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Guide to Supervision

(England & Wales)

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Introduction

By supervision we mean the management of staff and the activities they undertake. Proper supervision of staff at a law firm is both a regulatory and professional requirement and essential if a firm wants to monitor and ensure the quality of the services it provides.

Whilst many individuals at a firm will be involved in the provision of supervision, under Rule 9.4 of the SRA Authorisation of Firms Rules, it's the “manager” as defined in that Rule (see further below) who is ultimately responsible for supervising work done at a firm.



The Regulations

Solicitors: Rule 3.5 of the Code of Conduct for Solicitors, RELs and RFLs (**COCS**) provides that where a solicitor supervises or manages others providing legal services: (a) they remain accountable for the work carried out through them; and (b) they effectively supervise work being done for clients. Rule 3.6 of the COCS provides that where a solicitor manages individuals, that solicitor is responsible for ensuring that they are competent to carry out their role, and keep their professional knowledge and skills, as well as understanding of their legal, ethical and regulatory obligations, up to date.

Firms: Rule 4.3 of the Code of Conduct of Firms (**COCF**) provides that a firm must ensure that its managers and employees are competent to carry out their role, and keep their professional knowledge and skills, as well as understanding of their legal, ethical and regulatory obligations, up to date. Rule 4.4 requires the firm to have an effective system for supervising clients' matters.

“Manager” is defined as a member of an LLP, a director of a company, partner in a partnership or in relation to any other body, a member of its governing body. Managers remain ultimately responsible for compliance with the Code and overall supervision and management within the practice, but day-to-day supervision may be delegated.

Under Rule 9.4 of the SRA Authorisation of Firms Rules, an authorised body must have at least one manager or employee, or must procure the services of an individual, who:

- a. is a lawyer and has practised as such for a minimum of three years; and
- b. supervises the work undertaken by the authorised body (or, if the body is a licensed body, the work undertaken by the body that is regulated by the SRA in accordance with the terms of the body's licence).

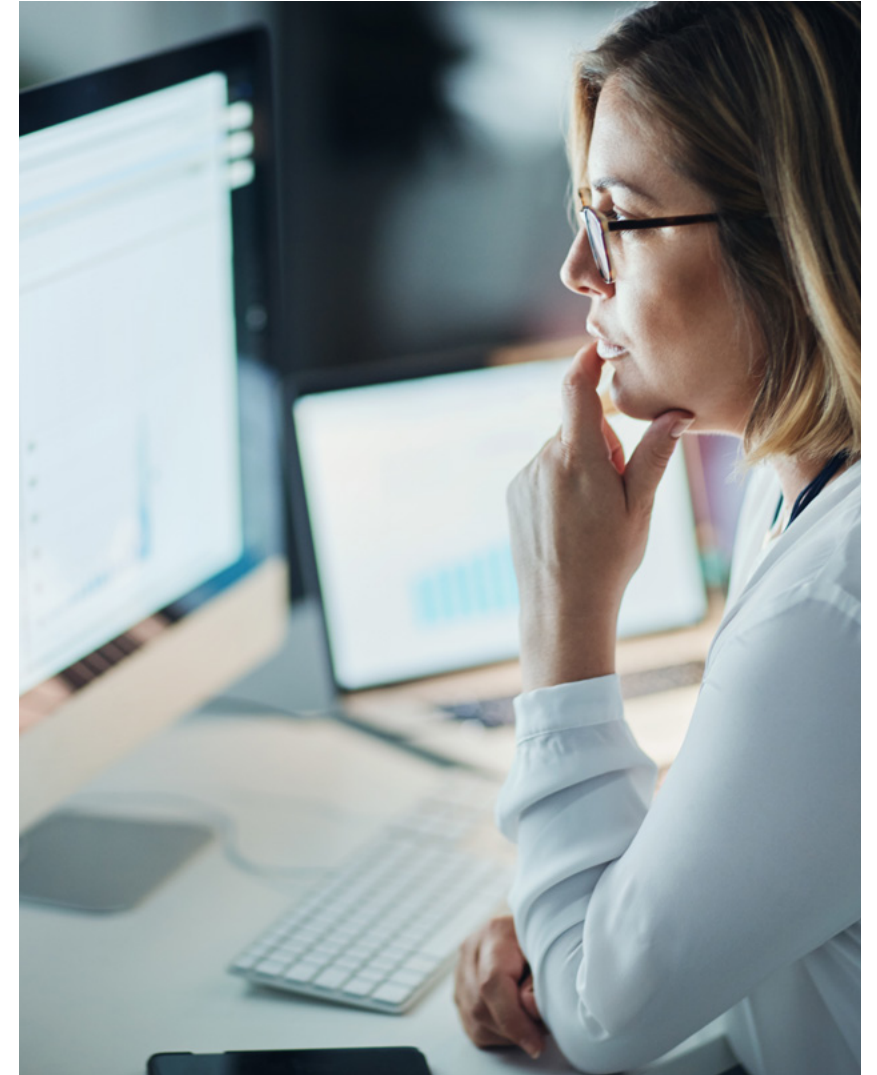
If the person responsible for supervision under Rule 9.4 is absent from the Firm they should ensure, so far as possible, that another appropriately qualified person in the Firm can deputise for them, to ensure minimum interruption to clients' business.

The importance of supervision

Supervision has many benefits – both to firms and individuals. It's important that proper supervision takes place at law firms for a number of reasons including:

- So that firms comply with the regulatory requirements which require them to have an effective system for supervision in place.
- So that solicitors providing supervision can discharge their own regulatory obligations (see above).
- As a risk tool to help ensure that work is produced competently and meets client requirements.
- To help ensure that a high quality of service is provided to clients.
- To help staff develop their skills and maximise their potential.
- To improve job satisfaction for staff by providing support. This in turn should help with staff retention and recruitment.

All of the above combine to support a business by helping to improve staff motivation, work efficiency and profitability.



The supervision process

Supervision is dealt with in various ways at firms through their management structure and via reporting lines. Each fee earner must be allocated a named supervisor. You should inform staff of the name of their supervisor when they join the firm. In the event that supervisors change (if, for example, they leave the firm), staff should be told of their new supervisor as soon as practicable.

Each supervisor will need to consider and apply an appropriate level of supervision to staff. This will be determined by the type of work being carried out, the seniority and experience of staff and any case management controls that a firm may have in place. Firms should take care to ensure that those appointed as supervisors have the legal knowledge and experience to enable them to identify problems with the quality or conduct of the work that they are required to supervise.



Work allocation

Supervisors should be responsible for allocating work to those under their supervision – they will from time to time also need to reallocate work. These tasks are sometimes delegated to a team leader, head of department or partner. When work is allocated or reallocated, various things will need to be considered including:

- whether the work is of a type that the firm can accept;
- whether the person identified to deal with the matter is able to deal with the matter, i.e. do they have capacity and relevant experience and expertise to carry out the work.

Internal transfers

When dealing with internal transfers of work, these should always be referred to the relevant supervisor, department head or partner (as appropriate) in the new department. Work should not be transferred directly to another fee earner.

Delegation of work

Delegation is often used to provide effective supervision of less experienced staff. Good delegation can be achieved by:

- ensuring that the person has sufficient capacity and the necessary resources to carry out the work;

- providing the person with all of the information needed to carry out the work efficiently and effectively. This should include detailed client instructions, the aims and objectives of the work, timescales and any deadlines; and
- giving guidance and encouragement when needed, but avoiding unnecessary interference.

Monitoring incoming and outgoing correspondence

All departments should have checks in place to review incoming post. This should be dealt with by a sufficiently senior person, such as a partner or head of department, on a regular basis. Some firms choose to carry out checks on a daily basis.

With outgoing correspondence – both hard copy and those sent electronically, an approval process should be put in place whereby all outgoing correspondence is subject to checks prior to issue and any issues that may arise should then be dealt with by the relevant supervisor.

Supervisors should also spot-check outgoing correspondence – selection could be based on, for example, the seniority and experience of fee earners.

File Reviews

A firm's file review procedure is another part of the supervision process and enables the firm to check whether a matter is being dealt with in a proper, efficient manner and in accordance with client instructions.

Providing support and feedback

Supervisors will need to ensure that they make themselves available to deal with any issues that may arise and need their attention and support. Firms should inform supervisors that they must devote sufficient time and attention to those under their supervision so that proper and effective supervision takes place. This includes meeting or speaking with staff under supervision informally on a regular basis – this is in addition to formal periodic appraisals. Without regular interaction with staff, it will be difficult for supervisors to monitor progress and to provide useful feedback. Feedback enables staff to learn from any mistakes and actions, identify their strengths and weaknesses and allow them to improve. Well supported staff are usually happy staff.

Supervisors should take care to ensure that they remain approachable to staff and that feedback is framed in a constructive manner. Difficult conversations will need to be had on occasion and these should not be avoided. Supervisor training can be framed to provide assistance in how to deal with these types of conversations.

It's important that a deputy supervisor is available in the event that a supervisor is, for whatever reason (e.g. holidays, illness), unavailable.

Training

Training forms another important part of the supervisory process. As mentioned above, firms are specifically required to ensure “that its managers and employees are competent to carry out their role, and keep their professional knowledge and skills, as well as understanding of their legal, ethical and regulatory obligations, up to date.”

Supervisor Training: Firms should provide training for those individuals who are appointed as supervisors so that they understand the regulatory requirements, their responsibilities and know what is expected of them. Training will assist them to perform their supervisory duties well, ensure that they understand the benefits and importance of good supervision and are ready and prepared to fulfil them.

Staff Training: Supervisors must then ensure that the individuals they supervise receive the necessary training to enable them to develop and improve their skills, and keep up-to-date with changes and developments to the law and regulation.

Trainees: In addition, firms must provide proper supervision for all trainees throughout the period of their training contract. Training principals are responsible for ensuring that those involved in the supervision of trainees have adequate legal knowledge and supervisory experience or training (see the SRA Education, Training and Assessment Provider Regulations).

Records

Supervisors should be required to keep detailed records of the supervision that takes place, including file notes of meetings and any feedback provided to those being supervised, so that both the supervisor and the firm can demonstrate that proper supervision is taking place.

Staff Working from Home

As a result of the COVID-19 pandemic, it's likely that a number of staff will be working from home either on a permanent or part time basis. Firms should ensure that their supervision processes are adapted so that supervision continues to work effectively for those working at home. This is particularly important as staff can feel isolated if out of the office for prolonged periods of time or be subject to stress if loved ones (or the member of staff) become unwell. Without effective supervision for those at home, there is a real risk that the number of mistakes made by fee earners will increase, along with the number of complaints and claims being received



What to do next

You should take the following steps (if you have not already done so):

- Appoint an appropriate person to be responsible for producing your Supervision Policy.
- Prepare your policy: The policy should contain the following information:
 - The importance of supervision.
 - An overview of the regulatory requirements relating to supervision for firms and solicitors.
 - How supervision is effected at your firm.
 - How work is allocated at your firm.
 - Details of the supervisors in each of the firm's departments.
 - Details of the training that the firm will provide to supervisors and those subject to supervision.
- The consequences for both the firm and staff of not complying with the policy.
- Training: Training should then take place for all relevant staff on the policy, ideally at the time of staff induction and then a regular refresher. Training should cover the processes to be followed, explain the importance of following the policy, the potential risks to the firm of non-compliance and the implications of non-compliance for staff.
- Policy review and monitoring: Appoint an appropriate person to be responsible for reviewing and auditing the processes that are put in place, to ensure that they work effectively. Any changes should be notified to the Risk and Compliance team. The person appointed must keep appropriate records documenting the review and audit process.

Resources

The Law Society issued an updated Practice Note on supervision this summer, which includes a look at dealing with supervision during the COVID-19 period:

<https://www.lawsociety.org.uk/topics/hr-and-people-management/supervision>

The SRA has issued a guidance note on supervising trainees:

<https://www.sra.org.uk/trainees/period-recognised-training/managing-trainees/supervising-trainees/>

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