienced people;

The indicative behaviour below reinforces this:

IB(1.3) ensuring that the client is told, in writing, the name and status of the person(s) dealing with the matter and the name and status of the person responsible for its overall supervision;

The SRA and Chartered Institute of Legal Executives have recently adopted the competence approach. The SRA competence standard for solicitors was published in March 2015. Made up of three parts ([a statement of solicitor competence](#), [the threshold standard](#) and [a statement of legal knowledge](#)), the competence statement defines the continuing competences that the SRA required from all solicitors. It is broken down into four sections:

- Ethics, professionalism and judgement
- Technical legal practice
- Working with other people
- Managing themselves and their own work

Some elements of sections A and C clearly relate to supervision, aimed both at supervisors and supervisees.

▼ A. Ethics, professionalism and judgement

▼ C. Working with other people

Quality standards

The two main quality standards relevant to legal practice are the [Law Society's Lexcel standard](#) and the [Legal Aid Agency's Specialist Quality Mark](#). Again, we see the importance they give to supervision. Lexcel places it in the 'risk management' part of the standard, whereas the Specialist Quality Mark includes it in the 'managing people' section.

▼ Lexcel

▼ Specialist Quality Mark

File reviews in pro bono work

File reviews are just as necessary in pro bono work as they are in private or in-house practice.

They should identify any problem areas in relation to quality of advice, file management and recording, standard of client service and requirements under the Code of Conduct, for example:

- Has any potential conflict of interest been screened for?
- Has a client care letter been provided?
- Does the client know who is responsible for supervision?
- Does the client know how to raise any concern about their experience?
- Have the client's instructions been confirmed in writing, together with advice and information on what action will be taken and by whom (where relevant)?
- Is the fee earner aware of relevant law/legal procedures?

If casework is being provided:

- Has the client been kept informed?
- Have calls been returned/appointments made within a reasonable period?
- Has the matter been progressed appropriately (where relevant)?

Additional resources can be found on the [Legal Aid Agency website](#).

Resources and downloads

- [Supervision guidance](#)
- [Template clinic file review](#)
- [Template supervision client advice summary sheet](#)

Supported by
The Law Society





New resources

Take a look ...

- Clinics regulatory guidance

www.lawworks.org.uk/clinics-pg

- SRA announcement -

<https://www.sra.org.uk/sra/news/press/handbook-reforms-june-2018.page>





Clinics regulatory guidance

Summary

When volunteering at a clinic, including those affiliated with LawWorks', all solicitors should consider the following:

Practising solicitors:

- What are the permissible ways to practise as a solicitor by providing pro bono legal services to the public;
- Whether they are permitted to undertake 'reserved' legal activities or are restricted to undertaking non-reserved legal activities. Examples of non-reserved legal activities are the provision of legal advice or opportunities to undertake advocacy before tribunals which do not place restrictions on rights of audience, such as the Employment Tribunal or First-Tier Tribunal (non-immigration);
- Whether they are required to have in place a current practising certificate;
- Legal services provided to the public should be covered by professional indemnity insurance;

Non-practising solicitors

- should not undertake 'reserved' legal work, unless they are being supervised by a practising solicitor with relevant experience and a current practising certificate; and,
- should ensure that when providing legal advice to the public neither they or clinics hold them out in any way as practising (see elsewhere in this note as to the circumstances in which solicitors might be treated as practising for the purposes of the SRA rules).

The above is a summary of the main considerations which we deal with in more detail below. We encourage readers to carefully consider this guidance in its entirety.





New & revised resources

In the pipeline ...

- Clinics Insurance review
- Legal Aid scope
- Legal Expenses Insurance
- Clinics funding

And much more





Impact?

- Impact – tell us your thoughts / requests for new resources





Questions?

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