



Legal Aid
Agency

Specialist Quality Mark Guidance

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Introduction

1. This document details the guidance notes that accompany each section of the Specialist Quality Mark Standard (SQM) standard and is provided to increase a general understanding of the SQM standard overall.
2. The Guidance contained within this document is provided to assist you in complying with the SQM Standard. The Guidance does NOT form part of the Requirements and Definitions, is NOT mandatory and will NOT be audited. The Guidance has been created to:
 - Provide further detailed explanation, suggest ways that the Requirements and Definitions can be met (but other ways of achieving the Requirements and Definitions will be accepted at audit);
 - Identify forms of best practice that some organisations already employ (but again is not required to be implemented);
 - Generally provide information about how auditors seek evidence of compliance with the Requirements (auditor guidance). Again, how auditors seek evidence should not be taken as a substitute for the Requirements and Definitions themselves.

Contents of the guidance

Requirement Reference	Requirement Description
A1.1	Your business plan
A1.2	Reviewing your business plan
A2.1	Providing service information
A3.1	Non-discrimination in the provision of services
A3.2	Targeting a specific client group
A4.1	Safeguarding Policy
B1.1	Staff knowledge about when to use signposting and referral
B1.2	A procedure for conducting signposting and referral
B1.3	Maintaining and reviewing referral records and data
B1.4	Ensuring that legal service provider information is up to date
C1.1	Your staff structure
C1.2	Key roles and decision-making structure
C1.3	Independence
C1.4	Modern slavery legislation
C2.1	Financial responsibilities
C2.2	Financial processes
C2.3	Independent financial review
C2.4	Internal financial reviews
C2.5	Anti-Money Laundering Policy
D1.1	Job description and person specification
D1.2	Key responsibilities and objectives
D1.3	Non-discrimination as an employer
D1.4	Operating an open recruitment process
D2.1	Induction
D2.2	Performance review and feedback
D2.3	Individual training and development plans
D2.4	Training records
D3.1	Named category supervisor
D3.2	Supervisory skills and Competence
D3.3	Supervisors' legal training
D3.4	Conditions for Supervision
D4.1	Case allocation
D4.2	Systems of supervision
D4.3	Limits of individual competence and referral
D4.4	Access to reference materials
D4.5	Updating legal information to staff
D5.1	Training requirements for casework staff

Requirement Reference	Requirement Description
D5.2	Legal qualification or minimum hours
E1.1	File lists
E1.2	File management procedure(s)
E1.3	Case files are logical and orderly
E2.1	File review processes and procedures
E2.2	Process management
E2.3	File reviewers
E2.4	Review (and any corrective action) is evident on file
E2.5	Review records
E2.6	Monitoring File review
F1.1	Recording and offering confirmation of basic information
F1.2	Recording and agreeing further information and confirmation in writing
F2.1	Complex case plans
F2.2	Updating issues and case progress
F2.3	Updating costs information
F2.4	Responsibility for the client's case
F3.1	Confirming information at the end of the case
F4.1	A confidentiality procedure
F4.2	Privacy
F5.1	Non-discrimination when instructing legal service providers
F5.2	Selection of legal service providers
F5.3	Evaluation of legal service providers
F5.4	Information to the client and client consultation
F5.5	Content of instructions
F6.1	Information handling
G1.1	Informing clients about how and to whom they should complain
G1.2	Complaints procedure
G1.3	Central record and annual review
G2.1	Client feedback procedure
G2.2	Annual review and outcome
G3.1	Appointing a Quality Representative
G3.2	Up-to-date quality procedures
G3.3	Process control
G4.1	Having a quality manual
G4.2	Manual availability

A: ACCESS TO SERVICE

SQM holders should be aware of the environment in which they operate and develop their services to meet the needs of their clients and their community. You should ensure that your service is known, accessible, welcoming and helpful to your clients.

Requirement A1	Business Planning
Purpose	To ensure that members of the local/target community have access to legal services that have been developed taking into account the day-to-day legal problems that the community may encounter and the barriers that they may face in seeking legal help.
Requirement A2	Service Promotion
Purpose	To ensure that members of the community can access services by finding out what is available and how to make contact with the relevant organisations. Also to enable referrals between organisations, when necessary.
Requirement A3	Equality and Diversity
Purpose	To ensure that in planning and delivering the service, organisations take account of diverse needs, do not unlawfully discriminate and make reasonable adjustments for disabled clients as appropriate.
Requirement A4	Safeguarding Policy
Purpose	To ensure that in delivering the service organisations have a policy in place to safeguard children, young people and vulnerable adults.

Guidance to accompany Section A: Access to Service

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, they cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement A1

Business Planning

A1.1 Your business plan

Plan style and setting objectives

The style of business plans will vary from one organisation to another. Some organisations will want to present all of the information that is required (see A1.1, definition) in the plan, while others will see *advantages in keeping the plan short and simple*, containing only key organisational aims and objectives and relying on separate documents to provide the remaining background information. Both are acceptable approaches, although in the latter example you may need to provide evidence to the auditor that you have the background information on which your plan has been based (as required in the definition at A1.1) and demonstrate (e.g. through minutes of management meetings) that it has been considered in preparing your plan.

It is important to produce *a plan that you can use*: a plan that identifies targets clearly so that it guides the day-to-day decisions that you have to make, can be shared with staff and is easily monitored and updated.

Your organisation's *detailed objectives* will be easier to monitor (i.e. to set targets and assess) if they are *quantifiable*. For example, "to implement a new computer system at a cost of £x (money) and x resources to deliver x, y and z and to be operational within 18 months; to train another member of staff; by implementing this system, to increase the Housing Department's caseload by 10% within the next six months."

Note that your plan (or the part of the plan or other evidence you make available to the auditor) *need only cover that part of your service for which you are seeking or want to maintain the Specialist Quality Mark (SQM) standard*. So, for example, if you offer a counselling or hostel placement service, then you can choose to exclude them from your business plan.

Keeping your plan up to date

Auditors will want to see evidence to assure themselves that issues from past plan reviews (see A1.2) have been incorporated into the current plan, and that the plan has been reviewed (and amended where necessary) where an issue has arisen that could have a "*significant impact*" (see below) on your ability to deliver the service you planned.

Examples of the types of issues to which you might need to react include a reduction in funding, relocation of occupants from a local housing estate, building work that will inhibit access to your premises for several months, or a new service opening up locally to directly compete for the clients in your target group.

Making your plan available to staff

Providing a *summary of the main aims and objectives* of the organisation is an effective way for most staff to become acquainted with the service targets to which they are contributing. This may be delivered verbally in a briefing, or in a newsletter, memorandum or circular. Auditors will, however, expect all partners/managers (at least) to have access to a copy of the detailed plan.

Providing evidence of compliance

The easiest way for you to demonstrate that you meet this requirement is to *provide the auditor with a copy of your current plan*. They will want to talk to you about its content, its purpose and about how it is used, and may additionally ask to see copies of previous plans as well as minutes of planning meetings and detailed background documents. It is not a requirement for you to provide copies of plans (or commercially sensitive background information that is produced solely for consideration in developing the business plan – i.e. the finance plan/budget and parts of your SWOT analysis), but where you feel unable to do so, *the onus is on you to provide the auditor with other evidence to demonstrate compliance*. If, having discussed the plan's content, purpose and use, and having been presented with all other evidence you are prepared to make available, the auditor remains concerned as to compliance, they will issue a Quality Concern against this requirement.

Plan contents

The following explanations may be useful when drafting the detail of your plan:

Description of the client group(s) to be served – Your SWOT analysis should provide a picture of the community in which you operate, from which you can then identify your client group(s). For example, do you intend to offer your services to a particular section of your local community (e.g. the elderly or anyone living or working in a defined geographic area)? Your client group will need to be clear from your plan or from documentation used when considering your plan. Note that, in choosing to target particular clients or client groups, you must be careful not to contravene discrimination law (see guidance for A3).

Details of services to be delivered – To meet the definition in the Standard, details will need to be available about all of the following (taking care not to contravene discrimination law):

- **Current services** – Including the main areas of law covered, charging rates or policy, and additional services offered (such as mediation), or any service restrictions (such as initial advice only, or up to and including tribunal representation but not court proceedings).
- **Any additional or enhanced services planned** – If, for example, you plan to start a new outreach session or to introduce home visits, information should be available setting out when the service will start, what service will be provided and who it is for. Alternatively, if you intend to extend opening hours, then you would only be expected to detail the changes to be made and the date from which the new times will be operational. Note that you may need authority to enhance services or to offer certain methods of service delivery, particularly for legal aid funded services.
- **Volume/client targets** – Your targets will depend on the nature of your service, existing client/case numbers, and on specific objectives you seek to meet, but ideally they will be quantifiable, as this will make it easier for you to monitor performance, and therefore to ensure that your business plan remains realistic in terms of the service you have planned to deliver. Targets might relate to individuals, departments or the whole organisation, or more likely they will cover a mix. Examples include: requiring each department to see x number of new clients, complete x hours of casework in total and to close x number of files over a given period; requiring that no individual carries a caseload higher than x (usually different from department to department); requiring that a certain percentage of clients are from a target area (demographic or geographic); requiring that instances of telephone advice rise by x%.

Details of opening hours and access arrangements – Unless already available as part of the information you keep on services to be delivered (see above), you will need to outline the methods you intend to use to deliver your services, and whether you offer any particular facilities to make your services available to particular clients. The features you describe (in the plan or in other documents you use to develop your plan) may include, for example, open-

door sessions, an appointment system, availability of home visits, remote advice services (i.e. telephone or video conferences etc), access arrangements for people with disabilities, and availability of communication aids. Information about opening hours also needs to be available, and to have been considered as part of the planning process (e.g. in setting client/case volume targets).

A summary of caseworkers' areas and levels of expertise – This information should provide you with a global view of who does what and should help you to assess whether the current staff profile is adequate (in numbers and/or skills) to deliver the existing and planned service(s), and, if not, to determine whether more people are required (with what skills and at what cost) or whether the plan needs to be amended. It is usual practice to produce the information by category of law, but this is not a requirement and you may want to provide it according to how work is organised (e.g. by team, by department or for the whole organisation). To save duplication, you may wish to record and retain the required information on the same document you use for your staff structure (see C1.1), though again it is not a requirement to do so. Finally, you should note that suggested staff and client classifications have been provided in Annex A to the Standard. You may choose not to use them if you wish, but you should provide a comparable level of detail (e.g. professional title/qualification or case type(s) within a category) if you do not. Also note that if responsibility for cases shown on file lists (in E1.1) is denoted by a caseworker code then a summary such as this (or the staff structure at C1.1 if different) is an ideal place to provide a key; this will save auditor and auditee time as well as being of assistance to new members of staff.

Finance plan/budget – This information need only be concerned with the monetary impact of planned services (i.e. whether the plan will increase expenditure or capital, and any effect on income, specifying amounts). The relevant information does not necessarily need to be presented separately if you prefer to refer to your organisational budget for this purpose. Note that if this information is shown separately, the auditor may require evidence to satisfy them that the figures in the plan are current and consistent with those in the budget. As for the plan itself, if you choose not to disclose this information, the auditor will initially seek other forms of evidence but will issue a Quality Concern if they are not satisfied that compliance has been demonstrated.

A SWOT Analysis – This is an analysis of your Strengths, Weaknesses, Opportunities and Threats. It will help you to review your current position, identify any predictable likely changes and consider how to respond. Your assessment and the results of monitoring should influence decisions and plans about the organisation and its activities (e.g. in the number and type of staff recruited, amount and type of administrative support or training required). Needs assessment or community profiles which you produce or use should assist you in determining which services are most required, and to whom they should be targeted and how. If properly monitored, this information should provide an early warning of potential changes, which may affect your longer-term business position. Even for organisations undertaking criminal legal aid (where prioritisation of services is not part of the public funding process) it remains good business practice to know your clients' needs and to plan your service with them in mind. These may include particular needs of clients involved in criminal cases (e.g. access when in prison, police custody or hospital), may be needs local to your target area (e.g. provision of language translation services), or may relate to categories of client (e.g. to provide services specifically for young offenders or the mentally ill). Finally, you should note that if you choose not to disclose certain commercially sensitive information (that may be contained in your SWOT analysis) and if that information is required to demonstrate compliance with the requirement the auditor may need to seek other forms of evidence, and will ultimately issue a Quality Concern if they are not satisfied that compliance has been demonstrated.

Details about how you intend to promote your service – Requirements, definition and guidance can be found in A2.

Clears line of internal communication

It is important that all organisations have in place clear lines of communication. Each

organisation should have an internal communications plan that includes a procedure for staff escalating concerns about service or management. Organisations should ensure a regular cycle of team meetings or alternative method of internal communication, which, as a minimum, should take place at least 10 times per year.

A1.2 Reviewing your business plan

What auditors will expect to see

The *review periods* specified in the Standard are minimums; you may want to review specific projects more often than every six months, or background information more often than every year, if circumstances arise that make this useful.

Auditors will need to be satisfied that your plan reviews (usually evidenced by formal records of review, but also possibly from records forming part of partners'/managers' meeting minutes, or from notes made directly onto the plan itself, or possibly even obtained from diary records and by interviewing individuals who took part in the review) identify:

- Any changes that affect your ability to deliver the plan as it was written;
- What effect those changes have had on your plan;
- What changes are required to the plan as a result;

The finance plan (or the relevant information from your overall budget) needs to be reviewed alongside the remainder of the business plan, since variance from it may indicate the need for further review.

Guidance to accompany Section A: Access to Service

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, they cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement A2	Promoting your Service
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A2.1 Providing service information

Purpose

It is important, for *access and referral* purposes, that the community (including other organisations that hold the SQM standard) is aware of the service(s) you offer and how they can make contact. This information is also critical to good business and for providing an effective service, and it needs to appear in your business plan or be available for consideration when developing your plan (see A1.1).

Where to promote your service

Quite often, individuals will seek assistance as the result of information they have seen in public places, found in publications or on the internet. You may also want to consider promoting your service in more detail, specifically in terms of what is suitable for your organisation, for the services you offer, and to the clients you seek to attract. Note, however, that leafleting and cold calling is not encouraged, and that it may be contrary to conditions in certain situations e.g. if an organisation holds one of our Contracts.

Examples of points of public contact to which you may like to promote your services include other legal service providers, doctors, libraries, community centres, watchdog and support organisations and one-stop shops. Local newspapers, free telephone directories (such as Yellow Pages (<https://www.yell.com/>) and Thomson (<https://www.thomsonlocal.com/>) directories), and legal/community-linked websites also provide valuable media for service information.

It is also a good idea to include details about the service you offer on an answerphone message, so that people who telephone out of hours can find out whether your service might be able to help and, if so, when to call again.

What if your target client group is not local?

For a small number of organisations the target client group will not necessarily be local (e.g. telephone advice services and some national or regional specialist legal service providers). Here it is more important than ever that you let people who may need to access your service know that you are available to help. You may need to use national advertising or targeted liaison with local legal service providers or other relevant organisations (such as support groups or related charities).

Keeping information up to date

If you want people to use your service you need to *ensure that published information remains current*. The definition says that this must be done at the earliest opportunity (as a minimum in the Find A Legal Advisor Tool); an absolute time limit for changes to be made to information in the public domain cannot be given (or suggested) due to the vagaries of printing/updating timescales.

From time to time, you may be asked to confirm that the information included in the Find A Legal Advisor Tool is correct. Minor changes can await this process, though you should advise your

contract manager separately of any change that has an impact on access to services or the range of services offered (see A2.1, definition in the Standard).

Auditors may also ask about information you provide to other organisations (about the services you offer). Although it is not a requirement that you retrieve information already distributed, it is necessary to amend any that is sent out after details have changed.

Accessible information

In order to make it possible for some disabled persons to use your information and access your service, you should take account of your obligations under the Equality Act 2010 (as amended) s 20(6) to take reasonable steps to provide information in an accessible format. Taking reasonable steps may include planning how and what information you will make available in alternative formats. You may want to take account of demand from the public and/or target groups.

A2.2 The SQM Strapline guidance on advertising and promotion

The SQM strapline guidance on advertising and promotion can be found in Appendix 1 of the *SQM Standard*.

You will be able to use the appropriate SQM strapline (i.e. 'Contracted with the Legal Aid Agency' or 'Specialist Quality Mark Holder') once you have successfully achieved the Specialist Quality Mark. If you have one of our Contract's you will need to note that the requirements contained in any such contract take precedence over the guidance on advertising and promotion given here.

Guidance to accompany Section A: Access to Service

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, they cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement A3

Equality and Diversity

A3.1 Non-discrimination in the provision of services

Related requirements

See also D1.3 (on selection, treatment and behaviour of staff) and F5.1 (on instructing barristers, experts and other legal service providers). You may want to develop *one policy* covering them all.

Grounds

Your policy can include *additional grounds* but you cannot choose to exclude any grounds that are given in the requirement.

This requirement does not alter your *general freedom to decide to whom to provide your services* (in terms of planning the service and in terms of deciding whether to accept instructions or offer advice), but your reason for not providing services must not be based on any of the grounds specified in your policy.

Where *there is a conflict* between the caseworker's beliefs and those of the client, that would be material to the handling of the case, it is best practice for the caseworker to outline the issues and then allow the client to consider whether they wish to continue to be advised by that person.

Legislation and codes of practice

Unlawful discrimination is prohibited on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. You should be aware, in addition, that as a public authority, we have duties to advance equality under the public sector equality duty under the Equality Act 2010 (as amended) s 149.

Types of discrimination

Unlawful discrimination includes *direct discrimination, unlawful indirect discrimination, harassment and victimisation*. [A definition of these terms can be found in the glossary of the SQM standard].

Guidance on complying with anti-discrimination law and best practice is available from the Equality and Human Rights Commission: www.equalityhumanrights.com. These provide valuable information for legal service providers.

Model policies

A sample policy for those that hold one of our Contracts can be found in the Equality and Diversity Guidance for Providers on our Website. It is good practice to revise your equality and diversity from time to time to update it to reflect changes in the law and changes in the needs of your organisation.

If you choose or are required to *adopt an externally produced policy* (e.g. by The Relevant Professional Body), you will need to document this, maintain a copy, and make sure that the policy meets all relevant requirements of the SQM standard.

Auditing the policy

Auditors will request a copy of your policy and check if it meets the standard requirements. In addition, auditors will check that there is an identified person responsible for implementing the policy

Auditors may request a copy of your Training Plan to check that staff have been adequately trained to understand the policy's practical effect on individual clients.

Auditors may request a copy of your Communication Plan to ensure clients have fair access to your services.

Monitoring your policy

You must ensure that clients are not being discouraged from approaching the service for any reason that could be construed as discriminatory. Monitoring will help you to demonstrate that you are meeting the requirement, and can also provide valuable information for business planning and staff training.

Techniques you can use include client questionnaires or monitoring (to record sample demographic data about individuals), or direct staff observation.

Training scenarios may be used to assess your staff's awareness of discrimination issues.

As a result of any monitoring you carry out, you should be able to reach a conclusion about whether or not your business plan, staff training programme or non-discrimination policy should be amended.

A3.2 Targeting a specific client group

Continuing to meet requirement A3.1

If you target a specific client group, you must nevertheless meet the requirement at A3.1. This means that *the reason for targeting must be reasonable and lawful*.

Signposting and referral

It is essential that individuals find appropriate assistance, regardless of where they originally make contact. Auditors will therefore want to pay *particular attention to your procedures for signposting and referral* (both on paper and in practice) to ensure that this aim is being met where your service is targeted to a specific group and is not offered more generally.

Given the definition for a referral (i.e. that there is an established client relationship in the current matter) it is highly unlikely that one will take place in the circumstances outlined in A3.2. Signposting will be much more likely where you find that the individual does not fall within your target group.

A4.1 Safeguarding Policy

Although the requirement to have a Safeguarding Policy applies to all organisations holding the SQM it is particularly important for those organisations who have frequently contact with the client groups specified by A3.2. Guidance on writing safeguarding policies and procedures in relation to children and young people can be found on the training website for the National Society for the Prevention of Cruelty to Children:

<https://learning.nspcc.org.uk/safeguarding-child-protection/writing-a-safeguarding-policy-statement>

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B: SEAMLESS SERVICE

Where an SQM holder cannot provide the particular service needed by the client, they must inform the client and direct them to an alternative legal service provider, where available.

Requirement B1	Signposting and Referral
Purpose	To ensure that individuals receive advice from an appropriate alternative legal service provider whenever your organisation cannot help them, whether before any legal advice has been given (i.e. signposting), or where it becomes clear you cannot help them further in a current matter where a client relationship has already been established (i.e. referral).

Guidance to accompany Section B: Seamless Service

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods that auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement B1

Signposting and Referral

B1.1 Staff knowledge about when to use signposting and referral

Staff knowledge and definitions

It is best practice for *individuals* who are involved in signposting and/or referring to be *properly trained*, not only so that they can identify which course to follow and when, but also so that the client is signposted or referred to the alternative legal service provider best able to help with their particular problem.

Members of staff will find it easier to determine which situations warrant what level of assistance if they share a *common understanding of what is intended by the concepts of “signposting” and “referring”*. Definitions are given in the SQM Standard (with the requirement and in the glossary) and you may consider putting these into your own guidance, your procedure or training materials (depending upon how staff gain their knowledge about when to signpost and when to refer).

Note that where “referral” is for services in which the client will not be provided with legal advice, it is *not covered by this requirement* (i.e. you will not need to follow your referral procedure or meet the SQM requirements). The main example of this will be mediation.

Giving examples

Guidance will be easier to apply in practice if it contains details and examples, as given, for illustrative purposes, below:

- **Signposting** is an appropriate response where at an early stage it is clear, for example, that the enquiry concerns a subject outside your area(s) of expertise, there is potential for conflict of interest, or current caseload would affect your ability to progress the case properly. You are also likely to want to outline the type(s) of assistance that you expect to be given ordinarily and/or in particular circumstances of signposting. For example, you may expect assistance in seeking an alternative legal service provider to be given in all instances other than where it is agreed that the service is under particular pressure, where the enquiry is made by telephone or e-mail, or where you have no knowledge of legal service providers in a certain area of law (in which case you may prefer to revert to providing the Civil Legal Advice number). You may also, for example, expect additional assistance (to that required as a minimum in the SQM Standard) to be given wherever the client has special needs, where they appear particularly distressed or where the case seems unusually complex; setting this out will also help to confirm to staff that additional assistance can be given (e.g. maybe even as far as making an appointment with the new organisation) without it necessarily becoming (with all the associated requirements) a referral.
- **Referral** is appropriate where you have an established client relationship in a current matter, where you have already undertaken work on the client’s current case, and where you hold case information (or documents) that need to be passed on to the new provider. You may also want to use this

opportunity to set out how you expect existing clients with new cases that require legal assistance from an alternative provider to be managed; in most instances you will choose to follow the requirements for signposting, though you may want to keep some details on record for future reference.

Internal referrals

Ideally you should also set out *your position on internal referrals* (i.e. within the organisation) in guidance, either confirming that the procedure covers them, or more likely confirming that it does not. Regardless, guidance provides an opportunity to comment on the practice of internal referral and to promote its use whenever an individual thinks they have reached the limit of their competence (see related requirement at D4.3).

B1.2 A procedure for conducting signposting and referral

Your procedure should contain

As a minimum, your procedure needs to cover the *practical steps* that members of staff should take to find other legal service providers. Four options (which provide the minimum you must offer for signposting) are given in the SQM Standard. These methods can also be used (by the caseworker) when needing to make a referral, and any or all of them can be adapted (as long as the minimum requirement is met for signposting) to suit your organisation's approach to finding alternative legal service providers.

You are also likely to want to *incorporate any guidance* used to help staff to know when to signpost and when to refer (as required at B1.1), as understanding the concepts will be integral to operating your procedure effectively. Alternatively, you may just want to include cross-references to any guidance you have, for example if it is stored separately, perhaps as induction or training material.

Finally, you will probably want your *procedure to cover the process or processes* you adopt for advising clients whom you refer (on your role and cost implications), for forwarding existing case information, and for monitoring and reviewing any feedback that you are given. Although it is not a requirement to document your process, this is the easiest way to demonstrate consistent application, and will serve as useful training/induction material. It is not, however, mandatory, as you may have other methods by which all staff know what process to follow, and can demonstrate that they follow it in full in all cases (e.g. if your computer system delivers necessary prompts, guidance and letters).

Practical steps to find legal service providers

Your procedure will need to ensure that legal service providers with relevant accreditation such as the Specialist Quality Mark or Lexcel are considered (and usually selected) in preference to those without. Where the client appears to qualify for legal aid you will ordinarily want to make reference to *the Find A Legal Adviser Tool (FALA)* (see guidance at B1.4) as being the *first source of information*, though other sources (i.e. your own list produced by area of law) may also provide comprehensive service information and allow you to identify those services with relevant accreditation.

Referral - advice to clients on outlining your role.

As well as outlining the role you will take in recommending suitable alternative providers and making an appointment once the decision has been made, your process will also need to ensure that *information* about advice and assistance already given *and any relevant documents are passed on* to the new service, and that the client is told about, or given a copy of, any covering letter outlining the details.

It is possible for you to *retain the client and still make a referral* (e.g. where one matter requiring legal advice is referred but another is retained). In such circumstances, you will

want to explain to the client what service you will continue to provide and what they should expect from the other legal service provider.

Referral - advice to clients on cost implications

Your process also needs to cover the *cost implications of referring the case to a new organisation* whenever they apply. Cost implications need not necessarily include actual amounts (and these will rarely be available to the referring organisation), but should cover the *type of cost* that the client might incur (e.g. a one-off court fee, fees charged at an hourly rate, an indemnity premium or legal aid contribution where eligible).

Details of the cost implications advice given should be recorded and kept on the file, as should a copy of any calculation (outlining actual costs) that was given.

Referral - recording and reviewing any feedback provided

Although it is not a requirement to *ask clients to provide feedback about the organisation to which you have referred them*, ideally you will encourage them to do so, particularly if they are unhappy about any aspect of the service they receive.

You will probably find it useful to note any feedback you receive alongside, or better still on, the record of referral, so that the information is kept in one place. This will help you to gain a better overview when *reviewing comments made* (particularly if similar concerns have been raised in the past). It will also allow you to identify specific instances of concern quickly and so provide *evidence to justify any decision you make* as a result. Where feedback raises repeated or serious concerns, you may decide to contact the legal service provider directly to outline the issues, raise your concerns with an auditor (if the legal service provider has a Specialist Quality Mark), or stop referring clients there (making a note to this effect – with reasons – on your list of alternative providers).

B1.3 Maintaining and reviewing referral records and data

Documenting your process

Although it is not a requirement to document your process, as above, it may prove the easiest way to make sure that you comply with the requirement (and demonstrate to auditors that you do). This need not be very detailed but should at least cover record collection (i.e. what details to collect and how often), record storage and review frequency (see below for further guidance).

Record collection and storage

There are several approaches that you may like to consider. You may want to use *standard forms* to record details of referral, in which case your procedure may refer to these forms and need not repeat their content. Alternatively, it may suit you better to have a *central book* or database/spreadsheet in which the details for all referrals are recorded, or a mixture of these two methods might also be considered, so that detailed referral information is retained on the file, for example, but there is a central record which makes reference to the relevant files.

It is a requirement that your referral records are reviewed at least annually (see below). This will be easier to manage if records are ordinarily *stored together in a central place* or if relevant details can be collated quickly.

Record keeping for instances of signposting

It is not a requirement to keep any records of instances of signposting, but you may find it useful (even on a sample basis, e.g. one month in twelve (12) or one week every quarter) for obtaining a comprehensive picture of gaps in service provision.

Any records that you choose to keep for signposting can be very simple, for example, identifying only the matter type for which help was sought.

Frequency of record taking

All members of staff need to know how to complete a record each time they refer a client and each time they identify the need for a referral but are unable to find a suitable alternative provider. Ideally, the purpose of record keeping should also be understood by staff so that they are aware of the potential impact on service improvement.

Collating information for review

Although it is not a requirement, you may find that the easiest way to benefit from a review of the records you keep on referral is to collate statistics. The most basic of these would usually include:

- Number of clients referred during the year.
- Most popular receiving legal service provider(s) (in terms of numbers of cases referred).
- Most popular matter type(s) referred.

The number of times where no suitable provider could be found, and most frequent matter type for such cases.

Depending on your organisation (or the different departments involved), you may want to compile additional statistics for review. These could include:

- Records for individual members of staff (to consider patterns of practice from one person to another).
- Details of internal referrals if you keep a central note of them.
- The most popular six organisations to whom you refer (rather than the main one only).
- The number of referrals made as a percentage of case files opened. This will give you a more complete picture of trends over time (particularly as departmental sizes or range of services offered change), and will allow you to compare referral practice not only between departments conducting different types of work, but also between different organisations.

Reviewing records

As a minimum, you are required (see the SQM Standard) to *review your records (or statistics based on them)* once a year, and will probably choose to do that alongside, or *as part of, the business plan review* (see A1.2), so that you can consider whether any of the findings have implications for services already being delivered, or for services that you would like to offer in the future. For example, you may identify that you regularly refer clients with a certain issue, when an individual within the organisation could be trained to deal with that issue.

Alternatively, you may identify a gap in the market in a certain area of law and want to consider opening a new department to cover that area of work.

Evidence of review can include confirmation (covering what information was considered and what conclusions were made) which you provide specifically to meet this requirement or can be part of evidence which you have to demonstrate that you have reviewed your business plan (see A1.2).

You may want to *review your records or the statistics more often* than the required minimum, either on a regular basis (e.g. if you have only recently established or changed the process and need to monitor whether the details being recorded will provide you with useful information), or on an ad hoc basis (e.g. if an alternative legal service provider ceases to exist and you want to monitor the impact on your own organisation).

B1.4 Ensuring that legal service provider information is up-to-date

The Find A Legal Advisor Tool

All Specialist Quality Mark legal service providers that have passed a pre SQM Quality Mark audit *will be listed on the Find A Legal Advisor Tool* if they hold a legal aid contract. You may be asked to provide relevant service information so that we can maintain your details.

The Legal Advisor Finder Tool is available on [gov.uk](https://www.gov.uk).

Keeping and maintaining details on alternative services

You must have *access to details* of all alternative legal service providers to which you refer or signpost clients, per the requirement. “Access” does not mean that you have to retain physical information, but, if you don’t, you must be able to show how you would obtain it (e.g. by telephoning the service), if needed. For example, you may keep leaflets about other services that contain basic information but may always rely on ringing them to check disabled access whenever a person with disabilities needs to be signposted or referred.

Depending upon what you say (in your procedure) about justification of the use of alternative legal service providers (see B1.2), and on the detail you require from staff to justify their selection (see referral record at B1.3), you may want to keep *certain additional information*. This might include:

- Time taken for the service to provide an appointment.
- Any other quality assurance standard achieved by the alternative legal service provider.
- Specific circumstances in which you would not refer or signpost someone to them, or details of those areas in which you consider they have particular strengths.
- References (a comment or rating) from staff who have recently used the service.
- Client references/feedback (perhaps the general tone of the last available couple).

References from staff can be particularly valuable, but should be reviewed periodically to ensure that they are up to date and, where the comments or ratings suggest a decline in the service being provided, a decision should be taken about whether to discuss issues with the organisation or to continue to refer or signpost clients to them.

If you decide to *remove an organisation from your list*, all relevant staff should be made aware of this, and of the reasons for the removal. You may want to achieve this by circulating a memo, or by retaining details of the organisation on file for some time, but adding a note giving the effective date from which they should not be used and why. You will need to ensure that you comply with the law relating to defamation, discrimination and data protection.

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C: RUNNING THE ORGANISATION

SQM holders must have structures and procedures that ensure effective management of the organisation and its resources.

Requirement C1	Staff and Management Structures, and Independence
Purpose	It is important that all members of staff know to whom they report and who reports to them, and can identify those with relevant key departmental and organisational responsibilities. In addition, it is fundamental that organisations are independent of any undue pressure, and that they abide by agreed practices for dealing with serious misdemeanours.
Requirement C2	Financial Control
Purpose	It is important that organisations produce key financial information and monitor this information regularly, in order to ensure that financial resources are properly and effectively managed.

Guidance to accompany Section C: Running the Organisation

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement C1

Staff and Management Structures, Organisational Standards, Status Enquiries and Independence

C1.1 Your staff structure

Who to include

Most staff structures are produced by department, though it may cover the whole organisation if you wish, as long as it is possible to identify from the structure, the category(ies) of law in which each individual works. *All managerial, casework and support staff* working in that part of your service for which you are seeking or want to maintain the Specialist Quality Mark (SQM) *need to be included*.

For organisations undertaking criminal legal aid, if you are in any doubt about what is meant by “*member of staff*”, for instance because you make occasional use of agents or self-employed caseworkers, you need to refer to the definition of “designated caseworker/fee-earner” in the glossary in the SQM Standard. All individuals who meet this definition must be detailed, regardless of their formal employment status. It is also good practice to include non-designated members of staff (though you may want to identify them as such, or identify them by another term you use, such as “agent”) in the document.

Layout

Ideally, your structure should be shown in the form of a “*family tree/organogram*”, as this is usually the easiest way for everyone to be clear about the profile of the department(s) in which they work (i.e. who works in the department, their roles and who reports to whom).

Departments with lots of staff, or organisations where staff work in a number of different departments, may find that a family tree is too large and complex, and may prefer to *describe the structure* (including details for each individual) instead.

Note that most organisations have staff telephone extension lists, and that these can be adapted to display or include the information required here.

Multi-use structure

At A1.1 you are required to have a summary of caseworkers’ areas of expertise and professional/legal qualification. This can most easily be met by ensuring that the information required is included in your staff structure. Although it is not necessary (and may be unwieldy) for all staff to have copies that include all possible staff information (e.g. case types covered), it may be useful to record it all in one place, particularly if you have the facility to filter bits out as necessary (e.g. by computerised record keeping), so that you can easily make available only that information which must be available to all staff (i.e. as required by C1.1).

You may also like to use the structure to show your entire organisation (with separate department affiliations identified) and/or to show key or decision-making authorities (see C1.2 below).

Updating staff information (and information required in C1.2, below)

Although it is only a requirement that you update the information in your staff structure (and in your structure showing key roles and responsibilities) within three months of any changes, it is

good practice to make amendments as they occur, and certainly to ensure that the details are current whenever you are reviewing your business plan. A regular review will help to avoid any changes from being overlooked.

C1.2 Key roles and decision-making structure

Presentation of the information

If your staff structure (at C1.1 above) extends to cover the entire organisation, then the easiest way to identify key roles and decision-making responsibilities may be by using that document. Alternatively, if your staff structure covers individual departments only, it may be easiest to produce a separate document (in writing or as a family tree/organogram) detailing those individuals. Note that *you can provide a mix* of the two (e.g. showing organisational management outside the department in one document and all staff, including those with key roles and decision-making responsibilities within the department, in another) as long as all the relevant information is documented somewhere and it is available to the staff who need to see it.

For those with key roles or decision-making functions, beyond the department(s), your structure needs only to document *relevant lines of responsibility*. For example, for finance you would identify which individual in each department reports to which individual outside the department on issues concerning finance, and if that person does not have overall financial control in the organisation you would also need to identify, to whom they report. Overall organisational management (e.g. Chief Executive, board members, managing partners and managers) must also be documented (as per the requirement).

Content

In addition to the key roles and decision-making responsibilities given in the definition, you may additionally wish to *record other responsibilities*, such as any restrictions on giving undertakings, although this is entirely at your discretion.

C1.3 Independence

What auditors will look for

You will be asked to confirm that you meet relevant independence requirements (usually orally if you are a member of (or regulated by) a recognised representative body, or in writing (as per the definition) if not).

It is *not necessary to document the organisation's position* as offering independent advice in the office manual, though this is probably where you will choose to confirm your commitment to providing independent advice if you are not a member of (or regulated by) a recognised representative body or if the potential for a conflict of interest is commonplace (see guidance below).

Where independence is a particular issue

The organisation's general ability to provide independent advice is *more likely to be of concern to the auditor*: where it has been specifically raised (with the organisation, a Relevant Professional Body, a complaints body or our organisation); where the organisation is not a member of (or regulated by) a recognised Relevant Professional Body; or where the service is directly provided by a local authority or public body which is likely also to be the defendant in any action taken (i.e. where the potential for conflict of interest to arise is commonplace).

In these circumstances (or where there are any concerns about compliance with the requirement), auditors may also look for *objective evidence of compliance* by seeking (as appropriate) any, or all, of the following:

- Evidence to establish the type of work being undertaken (and rejected) by the organisation.

- An appropriate statement from any principle funder, funding body or bodies confirming the independent status of the service offered.
- Evidence of advice given in past cases.
- An appropriate clause in the contract of employment making it clear that employees' discretion is not fettered in relation to action against any funder on behalf of their clients.
- An established referral arrangement with another organisation to provide advice (for example, an arrangement for a local authority housing advice centre to refer all cases with the potential to result in litigation, to its local law centre or solicitors' practice).

Management committees

Where a management committee is involved in running the organisation, *independence is only likely to be established where:*

- Funding bodies remain a minority within committee membership.
- The decision-making process is documented (usually in the committee's written constitution) as is its role or jurisdiction, quorum and terms of reference (including any sub-committees).
- Up-to-date lists of SQM standard holders are kept, together with an identification of roles and responsibilities.
- There is a written description of the management structure from which designated responsibilities can be identified (akin to the requirement for the organisation at C1.2).
- The relationship between the responsibilities of the committee and those running the organisation is documented, as is the relationship between the committee and members of staff (including any volunteer staff).

C1.4 Modern slavery legislation

The Modern Slavery Act 2015 sets out a range of measures on how modern slavery and human trafficking should be dealt with in the UK. The SQM requires you to consider whether your organisation is compliant with the legislation that is in place at the moment and ensure you continue to comply with any developments in this area in the future. In particular, section 54 of the Modern Slavery Act 2015 requires certain commercial organisations with a turnover of £36 million or more to publish an annual statement setting out the steps they take to prevent modern slavery in their business and their supply chains. You must consider whether this requirement applies to your organisation and document the outcome of that review. This may be relatively straightforward where it is clear that your organisation does not fall within the ambit of section 54.

Guidance to accompany Section C: Running the Organisation

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement C2

Financial Control

C2.1 Financial responsibilities

Documenting financial responsibilities

The person (or in the case of a management committee, persons) with overall responsibility for financial control in the organisation must be shown in whatever structure document(s) you use to meet requirement C1.2 (to identify, to all staff, those individuals with key/decision-making responsibilities). You can, if you wish, use the same structure to record other delegated financial responsibilities (i.e. by noting the maximum signing authority or spending limit for each individual shown). This information may also be available from banking records or bank signing records.

Where this additional information would make your structure (at C1.1 and C1.2) too unwieldy, or for ease of reference, you may wish to identify financial responsibilities on a separate structure – probably contained in your finance manual (or the finance section within your office manual) alongside your financial procedures.

Where an organisation is covered by Part 3 of the Criminal Finances Act 2017, it must have a policy and procedures in place to prevent criminal facilitation of tax evasion by associated persons. HMRC guidance provides suggestions of the types of processes and procedures that could be put in place and the Law Society has published a practice note on this topic for solicitors that will be useful in this regard.

C2.2 Financial processes

General

The Specialist Quality Mark standard seeks only to verify a level of *financial prudence appropriate to specialist legal service providers*. Services will have a variety of financial reports; the most appropriate for you will depend upon the nature of your organisation and the range and focus of legal service provision.

If you receive any public funding

If you receive any public funding, you should consider whether you are required to provide specific *additional financial information or reports to funders* (i.e. as part of a contract (or pre-contract) requirement or funding condition), beyond that which is required for the purposes of the Specialist Quality Mark. For instance, you may need to demonstrate financial stability or have in place performance monitoring so that you can demonstrate that you know how specific funding has been used, or how you are performing against any contract requirements. You may also be required to *disclose the content of financial documents* to auditors or the funding body where this is a condition of funding.

If you have (or wish to have) one of our Contract's, you need to be aware that it is conditional on additional financial information being produced, retained and disclosed. The details of the relevant financial requirements are set out in the relevant Contracts. See below for notes on disclosure of financial information.

Producing additional financial information

A list of the key information that all organisations must produce is given in the requirement. Detailed aims or objectives, outlined in your business plan (at A1.1), should help you to identify any additional information that your organisation would find valuable.

For example, you may find it useful (or may be required by one of our Contract's), depending upon the service you deliver, to collect some or all of the following additional management information on a regular basis:

Cash-flow forecast.

- Aged debtor lists.
- Analysis of cost of service (by type with overheads apportioned).
- Analysis of working capital.
- Analysis of cases (for example by category type, by client, by caseworker/adviser/fee-earner, by time-taken, by income/funding).

Disclosing financial information

The easiest way for you to demonstrate that you meet the requirement is to *provide the auditor with documents containing the relevant financial information* (including that required to show compliance with C2.4, internal financial reviews). The auditor will simply check that the documents are available and complete (and that internal reviews, using appropriate documents, are being carried out); they will not consider the content.

It is not, however, a requirement (for Specialist Quality Mark purposes alone) that you disclose any financial information, but if you feel unable to do so *the onus is on you to provide the auditor with other evidence to demonstrate compliance*. If, having discussed the organisation's financial processes (usually with the person named as having overall financial responsibility) and having been presented with all other evidence that you are prepared to make available, the auditor remains concerned as to compliance, they will have to issue a Quality Concern against this requirement.

Computerisation

For Specialist Quality Mark purposes, you can maintain *financial information in any recognised format*. You should note, however, that if you also receive public funding it may be conditional (as it is for our Contract) on your having *fully computerised financial information (and time-recording) systems* in place.

Computerised systems are favoured in any event, as they improve the potential for financial control and monitoring.

C2.3 Independent financial review

Should accounts be certified or audited?

This depends upon the *requirements set by law or your Relevant Professional Body*. If there is a legal or professional requirement for accounts to be audited, then audited accounts need to be produced to meet requirement C2.3. *As a minimum, however, all accounts are required to be certified*.

Independent accountant

Relevant Professional Bodies usually set requirements or guidance regarding use of accountants and confirmation that they are independent. *As a minimum*, other than for services provided directly by a local authority or another public body/charity, you are required to select a chartered accountant who has at no time (in the relevant accounting period) been an employee (or volunteer, or member of the management committee) of the organisation.

Local authority organisations must demonstrate that they have passed the district audit.

Accounting periods

Relevant Professional Bodies also usually provide guidance or requirements concerning accounting periods. They usually require each accounting period (i.e. the period for which accounts are prepared) to last 12 months, though in certain circumstances (e.g. mergers or a change to the principle funder) they may be shorter or longer. As a minimum you are required to demonstrate that your accounts have been certified/audited on a continuous basis (i.e. that *there is no gap between accounting periods*) and that no accounting period (during the application or life of the Specialist Quality Mark) has lasted longer 21 months.

The auditor will require *sight of written confirmation* by an independent accountant, of satisfactory certified/audited accounts, covering the last accounting period. The only exception is where accounts for that period are with the accountant at the time of audit. In such circumstances, the auditor may agree compliance subject to latter confirmation (where there are no other indicators of financial concern at present or in the past). Alternatively, they may defer making a decision until confirmation can be provided.

C2.4 Internal financial reviews

Documenting financial reviews

Financial information is required to be reviewed regularly (quarterly for variance analysis of income and expenditure against budget, and six-monthly for all other financial information) to be confident of the continuing financial position of the organisation. *Auditors will* require evidence that reviews have taken place (as per the definition), but as at C2.2 (see guidance on disclosing financial information, which also applies here) you need not necessarily disclose the content of documents containing financial information.

You need not document what financial information was reviewed, wherever this can be determined from procedures, minutes or copies of the documents themselves.

For six-monthly reviews, the easiest way to demonstrate compliance is to keep a record of who was present and what the review findings were (e.g. “no impact on planned activity”, “possible impact that needs investigation/monitoring as follows...” or “impact that requires immediate action as follows...”).

Records of financial reviews are regularly documented as part of other management reviews/meetings, and do not need to be separately documented solely for the purpose of demonstrating compliance with this requirement.

Financial reviews and business planning

The findings of financial reviews need to *feed into the business-planning process* (as required by A1.2), so that decisions can be taken about what changes (if any) need to be made to the service being delivered. It may be that an increased amount of funding is available and, as a result, services may be able to expand. On the other hand, where there are fewer resources available, the service will need to decide where they are focused.

Auditors will usually seek evidence of review of the financial position as part of the business-planning process.

C2.5 Anti-Money Laundering Policy

The SQM requirements in relation to anti-money laundering are designed to ensure that organisations comply with the *Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended)* and only apply to organisations covered by those regulations. The Legal Sector Affinity Group (LSAG) has produced anti-money laundering guidance for the legal sector:

<https://www.lawsociety.org.uk/topics/anti-money-laundering/anti-money-laundering-guidance>

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D: PEOPLE MANAGEMENT

Holders of the Specialist Quality Mark Standard must ensure that members of staff are treated fairly and that they possess or develop the skills and knowledge required to meet clients' needs.

Requirement D1	Roles, Responsibilities, Recruitment and Equal Opportunities for Staff
Purpose	To ensure that everyone is clear about what their job entails, and so that their contribution to the service is recognised and their potential is realised, without discrimination.
Requirement D2	Induction, Appraisal and Training
Purpose	If your service is to meet its potential, with clients given a quality service, attention must be given to staff development.
Requirement D3	Supervisors
Purpose	To ensure that supervisors are in place with the requisite skills and experience to act as mentors to the members of staff they supervise, and to underpin the delivery of quality legal work for the client. <i>Also see D4, for Operation of the supervisory role.</i>
Requirement D4	Operation of the Supervisory Role
Purpose	To ensure that casework members of staff are properly supported to deliver a quality service, and that their professional knowledge and skills are being developed continuously.
Requirement D5	Individual Competence
Purpose	To ensure that casework staff undertake legal training and have professional qualifications or regular involvement with the law, to support the concept of at least baseline legal competence in all areas of work conducted.

Guidance to accompany Section D: People Management

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement D1

Roles, Responsibilities, Recruitment and Equal Opportunities for Staff

D1.1 and D1.2 Job descriptions, person specifications, key responsibilities and objectives

Level of detail

Information needs to be sufficiently detailed and precise for staff to be clear about their role and what is expected of them, and to assist supervisors when they need to review training and development needs or carry out appraisals. For the same reasons, the provision for *job flexibility* should be kept to a minimum in these documents, though it can be retained in employment contracts.

It is important that *information is up to date* (particularly concerning key responsibilities and objectives) before being used for review or appraisal purposes. You are required to keep only current information, though you may find it more useful to retain past information as a running record of the individual's progress.

Presentation

How you present the information is likely to depend on your arrangements for recruitment and appraisal, and on the way that records have historically been kept. You should note, however, that while a job description is required for all existing staff and for positions to be recruited, a person specification is only required for the latter. Note that all of your requirements (traditionally separately contained in a job description and a person specification) can be kept together in one document if you wish.

For *recruitment* purposes, many organisations find it useful to divide skills, experience, qualifications and attributes into those that are essential, followed by those that are desirable (see D1.3).

D1.3 Non-discrimination as an employer

Related requirements

See also A3.1 (on non-discrimination in the provision of services) and F5.1 (on non – discrimination when instructing legal service providers). You may want to develop *one equality and diversity policy* covering all areas.

Grounds

Your policy needs to cover the characteristics protected under the Equality Act 2010 (as amended): age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

Breaches of the policy

Compliance will be given either where the procedure to be followed in the event of a breach of the non-discrimination policy *is documented within the policy*, or where your non-

discrimination policy makes reference to *a grievance procedure* that is available to members of staff and that members of staff know is available to them.

Legislation and codes of practice

Your policy must comply with equality legislation as outlined in A3.1.

You should be mindful of the need to have lawful policies in relation to paternity leave and flexible working.

Types of discrimination

In precluding discrimination, your policy will need to cover *direct discrimination, unlawful indirect discrimination, harassment and victimisation* and any other conduct unlawful under the Equality Act 2010 (as amended). [A definition of terms can be found in the glossary].

Model policies

Please refer to A3.1 for guidance on model equality policies.

Auditing the policy

You should (and auditors will) look for evidence that your policy is working in practice. In particular, you will want to be assured that job applications are attracted from all groups and that equality of opportunity is promoted throughout the *recruitment process*. Any monitoring information that you keep (see paragraph on monitoring below) on recruitment characteristics will provide evidence of this, as should review records from the recruitment assessment process.

Equal opportunities need also to apply to treatment of *existing staff*. You can check for evidence of this (as may auditors) by considering any complaints or by reviewing records of decisions on training, appraisal or promotion.

Finally, auditors will also want to be satisfied that all members of *staff understand the policy* and its practical effects (in terms of the way they are expected to (and do) treat other members of staff) and that disciplinary action may follow if the policy is breached.

Monitoring your policy

You may find it useful to monitor your policy to check how effective it is. The *method you select for any monitoring you choose to do* will probably depend *upon the size of your organisation*. You are likely, however, to want to monitor by the characteristics protected under the Equality Act 2010 (as amended). Where you carry out equal opportunities monitoring, note that the information collected is personal data and you should have procedures in place to ensure confidentiality.

You may consider monitoring the composition of your staff and applicants for jobs (including training and development, and promotion); appraisal, grievances and disciplinaries relating to breaches of your policy in the same period. Methods include collecting the relevant information for all job applicants and / or staff (particularly in a small organisation), by conducting periodic staff surveys, or sampling job applicants in respect of relevant characteristics (e.g. ethnicity, nationality, gender and disability).

Any monitoring that you conduct should help you to reach a conclusion about *whether or not your policy should be amended*.

D1.4 Operating an open recruitment process

Scope of the requirement

The requirement covers recruitment into all permanent vacancies or vacancies in which rights of employment are gained (i.e. for individuals who work solely or primarily for you, are subject to supervision within your organisation and are covered by internal processes such as

appraisal and performance review, whether or not they have a contract of employment with you). *Vacancies for training contracts are therefore covered by this requirement.*

Although the requirement does not cover *temporary staff*, ideally you would want to extend your processes to cover all recruitment or at least know that an open process had been adopted by any other organisation on which you rely for temporary staff (i.e. that they advertise and assess candidates on an objective basis).

Ideally you will advertise all permanent vacancies; however, this is not a requirement where you can otherwise demonstrate that that part of your process is open (i.e. where it is clear from the applications considered that there was a broad understanding that a position was being offered (or was likely to be offered) and of what that position involved). This is probably most commonly exemplified by training contracts and positions for paralegals, where organisations will regularly receive many speculative approaches that they consider and (effectively) short-list before beginning their detailed assessment process.

Note that you *risk attracting a discrimination claim* where you define the job requirements with the intention of recruiting a specific individual, or where you approach an individual without being able to demonstrate that others were considered and assessed.

Attracting suitable candidates

Job adverts, whether internal or external, should be *informative and honest* about the post and about the person you are seeking (with a summary of key responsibilities and tasks, and possibly required attributes, taken directly from the job description and person specification).

For some posts, you may want to follow a very short advert with *further information* (e.g. information about the organisation or a full copy of the job description and person specification).

Invite candidates to inform you in advance about any reasonable adjustments that they may require to take part in the selection procedure and interview.

It is good practice to adopt the Disability Confident Employer Scheme (<https://www.gov.uk/government/collections/disability-confident-campaign>), an initiative delivered under the control of the Department for Work and Pensions, in England and Wales. This allows you to demonstrate that you are positive about employing disabled people. This means that you will make reasonable adjustments for job applicants and a guarantee an interview for applicants that meet the minimum requirement for the role.

You may want to consider using positive action where evidence suggests that it would be useful to address under-representation, by in particular, candidates from particular ethnic minority communities or gender. Positive action is where you encourage the participation of or access to for members of under-represented groups. Positive action is not to be confused with positive discrimination, which is unlawful.

Finding the best person for the job

This relies on your knowing what skills, experience and personal attributes are required from the post holder (see D1.1 on job descriptions, and person specifications, key responsibilities and objectives). Your procedures (which may be different from post to post) will need to ensure that by the time final interviews are completed, *each of your requirements has been addressed and an assessment of each candidate made*. Recruitment and Selection should be carried out in line with your equality and diversity policy procedures. You will probably need to do this in stages and from different sources, for example, assessing qualifications and written communication skills from initial application forms or CVs and letters, while using interviews to assess verbal skills and relevant past experiences. Depending on the post, you may also want to conduct additional tests, such as typing or telephone exercises, verbal or numerical reasoning tests, or group exercises.

Demonstrating objectivity and consistency, and being able to justify the appointment

This requires you to keep notes that show that the selection process was based directly on the requirements of the job description and person specification, and was applied consistently.

To make sure that this happens, you may want to *introduce a degree of standardisation*, usually by providing an application form for completion, or by asking candidates to address key requirements in their CVs and covering letters. You may want to consider asking uniform interview questions, and it is recommended that you agree in advance with others involved your approach for marking each assessed requirement.

Notes should be made for each requirement assessed and should be sufficiently detailed to show *what evidence the candidate provided* to demonstrate how well they met each requirement.

Retaining notes and giving feedback

Notes (to use for assessment and for feedback) will only be meaningful if they are *sufficiently detailed* and have been made *throughout the selection process*. The level of detail will depend on the stage reached by the candidate. However, more detail would be anticipated for candidates who had completed tests or interviews.

Feedback is required to be given to any short-listed candidate who requests it. By this stage, they will have had personal contact with individuals from your organisation (usually following an interview, but possibly also once tests have been completed). Ideally you will choose to give feedback to any applicant and you will make that offer known to them.

As well as allowing you to demonstrate fair assessment of applications and to give feedback, these notes will help you to remember each candidate more clearly *when considering selection* (particularly if recruitment was spread over a long period or involved many candidates, or if more than one person carried out assessing and interviewing). The notes can also provide a useful basis for the initial training and development plan of the individual selected.

Assessment notes (covering interviews) need to be retained for at least 12 months for all short-listed candidates (whether recruited or not), and available at audit.

Guidance to accompany Section D: People Management

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement D2

Induction, Appraisal and Training

D2.1 Induction

Content

Examples of the level of detail to which each element in the induction process might be covered are given below:

Organisation's aims – For a relatively junior member of staff, this might be covered by reviewing a summary from the business plan (which is the minimum level of information that must be made available to *all* staff – see A1.1). You are very unlikely however, to be able to justify adopting this approach for an incoming partner or senior manager who will need to be aware of considerably more information (e.g. the detailed plan as is required to be prepared at A1.1).

Management/staff structure – As a minimum, all staff need to know whom they report to and who (if anybody) reports to them, as well as being able to identify individuals whom they may work with on a day-to-day basis and those with key responsibilities. This information will already appear in the diagram(s) you use to show the staff structure(s) (C1.1) and the organisation's key roles and decision-making structure (C1.2). For relatively junior recruits, reviewing these documents may be appropriate, while for others (e.g. a supervisor or someone who will handle complaints) more detailed induction on authorities and responsibilities will be appropriate.

The recruit's role and the work of the team/department – This should cover main responsibilities (probably taken from the job specification, see D1.1), daily work contacts (usually by personal introduction), an overview of others' roles and responsibilities, and work outputs (e.g. casework range and numbers) in the department or section. For partners and senior managers, this part of the process is likely to take some time and may extend over several weeks or longer.

Organisation's policies – You are required to ensure that all members of staff are aware of a number of key policies, initially by induction. Your policy (or policies) on non-discrimination will already be documented (see A3.1, D1.3 and F5.1). For remaining policies, you may want to refer to relevant objectives in your business plan, to separate policy statements that you have produced or to the relevant documented procedures (e.g. complaints at G1.1 and G1.2). Regarding quality, information should be given on the Specialist Quality Mark (SQM) (i.e. whether you have been awarded it or are applying for it, and the fact that the process means regular independent audits to check that all staff are following documented office procedures and agreed processes).

Office procedures and work instructions/processes – As a minimum, all members of staff need to know of the existence of the office manual (containing procedures) and of any other instructions or processes that are relevant to their role. Ideally induction should be managed so that individuals are directed to the parts (of the manual) which are relevant to them and are given time to read and ask any questions about procedures that they will need to operate. Requirements elsewhere will have an impact on what it is appropriate for you to include, depending upon the post. For instance, you would need to cover casework requirements (see F1.1) for new caseworkers, while a supervisor or person with file-review responsibilities would

also need to cover file-review processes and procedures (see E2). Although not a requirement in the SQM, where you have time-recording procedures, you would also want to cover these for all caseworkers.

Terms and conditions, welfare and safety – All new recruits should be reminded about their working hours (including lunch times, core hours, flexible working arrangements, and holiday entitlement), and should be aware of any conditions of employment that are specific to the organisation (e.g. use of telephone for personal calls, or who to call when sick). Staff also need to be aware of the existence of grievance procedures (what is involved and to whom they should refer), and of arrangements for the safe evacuation of the building (as well as any other health and safety issues as required by legislation).

Record keeping

Ideally your records of induction will provide a summary of the *content and level of detail* covered for each new recruit and provide confirmation as each element is completed. This can be completed by the person conducting the induction or by the person being inducted. The record should form part of the individual's personal file and will allow new recruits and those carrying out induction to confirm that each section has been completed effectively. It will also provide valuable information if a new manager needs to take responsibility for that individual in the future.

Alternatively, it may be possible to identify the content and level of detail covered for each individual *without needing to document a full summary*. This can be achieved by recording centrally what is always covered for each of the core induction elements (and only noting any additional information given and the dates when the sections were completed on the individual's personal file). Or you may record details of induction processes by job type (e.g. what is covered in induction for a junior caseworker, an accredited police station representative, an advocate, or a supervisor etc.) in which case the individual's record need only refer to this and give completion date(s).

In all instances, a record needs to provide sufficient detail so that the auditor or a new manager can understand what induction was given to each new recruit and when.

Who to include

Internal recruits do not need to go through a full induction process, though a review of their new role should be carried out and induction provided for all elements that are different from their previous role. A note of any induction given should be placed on their personal file.

Induction records do not need to be created for *staff recruited before you introduced your procedures*; however, all staff need to be aware of the issues covered in this requirement. Also, where policies you have covered during induction change, you should have a process to update staff, so that information remains relevant.

D2.2 Performance review and feedback

Exclusions from appraisal

Annual appraisals apply to all staff, with the exception, for organisations undertaking criminal legal aid only, of non-designated individuals (which you can choose not to carry out at your discretion). By exception, you may also be able to agree with your auditor in advance *to exclude individual partners*, but the auditor will only agree to this where the process can be justified as being without value (e.g. usually only where the individual is a sole practitioner). Note that there is no general exclusion from appraisal for partners or managers and ordinarily (and almost certainly where there are four partners or managers or more) it will be of value and should happen. At this level, *methods of performance review* might include self-appraisal as well as appraisal of partners/managers by one another or by more senior partners/managers, and/or appraisal based on staff feedback, or, most likely, a mix of several of these.

Appraisal of external supervisors (i.e. those from other organisations, see guidance at D3.1) must be included, though this will be limited to their role as a supervisor (as they will not produce any casework for your organisation). This will cover their performance reviewed in the context of their contract (see D3.1), as well as in terms of how effective it has been in controlling the quality of supervised staff's work. Feedback from supervised staff, and monitoring of the quality of *their* work through file review records will be useful here.

What your process needs to demonstrate

Whatever appraisal system you adopt, you need to be able to demonstrate that it is:

Able to relate individual performance to the needs of the service – Information from the business plan (A1.1) about the service to be delivered will be useful here. It should also be valuable in helping you to determine new objectives.

Able to make sure staff have clear objectives – It is important for staff to have a clear understanding of what is expected from them. You may want to consider setting objectives using the SMART framework (**S**pecific, **M**easurable, **A**chievable, **R**elevant, and anchored with an appropriate **T**imeframe). As far as possible, it is good practice to involve staff in the process of setting their objectives.

A two-way communication process – Where the objectives being reviewed (and those being agreed) are understood by both parties. This is often best achieved by asking the person being appraised to make a note of their own view of their performance against objectives as a starting point for the discussion. It may also be useful to ask them to, more generally, identify their perceived strengths and weaknesses and areas for training or development. Finally, offering them the opportunity to comment on the resulting appraisal record, as well as to sign to confirm that it is a true record of what was discussed, will demonstrate two-way communication. You should ensure you meet regularly with staff between formal appraisals to discuss their day-to-day performance and the ongoing relevance of their objectives.

Able to identify training needs and development opportunities as well as to set objectives – By feeding in information from file review and supervisory sessions (see E2 and D4 respectively); also by considering the skills and knowledge necessary to deliver the organisation's service delivery aims (see D2.3 below) and those necessary to master any new objectives. Training needs and development opportunities need to be considered for all individuals, even though you may find that there are none. You should include specific development goals for staff as part of the appraisal process, which should be monitored through regular discussions and updated as appropriate.

Compliance against this requirement can be best demonstrated by having a structured performance management policy in place along with individual template forms and records showing how individual staff are appraised.

D2.3 Individual training and development plans

Documenting training and development plan reviews

You should have in place an individual training and development plan for each member of staff, either as part of the documentation that forms part of their appraisal or a standalone document. Training needs and development opportunities are likely to be identified *throughout the year* and from different sources. Individual training and development plans should, therefore, be amended as and when it is necessary (e.g. following supervisory sessions or as the result of file-review findings). It is not, therefore, usually appropriate only to add to the plan once a year when it is reviewed, though this may happen where supervision and file reviews have raised no issues and where there are no requirements for new managerial or other skills in the organisation.

Usual practice is to consider the individual's plan as *part of their appraisal* (as this is an ideal opportunity for both parties to look at strengths and weaknesses that may not have been

identified through work output, and to consider the implications for training and development). The review can then be documented as part of the appraisal record. Alternatively, you can arrange for the review to be separate from the appraisal.

Issues to consider

Training and development needs should take account of *skills and knowledge required to manage* the organisation, as well as those needed for legal practice. For managers (i.e. partners, supervisors and anyone who directly manages another member of staff), key skills are likely to include performance management, staff wellbeing, and recruitment skills. You should also aim to include training for individuals to become supervisors in the future (e.g. by planning towards panel membership or meeting portfolio requirements, see D3.2). This is not only part of their professional development, but should also enable them to cover for your existing supervisor(s) in the event of holidays or sickness (i.e. as a deputy), or if your existing supervisor(s) leave(s) the organisation permanently. For deputy and existing supervisors, specific management skills are set out in D3.3.

Training for supervisors to *gain or to maintain legal practice knowledge* is detailed in D3.4 and should be included in the plan. Minimum training requirements for all other caseworkers are given in D5.1.

Plan content

Planned training will usually be given by an outside provider in a formal training course setting, where objectives for the training have already been set (and match your requirements), and where a training date is known. Sometimes, however, you may want to address training and development needs in other ways, particularly if your organisation has specific needs or a certain house style. Both can be acceptable, and examples of different approaches are shown in the following table (see over):

Need identified	Purpose of Training (or/including:)			
	Aim(s)	Method(s)	Timescale	
Interview skills	Conduct forthcoming interviews for caseworkers	External training given by XYZ Ltd.	Not later than xx.xx.xx	<i>Note: you may also wish to use this document to record additional information (e.g. details that form the training record (dates completed, titles of any courses and providers) and/or to note an assessment of the training (see D2.4).</i>
Enhance existing mediation skills	Membership of a recognised mediation organisation and ability to conduct mediation sessions without observation	Internal training (2 x 2 hours with ABC)	Within 1 month (i.e. completed by xx.xx.xx)	
		Role play sessions (to be set)	Within 3 months (i.e. completed by xx.xx.xx)	
		Observation and feedback (by ABC)	Within 6 months (i.e. completed by xx.xx.xx)	
		Membership application	Within 12 months (i.e. submitted by xx.xx.xx)	

D2.4 Training records

What training to include

Information provided by the supervisor on *changes in the law* (see D4.5) can be detailed in the individual's training record, though this is a requirement only when the information is delivered as a course and the individual intends to use it to demonstrate that they are meeting their training requirement.

Also see guidance on *issues to consider* at D2.3 above.

Record content

You need to provide *minimum details* about all training courses attended or given (see first bullet point in the definition). A précis and/or assessment of courses attended is also recommended.

You may also need to provide *additional information* about training courses if you intend to use them as counting towards a relevant training requirement (i.e. at D3.4 for supervisors or at D5.1 for other casework staff). For supervisors, additional information may also be necessary where the relevant training requirement is met other than by training courses (e.g. by involvement in a practitioner association or by publications).

Course materials (handouts or preparatory notes), completed exercises, documented discussions and publications (see D3.4 and D5.1) will often be *stored with the training record* on the individual's personal file, though this is not a requirement so long as all are available to the auditor if requested.

Documenting completed training

You may want to maintain a separate record for each individual, covering the training they have completed. Alternatively, you may find it easier and more useful to *record relevant information on the individual's training and development plan* (as shown in the example above), so that you have a single comprehensive record of training planned and undertaken.

Criteria for training courses

Specific criteria that must be met (and confirmed in the record – see “Record content” above) in order for training to count towards the supervisor training requirement are given at D3.4. For other caseworkers, specific criteria are given at D5.1.

Guidance to accompany Section D: People Management

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement D3	Supervisors
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D3.1 Named category supervisors

Purpose of the supervisor

The aim of the requirements in D3 is to assure the competence of individuals to act as technical legal supervisors to caseworkers, that is, to be sufficiently experienced (in technical legal and supervisory skills) *to provide a coaching role* to the individuals they supervise and to *have control over the quality of all work* for which they are responsible (i.e. their own casework and that of anyone they supervise).

The functions that are deemed to require the mix of technical legal and supervisory skills required of a supervisor (in D3) are given in D4 (Operation of the supervisory role) and in E2 (File review). Supervisors must be *able to demonstrate that they manage all of these* functions. That is not to say that they must conduct them all personally, but that they must oversee them and be able to assure the auditor that they retain control for quality of work produced by the staff being supervised. An example is the requirement at D4.1, where the supervisor is not necessarily expected to deal with day-to-day case allocation, providing they can demonstrate that they oversee the function and are satisfied with the operation (in terms of assuring quality of work).

Ideally, supervisors will also be involved in *other managerial/supervisory functions*, such as appraisal, induction and recruitment, though it is not a requirement for them to do so. Neither is it a requirement for anyone else who does perform these functions to meet any specific requirements (though ideally they will be trained to do so).

Having a named supervisor

The requirement to *notify the auditor of any change* of supervisor relates to permanent or long-term (i.e. longer than four consecutive weeks) changes only, and notification should be provided *within four weeks* of the change (i.e. usually the date on which the existing supervisor leaves).

The individual who acts as a category supervisor (i.e. the person with technical legal and supervisory competence) must be identified as such to the auditor, but they need not take *the title "supervisor"*, providing it is clear from your staff plan and key roles structure (see C1.1 and C1.2) that they carry out that role. This may help where you have a supervisor who carries out the tasks requiring technical legal competence (e.g. file reviews, case monitoring, legal knowledge updating and performance coaching) and a separate manager who carries out other tasks that do not necessarily require technical legal competence (e.g. day-to-day work allocation, process management, recruitment and performance management).

Accessibility

Being available does not mean that the supervisor must be physically present in the office at all times, but it does mean that occasions where the supervisor is not in attendance at the office (i.e. where the supervisor does not work full-time in that office or does not work in that office at all, or where it is not practical or necessary for them to attend the office every day) need to be catered for (e.g. by the supervisor being contactable by telephone, video conferencing or e-mail, by the use of deputies, and by allocating time when the supervisor is

in the office for answering any outstanding queries). Overall, the auditor will want to see that the supervisor is available for sufficient time to be able to demonstrate effective supervision; see D4.2. Where you have a legal aid contract you will need to comply with the specific requirements on supervision that are in that contract.

As accessibility is so significant, *if your supervisor is located in another office* for most or all of the time (including external supervisors), auditors will pay particular attention to arrangements for effective supervision (at D4.2).

Deputy supervisors

The use of deputy supervisors is to be encouraged, as it suggests that you are *planning for the future*, and because it provides an opportunity for certain individuals to develop their technical legal and supervisory skills beyond that necessarily required of a caseworker.

The critical issues for the auditor wherever you have a deputy supervisor will be the *extent to which the individual is being trained* and developed into their future role (as a permanent supervisor) *and the extent to which the supervisor retains control over the quality of work* despite the need for delegation that is required for the deputy to gain necessary experience. The key, therefore, is management of the deputy by the supervisor.

Note that the definition (in the Standard) confirms that deputy supervisors *may act as temporary supervisors* (i.e. in the absence of the permanent supervisor). In such circumstances it is not necessary for the nomination to be justified to the auditor (as training and development plans, any appraisal records and previous delegation of supervisory functions should do this). Neither is it a requirement for an appraisal to be carried out after ten days (as the functions carried out by the deputy supervisor will ordinarily be under constant review by the permanent supervisor and should be the subject of review as part of the individual's annual performance appraisal in any event). Other requirements set for temporary supervisors (i.e. that delegation cannot extend for longer than four weeks continuously or eight weeks in any calendar year, without the prior authority of the auditor) continue to apply.

Temporary supervisors

Someone who does not meet the supervisory and competence skills standards at D3.2 and/or D3.3 can be nominated to cover a limited period of leave or absence, though this should be documented (on the individual's personal file or on any records you keep concerning supervision or file review) together with any restrictions on supervisory authority delegated (e.g. that they are only allowed to approve solicitor undertakings or costs on cases to a set level).

The *appraisal of performance* conducted within 28 days of the end of the temporary period (where longer than ten consecutive days) should provide valuable information about development needs and potential, and should feed into the individual's annual review (see D2.2).

Using an external supervisor is another option if you do not have a permanent supervisor who meets the supervisory skills and competence standards (at D3.2 and D3.3) on a temporary basis.

Decisions about the use of external supervisors may be authorised at the auditors discretion but applicants will be *assessed on individual merits, based on* consideration about whether the supervisor has sufficient experience and capacity to carry out roles for two organisations (if applicable), and whether they will work in practice.

Note that although the appointment of an external supervisor must be formalised by a contract (see definition in the SQM Standard), this can be in *consultancy terms* rather than through a contract of employment.

Note also that the definition indicates that the auditor will have regard to the *experience* (as a caseworker in the area of law) *of staff* being supervised. They will want to be assured that each individual is sufficiently experienced so that the quality of work that might normally be expected (where a permanent supervisor is in place) is least likely to be compromised by the

fact that supervision is delivered remotely. As a guide, where sufficient casework is conducted to qualify, the individual caseworker(s) will be expected to achieve supervisor level competence within 3 years.

Delegation to a temporary supervisor cannot extend beyond six weeks continuously, in any calendar year. *Extensions beyond those limits* are at the discretion of the auditor but will not be granted without good cause (e.g. a planned short-term absence that unexpectedly becomes long-term, or a failed attempt to recruit). In those circumstances the auditor would need details of the qualifications of the temporary supervisor, the proposed period of cover, the numbers to be supervised (and their levels of experience) and any other special arrangements to support the individual (e.g. liaison with another firm's supervisor or other supervisors in the organisation).

D3.2 Supervisory skills and Competence

Why are they required, which route, and to whom do they apply?

The requirement for supervisors to demonstrate supervisory skills is almost as important as the need for them to demonstrate legal competence. Where *properly developed and applied*, these skills will help to ensure that the supervisor's experience and expertise are effectively imparted to the staff they supervise, which in turn will improve the quality of the service (including accuracy of advice) being delivered to clients.

Supervisors may determine for themselves which one of the three available routes is most appropriate. You may, however, want to consider D3.2 (a) (accreditation) or D3.2 (b) (training) where concerns are raised at audit and corrective action is required.

As for all individuals named as supervisors, *sole practitioners* and those who are the only person to provide advice in the category also need to meet one of the options (probably D3.2 (a) or (b)). Although not supervising staff, it is nevertheless important to understand and be able to apply the relevant skills of supervision to personal professional development. Auditors will also expect to see greater attention to opportunities for self-development and peer contact (e.g. membership of specialist groups and/or practitioner associations).

D3.2 (a) National Vocational Qualification (NVQ) Accreditation

National standards provide a framework within which individuals may demonstrate competence in managerial and supervisory skills. For requirement D3.2 (a), the supervisor needs to have been assessed as working at a minimum of Level 3, but ideally at Level 4 or 5 (within the NVQ framework) in management or supervision a.

Supervisors may use reasonable discretion when determining which units they complete, allowing them to tailor the skills they develop and demonstrate to the role they perform and to the needs of the organisation.

D3.2 (b) Training in supervisory skills

Supervisor skills training courses will need to cover key elements for supervision and management and you will need to satisfy yourself (and the auditor, if required) as to how well the course content meets your needs.

Given the content required, the *duration of training* is unlikely to involve less than *three – four hours' academic learning in each element*. Much of the academic learning is likely to be delivered by formal training sessions (where interaction with other supervisors, ideally from other organisations, can offer the greatest opportunity for learning). Some training, however, may involve distance learning or possibly internal training (particularly for deputy supervisors where a permanent supervisor is on hand to offer concentrated academic training sessions as well as coaching and mentoring in relevant skills). Also, training need not be undertaken in one consecutive run, and may be spread over a period of time (sometimes as much as six to

12 months from the first to last day of training), giving opportunity to apply new skills in the intervening period(s).

Note that if documentation has been retained showing that *training attended in the past* covered supervisory skills in sufficient depth, the auditor may agree that the training qualifies for this purpose.

Unless the training contains (or is supplemented with) practical exercises to apply and evaluate new skills in practice, you should complement it with *mentoring* from a current supervisor, partner or manager (or a number of people). Auditors can look for evidence to support this (usually on training records or the individual's personal file, though also from speaking to parties involved where no record was kept) if there is any concern that trained skills are not being used to their full potential.

D3.2(c) Experience of supervision

Auditors will look for *evidence that supervision has been effective* in the past by speaking to supervised staff, and by looking at documentation held in personal files from file reviews or supervisory sessions.

Even where supervisory skills are not identified as a training need, *most supervisors could benefit* from learning more about the relevant skills, to increase the range of tools available to them and to develop the skills they are already using to supervise work even more effectively. These skills may be enhanced by training or by using texts on supervisory or managerial skills.

D3.3 Supervisors' legal training

Supervisors must meet this requirement (and may ignore the requirement for other caseworkers given in D5.1). To function effectively, their knowledge of the subject and awareness of best practice needs to remain current (also see D4.5 on cascading information to supervised staff). Although much updating will undoubtedly result from journals and periodicals, this must be supplemented with gaining new legal knowledge or skills from training or other sources (or both).

Conditions that apply for training to qualify towards the requirement are given in the definition.

This requirement relates to supervisors' ongoing technical legal knowledge (i.e. their knowledge about legislation and case law, and best practice in applying both) and so they must be able to show that all of the legal training used to demonstrate compliance *relates directly (or can be applied directly) to the area of law they supervise in*. Other training (e.g. in skills development), although not covered by this requirement, is valuable and is likely to be included in the individual's training plan.

D3.4 Conditions for supervision

General

The supervisor's role needs to be understood and valued and supervisors need to be provided with conditions in which they can operate effectively (see D4 on Operation of the supervisory role). Regardless of a supervisor's supervisory skills and competence, they will only be at their most effective in an environment in which their role is understood and valued. This can be demonstrated by *providing conditions in which supervisors can operate effectively* (see also D4 on Operation the supervisory role).

Designating time to supervision

This is critical, and *auditors will look to see that it has been considered*, for example, in the supervisor's personal profile (see D1.1), in the staff and key roles structures (C1.1 and C1.2), and/or reflected in the allocation of cases (at D4.1). Auditors will also look for evidence that

supervisor capacity (time and numbers) has been taken into account wherever expansion of the service has been considered (see A1 on business planning).

Limiting the numbers supervised

Numbers being supervised need to be limited so that the role does not overstretch the supervisor's capacity, particularly since supervisors also need to meet their own caseload requirements. Other than for external supervisors (see the definition in the Standard) *no maximum number* of individuals that one supervisor is allowed to supervise is *specified* in the standard, though all supervisor: staff ratios must be justified and some guidance is given below to assist in this process.

Auditors will want to know how you have arrived at the *supervisor: staff ratio* and will expect decisions to have been made on an individual basis (where the category of work and particulars of the staff being supervised and the supervisor have all been taken into account). For example, in some categories of work (and/or other circumstances) you might be able to justify a supervisor being responsible for no more than four individuals, while in others it may be possible to justify supervising more.

As a guide, you will need to consider the following factors:

- The complexity and nature of the work involved.
- The experience and expertise of staff being supervised.
- Factors affecting the supervisor (such as other responsibilities and location).

Auditors have discretion with regard to the requirement about *numbers being supervised by an external supervisor* only where the external supervisor has been brought in as a short-term measure to cover extended leave or the unexpected departure of a qualified supervisor, and here efforts must be made to recruit or to train a member of staff to the required standard within at least 12 months.

You should note, however, that if you also receive public funding it may be conditional (as it is for the LAA's Crime and Civil Contract's) on your meeting a specified supervisor- fee earner ratio.

Guidance to accompany Section D: People Management

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement D4

Operation of the Supervisory Role

D4.1 Case allocation

Case complexity and content

To ensure that cases are matched to the competence of individuals, you may find it useful to have criteria for *grading the complexity of cases* (e.g. basic, moderate, complex and very complex). It may also suit you to identify cases relating to certain issues or requiring certain skills, so that these can be allocated to assist with training or development.

Case capacity

Auditors will look to see that the *volume (and complexity)* of cases allocated is assessed as being within each individual's capacity. They will also expect to see fewer cases allocated to supervisors (to account for time taken supervising) and to less-experienced staff (unless cases are graded in complexity before being allocated).

Reviewing allocation

File-review findings and issues that arise during supervisory sessions should be taken account of during the case-allocation process, as should details of completed training and attained development objectives. This will help to ensure that you are *continuously updating and validating your understanding* of each individual's limits and can modify their caseloads (volume and content) accordingly.

Auditors may want to *speak to staff* about the types of cases they are allocated and consider work outputs (including file-review findings and instances of referrals) if they have any concerns about this requirement. Note that although instances of referral may also be reviewed to see that staff are not regularly being allocated work that is beyond their competence, wherever an individual feels that they have reached the limit of their competence, they must refer the case (see D4.3). The practice of referral in these circumstances should be supported and encouraged by the supervisor.

Auditors will pay particular attention to how the supervisor feeds relevant information into the case-allocation process *wherever day-to-day allocation is handled by someone else*. Often this relies on an arrangement for the supervisor to review all allocations periodically (e.g. quarterly), as well as in response when any relevant issues arise.

D4.2 Systems of supervision

The importance of good supervision

Effective systems of supervision are *critical to quality service provision*, as they ensure that proper support is available to all staff to help them deliver a consistently high-quality service (particularly in respect of the advice they give clients), and because they should allow you to identify problems (on individual cases and with staff) before they become significant or systematic.

In considering the systems you should put in place, it is worth noting that *supervision is not the same as file review*, and that although there should be a correlation between them, the two activities need to be demonstrated separately. File review should be used as an internal

quality-control mechanism to provide reassurance that supervision is operating effectively (i.e. to confirm that there is no need to increase the level of supervision to be assured of quality, or to confirm that a decrease would be unlikely to jeopardise clients). File-review findings may form the basis of discussion at supervisory sessions, but would never be the only source of information used to help develop staff in their day-to-day handling of cases and clients (as is required from supervision).

Finding the right level of supervision

Arrangements for supervision need to be *tailored to each individual* according to their knowledge, skills and experience, using methods such as induction, training, testing, file review and appraisal records.

The *process needs to be kept under review* so that arrangements for supervision remain appropriate to each member of staff, and are not unnecessarily onerous for the supervisor or too limited for effective supervision. It is usual practice to have high levels of supervision (e.g. checking all correspondence and having daily supervisory sessions) for inexperienced and new staff, though auditors will expect to see this decrease (e.g. to sample checking and weekly sessions) as competence is demonstrated (e.g. by limited adverse file-review findings and/or satisfactory appraisal following completion of a probationary period).

Auditors are likely to speak to supervised staff about the supervision they receive. In addition, they may want to investigate any regular or serious adverse file-review findings and/or findings from supervisory sessions to determine whether these could be rectified by changes in the arrangements for supervision.

Methods of supervision

Evidence of supervision may be found in many places (according to the method(s) used), including incoming correspondence or copies of outgoing correspondence, on file notes, and in minutes from meetings (supervisory or more general). Methods of supervision include:

Checking and allocating incoming correspondence.

Checking samples of outgoing correspondence.

Regular supervisory sessions to discuss:

- New cases taken.
- Progress in existing cases.
- Tactics, options, use of undertakings, and content of complex case plans where necessary.
- Outcomes of cases completed since the last session.
- Training needs and professional development.

Monitoring central records (e.g. for solicitor undertakings and for feedback following use of an approved legal service provider).

Supervisors in multiple offices (or with other duties)

Where supervisors face restrictions on their ability to supervise (e.g. because they split their time between different sites or have other time-consuming responsibilities), they will need to show how *arrangements for supervision have been tailored* to take these factors into account. Depending upon the factors concerned, auditors might expect to see fewer staff supervised than would otherwise be the case or special arrangements made for daily contact and supervision (perhaps by e-mail, video conference and/or daily telephone briefing sessions).

D4.3 Limits of individual competence and referral

Competence to act

Steps must be taken to ensure that work is not conducted for clients where it falls beyond an individual's competence or where, for any reason, the case would not be conducted with diligence.

Testing individuals' limits

Auditors will test individuals' understanding by reviewing the information on their personal files that builds a picture of individual competence (e.g. file-review findings and details of training, appraisal and objectives, and responsibilities), and by talking to them about the sorts of issues they would refer to their supervisors. They will also seek evidence that this is happening wherever individuals appear to be in need of assistance (as evidenced by file-review findings or from case files).

Any indication from other organisations that referral was not appropriate (particularly if it took place too late), may also be investigated.

Special cases

Due to the highly specialised and complex nature of most judicial reviews and appeals to the Court of Appeal and beyond, and because many of these cases are expensive and relatively unsuccessful, auditors will need to see evidence of *competence* wherever a concern about performance has come to light. You may extend these arrangements to cover other case types at your own discretion. You may also be required to do so, as corrective action, if concerns have been raised about the handling of other specific cases.

Ordinarily (and in the absence of adverse performance findings), competence will be implied where you have experience in managing judicial review and appeals to the Court of Appeal cases. Evidence that you may already have (if asked to support the assumption of competence) might include information you keep about types of case, case outcomes and specific skills demonstrated by the supervisor. Membership of a practitioners' association concerned with cases in the area of law, publications on relevant matters and successful cases can also be presented to indicate competence.

Note that if, in meeting this requirement, you rely on the *competence of someone supervising the work* (e.g. where it is the caseworker's first case of that type), particular attention will be given to supervisory arrangements. Note also that the person supervising the work or some of the work need not necessarily be the caseworker's usual supervisor (i.e. you may ask another supervisor with particular skills in handling judicial reviews or appeals (regardless of category of law) to play a role in supervision for the duration of that particular case).

Where it is not reasonable to assume competence on the basis of previous experience in handling judicial review and/or appeals to the Court of Appeal cases, the requirement is that *cases must be referred unless there are exceptional circumstances* (concerning the client, the urgency of their case or the lack of a suitably qualified specialist to whom to refer). Where this happens, a *written record* is required to be kept, setting out the reason for the decision and confirming approval from the supervisor. Note that where the individual with conduct of the case is the supervisor, approval should ideally be sought from a senior manager or partner (and some organisations may want to make this a requirement).

The written record (where exceptional circumstances can be demonstrated) must also summarise the *steps taken to overcome lack of experience and expertise*. These might include using a second-tier service for advice, prompt use of specialist counsel, use of relevant legal texts, training, or support from another specialist.

D4.4 Access to reference materials

Purpose – and the meaning of “access”

In such a technical field as law, where legislation and cases rapidly redefine what can be achieved, it is essential that members of staff have *access to material* on the relevant area of law, sometimes to confirm understanding, sometimes to consider alternative avenues of approach, and sometimes to refresh their memory on legislation or case law.

Having *access to material* does not necessarily mean retaining copies of all material physically on site nor does it refer only to hard/paper copies. For example, where you consider it appropriate (and where access is reasonable for anyone who may want to use the material), you may want to document the use of certain websites or other electronic information, or be able to show membership (and use) of a local law library.

Keeping material up to date

Periodicals and loose-leaf publications should be updated as they are published and, as a minimum, textbooks should be reviewed annually to make sure that they remain current (or marked to make others aware that certain parts have become out of date), as should websites or other sources of electronic information. Auditors will expect you to query or cease using sources of regularly updated information that have failed to cover major legislative or critical case law changes within a reasonable period of time (i.e. within three months).

Using the material

Auditors may want to check with individuals about the reference materials they use and may also look at preparatory notes on files (particularly where you have applied exceptional circumstances in not referring a case externally; see D4.3 above).

D4.5 Updating legal information to staff**How the supervisor maintains their knowledge**

This requirement concerns *regular updates on law, best practice and procedure* (as and when they arise), how the supervisor makes sure that changes are not overlooked and how those changes are then passed on to supervised staff, and is usually in addition to the planned training that is outlined in D2.3.

This is usually demonstrated by *subscription to a publication* (often monthly but possibly less frequent depending upon the rate of change in the relevant area of law) containing law updates, which is reviewed by the supervisor before being circulated or used as a basis for discussion. This may be a specialist publication covering only the specific areas of work supervised, though it is more likely to be a general publication containing updates across a range of areas, including generic issues of best practice and issues specifically concerning the area(s) of law being supervised. Access to the publication can be physical or digital so long as the content is of sufficient quality and accurate.

Membership and regular attendance of a national or regional *practitioners' association* or similar group may also demonstrate that the supervisor takes steps to keep their knowledge up to date (depending upon meeting frequency and content).

Cascading information to supervised staff

The method used for maintaining legal knowledge amongst staff should be set out in your internal communications plan (see A1.1) and will be *influenced by the experience and expertise of your staff*. It is unlikely that circulation of texts alone would suffice, but this will depend upon the experience and expertise of the staff involved. For example, auditors will usually expect to see salient points from changes in legislation and case law highlighted during departmental meetings and covered in detail in supervisory sessions for less experienced staff.

Although many of the updates provided will concern relatively minor issues with only limited impact on working practices, there are likely to be occasions when the change is more significant and you opt to *cascade knowledge by arranging formal in-house or external training*

sessions (e.g. where there is a new act, a new protocol or a particularly influential case, or there are new court practice rules). You may also want to deliver updates in a more formal setting if you have a large department or many inexperienced staff.

For staff with limited experience, reviewing new legal knowledge and testing its application should routinely form part of the individual's training and development, possibly by the integration of case studies or discussion into supervisory sessions, or by allocation of relevant cases followed by targeted reviews.

Guidance to accompany Section D: People Management

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement D5

Individual Competence

D5.1 Training requirements for caseworkers

Purpose

Training for casework staff is fundamental to their *attaining specialist competence*, and therefore also to the provision of quality advice and a specialist level of service.

*For organisations undertaking criminal legal aid (where there is provision for non-designated staff) although it is not a requirement to include *non-designated staff*, ideally you will want to make sure that they too receive a certain minimum amount of training (although this need not necessarily be provided by you, particularly where the individual also works for other organisations).*

Content

You will need to be able to show that at least 50% of all qualifying training (or 100% for criminal caseworkers) related directly to (or was designed to be applied specifically to) casework in the relevant category of law. Training that is required in order *to maintain accreditation* will usually count towards the six hours required.

In addition to training specifically covering law, procedure and best practice in the relevant category, you should consider the need for training with a more general application, such as *training in client care, ethics or best practice generally* (that can make up the remaining 50% of the requirement for civil caseworkers or additional training for criminal caseworkers). In particular, you might like to consider whether your target community or client base has any special needs, and make sure that training is given to caseworkers to help deal with them (e.g. advice for young people, the mentally ill or victims of domestic violence), as appropriate.

Conditions

Conditions that apply for training to qualify to meet the requirement are given in the definition. Where training does not meet this standard, you will need to justify the reason for selecting it (usually by discussing the reasons with the auditor or recording them in the individual's training plan at D2.3).

D5.2 Legal qualification or minimum hours

Purpose

For staff to be operating at a specialist level, it is necessary for them to demonstrate *minimum knowledge and involvement with the law* (either by professional legal qualification or assumed on the basis of casework undertaken).

Legal qualifications – confirming compliance

All of the individual (fee-earner) classifications from 1 to 15 (listed in Annex A and referred to in guidance at A1.1) qualify as meeting this requirement (including non-solicitor supervisors, etc.). Where any records that you keep (including personal records such as employment contracts, training or appraisal records or on the staff skills and expertise summary at A1.1)

confirm that individuals fall into one of those categories there is no need to document anything further for that person.

Legal qualifications – for panel members

As many panels rely on periodic assessment (rather than ongoing monitoring) it is necessary for individuals belonging to those panels to be able to confirm ongoing compliance with the relevant requirements. Again, if required to provide evidence, this will usually already be shown on the individual's personal file or training plan).

For duty solicitors

Duty solicitors need to be able, if asked, to demonstrate ongoing compliance with the Duty Solicitor Requirements (see section 6 of the Crime Contract Specification).

For police station representatives

All police station representatives need to be able, if asked, to demonstrate ongoing compliance with the Police Station Register Arrangements 2001 (as amended). This applies equally to designated and non-designated police station representatives.

Minimum hours

For members of staff to which category 16 or 17 applies (see above), who do not have a professional legal qualification, it is necessary to document (somewhere) the number of hours of casework completed per week (or the average per week), or to confirm that it is at least 12 hours. As for legal qualifications, you may find this on individuals' personal records (employment contracts, volunteer agreements, training or appraisal records) or elsewhere.

Note that qualifying hours all need to be supervised to SQM requirements (given at D4) or an equivalent. Ideally they will all also be *conducted in one area of law and all for your organisation*, though you may be able to justify otherwise, for example, where overall casework hours are all completed in related areas of law (even if not in the same category), or where the individual carries out other specialist work in the same area of law for another organisation (e.g. they complete eight hours of housing casework for you per week, and another eight hours per week for a different organisation).

E: RUNNING THE SERVICE

SQM holders must have processes and procedures that ensure an effective and efficient service to their clients.

Requirement E1	File Management
Purpose	To ensure that cases are properly managed and controlled, both overall (from an organisational perspective) and individually (so that they are acted upon appropriately and punctually).
Requirement E2	File Review
Purpose	An independent review of casework enables organisations to monitor the quality of the advice and service being provided, as well as allowing early intervention where concerns are raised, and enabling training and development needs to be quickly identified and acted upon.

Guidance to accompany Section E: Running the Service

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods that auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement E1

File Management

E1.1 File lists

Your file management system

Although the system you use for recording file information and producing file lists *need not be computerised* to meet the SQM requirement, it will need to be capable of showing the information by category of law and for any period requested, at any time.

You should note that *computerised file management might form a condition of funding*, as it does, for example, for legal aid funding from the LAA.

List contents

Your list is required to *include all work covered by the SQM (or application)*, including privately funded or pro bono work (where this work is included in your SQM or application), *and including even short pieces of advice* (e.g. legal help funded by us, or one-off attendance or police station advice where a record is kept even though an actual “file” may not be made), though you may want to identify them as such in some way.

Instances *where a client is signposted* without notes being taken or a file being made are not considered to be cases, and do not need to appear on the list.

You should only disclose client information in line with relevant data protection legislation, most notably the Data Protection Act 2018 (see F6.1). If you have a legal aid contract there will be specific requirements on information handling you will need to follow on that contract.

Basic case information required:

Identify file reference; name of caseworker; date opened and where applicable date the file was closed.

In addition to the basic case information required, *you may also find it useful* to record:

Sub-classification of the case type (see case classifications at Annex A) or a brief description.

- Funding status (e.g. our organisation, local authority or trade union funded, private or pro bono).
- Solicitor/ Advocate undertakings given and not yet discharged.
- Current case status (e.g. legal help or limited assistance, pre-litigation, proceedings issued, with the costs draftsman, or awaiting payment).
- Case duration (from start to present date or from start to finish).

Note that you need not separately identify the caseworker (with conduct of, or main responsibility for, the file) separately, where this can already be deduced from the file reference (e.g. where your case code incorporates a caseworker reference).

Making use of additional information recorded

Provided your system is capable of extracting data by a range of parameters, additional information can be valuable in helping you, for example, to:

- Monitor activity such as case allocation (see D4.1) or solicitor undertakings (see E1.2(d)).
- Ensure that the range of files reviewed is representative of an individual's overall caseload (E2.1(b)).
- Assist with resource management (see C2.1 and C2.2) and financial control (see C2).

E1.2 File management procedures

E1.2 (a) Conflict of interest

Early and regular checks

Your procedure should encourage identification of possible conflicts of interest to take place *as early as possible*, regardless of when they arise in the case. This means that staff need to be alert to the issue *throughout the case*.

This is particularly *relevant in criminal matters*, where there is a possibility that, having acted as a police station adviser, *you may be called as a witness*, or where there may be a conflict between the duty to disclose to one client and the duty of confidentiality to another *when acting for co-defendants*. Checks should also be considered as soon as *details of prosecution witnesses* become available (particularly in cases involving domestic violence).

In all circumstances staff should be alert to the potential for a conflict of interest to arise throughout the case (including conflict between duty to disclose and duty of confidentiality), as should *supervisors conducting file reviews*.

Identifying specific circumstances

You are required to identify specific circumstances where a conflict of interest is likely to occur in your organisation, and to set out in your procedure *how you expect such instances to be managed*. Unless you can give the auditor a good reason why any of the following should be excluded, it is reasonable for them to expect to find that your procedure will deal with at least the following circumstances: you are acting for both sides in a civil dispute or co-defendants in a criminal matter; the case may involve action against the organisation, a member of its staff or management committee, or a funder; a case that you know to be based on false information.

You may know of other types of conflict of interest that are common to cases you take, or that have arisen in the past, and want to cover these in addition, *even if to confirm that you would not act* in such a situation.

Acting when a conflict has been identified

Unless contrary to any code of conduct by which you are professionally bound, or contrary to common law, *your procedure may outline circumstances in which you would continue to act for a client* where a conflict of interest has been identified. In such instances, however, your procedure should require the client to be notified (and outline the extent to which the conflict should be detailed), other than in exceptional circumstances (which should also be described in the procedure and which should require justification in writing on the file).

Multi-office organisations

Multi-office organisations should consider including checks at other offices.

E1.2 (b) Locating files and tracing contents

File location/storage

As a minimum, correspondence files in open cases need to be *stored on-site*. You should also be able to access other parts of open files (perhaps stored elsewhere and accessible for the purpose of SQM audit)

You may want to include information about file location in your *file list* (see E1.1).

Files closed for up to six years are required to be retained for SQM audit purposes, but can be *archived off-site* if storage on-site is a problem, or can be placed on *microfiche* once closed for at least two years. It will assist with locating archived files if they appear on a list or if your file list identifies them as such. It will also help you to manage retention (up to six years) and destruction (after six years) of closed case files (older than six years) if the date on which the file was closed is listed.

E1.2(c) Back-up recording of key dates

What is a key date?

Beyond those required as a minimum (see definitions in the SQM Standard), *it is for you to decide* what constitutes a key date. The dates you choose to record and monitor should provide you with confidence that action will always be taken on cases at the appropriate time, and these dates are likely to be influenced by the category of work they cover or the service you offer.

Auditors will want to know that *staff can identify all key dates* relevant to their work and that they can describe the process for recording and monitoring them.

Recording and monitoring key dates

Key dates can be *recorded in any format* (e.g. in a paper diary or on computer), so long as they are readily accessible by the person required to monitor the back-up. You need not have a central record, though the requirement can be met by having one. The requirement can also be met where, for example, a copy of the record is kept by individuals' administrators or their supervisors, or where departmental diaries are held. It is also acceptable for you to retain more than one diary (one containing only limitation and court/tribunal hearing dates) which is monitored and backed-up, and another (usually a personal diary) which contains other dates which are not within your definition of "key dates" (e.g. file inactivity review dates, expected return of experts reports, pre-action protocol dates). A record on the case file itself cannot be considered to be a back-up (save for where files are held electronically, and the system provides an alert when a key date is approaching).

Auditors will seek evidence (from case files and back-up records), that *procedures are effective* and that reviews are sufficiently frequent. They may also use evidence of oversights (for example, raised in client correspondence or by the court) to consider whether the key dates you have identified are sufficiently comprehensive.

E1.2d. Recording solicitor undertakings (their authorisation and monitoring, including discharge) given on behalf of the organisation:

Guidance on undertakings

If your organisation ever gives undertakings, as well as documenting the *types of undertaking(s)* that individuals are authorised to give (see definitions in the SQM Standard), you may want your procedure to include guidance on the circumstances in which they should be given and to define the form that they should take, possibly including giving appropriate wordings. Consideration should be given to outlining your approach to oral undertakings.

If your organisation never gives undertakings you need not necessarily document this providing all staff are aware of the position.

Recording and monitoring undertakings

The system you select for recording and monitoring undertakings will depend upon the nature of work conducted. As for key dates, the *information can be recorded in any format* (which

may or may not include a central record), so long as it is accessible by the person required to monitor it.

Auditors will want to assure themselves that staff know which undertakings they are authorised to give and/or what process to follow, and will seek evidence (from case files and undertakings records) that *procedures are effective*, including that any undertakings given were properly discharged.

E1.2 (e) Monitoring files for inactivity

Determining intervals

Reviews should take place sufficiently often to alert you to inappropriate or inadvertent inaction (e.g. when the other side has failed to respond or a report is overdue). However, the review should act as a backstop only, to support your key dates and other diary systems; *it is not necessary to determine a review period for individual cases* (unless it is your practice to do so).

Auditors will usually ask you to *justify any review frequency that is longer than three months*, though they may apply shorter intervals if they are more appropriate to the particular case type.

You may, however, want to determine *different intervals for different types of case*. Indeed, the auditor may expect to see this where departments handle very different types of case. For example, it may be appropriate for a department that handles cases that typically run for a number of years to apply a three-month review interval, while the period between checks would be much shorter in a department where cases are ordinarily concluded within several weeks or months.

Monitoring inactivity

You can use either a *manual or computerised system* to produce the information, so long as the system is able to produce data on file activity (or inactivity). This information may, for example, come from casework diaries, or from time-recording or billing records (if you have these) and be recorded on (or carried over to) the management system from which file lists are produced (see E1.2).

Monitoring inactivity does not constitute file review in any respect (see E2 for file review), though inactivity may be checked at the same time as a file review is being conducted.

E1.2 (f) Identifying relevant matters and linking files

Defining a relevant matter

This will *depend upon the type(s) of cases being handled* (i.e. the likelihood of something material to the current case being known from previous or other current dealings with the client).

Auditors will check to make sure that staff have a *common understanding of the definition* that you apply, and will question whether it is sufficiently detailed and/or comprehensive if there is evidence that a case may have benefited from, or progressed more quickly with, information held on another file.

Identifying relevant matters

Your approach to identifying relevant matters will depend on the case type and circumstances, so you may have a number of ways of managing this. For example, if you are dealing with *cases that are typically repetitive* (e.g. criminal or domestic violence matters), you may want to limit details about previous cases to a file reference, a brief description and a date for each previous relevant matter.

In other instances you may need *access to more detailed information about previous relevant matters*, for example, where you acted in a similar (but non-repetitive matter) for the client or for someone else in the past, and will want to refer to the file(s) from time to time for details. Here you will want to note relevant file reference(s) (and maybe location) in a prominent place on the current file, and possibly keep a record of when you referred to it/them and why.

Where *relevant matters are ongoing at the same time*, you may require a different approach again, as it should be possible to see, from any file selected, the progress of all matters relevant to the case. Each file should note the existence of another relevant matter, together with key information about the case and its status.

Linking files

Files in sequence (e.g. in a long-running civil case which extends to a number of files, or where criminal charges have been heard in different courts and each jurisdiction is covered by a separate file) need to be linked so that it is clear when selecting one file that another or others exist. The same applies where correspondence and documents for a single case are stored in a *series of files*.

Your process or process(es) (e.g. red files for correspondence, blue files for experts' reports, and so on, and/or by numbering files sequentially and totally (e.g. 1 of 4)) needs to be common to all cases (or types of case) so that staff know the circumstances in which they are expected to link files and are familiar with the practice for doing so.

Linking file contents with files

Compliant practice usually involves marking all items (including correspondence) with a *unique identifier* common to the case, so that they can easily be filed or reconciled with the appropriate file.

Where *documents are stored separately* from the case file, or *in more than one file* (for example, due to size), you will probably also want to mark each file to identify its content and the fact that it is part of a set of files (e.g. "File 1 of 4 – Correspondence" and "File 2 of 4 – Medical Records").

The *same principle applies to sequential files*, for example covering the progression of a criminal matter through different courts (e.g. police station file, magistrates' court file and Crown Court file).

E1.2 (g) Ensuring technical and organisational measures protect information

Technical and organisational measures

You are likely to use Article 32 of UK GDPR as a framework so practical measures are put in place to protect information in compliance with relevant data protection legislation.

Organisations should assess the appropriate level of security on account of the risk that are presented when processing data.

For smaller organisations, practical technical and organisational measures could include, but are not limited to, the following: the state of the art, operating system updates, virus protection, protected WiFi, backing up data regularly, computers are password protected and users have their own log ins/passwords.

For larger organisations, practical and organisational measures could include, but are not limited to the following: the state of the art, operating system updates, virus protection, protected WiFi, backing up data regularly, computers are password protected, users have their own log ins/passwords, all staff undertake Data Protection Training (see F6.1), penetration/vulnerability testing.

E1.3 Case files are logical and orderly

Recording and maintaining key information

You will probably find it useful to have a common process for recording the key information (see definitions in the SQM Standard and the paragraph below) that must be stored in a prominent place on each file. This can be achieved by the use of *standard updatable checklists or pro-formas* (on the inside cover of each paper file or on a summary screen on the relevant computer record), which will ensure that the information recorded is both comprehensive and consistent.

In addition to the *minimum key information* required (see definitions in the SQM Standard), you may also find it useful to identify *additional points that are specific to case types* you handle. For example, in criminal cases, you may additionally want to note the names of any co-defendants, whilst in Clinical Negligence cases you may consider that a summary of the experts used would be useful.

Sample checks that key information has been maintained accurately should form part of the task undertaken during file review (see E2), as confidence in the summary information will improve the speed and accuracy with which other quality controls (such as checks on undertakings and monitoring of key dates) can be carried out.

Keeping files in an orderly and logical manner

You will probably find it useful to document some *generic requirements for file organisation* so that there is a common structure to all files. This will help everyone to find appropriate information on files more quickly. Arrangements may, for example, include separating correspondence from other documents, sub-dividing documents into types of reports, opinions and proceedings, requiring all correspondence to be filed in date order, using markers to identify certain information, and stipulating requirements for papers to be paginated (e.g. medical records).

Members of staff should be conscious that they and others may need quick access to information on their files, and that keeping clear and orderly records is important in order to:

Ensure that relevant information on clients is available so that they do not need to keep repeating details of their case.

- Allow access to written records that the client might need.
- Enable other advisers to easily understand the progress on a case if they need to undertake some work on that case or respond to an enquiry from the client or deal with a third party.
- Help to quickly recap on progress to date or issues in the case.
- Provide evidence to back up a client's case where there is a dispute with a third party about facts (e.g. lost correspondence, previous discussions, dates, etc.).
- Discuss the progress of cases and identify training and development needs as part of supervision (including file review).
- Demonstrate that organisational policies and procedures are being followed and that clients are getting a consistent service.
- Provide evidence where there has been a complaint against the service.

Guidance to accompany Section E: Running the Service

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods that auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement E2

File Review

E2.1 File review processes and procedures

Purpose

File review is *internal quality control*. It is a check (by someone sufficiently experienced) of work on a case file to make sure that legal advice given and action taken or proposed was correct and was most appropriate for the client, and that internal procedures, and any other rules by which you must abide, have been followed.

File review provides *an opportunity for mistakes to be identified and corrected* quickly. It also allows training and development issues to be identified for further consideration and for work of a particularly or consistently high standard to be recognised.

Results from file reviews will also allow you to confirm whether or not the level of supervision for each individual is appropriate and will help you to make proportionate changes where more or less supervision is warranted. It is critical to note, however, that *file review is not supervision* it can only support supervision.

E2.1(a) Numbers of files, frequency and method of review

Justifying the process you use to determine numbers, frequency and method

You need to be able to justify the process you use to assess individuals' experience, expertise/skills and the quality of their work, so that the auditor is satisfied that you arrive at file review arrangements that give *confidence that all casework staff are consistently delivering quality work and following quality procedures* in the advice they give and the service they deliver. This element refers to the requirement to justify your process and so does not need to be documented (though you may find it useful to do so, particularly if file review is relatively new to you or if staff turnover is relatively high).

Note that *organisations undertaking criminal legal aid* must additionally comply with file review related requirements that are given in E2.1a. These additional requirements apply to (and are mandatory for) all members of staff of *organisations undertaking criminal legal aid* who are designated (see glossary in the SQM Standard); they are optional for non-designated members of staff.

Your process for determining file reviews may be to consider all aspects of individual assessment from the start (e.g. during recruitment, induction or from interviews with the supervisor). Alternatively, *as a starting point*, you may want to *assume a number of factors*. For example, initially, you may want to determine the number of files according to a formula based on experience (as illustrated in the table on the next page), and you may decide that to begin with a certain percentage of reviews should be conducted face-to-face with the caseworker, and that all reviews should be conducted monthly.

However, auditors need to be satisfied that your process delivers *arrangements that are appropriate for each individual over time*. You therefore also need to demonstrate that you have a process for monitoring file reviews so that findings have an impact on your arrangements.

For example, you may want to trigger an increase in numbers of files reviewed after the need for *corrective action* (maybe of certain seriousness) has been identified, or to reduce the number where no corrective action has been identified for a certain period of time or over a certain number or percentage of reviews. Criteria may also include factors such as changes in *work allocated* (type or number of cases), *qualifications achieved* or *training completed*, or where, *supervisory sessions* or *complaints* identify concerns. Criteria for amending frequency of review and method of review should also be included. For example, you may want to consider circumstances in which it would be more appropriate to increase frequency of review, rather than numbers of files reviewed (e.g. where cases are of types that are completed rapidly), or to change the method of review (e.g. to use observation and feedback reviews rather than reviews of paper files, where you specifically want to review how the caseworker responds to clients).

Auditing your process

Auditors can use a range of sources (such as diaries, complaints, and referral records), as well as file review findings, to satisfy themselves that the arrangements for file review are appropriate for each individual. Critically, they will also want to see that *other forms of supervision* (see D4) are *proportionate to the file review arrangements* (i.e. that file review is used as quality control to determine whether supervision is adequate, rather than being used in place of supervision). They will therefore expect individuals who are subject to high levels of file review to also be subject to high levels of other forms of supervision (and for supervision to be the mechanism by which the individual's work is controlled, rather than by retrospective file review).

Criminal file reviews for designated members of staff (i.e. the majority)

In addition to the general requirement to be able to justify volume, frequency and method of review, it is a requirement, if you are seeking or want to maintain an SQM that you meet the requirements outlined in E2.1 a for all designated members of staff (i.e. for the majority of your casework staff – see glossary in the SQM Standard)

As well as being able to *justify* your file review process (volume, frequency and method), the requirements in Annex A require a *minimum* of two files per month per designated caseworker (or one file per month per category for fully qualified supervisors, see below) to be reviewed, for review frequency to be no greater than every quarter (though see guidance below, which suggests that monthly is more likely to be justifiable for the majority of (and certainly including police station advice and court duty solicitor) cases), and for 50% of the minimum number of reviews required in each quarter to have been carried out face-to-face.

Note that a *fully qualified supervisor* is someone who not only meets all of the supervisor requirements at D3, but who also acts as a current supervisor (meeting the relevant requirements in D4).

Also note that *where a caseworker has fewer files* (than the minimum required), work on all files will need to be reviewed in the review period.

Criminal file reviews for non-designated members of staff

Although working in a very limited capacity for you, you still *need to ensure that any non-designated staff are delivering quality work*, and indeed may have more reason than for designated staff to review work.

File review arrangements for such staff need not comply with the category-specific requirements in Annex A, but you must still be able to justify and agree volume, frequency and method of file review with the auditor. Auditors may routinely look at the *files of non-designated members of staff* as part of other aspects of the quality audit process.

Guidance on number of files to review (subject to specific requirements for Crime)

The *guide figures given below* are a starting point for the reasonable number of files to be reviewed, relating to the level of experience of the individual. Unless you have a fully

operational file review process already in place with which you and your auditor are happy, you may want to adopt these figures to help develop your process.

You should note that the figures below are guides to the norm, according to average levels of competence for different categories of caseworker. In order, however, for file review arrangements to be appropriate for each individual, *other factors need to be taken into account*. These include the numbers of instances of previous corrective action and the seriousness of errors or omissions identified as well as the type and amount of work allocated (caseload and case mix). For example, it would not be appropriate to adopt the guideline figures for caseworkers with an unusually large caseload (and the auditor would, in such circumstances, expect to see a proportionate increase in files being reviewed). It may also be possible to justify reviewing fewer files per person per category than the guidelines suggest where caseload is unusually low, or where you can demonstrate that there is a significant and relevant commonality in issues being raised on files from different categories. The guideline figures given are presented on the basis that you conduct file reviews either monthly or quarterly. You need not necessarily apply either frequency to your process and may, therefore, need to extrapolate the figures (see guidance *on frequency Table 2.1a, over*).

Table 2.1a) Guidelines for numbers of files to be review

Experience of individual	Number of files to review (per person, per category), per month	Number of files to review (per person, per category), per quarter
Experienced category supervisor	1	3
Category supervisor (for less than two years)	1–2	3–6
Experienced caseworker in the category (over two years' experience)	2	4–8
Caseworker in the category (1– to 2 years' experience)	3	6–10
Trainee/probationer	3–4	8–15

The *number of files reviewed can, and should, be amended* as your process evolves and as confidence is assured. You may want to start by applying the guide figures above and alter them over time, according to individual findings (e.g. increasing them if corrective action is consistently identified and decreasing them if it is not). Organisations undertaking criminal legal aid should note that for designated *staff* you cannot choose to audit fewer than the minimum number of files required (according to E2.1a), regardless of findings.

It is probably easiest to *specify a particular number of files* for each individual (e.g. three a month), but files could also be specified as a percentage of cases conducted.

Note that file review need only apply to caseworkers to whom cases are allocated. This means that *trainees/probationers who are not allocated case files need not be included* in your file review process. Where such members of staff exist, however, auditors will expect to see that their work is subject to 100% supervision as an alternative.

Review frequency (subject to specific requirements for Crime)

Other than for organisations undertaking criminal legal aid (where reviews are required to be conducted no less frequently than every quarter), it is for you to determine review frequency, so long as it can be justified. That said, the definition is clear that *for civil cases* it will be

difficult to justify any review frequencies that are less than *quarterly*, while *for crime cases* the vast majority of work will justify *monthly* reviews.

Review frequency will often be set *according to the type(s) of work being reviewed*. For example, it would not be appropriate to review short pieces of work (e.g. basic immigration advice) each quarter; neither would it be appropriate to review longer-running types of cases (e.g. clinical negligence litigation files) every fortnight.

It is usual for a single file review frequency to apply to all caseworkers in the same category (and often to all in the same organisation), but this is not a requirement and you can set a *different review frequency for each category or even for each individual* if you feel that it is appropriate/manageable.

The auditor will check to see that the review frequency you document is being applied. If you set short intervals (e.g. fortnightly) and miss several, the auditor will not be able to consider that your process is in effective operation. At the other extreme, if you set long review intervals, you risk the chance that intervention would not be timely if corrective action was identified and the auditor may consider that this review frequency cannot be justified.

Review methods (subject to specific requirements for Crime)

It is only a requirement that you document review method, where it is anything other than 100% file content. So, if you include any other method, for example face-to-face reviews (as you are required to for all designated crime caseworkers) or observation reviews. This must be documented.

A *remote review of file contents* (without the caseworker present) is the usual method, although you may choose to carry out face-to-face reviews in addition to or in place of a proportion of (but not all) file content reviews. *Face-to-face reviews* are where the caseworker whose file is being reviewed is present at the time or where the review is conducted remotely (e.g. by telephone or video conference) but on a one-to-one basis. These involve direct discussion of the case and of the way in which it has been handled by the caseworker (using the case file as a basis) than would a remote review of file contents.

In addition to Crime caseworkers (for whom 50% of file reviews specified in E2.1a) must be conducted face-to-face), examples of instances *where a file content review alone may be restrictive or insufficiently interactive* include types of work that place the caseworker in a pressurised situation where it is difficult to keep a full record and where specific skills in managing people and situations are required (e.g. in a hospital, or during fraught domestic violence interviews). Here, a more accurate picture of the individual's competence (and of areas of concern for them that may not otherwise be evident) can be obtained by reviewing file content with them present.

More comprehensive still, is *observation of the individual* during an interview. This can be very valuable in assessing how skilfully they conduct themselves (in terms of how they gather, record and act on information, liaise with others present at the interview (particularly for police station and Mental Health Review Tribunal (MHRT) matters), and how they handle the client. You may want to include some instances where you observe the individual in this way, within the number of face-to-face reviews you carry out (if any).

Other methods of file review, such as group discussion and role play, can also deliver valuable assurance about quality of work. In some circumstances (e.g. in particularly costly, risky or lengthy cases) it is not uncommon for the supervisor (or sometimes a group consisting of several supervisors and partners/managers) to set key dates or milestones at which each and every case will be reviewed. This sometimes happens as part of a complex case plan review, but not necessarily, and is often triggered when one natural stage has been completed and before starting another (e.g. after initial advice, on completion of investigation, before issuing proceedings and so on). This approach to file/case review can be very effective in providing an objective assessment of costs-v-benefit-v-risk, and when it includes an assessment of the caseworker's conduct in the case can also feed into the supervision process as would traditional file review. Ordinarily these approaches would need to supplement, rather than

replace, file content and/or face-to-face reviews, *but they may (where shown to be effective) justify lower file review volume* than might usually be expected.

E2.1 (b) Representative samples

Random/targeted samples

Although *random sampling is the usual method* of selection for files to be reviewed, it may be more appropriate to target files or to target issues on files. This is particularly so if the caseworker covers a non-standard range of work, if certain types of case are new to them or are considerably more complex (and therefore pose a much higher risk of errors occurring) than others they handle, or if files are particularly large.

Monitoring range of work covered

Over the course of a year, *the range of work reviewed for each individual needs to be representative of the work they have conducted*, unless you can justify otherwise to the auditor (e.g. if you have targeted a disproportionate number of more complex files producing an over-representation there). You can help to achieve this (and to demonstrate it) if your review records contain a reference to the category into which the case falls or reference to the case type or classification (i.e. the sub-classification of work in each category, see Annex A in the SQM standard).

E2.1 (c) Communicating review findings

The purpose of communicating outcomes of all reviews (even where no corrective action is identified) is so that staff are *aware of their performance on an ongoing basis*. At its simplest, this can be achieved where your process makes the individual aware that a file of theirs has been reviewed, and by your providing them with a copy of the file note. Outcomes of reviews may be communicated on paper, as part of a supervisory session (or, more likely, a mix of the two depending upon review findings), or, for face-to-face reviews, as part of the review itself.

Feedback from file reviews (detailed notes or a summary of findings) should be included within annual performance review and feedback (see D2.2).

E2.1 (d) Reviewing corrective action

Confirming review of corrective action

To meet the requirement, your process will need to ensure that somewhere (e.g. on a file note, file review record or elsewhere) you note the *reviewer's identity* (e.g. by initials), *and the date* on which they reviewed corrective action. You may also want to note further comments (about the standard of work or time taken to complete it) if these would prove useful (for ongoing supervision or for performance review).

Note that it is a requirement for corrective action to be confirmed as satisfactory *by the person who undertook the review* (see E2.3), other than in exceptional circumstances (e.g. when the reviewer is on holiday or otherwise absent when corrective action was urgent), when corrective action may be signed-off by a deputy supervisor or person authorised to act as a temporary supervisor.

Evidence of corrective action

The auditor will expect to find *evidence of action taken* wherever corrective action has been noted as being required or a training need has been identified. This may be documented on the case file (e.g. as a copy letter to the client, or further instructions to an expert), may be reflected in amendments to the individual's arrangements for case allocation or supervision (see D4.1 and D4.2 respectively), or may, for example, form an entry on the individual's training and development plan (see D2.3).

Timescales for corrective action and reviews

As well as demonstrating that the timescale set for corrective action is appropriate, the auditor will want to see that the *review of corrective action completed takes place sufficiently quickly* for further action to be taken should it be required (i.e. if the reviewer is not happy that corrective action taken so far was to their satisfaction). Compliant practice will include return of completed corrective action for review within a set (short) period of time (e.g. one day), or within a period of time set by the reviewer when the corrective action was identified (which allows the reviewer to take account of the nature, severity and urgency of the action required, as well as of the individual whose file is being reviewed).

E2.2 Process management

Auditors will pay particular attention to process management where (or whenever) *part of the process is delegated* to someone other than the category supervisor (or lead category supervisor where more than one is in place; see E2.3 below).

Issues of process management are likely to be examined routinely in respect of the *supervisor's holiday periods* or other periods of absence (when they will need to show what arrangements were in place during their absence and what steps were taken to review process operation on their return).

The auditor is also likely to pay particular attention to process management where file reviews have been *delegated to a deputy supervisor* or anyone else to whom they have given prior authority. While the auditor will usually support such an approach, they will want to be reassured that the category supervisor is maintaining a watching brief over all file reviews (and over the person conducting relevant file reviews), and, in the case of a deputy supervisor, that they are supporting them in their developing role.

E2.3 File reviewers

Who should review the category supervisor's work?

Wherever you have *more than one fully qualified supervisor* (meeting all of Requirement D3) in the category, supervisors should be reviewing each other's work. More likely, however, you will only have one supervisor in each category, in which case, file reviews for that person may be carried out by *someone who meets the relevant legal competence* part of the supervisor standard (i.e. D3.2). Where no such person exists, permission to *authorise another member of staff* to conduct the reviews may be sought, if appropriate (see guidance below).

If all of the above avenues have been exhausted unsuccessfully (which will always be the case *for sole practitioners and sole caseworkers in the category*), supervisors may review the legal content (i.e. advice given and steps taken) of their own files. They should, however, *delegate the part of the review concerned with checking adherence to procedures and processes* (e.g. conflict of interest checks and key dates) to other (legal or support) staff – ensuring that they are fully conversant with the procedures/processes concerned.

You may also want to consider *reciprocal arrangements* to conduct file reviews *with supervisors in other organisations*. This approach can provide valuable independent reviews (even if only applied to a limited sample of the files that are required to be reviewed) and has the added benefit of aiding communication and practice links with others working in the same field (see D3.1 on peer contact). This can be particularly useful for sole practitioners and sole caseworkers.

Supervisors conducting their own reviews

It is possible for a review by a supervisor (of their own work) to be conducted so that the outcome is no different than if someone independent had reviewed the case. Attaining a degree of detachment may come easily or with practice, particularly if you have any formal

training covering approaches to work assessment and self-development (see D3.3 (a) and (b) on supervisor skills). Techniques that might help include conducting reviews in a different environment or conducting the legal review at the same time as the person conducting the review of procedures and processes.

Reviews by temporary supervisors

Reviews by a temporary supervisor (see guidance for D3.1) must occur only for *short holiday periods or in exceptional circumstances*, and delegation cannot extend beyond four weeks continuously or eight weeks in any calendar year (unless permission has been given by the auditor, as per guidance at D3.1).

Reviews by a deputy supervisor

Reviews may be delegated to a deputy supervisor (see D3.1) without the need for prior authority from the auditor wherever the individual also meets the legal competence requirements for supervisors (at D3.2 (a)) in full. Where they do not, prior authority from the auditor will be required before reviews may be delegated, and this is only likely to be granted where you can demonstrate that the individual has technical legal knowledge in a specific area of law within the category to the level required by a supervisor and that the delegated reviews are restricted to that area. Wherever reviews are delegated, the auditor will pay particular attention to the *overall control of quality of work exercised by the category supervisor* and the role they play in ensuring that delegation is managed with this and the deputy's development in mind.

Authority for others to conduct file reviews

Prior authority may also be given (by the auditor), allowing others to conduct *up to 50% of file reviews*, where you can justify this on the basis of their competence to conduct reviews for a specific purpose (e.g. to apply specific knowledge of advocacy or expertise in client care). Note that "others", may include partners, specialist caseworkers from another department or individuals from outside the organisation (e.g. experts in consumer rights/client care). Justification for such a request needs to be provided to the auditor in writing, and permission by the auditor must also be given in writing (in correspondence or as part of any previous audit report).

FILEX supervisors

A supervisor may delegate file review responsibility for police station advice and assistance work (only), to an individual who is a FILEX supervisor (i.e. they are a Fellow of the Institute of Legal Executives and an Accredited Representative). Ideally that individual will also be able to demonstrate compliance with (or be working towards meeting) the requirements for category supervisors in D3 and the requirements for carrying out the supervisory role in D4, although this is not a requirement.

E2.4 Review (and any corrective action) is evident on file

Where you do not keep a copy of the file review record (required at E2.5) on file, you will need to note *basic review details* (i.e. the date of review and reviewer identification (e.g. by initials)) and details of *any corrective action to be taken* (together with the date by which it must be completed), and ensure that they are shown in a prominent or uniform place *on each reviewed file*. You may want to include these details, along with key case information (required at E1.3), on a standard form attached to the front cover or flysheet of the file.

Where you keep a copy of the more detailed *file review record* (required at E2.5) on individual files, this *provides adequate evidence* (without the need to note details separately), so long as it is evident on the file (e.g. copied in colour copy or put in a prominent place), and so long as detail about corrective action to be taken is given (and not just summarised as required at E2.5).

E2.5 Review records

Record storage

You can store file review records however you choose, as long as you are able to meet the requirement. When considering arrangements, you will need to take account of the nature of your organisation's work and working practices to decide *how the records can be put to most use*, and the way in which you can gain most from monitoring them (see E2.6).

For example, *storing records centrally* in one place may help you to monitor your file review processes more easily, and make it easier to monitor any departmental and/or organisational trends. This can be helpful in the early days, by identifying areas for improvement in new processes or practices (i.e. by highlighting where the same sorts of error (usually procedural) are being detected for different members of staff), though it can make it more difficult to monitor individuals' work.

Alternatively, *storing records on individuals' files* has the benefit of collating all relevant information together, so that it can easily be monitored to detect trends in performance and to alter supervision (and file review) accordingly. Once organisational processes are established, you are likely to want to place greater emphasis on this than on monitoring departmental or organisational trends.

Carbon copies of the file review form can be useful *if you intend to keep copies on individuals' files and in a central file* (and possibly also on the case file – see E2.4 above). This allows you to complete only one record, but to make maximum use of it (i.e. making it easy to carry out regular reviews of individuals' performance as well as keeping the data together for a periodic review that is department/organisation-wide). If you meet requirement E2.4 by only keeping a note of the minimum information required (rather than by retaining a copy of the more detailed file review record on the case file), you may want to copy that note into a central record and to keep the file review record on the individual's file only.

Where you do not keep a central record, (or even where you do, for additional reassurance) you may find it beneficial to *keep a control sheet* to alert you to any potential deficiencies in meeting the minimum requirement.

File review record content

Under *key file review information* you may want to use identifiers (e.g. initials) for the reviewer and caseworker, rather than writing names in full each time. Also, unless your procedure makes provision for different methods of review (which you may choose to, or for organisations undertaking criminal legal aid be required to, see E2.1 (a)), you need not identify which method was used each time (and it will be assumed that the file was reviewed remote from the conducting caseworker).

Examples of issues that should be addressed *when reviewing legal and procedural aspects* of each case (i.e. under the three headings for which detail is required) include:

Quality of legal advice – Was it accurate, appropriate to the circumstances and complete? This also provides an opportunity to ensure that advice given was independent and free from undue influence.

- **Action proposed/taken** – Was the course of action offered/taken correct in the circumstances and were all appropriate options considered?
- **Adherence to procedures** – For example, were all key dates recorded correctly, is key information shown on the file as it should be, has any recent potential conflict of interest been identified and acted upon, and has referral been overlooked where it would have been appropriate?

Other than where the file was found to be fully compliant (when a simple "yes" or tick will suffice), the auditor will be checking to see that legal and procedural *detail recorded is specific to the case and the client* (e.g. that relevant details are given where alternative advice might have been appropriate, or to show that the individual knows what other courses of action you would have liked them to consider and why).

Note that *auditors may also cross-check* advice given, action taken and procedures adhered to, to ensure that file findings recorded were accurate (though this is only likely to happen where issues become evident elsewhere. The auditor may also want to consider *how feedback of review findings was given*, and whether any concerns have filtered through to supervision (though again, only usually where adverse findings have been made).

The need for corrective action or training can result either from an identified error or from a decision to implement improvements (either for the individual or more globally for the department and/or organisation). Your records need to be sufficiently detailed for you to distinguish between the two (for the purposes of ongoing performance monitoring and annual appraisal). The section of the file review record covering *corrective action and/or identification of training needs* can be in summary form, including using a standard key to identify different error types, and for action required and action confirmed as taken (unless you intend to use a copy of this record to meet requirement E2.4, in which case you must provide greater detail about corrective action and relevant dates – see E2.4).

E2.6 Monitoring file review

Content of monitoring

What you monitor is for you to determine (i.e. individual performance and/or departmental or organisational performance), based upon the approach that you decide will provide the greatest returns (in improvements to service). Factors to consider are already covered in the guidance on record storage at E2.5 above.

Although it is a requirement to monitor your records at least once a year, they are likely to provide key information needed to ensure (and demonstrate to the auditor) that supervision and file review are set at the right levels for individuals. In this case, your procedure (see E2.1 (a)) will probably specify much more frequent *monitoring of individuals' records*, though a review of performance over a full year will also provide valuable material for discussion during the individual's annual performance review (see D2.2). Auditors will note that in such circumstances, evidence of compliance with this requirement may be found on individuals' performance review (appraisal) records.

Monitoring file review records for a department and/or for the organisation can also provide valuable information, not only about how well your processes and procedures are working, but also in terms of the overall quality of work being delivered, and in reviewing consistency between reviewers (where this is relevant). This information can be helpful to business planning (i.e. in deciding where to invest resources), particularly if one department is performing particularly well or particularly badly.

Demonstrating evidence of monitoring performance trends

You should be *looking for both positive* (e.g. fewer errors identified requiring corrective action, or fewer errors of a serious nature) *and negative* (e.g. more serious errors detected or errors still not sufficiently low) elements when considering performance trends; the first to motivate individuals about service improvements to date, and the second to drive future quality improvements.

You may want to document the findings of monitoring, though this is not a requirement where the outcomes are evident to the auditor from other sources (e.g. if it is clear from individuals' files or as part of the business planning process that trends have been identified and action taken).

Taking action when negative trends are apparent

Wherever the potential for service improvement has been identified, or where it is evident that negative trends should have been identified, the auditor will want to see *evidence that action has been taken*, or (where there the implications for quality service delivery are not severe) that action has been planned.

In particular, auditors will want to be assured that persistent under-performance by individuals has been identified and acted upon. *Evidence of persistent under-performance* includes a greater than average number of incidents of corrective action being required (than evidenced elsewhere in the department or than they might expect to see generally in organisations that hold the SQM), or a series of more serious errors (e.g. where urgent action was required, or where the client's case was jeopardised by errors).

Auditors will expect *persistent under-performance to have been acted upon*. Usually this will be evidenced in the individual's training and development plan (see D2.3), in their arrangements for supervision (at D4.2) and/or in case allocation (at D4.1). At its most serious, they would also expect to see the individual suspended from casework until all remedial action required had been completed to the reviewer's satisfaction.

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F: MEETING CLIENTS' NEEDS

Clients of SQM holders are entitled to receive advice, information and other services that are relevant to their needs.

Requirement F1	Individual Cases – At the Outset
Purpose	To make sure that clients are provided with information about the service they will receive (and what to do if they are not satisfied with that service), and to confirm, where appropriate, the basis on which you propose to proceed with their case, including initial costs advice.
Requirement F2	Individual Cases – Progress of the Case
Purpose	To make sure that, throughout the case, clients are aware of what action is being undertaken on their behalf, and so that they are informed of progress, costs (including costs to date, the overall costs estimate and any potential liability), and of any significant changes to other information confirmed at the outset of the case (at F1) or since.
Requirement F3	Individual Cases – At the End of the Case
Purpose	To make sure that the client has confirmation, at the conclusion of the case, about what happened, what further action may be taken or may be necessary, and to account for any outstanding money or original documents.
Requirement F4	Client Confidentiality
Purpose	To ensure the confidence of clients, it is essential that services be provided in a private and confidential manner.
Requirement F5	Use of Approved Legal Service Providers
Purpose	To ensure that quality is maintained where any part of the service is to be delivered by another legal service provider (e.g. by counsel or by an expert).
Requirement F6	Data Protection Requirements
Purpose	To ensure that client data is kept secure at all times and to protect the personal data from unauthorised or unlawful processing, accidental loss, destruction or damage and to maintain the confidentiality, integrity and availability of information.

Guidance to accompany Section F: Meeting Clients' Needs

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement F1	Individual Cases – At the Outset
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F1.1 Recording and offering confirmation of basic information

Level of detail recorded

There are *no exceptions* to the requirement to record basic case information, regardless of the amount of advice given, work done or circumstances of the case or client (other than where you offer a diagnostic service in order to signpost the individual – in which case they are not considered to be your client nor are you considered to have begun a case).

In all instances, auditors (and any other caseworker picking up the record) will expect to be able to use only the record to obtain, as a minimum, an *overview of the salient points discussed*, and any information considered at the initial attendance.

It is *not a requirement for you to share with the client all information* that has been recorded. For example, in criminal cases, you may wish to make comments about the client's demeanour when arrested or their likely ability as a witness, which, while invaluable in conducting their case, you would not wish to share with them. See also notes on exceptions to offering confirmation in writing, given below.

Your record of the client's requirements, the advice given and the action to be adopted next will usually be on the file in the form of attendance notes. The following points may be useful:

- Initial attendance notes may be structured with sub-headings of "Instructions", "Advice" and "Action".
- "Instructions" would then detail what the client has asked the organisation to do.
- "Advice" would vary from substantive legal advice to telling a client that further investigation is necessary before advice can be given (in which case it should be evident that advice was actually given after the investigation). Advice may be given in a letter to the client, over the telephone or in person. Auditors will be looking for objective evidence of what advice was actually given. Advice given on costs/funding matters would also be here if the structure was being followed.
- "Action" would record what you are to do next. It is equally important to record where there is to be no further action, if that is the case.

If you make *use of standard information* (in letters or on information sheets) as a way of providing advice, you need to be aware that it will only meet the requirement where you can demonstrate that what the client was told/given was directly relevant to their case and to their individual circumstances. In some cases it may be that standard information is appropriate, but, more likely, you will need to show the auditor that it was tailored to suit the client (e.g. by making reference to relevant sections of standard information in a covering letter or form, or by marking the paragraphs that are particularly relevant or to indicate which of the options is recommended).

Information provided to the client about the *method of case funding* is also required to be detailed on the record. Where the service will be free to the client, unless you need to

consider their means (e.g. to assess eligibility for legal aid), it is acceptable to simply record that that client has been advised that this is the case. You may, however, want to record the funding source(s) (e.g. pro bono, local authority, criminal legal aid) so that a match with any time recording processes you use can be confirmed (for accounting purposes). Note that it may be a *requirement of funding* (as it is for civil help funded by us that you *calculate eligibility for all cases claimed*, and that a copy of the calculation (including the client's means) is signed by the client and retained by you as part of your record.

In addition to this, you should ensure that you explain to the client the processes that you have in place for allowing data subjects to exercise their rights under data protection legislation, including how they would make a subject access requests.

Offering written confirmation to the client (for one-off attendances)

Unless the case meets one of the exemptions given in the definition (in the SQM Standard), it is a requirement that you *offer written confirmation in all instances*.

Written confirmation may be achieved by writing a letter to the client as you would had a file been opened (see F1.2), though it need not necessarily be so formal and may instead involve *producing a summary sheet during the interview* or making a record on self-duplicating paper that the client can take away on completion of the attendance. It may also be appropriate to *provide a series of documents* to the client (as written confirmation). For example, depending on the service and the client, you may want to offer a business card, a complaints leaflet or summary, or a leaflet covering charging policy, as well as a summary of instructions and advice.

Even *where the client declines your offer of written confirmation*, or where *one-off advice was given by telephone*, it is a matter of good practice to seek agreement from the client that you have understood their instructions and that they have understood the advice they have been given.

Unless the person is a regular client who already knows the caseworker and is aware of their professional status, it is particularly important that they are told (and have confirmed) the *name and status of the caseworker*. This is so that they know to whom to refer if they require any future advice (either from that person or from someone else). Ordinarily it will be provided in the written confirmation you provide, including being confirmed on a business card that is handed to the client.

It may be necessary to provide an alternative format to a written confirmation (e.g. Braille, large print, audio) as a reasonable adjustment for a client with a disability. Where you do so, you may want to also retain a copy in written format.

Exemptions from the requirement to offer confirmation in writing

It is *not a requirement to offer confirmation in writing only where* the caseworker can demonstrate that they are exempt from doing so on the basis that the case falls into one of the exempt categories given in the definition (in the standard).

The exemptions listed (in the definition in the Standard) are given on the basis that to offer confirmation in writing would, in the majority of these cases, be likely to be: impractical (e.g. court duty and first hearings, and telephone advice); limited in their use (e.g. for regular criminal clients given advice at the police station); or would raise issues of confidentiality for the client that may prejudice their case and in the worst case scenario may result in a private record becoming admissible evidence (e.g. where the client is detained, for example in a criminal, immigration or mental health case).

Regardless of the exemptions listed, you may choose to offer confirmation in writing in all cases (included exempted ones) if you wish. In particular, *you may consider it to be a matter of good practice to always confirm the record* (instructions taken and advice given) even

where it was not practical or appropriate to do so at the time. This will usually be achieved by writing to the client after the event, as you would had a file been opened (see F1.2).

Even where you can justify not offering confirmation in writing, it remains *good practice* to confirm the client's understanding of what has been discussed during the attendance, and ideally to require them to agree to the advice given and action to be taken on key issues. *In criminal cases*, this is likely to include, for example, how they will respond to police questioning (e.g. no comment, prepared statement or by answering questions), how they will handle identification procedures (e.g. by parade, group, video or confrontation), or how they will plead in court.

In all instances, the client (if they were to be asked) should be able to confirm *who acted* for them (e.g. from information on a business card that has been given to them or from memory if they are well known to you), that they know *whether or not they will be charged* for the service, and that they know *who to contact if they are not happy with the service* they received (usually by producing a standard letter containing a brief explanation or from text on the conducting caseworker's business card). In the case of complaints, a brief explanation only is required at this stage; a more detailed written explanation can be given if a file is subsequently opened (see F1.2).

The requirement to provide (not just offer) confirmation in writing (at F1.2)

The record (as above) is always required to be confirmed to the client in writing wherever subsequent advice is given (or where you reasonably expect that it will be) or where work is undertaken (or where you plan to undertake work) on the client's behalf, following an initial interview or other taking of instructions, or following a duty solicitor attendance at a police station or in court (including police station advice by telephone). In these circumstances, the auditor will consider that *a file has been opened* (whether a file is physically created or not).

Wherever a file has been opened, all of the information in F1.2 (see below) must also be recorded and confirmed in writing with the client.

The requirement to inform clients the organisation has a process in place for allowing data subjects to exercise their rights under data protection law

As per the UK GDPR, you **must** inform clients of the following rights:

- The right to be informed
- The right of access
- The right to rectification
- The right to erasure
- The right to restrict processing
- The right to data portability
- The right to object
- Rights in relation to automated decision making and profiling.

Further information on individual's rights can be found on the ICO's website:

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>

F1.2 Recording and agreeing further information and confirmation in writing

General information about client care/initial costs letters

Most organisations term the letter in which they confirm all of the required information the “client care letter”. Usually it will be addressed (often marked “confidential”) to the individual client, though when acting for a minor the written confirmation will sometimes be to the guardian.

The format of the client care letter is a matter of personal choice, but there are some useful guidelines:

- Always use plain language and avoid jargon.
- Include substantive detail; “thank you for your instructions to act” is insufficient.
- View the letter as an opportunity to clarify issues for the client. Remember that a well-written letter at this stage of the case can protect both the organisation and the client from misunderstandings and complaints later on. Also remember that errors of omission and commission are equally important.
- If a client expressly requests that no correspondence be sent, a statement should be attached to the file giving full details.

Solicitor firms should always take into account the relevant rules in the Solicitors Regulations Authority Code of Conduct. Chambers might wish to consider part III of the Barristers Code of Conduct and relevant client care templates.

Providing information about costs

Costs information needs to be as *accurate and comprehensive* as possible so as not to mislead the client. A useful exercise is to *review cases on completion* to consider how accurate your estimates were and to make adjustments to future estimates if necessary.

All costs information needs to be *clear and delivered in a way that the client will understand*. Any terms with which the client may not be familiar (e.g. disbursement or counsel fees) should be explained.

Advice on costs that has been given orally is required to be *confirmed in writing* (including in cases where the client will make no contribution and can have no potential liability) *as soon as possible* after the initial interview. Any reason for not doing so must be justified and noted in writing (see definition in the SQM Standard).

Charging rates, including hourly rates and charges for additional work such as letters and telephone calls, *are often set out in leaflets or standard information sheets* that are given to the client. This may be adequate, but only where you are able to demonstrate that the information is provided in each relevant instance (e.g. by showing that this appears in any procedure that you may have or that you make reference to an enclosed leaflet/sheet in a covering letter to the client).

In addition to advising on actual costs, you should also ensure that the client is clear about *timing* (i.e. when they will have to pay, including paying for any disbursements) *and payment arrangements* (e.g. whether they will have to pay on account for work to be done, or whether a cost limit will be set).

Information about *cost-benefit and risk* (required at F1.2 (c), in civil cases) can be explained to the client in the same terms set out in a legal aid application (where you are required to show into which percentage band (of likely prospects of success) the case fits), or, otherwise, in terms of more precise likely prospects of success.

Third party costs in non-contentious matters are items such as landlords’ costs when taking a lease, or mortgagees’ costs.

Information specific to legally aided clients (civil)

Organisations are required to discuss the *statutory charge* only in situations where this charge might arise. In cases where there is no money or property in dispute, there is no need to advise orally or in writing about the charge. In cases where the statutory charge might arise, you should take particular care in explaining this to the client, as lack of knowledge is a *regular source of complaint* on conclusion of such cases.

The consequences of *failure to pay assessed contributions* are that the *certificate is likely to be discharged*, and the client will cease to be legally aided or funded by us from that point onwards. Of significance to the client is that they will remain liable for outstanding contributions and may still be ordered to pay the other side's costs. Every effort must therefore be made to ensure that the consequences of non-payment are clearly understood by the client in all circumstances where a contribution may be sought.

Failure to co-operate with us about means or in respect of any other information requested (or to advise us about changes in circumstances relevant to the case itself) can lead to *revocation of the legal aid certificate*. This needs to be explained to the client so that they are aware of the possibility of their certificate being revoked, and so that they understand that the effect of this would be to make them *liable for all costs in the case*, not just from the point of revocation, but from the start (as if they had never been legally aided).

Information specific to legally aided clients (criminal)

Clients in relation to Magistrate's Court and Crown Court proceedings are subject to a means assessment to determine whether or not they are financially eligible for criminal legal aid. Clients in criminal cases may be subject to costs contributions in the Crown Court following the respective means assessment (see <https://www.gov.uk/guidance/criminal-legal-aid-means-testing>). You are required to advise your client about the respective means assessment at the outset of his or her case and are encouraged to explain the potential of any costs liability in your client care letters.

Where it appears likely that the client may have to pay an Income Contribution Order (ICO) or a Capital Contribution Order (CCO) that the client may be liable to pay you are required to provide advice in accordance with the guidance set out at F2.3. It is good practice to advise on the concept of a contribution order at an earlier stage (e.g. before the case proceeds to the Crown Court) where one appears likely on the basis of the client's means (again see guidance for F2.3).

Confirmation of the person(s) dealing with the client's case

Where a case is being run by a team (e.g. in some Crime departments or for very complex and involved cases), then this should be made clear. In all other circumstances the *name and status of the individual* dealing with the case should be given in the body of the letter; clients should not have to rely on the signature or reference on a letter to establish who is looking after them.

Using discretion not to confirm information in writing

Wherever you consider that exceptional circumstances apply, and decide not to confirm information (at the outset, during progress or at the end of a case) in writing, the auditor will want to consider the reasons given and may want to discuss them with the caseworker.

In particular, *the auditor will want to be assured that* the circumstances of the individual case were considered (i.e. that you do not operate a policy of not confirming in writing for certain case types or groups of clients), that the consequences of not being given information in writing were discussed with the client (particularly where they are paying privately or where they have any potential costs liability), and that you have considered separately the various pieces of information that are usually required to be confirmed in writing (e.g. that you do not fail to confirm progress in the case in writing on the basis that the client has asked specifically not to be advised of costs in the case).

Guidance to accompany Section F: Meeting Clients' Needs

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement F2

Individual Cases – Progress of the Case

F2.1 Complex case plans

Contents of a complex case plan

A case plan should be in the form of *a written schedule for the case* with stages linked to likely timescales and cost estimates. It needs to *focus on the future of the case*, rather than being a review of progress, and is required to be a separate document (i.e. not a collection of notes or file papers). Auditors will also expect to see inclusion of details of overall objectives, evidence, identity of opponents, funding information, steps in proceedings and counsel opinions, where available.

For organisations with public funding in *civil matters guidance and example case plans* for cases that meet the criteria for “Special Case Work” are given on the LAA website, as are guidance and relevant documents *for very high cost criminal matters*.

When to produce a plan

The plan should be *produced as soon as you have sufficient evidence to be able to determine that the case will meet one of the criteria given*, or, for publicly-funded work, as soon as required under the legal aid regulations and contracts. In cases funded by us there may be set trigger points (e.g. before any funding will be agreed or once the initial investigation limitation is reached) after which, unless you can demonstrate that the case will not meet any of the criteria, a complex case plan will be required.

Frequency of review

Frequency of review will often *depend upon case type* (i.e. on the usual speed of progress), but possibly also on circumstances that are individual to the client or their case. Many cases will need to be reviewed *as often as every month*, whilst in others you may be able to demonstrate that a longer interval (but not longer than every six months) is appropriate.

F2.2 Updating issues and case progress

Client involvement

Clients generally have a different view of time to advisers; the case will occupy a higher profile in the client's life than in yours and it is therefore important for the client to feel involved and part of the process. This is why it is particularly important to *provide information whenever anything occurs to change the status of the case* (e.g. if the chances of success appear less or greater than previously thought, following counsel's opinion) or if a change in tactics is required.

Update method

Organisations should be able to demonstrate that the client has been kept informed of progress on specific issues that have been raised in the case by telephone, face-to-face contact and/or by letter. The definition also requires that, more generally, progress (or reason for lack of progress) is *confirmed in writing at least once every six months*.

Using discretion not to confirm information in writing

See guidance for F1.2 above.

F2.3 Updating costs information**Scope of Contribution Orders (in criminal cases)**

For Crown Court trials there are two types of contribution a defendant may have to make - either from income and/or capital. They may have to pay all, some or none of their defence costs, depending on what the means test decides they can afford from their income and capital assets. Further information on these contributions can be found on the LAA's website here:

<https://www.gov.uk/guidance/criminal-legal-aid-means-testing#making-contributions-in-the-crown-court>

Costs information where an RDCO may be made

You are required to advise your client about the respective magistrates' court and Crown Court means assessment(s) at the outset of his or her case. Also, it is a specific requirement, that costs estimates are given to all criminal clients *once it becomes likely (i.e. more than a general possibility) that an ICO or CCO might be made.*

The likelihood of an ICO or CCO being made is based primarily on the client's means. Where you consider it likely, you will need to provide an overall costs estimate and information about the potential ICO or CCO as soon as possible, and certainly before the trial starts.

Calculating overall costs

For any fee-paying clients costs will be assessed at the rates agreed privately, for cases funded by legal aid costs estimates need to be assessed at legal aid rates based on time records for each file. As the definition at F1.2 (c) (in the SQM Standard) makes clear, the costs estimate you provide needs to be as accurate and comprehensive as possible, including your best estimates for counsel's costs and costs of all other likely disbursements.

Once a costs estimate has been given, the client is required to be given an *update whenever there has been a relevant change in circumstances and not less than every six months* in any event (unless the client's means have changed sufficiently to suggest that an ICO or CCO is no longer a likelihood, in which case this must be explained).

Using discretion not to confirm information in writing

See guidance for F1.2 above.

F2.4 Responsibility for the client's case

- Details **must** include the name and status of the new person (handling the client's case or dealing with any problems) and give a reason for the change.

Guidance to accompany Section F: Meeting Clients' Needs

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement F3

Individual Cases – At the End

F3.1 Confirming information at the end of the case

Defining the “end of the case”

The definition (in the SQM Standard) confirms that this requirement excludes *cases that do not progress beyond one-off advice*. This means that unless you have “opened a file” (see definition F1.2 in the SQM Standard), you are not required to provide the client with written confirmation of the information unless otherwise required. You may choose to do so as a matter of good practice, however.

In some cases it is likely that you will need to make a decision to bring the case to an end, even though the matter has not been progressed to completion. This is most likely to happen where the client fails to provide further instructions or to respond to requests you make for reasonable payment or information. In these circumstances, *you may decide when to close the case*, and will simply need to advise the client that this is what you have done.

Tone and content

It is important that clients are informed of the end of their case in clear, unambiguous language. It is especially important that any “legal jargon” is explained in terms that the client will understand, so that they know *how their case was concluded and what effect* (if any) this has on them or what further action (if any) it requires them to take.

The importance of some documentation may be lost on some clients, and so where *important documentation* is returned to the client, care should be taken to explain why the document is of importance and to alert the client to the fact that it should be stored in a safe place and not be destroyed.

Using discretion not to confirm information in writing

See guidance for F1.2 above.

Guidance to accompany Section F: Meeting Clients' Needs

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement F4	Client Confidentiality
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F4.1 A confidentiality procedure

Protecting client confidentiality

The duty of confidentiality is *fundamental to the relationship* between your organisation (or, in practice, the caseworker) and the client. It exists as an obligation in law (because of the nature of the contract you enter into in accepting the client) and as a matter of conduct (generally, and often as required by your recognised representative body; see C1.3).

Circumstances in which confidentiality can be overridden are rare, and your procedure must ensure that *powerful justification is required* wherever a breach of confidentiality is to be considered.

The duty of *confidentiality applies to all information* about the client's affairs, regardless of the source. It starts the moment the client first approaches you to provide instructions or information (i.e. before you formally accept them as a client), covers even the fact that you have been instructed (unless this is a matter of public record), and extends beyond the end of the case (or the death of the client).

Circumstances which may override confidentiality

A *comprehensive list of circumstances* in which the caseworker should consider whether to override client confidentiality needs to be given in your procedure. It should be tailored to the service you offer (e.g. to cover the types of cases you handle). For further information on when confidentiality may be overridden please refer to paragraphs 6.3-6.5 on Confidentiality and Disclosure of the SRA Code of Conduct (November 2019). Chambers may wish to consider Part V (A7 Confidentiality) of the Bar Code of Conduct.

You are also required to include guidance to the caseworker that tells them *what process to follow* when considering a breach in one, or all, of the sets of circumstances. This may involve outlining issues that the caseworker must consider (and document) in the specific circumstances (e.g. that they must consider the likelihood and danger of further abuse if they do not disclose relevant information in a case involving children), and/or it may involve requiring the caseworker to justify their decision (before the breach) to their supervisor or immediate superior/manager.

In some instances, it may be appropriate to specify that a breach of confidentiality will only be considered if certain factors can be demonstrated (e.g. in a conveyancing case where you would want the lender to provide evidence of a *prima facie* case of fraud before providing them with the joint lender/borrower file where the borrower had not given their consent for this to happen).

Data protection and client confidentiality

Data protection is covered by section F6.1 of the SQM and further guidance is provided below.

F4.2 Privacy

This will not be an issue where caseworkers conduct interviews in private offices. It may, however, be an issue where they share an office or where they are required to take instructions or give advice in a public place (e.g. in court). Here they will need to demonstrate the steps they take to ensure privacy (including making sure that the client is comfortable with the arrangement and ensuring that the caseworker and the client cannot be overheard by anyone from outside the organisation, or within the organisation if the client specifically requests that this is so).

Guidance to accompany Section F: Meeting Clients' Needs

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement F5

Use of Approved Legal Service providers

Organisations undertaking criminal legal aid should note that the requirements in F5 do not apply to any fee-earners who have been designated (see glossary in the SQM Standard) by them (including police station agents and unassigned counsel). Also, F5.5 (requiring detailed instructions to be given to legal service providers) does not apply to police station agents.

F5.1 Non-discrimination when instructing legal service providers

Related requirements

See also A3.1 (on non-discrimination when accepting clients and planning services) and D1.3 (on non-discrimination in the selection, treatment and behaviour of staff). You may want to develop *one policy* covering all related requirements.

Grounds

Your policy can include *additional grounds*, but you cannot choose to exclude any grounds that are given in the requirement.

Legislation and codes of practice

Your policy must comply with equality legalisation as outline in A3.1

Note that legislation covers minimum maternity rights for existing staff (and that the implementation of these will need to be demonstrated by your organisation), and that the Equality Act 2010 (as amended) and the Equal Pay Act 1970 (and subsequent legislation) contain relevant provisions in respect of job applicants and staff.

Types of discrimination

In precluding unlawful discrimination, your policy will need to cover direct discrimination, unlawful indirect discrimination harassment and victimisation and any other conduct unlawful under the Equality Act 2010 (as amended). [A definition of terms can be found in the glossary].

Model policies

Please refer to A3.1 for guidance on model policies.

Auditing the policy

Auditors will look for evidence of non-discrimination when they consider the approach you have taken to deciding *what criteria you use for selection* of legal service providers, and which experts you have used (or chosen not to use).

Auditors will also be checking that staff understand the *policy's practical effect on how they select and instruct legal service providers*, and that they are aware of the grounds on which they cannot refuse to instruct an individual.

Legal Service provider selection by the client

The *requirements at F5.1 continue to apply* even when the client chooses the legal service provider to be instructed. As for all selections, this must be based on merit alone and cannot be unlawfully discriminatory;

Therefore, where a client makes a selection (or rejects your recommendation) on one of the grounds contained in your non-discrimination policy, you will need to discuss this with them (with a view to changing their mind) or cease to act in their case.

F5.2 Selection of legal service provider

Using a central register of legal service provider

This is probably how you will meet the requirement when selecting almost all the legal service providers you use. This *is the easiest method to use* in general, as it ensures that your own set of criteria for selection is applied consistently and that all members of staff have access to the same information. It also allows you to update information easily about legal service providers as their details change or as they are evaluated.

Note that you are likely to want to maintain a separate (provisional) list for legal service providers who you have used for the first time (but have yet to assess for inclusion or rejection in your main register). You may choose to achieve this by having separate sections (covering *provisional legal service providers, approved legal service providers and rejected legal service providers*) in the same register.

Using legal service providers from another list

This approach will be *relatively infrequently used*, unless you operate in a specific area of law for which another organisation has developed and subsequently maintained a list. An example of such a list is that produced by Action for Victims of Medical Accidents (AVMA), which contains details of medical experts who have been subject to checks (the results summarised by AVMA, but supplied by specialist practitioners) in respect of quality of service, cost and value for money, speed of response and expertise.

It will need to be clear from the file *which source* you used to obtain the recommendation, and you will need to show the auditor *how the service providing the recommendation meets the requirement to objectively assess* those on its list.

Note that recommendations taken from directories (including the Legal Advisor & Family Mediator Finder) would not meet the criteria given in the definition.

Using a Specialist Quality Mark legal service provider

It is anticipated that it will be a requirement of all specialists that they use a SQM or Lexcel service wherever possible.

F5.3 Evaluation of legal service providers

Information contained in your records

You should be aware that any details you record about legal service providers or comments that you document and store when evaluating them need to *comply with the law relating to defamation, discrimination, and data protection*. A pre-qualifying questionnaire may help you to obtain this information.

Confirming that instructions have been met

Confirmation that instructions have been met might be found on the opinion or report itself or on a separate note on the file. It might also be found in further correspondence with the legal service providers or with the client.

It is good practice to also consider how a legal service provider has performed in other circumstances in which they have been instructed (e.g. *in conference or in court*). While you

do not need to make a note of this where you were satisfied with the service given, you need to ensure that adverse findings are noted (see below).

Adverse findings

Adverse findings can range from issues that would not stop you from using, or recommending, the individual in certain circumstances to ones where you would want to ensure that they were removed from your register of legal service providers (if you keep one), or to ensure that they were not used by anyone in your organisation again. There are two types of adverse findings: minor and significant (definitions of these can be found in the glossary section of the standard).

Note: You should be able to explain or demonstrate this process to the auditor if they ask.

Recording adverse findings

All adverse findings (and ideally *all* legal service providers evaluations) need to be *stored centrally* (by department or in the organisation) so that everyone who may need to instruct a legal service provider is aware of previous concerns identified. If you hold a central register, you are likely to store the information in there; otherwise a separate document will be required.

Extending your central record to cover all evaluations (i.e. beyond only adverse findings) has the advantage of providing additional and positive information about legal service providers that might be very useful when trying to select someone in the future (e.g. when they were last used, for what purpose, how well they met the instructions given, and details of any particular strengths). This can be achieved by maintaining an evaluation (or a copy of it) on the central file (usually in addition to maintaining a copy on the file).

F5.4 Information to the client and client consultation

Involving the client in selection

In most cases, clients will leave the choice of a legal service provider up to you, and will only want to be informed about who you recommend once a selection has been made. However, *it may be appropriate to discuss selection with the client:*

Where the client does not want to use a particular medical examiner for reasons of personal experience or knowledge.

In sensitive cases where the appropriate (see F5.1) use of female/ethnic/minority group experts may be preferred.

When a regular client is known to prefer a particular expert or barrister or specifically asks to be involved in selection.

Where you decide that it is appropriate for you to represent the client in court, rather than appointing a barrister.

F5.5 Content of instructions

Organisations undertaking criminal legal aid should note that this requirement, *F5.5, does not apply to police station agents* (whether designated members of staff or not).

If the legal service providers is going to provide you with the service you seek, they need to be properly informed about all relevant background information (e.g. from the client's statement and any information that progresses the case, such as experts' reports or opinions), and know what it is you require from them (e.g. an opinion on causation only; an opinion on liability, causation and quantum; or photographs (size and colour specified) of the accident scene and locality), in line with the requirements of the Data Protection Act 2018.

As the definition (in the Standard) implies, it is usual for instructions to be *given in writing*, although exceptions can be made in an emergency.

Care in instructing legal service providers (both in selecting the type in the first place and once selected) should reduce the number of instances where further reports/conferences are required or where cases fail because you cannot conclude the initial investigation within reasonable cost limits (set either by the client or by us).

Guidance to accompany Section F: Meeting Clients' Needs

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement F6	Information Handling
<p>Overview</p> <p>The processing and sharing of personal data is governed by the Data Protection Act 2018 (DPA) and the UK General Data Protection Regulation (UK GDPR). The nature of the services provided by through civil and criminal legal aid means that clients will entrust you with their personal data, which may include sensitive information.</p> <p>You are required to have secure organisational and technical measures in place to protect the personal data from unauthorised or unlawful processing, accidental loss, destruction or damage and to maintain the confidentiality, integrity and availability of information by adopting as a minimum the measures as set out in F6.1 of the Standard.</p> <p>Where you have a criminal or civil legal aid contract you are required to have in place the specific requirements on data protection that are set out in the contract and in the LAA's Data Security Requirements and Data Security Guidance documents. The latter can be found here:</p> <p>https://www.gov.uk/government/publications/legal-aid-agency-data-security-requirements</p> <p>Data Protection Officer</p> <p>Where a Data Protection Officer has been appointed, auditors will interview them to check that they are fulfilling the requirements of the role as set out in UK GDPR. Where an appointment has not been made auditors will 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>Procedures that will be reviewed</p> <p>Auditors will expect to see the following procedures in place in every organisation that is audited:</p> <ul style="list-style-type: none"> • Appropriate records of processing activities that contain all the information in Article 30(1)(a) –(g) of the UK GDPR. See the following links for useful information: <ul style="list-style-type: none"> ○ https://gdpr-info.eu/art-30-gdpr/ ○ https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/documentation/how-do-we-document-our-processing-activities/ • A procedure for responding to data subject access requests, including staff training to ensure roles and responsibilities are clear and enable requests to be answered within the 	

relevant time limit

- A procedure for making mandatory data breach notifications, including staff training to ensure roles and responsibilities are clear and enable notifications to be made within the relevant time limits
- A procedure for identifying when Data Protection Impact Assessments must be carried out as set out in Article 35 of the UK GDPR. See the following link for more information:
 - <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/data-protection-impact-assessments/>
- A procedure to identify and review data retention schedules, which adheres to the Storage Limitation principle, and which includes information on how retention periods for different categories of data are initially identified and subsequently reviewed. See the following link for more information:
 - <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/principles/storage-limitation/>

Cyber Essentials

As part of meeting F6.1, it is recommended that you have in place some form of certification under the Cyber Essentials Scheme. Cyber Essentials is a Government backed scheme that will help you to protect your organisation, whatever its size, against a whole range of the most common cyber-attacks.

There are two levels of certification:

- *Cyber Essentials*: This is a self-assessment option that gives you against a wide variety of the most common cyber attacks. It shows you how to address the basics of cyber security and prevent the most common attacks
- *Cyber Essentials Plus*: Cyber Essentials Plus offers a higher level of certification under the Cyber Essentials scheme. It ensures you have the technical controls needed in place for appropriate cybersecurity with verification of your measures completed by a regulated auditor.

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G: COMMITMENT TO QUALITY

Organisations are committed to improving the quality of their service.

Requirement G1	Complaints
Purpose	Complaints are important as they tell the organisation how well a service is meeting client expectations and provide information that could inform improvements to the service.
Requirement G2	Client Satisfaction Feedback
Purpose	To encourage clients to provide feedback about how well their needs were met by the service provided. This feedback will enable the organisation to monitor its service and make informed service improvements.
Requirement G3	Quality Management
Purpose	To ensure that the organisation has a named representative who is responsible for ensuring that all quality procedures used within the organisation are up to date and are reviewed at least annually.
Requirement G4	Quality Manual, and Information
Purpose	To provide a central file for the storage of all documented practices, to make this available to all members of staff

Guidance to accompany Section G: Commitment to Quality

Guidance notes are provided to assist you in complying with the requirements. They provide background detail about some of the requirements or definitions already given, cover some of the methods auditors may use to find evidence, and suggest systems or processes that you might find useful when considering how best to demonstrate compliance.

Requirement G1

Complaints

G1.1 Informing clients about how and to whom they should complain

Encouraging feedback

Your approach to complaints should be positive, as they alert you to problems that your clients have about the service and thereby provide *an opportunity for service improvement*.

The complaints process should be as open as possible (*easy for the client to understand and to access*) so that concerns are raised at the earliest opportunity, rather than letting them become more serious. For clarity, you may want to refer to this process (to your clients) as a “complaints procedure”, or, if you consider that this would discourage feedback, you might instead choose to use words such as “raising concerns” or “if you have a problem or are not satisfied with the service you receive”.

Solicitor Regulation Authority Code of Conduct section 8.2 to 8.5 sets out requirements on complaints handling. Although the client does not need to be advised of the entire system when given one-off advice (including police station advice and court duty solicitor advice), they must at least be advised of the name of the person with whom they should raise any problems. Compliant practice would therefore include telling the client whom to approach in the event of dissatisfaction and/or providing them with a prepared letter/leaflet containing a brief explanation, and supplementing that with a more detailed written explanation if/once a file is opened and further work is done for them.

G1.2 Complaints procedure

Definition of a complaint

Probably the best definition of a “complaint” is “*any expression of client dissatisfaction, however it is expressed*”.

This means that *a complaint need not include the word “complain”* in it, and might be presented in writing, over the telephone or in person.

Responsibility for complaints

This section will usually include the *names of individuals who are authorised to handle complaints* (e.g. those to whom specific training has been given), or the level at which all complaints should first be handled (e.g. by the caseworker initially, with guidance from the supervisor or a manager). It will also include the name of *the individual who has ultimate responsibility* in the organisation for tracking and monitoring complaints (this is often, but not always, the same person to whom complaints escalate if they cannot be resolved initially).

Note that the paragraph above assumes that some specific *customer care or complaints training will be given* to those who are required to deal with complaints. Although this is not a requirement, it is good practice.

Identifying and recording complaints

Where all incoming post is checked by one person, you may want that individual to be responsible for *identifying written complaints* (e.g. marking the fact that the letter contains a complaint and recording it in the central record).

You will also need to consider how other forms of complaint, such as those arising during *telephone, video conferencing and face-to-face* conversations, are to be identified, recorded and allocated. *E-mail complaints* should also be considered. Again, you must ensure that your process for identifying a complaint is not solely focused on correspondence or conversations in which the word “complain” is used.

As required in G1.3, all complaints must be recorded in a central file. You will find it easiest to track responses to complaints where they are noted in the file on receipt (rather than when all details about the complaint are completed on resolution).

Cause of the complaint and how to respond

Many organisations find that the best approach is to *grade complaint types*, so that individuals can categorise them more easily and can respond consistently. This usually works by splitting complaints initially into those that are justified and those that are not justified, then splitting those that are justified into type (e.g. “administrative, procedural and personal”, “caused frustration, caused financial loss, and created delay”, “on grounds of discrimination” or “serious, moderate and minor”).

Once you have classified the complaint into types, your procedure can *then identify options for the person who needs to respond*. This approach should ensure that more time and effort is given to more serious complaints, and that there are greater options for redress (also, possibly, that they are dealt with at a more senior level initially) than for complaints that are minor or that cannot be justified.

Note that you should *respond to all complaints in some way* (e.g. by agreeing action on the telephone or by writing to the client), whether you find them to be justified or not.

You will want to include a *hierarchy for handling complaints* (detailing who deals with those that cannot be resolved initially), and may also want to include in your procedure a process for deeming an individual a “*vexatious complainant*” (and presumably ceasing to deal with further unjustified complaints from them). If you do this, your process will need to be justified to the auditor (as covering only those individuals who persistently make unjustified complaints), and you will need to provide the individual with prior notice of your intention not to respond to further unjustified complaints.

G1.3 Central record and annual review

Having a central record and complaints data

Recording complaints centrally and conducting regular (and at least annual) analysis of complaint data will enable changes to procedures *to improve service* even further *by establishing root causes and trends* and preventing further complaints.

Action as the result of review

Action might be *directed at individuals* (e.g. providing additional training in certain skills) or it might involve changes to *processes and procedures* (e.g. where complaints arise from what processes and procedures contain *or do not contain*); it might even involve considering *expanding the service* (e.g. where complaints arise from having to be signposted for certain advice).

Effective and positive complaint handling is an important aspect of client care and service quality. Action following review might, therefore, also be to *improve the complaints procedure or training in complaints handling*, as the way in which complaints have been handled should form as much part of the review as the issues that have been their subject.

Guidance to accompany Section G: Commitment to Quality

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Requirement G2

Client Satisfaction Feedback

G2.1 Client feedback procedure

G2.2 Annual review and outcome

Collecting the information from clients

It is generally accepted that *the client is best placed to comment on aspects of service delivery* such as ease of access, appropriateness and effectiveness of explanations, being kept up to date etc. These are all-important aspects of a quality service, on which the client can make effective judgements according to their own experience.

The SQM is *not prescriptive as to how client feedback is to be collected*. You need be able to determine your own methodology, though feedback must include reference to each of the areas set out in the definition (in the SQM Standard).

Although auditors will not expect you to control response rate, they may seek justification of your sample size or of the methodology adopted where feedback data appears low.

Template questionnaire and recording/reviewing software

The method commonly used for collecting this data is by some form of questionnaire.

Guidance to accompany Section G: Commitment to Quality

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Requirement G3	Quality Management
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G3.1 Appointing a Quality Representative

Whom you appoint

The appointment is at your own discretion, but would usually be someone with sufficient seniority in the organisation to instigate changes to procedures, policies and practices, and to make recommendations about service improvement generally (e.g. to recommend changes that should be considered within the planning process at A1). As well as streamlining the process of quality management, this sends the right message to all staff about how seriously you take quality service provision in the organisation.

Telling the SQM audit body about changes

It is important that the SQM audit body knows when a Quality Representative has changed, so that changes can be made to their central records. These records include address details, to ensure that all correspondence are addressed to the right person in the organisation.

G3.2 Up-to-date quality procedures

Auditors will be checking to see that *staff have access to procedures*, and that obsolete procedures have been removed.

G3.3 Process control

Generally, organisations will only move to *processes (i.e. non-documented procedures) where* (this is allowed and where) they are *sufficiently confident about how the practice operates*. As a result, you need to ensure that your confidence remains justified and to re-instate procedures where processes begin to fail (e.g. where you find that new staff have difficulty).

Guidance to accompany Section G: Commitment to Quality

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Requirement G4	Quality Manual, Specialist Quality Mark Application Forms and Information
<p>G4.1 Having a quality manual</p> <p>Purpose</p> <p>The purpose of an office manual is <i>to document simply and in a clear way all the key processes by which the organisation runs</i>. It cannot be developed in isolation from the business/service; neither can it be bought “off the shelf”. The notes below should be considered.</p> <p>Content and layout</p> <p>The principal aim of the manual (which may in fact be made up of a series of policy and/or procedure documents/manuals) is to document what is done to enable effective management of the organisation. It is not merely to comply with the needs of the SQM standard.</p> <p>The manual should be <i>accessible to staff</i>, and be written in a way that is easy to use and understand.</p> <p>It may be useful to <i>separate essential information from support material</i>, and to make reference to it where appropriate. This will prevent the manual from becoming unwieldy. Examples of this would be personnel and training manuals, health and safety manuals, and other corporate policy documents that could be maintained separately from the core procedure manual.</p> <p>Written <i>procedures and policies should be short and clearly understandable</i> and where model policies (produced by another organisation) and standard forms are used, reference to them should be made and copies provided.</p> <p>G4.2 Manual availability</p> <p>As the manual documents how individuals should operate, it makes sense that this information is available to those individuals and that they know that it can be referred to whenever they have any concern about how to process a piece of work or to take action.</p>	