

Supervision guidance



Contents

Introduction	1
What is supervision?	2
SRA Code of Conduct and competence.....	3
Quality Standards.....	4
File reviews in pro bono work.....	8

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 Round Table 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:
 - i) Reserved legal activities are being undertaken on a pro bono basis and/or
 - ii) Individuals are 'practising' when volunteering.

Unreserved pro bono work per se, such as legal advice, can be undertaken by anyone, including non-lawyers. It would therefore be possible to set up and run a non-reserved legal advice pro bono clinic, say by providing initial legal advice only, without triggering the regulatory oversight of the SRA. However, many pro bono clinics, even those providing initial legal advice only, will set out to comply with the SRA's legal practice rules. That is

¹ To access this resource you need to register for a free account on The Law Society website.

² *ibid*

because, for example, clinics advertise their services as being delivered by volunteer 'solicitors' or 'lawyers' or otherwise in a way so as to trigger the practice rules. (Where solicitors hold themselves out or allow, for example, clinics to hold themselves out to the public as 'solicitors' or 'legal advisors' they will be treated as 'practising' for the purpose of the SRA's rules and will need to ensure compliance with the rules in respect of supervision.).

- All student volunteer work should be checked by a supervising solicitor before sent out to clients or third parties. All legal practice work (see above) should be supervised / checked by a solicitor with the requisite experience (i.e. 36 months PQE as a minimum (see: [Practice Framework Rules, 12](#)) as well as relevant and sufficient experience in respect of individual cases).
- Supervision is a requirement which is placed primarily on clinics' managers (or coordinators) and must be complied with, even in circumstances where volunteers are experienced practitioners (with a light touch supervision being appropriate).
- Effective supervision is a particular challenge for drop-in clinics, especially those which do not restrict the type of cases. It is vital supervision is effective across clinics' workload, including appropriate levels of supervision of experienced practitioners' work (especially that which is outside their own expertise).

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:

- A. Ethics, professionalism and judgement
- B. Technical legal practice
- C. Working with other people
- D. Managing themselves and their own work

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

A3 Work within the limits of their competence and the supervision which they need, including:

- a. Disclosing when work is beyond their personal capability*
- b. Recognising when they have made mistakes or are experiencing difficulties and taking appropriate action*
- c. Seeking and making effective use of feedback, guidance and support where needed*
- d. Knowing when to seek expert advice*

C3 Establish and maintain effective and professional relations with other people, including:

- a. Treating others with courtesy and respect*
- b. Delegating tasks when appropriate to do so*
- c. Supervising the work of others effectively*

- d. *Keeping colleagues informed of progress of work, including any risks or problems*
- e. *Acknowledging and engaging with others' expertise when appropriate*
- f. *Being supportive of colleagues and offering advice and assistance when required*
- g. *Being clear about expectations*
- h. *Identifying, selecting and, where appropriate, managing external experts or consultants*

Quality Standards

The three main quality standards relevant to legal practice are the [Law Society's Lexcel standard](#), the [Legal Aid Agency's Specialist Quality Mark](#) and the [Advice Service Alliance's Advice Quality Standard](#). Supervision is a key element of each of these standards. Lexcel places it in the 'risk management' part of the standard. The Specialist Quality Mark includes supervision in a 'managing people' section and the Advice Quality Standard refers to supervision in its 'People management' section.

Lexcel

Supervisor(s)

A person(s) who is(are) of sufficient seniority and in a position of sufficient responsibility with the appropriate skills and experience to guide and assist others

- 4.3 *Practices **must** have a learning and development **policy**, which **must** include ensuring that all **supervisors** and managers receive appropriate training*
- 5.3 *There **must** be a named **supervisor** for each area of work undertaken by the practice.*
- 5.4 *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.*
- 5.9 *Practices **must** have a **procedure** to ensure that all **personnel**, both permanent and temporary, are actively supervised. Such **procedures must** include:*
 - *checks on incoming and outgoing correspondence where appropriate*
 - *departmental, team and office meetings and communication structures*
 - *reviews of matter details in order to ensure good financial controls and the appropriate allocation of workloads*
 - *the exercise of devolved powers in publicly funded work (sic)*

- the availability of a **supervisor**
- allocation of new work and reallocation of existing work, if necessary.

5.11 Practices **must** have a **procedure** for regular, independent file reviews of either the management of the file or its substantive legal content, or both. In relation to file reviews, practices **must**:

- define and explain file selection criteria
- define and explain the number and frequency of reviews
- retain a record of the file review on the matter file and centrally
- ensure any corrective action, which is identified in a file review, is acted upon within 28 days and verified
- ensure that the designated **supervisor** reviews and monitors the data generated by file reviews
- conduct a review at least annually of the data generated by file reviews.

Specialist Quality Mark

Excerpt - Section D - Managing people

D3.1 A named supervisor is available to supervise caseworkers in each specialist category of law your organisation offers.

Accessibility

The supervisor **must** be present in the office for sufficient time to demonstrate effective supervision (see D4.2), and **must** be able to demonstrate control over the quality of work for the rest of the time (e.g. by scheduling specific supervisory sessions, by delegating correspondence checking to a deputy, or by being accessible by telephone or e-mail).

Deputy supervisors

A deputy supervisor (who may not meet all of the requirements at D3.2) can be named and can carry out functions usually performed by the supervisor, under their supervision (i.e. the supervisor **must** demonstrate that they maintain overall responsibility). Deputy supervisors **must** be denoted as such on the key roles structure (at C1.2) and they **must** have a training and development plan (D2.3) that is specifically designed to provide the skills and experience necessary for them to be able to meet all of the supervisor requirements in the future (e.g. by setting a date by which they will apply for panel membership or complete an NVQ in supervisory skills). A deputy may also act as a temporary supervisor in the supervisor's absence, and in such instances you need not justify the nomination nor carry out an appraisal after ten days.

D3.2 Supervisors will be required to provide evidence of appropriate experience and training to supervise in their chosen category

Each supervisor must have appropriate experience of the category supervised

Each supervisor (including sole practitioners) meets one of the following supervisory skills standards:

(a) Assessed as working at Level 3 or higher (within the NVQ framework) in relevant elements of the national standards (see Guidance).

Or

(b) Training covering key supervisory skills (see Guidance) completed in the 12 months immediately preceding the SQM application.

Or

(c) Able to demonstrate experience as an effective supervisor (covering supervision of all of the work being done in the department) of at least one full-time member of staff (or equivalent) for at least one year in the last five years.

D3.3 *Training records show that supervisors maintain and extend technical legal knowledge to a minimum level of six CPD hours (or equivalent) per year, and that this part of their training relates directly (or can be applied directly) to the area of law being supervised.*

D3.4 *There are arrangements (relating to time spent supervising and numbers supervised) to ensure that each supervisor is able to conduct their role effectively.*

You must be able to demonstrate that time is designated for supervision and you must be able to justify the number of caseworkers supervised by each supervisor.

*Where an external supervisor is in place (see D3.1), they must not supervise more than three caseworkers, and where the caseworkers being supervised individually or collectively have case involvement at the level specified for the relevant category in Annex A (i.e. usually 350 hours per year), there must be a plan for one of the three to meet the supervisor standards (at D3.2 and D3.3) within three years. Exceptions will only be made where the arrangement is a short-term measure to cover extended leave or unexpected departure of a qualified supervisor (where a permanent replacement **must** be found (or trained) within 12 months).*

D4: Operation of the supervisory role

D4.1 *Processes to ensure that staff are allocated cases according to the role they are required to fulfil and on the basis of their skills, competence and capacity.*

D4.2 Processes to ensure that staff are allocated cases according to the role they are required to fulfil and on the basis of their skills, competence and capacity.

D4.3 Effective systems of supervision exist that are tailored to the skills and competence of individual members of staff

D4.4 All members of staff know their own limits and are aware of the need to inform their supervisor if a case is beyond them.

D4.5 There is ready access to current relevant legal reference materials.

Supervisors **must** demonstrate how they become aware of relevant changes in legislation, practice and procedure, and then how they make sure that the knowledge of the staff they supervise is also kept up to date.

File Reviews

E2.1 For each casework member of staff:

- a. The number of cases to be reviewed in each category of work, and the frequency, and method of review (unless all reviews are file content only) has been documented and can be demonstrated to have been determined according to their experience, expertise and quality of work (subject to any minimum requirements specified in Annex A).
- b. The sample of work reviewed can be demonstrated to be representative of their overall caseload.
- c. Review findings are communicated in accordance with a (written) procedure.
- d. Corrective action is completed within a reasonable timescale and to the satisfaction of the reviewer in accordance with a (written) procedure.

a) Numbers, frequency and method

You **must** document the number of files to be reviewed and the frequency, and (where other than file content only, e.g. face to face) the method(s) of review, for each casework member of staff (to whom cases have been allocated) and you **must** be able to justify these to the auditor on the basis of their experience, expertise and on any findings that have implications for the quality of their work (e.g. previous file reviews). Note that norms are suggested in the Guidance document to assist you in developing your file review process. Note also that while review frequency must be justified (as above), it will not ordinarily be possible to justify file reviews that are less frequent than every three months.

For organisations undertaking criminal legal aid, arrangements for all designated members of staff **must** comply with the definition above, subject to the additional requirements specified in Annex A (i.e. the number of files reviewed cannot fall below two files per person (or one file for qualified supervisors) per month, frequency of review cannot be longer than every

quarter (though note that for many crime cases, frequency less than every month will be difficult to justify) and in any quarter 50% of required reviews are to be carried out by face-to-face method). Note that the requirements in Annex A do not apply (other than voluntarily) for staff not undertaking criminal legal aid work.

b) Representative samples

You must be able to demonstrate that the files selected for review reflect the range of work conducted by each individual over the period of a year. You are likely to have a process to ensure that this happens and may want to document category or case classifications to be covered (see Annex B), alongside the numbers of files to be reviewed and the method to be used (see E2.1(a)), where the individual covers a wide range of work (although it is not a requirement to do so).

c) Communicating review findings

Your procedure must outline how the individual is to become aware that a file has been reviewed, how the review findings (including any corrective action identified) will be communicated, and within what timescales. You may want to have different processes and/or timescales for reviews in which corrective action is identified, as opposed to those where it is not.

d) Reviewing corrective action

Your procedure must set out the process you use to ensure that corrective action has been completed to the satisfaction of the reviewer, and within the timescale agreed (and that the timescale for completion and for review of corrective action can be justified to the auditor in terms of the significance of error, the risk posed to you, the client or a funder, and the urgency required).

E2.2 The process is managed by the category supervisor.

E2.3 All reviews are carried out by a suitably qualified individual.

E2.4 Conduct of a file review and details of any corrective action taken is evident from the case file.

E2.5 A comprehensive records of findings is produced for each file review.

E2.6 Records of file reviews are monitored at least annually with action taken to improve performance where negative trends are identified.

Advice Quality Standard

D4. Processes to ensure the delivery of quality work to clients.

D4.1 You must identify at least one person responsible for supervising individuals who work with clients (this may be someone external to your organisation).
The supervisor must have:

- *At least two years' recent and ongoing experience (either by undertaking advice themselves or involvement in others' cases);*
- *Have experience of managing advisers;*
- *Demonstrating how they have maintained their knowledge of legal challenges and practice; and,*
- *Be accessible to the staff and volunteers they supervise.*

D4.2 *Where there is more than one person identified as the supervisor there must be at least one person ultimately responsible for meeting the requirements of the standard. This may be one of the supervisors of the manager of the service.*

D4.3 *You must have a clear method of allocating cases/enquiries to advisers/caseworkers according to their abilities.*

D4.4 *You must have a supervision system that is responsible to the skills of individual advisers.*

D4.5 *If you deliver advice as part of a regulated service, you must ensure that you comply with relevant professional standards and professional development frameworks for supervision.*

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](#).

- [Improving your quality guide - Housing](#)
- [Improving your quality guide - Family](#)
- [Improving your quality guide - Mental health](#)
- [Improving your quality guide - Immigration and asylum](#)

Thank you

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