

A Guide to Peer Review Housing



13 October 2020

Presenters

David Gilmore

David has provided advice and assistance to hundreds of law firms and other legal organisations. He delivers specialist consultancy and training on a wide range of topics including business management & strategy, tendering, compliance and quality assurance.

Professor Avrom Sherr

Avrom is the principal architect of a system of assessment of legal competence known as Independent Peer Review. Since 2002 this has been used as the system for assessment of the quality of publicly funded work in the UK, ensuring the quality of legal services received by the public, and he leads the operation of this work.

Will Flack

William is a freelance solicitor and has specialised in housing law for the last twenty years. Before working freelance William worked as an in house supervisor then set up his own specialist firm. He has worked on County Court Duty Rotas and was a Legal Aid Peer Reviewer between 2009 and 2012. William provides coaching and advisory services to organisations wishing to ensure that their caseworkers are providing excellent advice and are following best practice.

Melanie Gongga

Melanie started her career in private practice & qualified to specialise in housing in 1997. After leaving private practice, Melanie worked at a Law Centre, where she spent 10 years as a supervising solicitor. Melanie has been a Housing Peer Reviewer for almost 15 years, became a Senior Panel Member in 2008, has assisted in training subsequent Peer Reviewers & in writing the Housing Peer Review Guide.

PEER REVIEW AND QUALITY FOR DG LEGAL WEBINARS 2020



Lawyers: The Quality Agenda, 1992

- N.B. Franchising plus already in place
- Reprise: Inputs, Structure, Process, Outcomes
- Peer Review - tried and untried
- Model Clients?
- Triangulation of approach
- Transaction Criteria

Quality and Cost

- 1997-2000
- The Team~
- 100 solicitor firms
- 43 Not-For-Profit
- 142,975 cases - 82,705 completed
- Randomised controlled trial, “gold standard”.
- 4 payment groups:
 - 1.Green Form
 - 2.Fixed sum
 - 3.Fixed no+sum
 - 4.NFP 1100hrs
- *BriefCase*; Peer Review; Model Clients; Client Survey

STRUCTURE

INPUTS

OUTPUTS

PROCESS

STRUCTURE

Library

Education

Qualification

Training

Licensure

INPUTS

Contacts

Experience Property

Knowledge

Equipment

Skill sets

IT

PROCESS

OUTPUTS

Supervision
Management Allocation
STRUCTURE
Library
Education Training Systems
Qualification
Training Licensure
INPUTS
Contacts Experience Property
Knowledge Equipment
Skill sets IT

Supervision
Management Allocation
STRUCTURE
Training Systems

Advice
Fact Gathering Correspondence
PROCESS Client Handling
Strategy Decisions Advocacy
Legal Analysis Performance Practice Management

Sentence
Financial Action
Private Inaction
OUTPUTS
Public Political
Social
Damages

Advice
Fact Gathering Correspondence
PROCESS
Strategy Decisions Advocacy
Legal Analysis Performance Practice Management
Client Handling

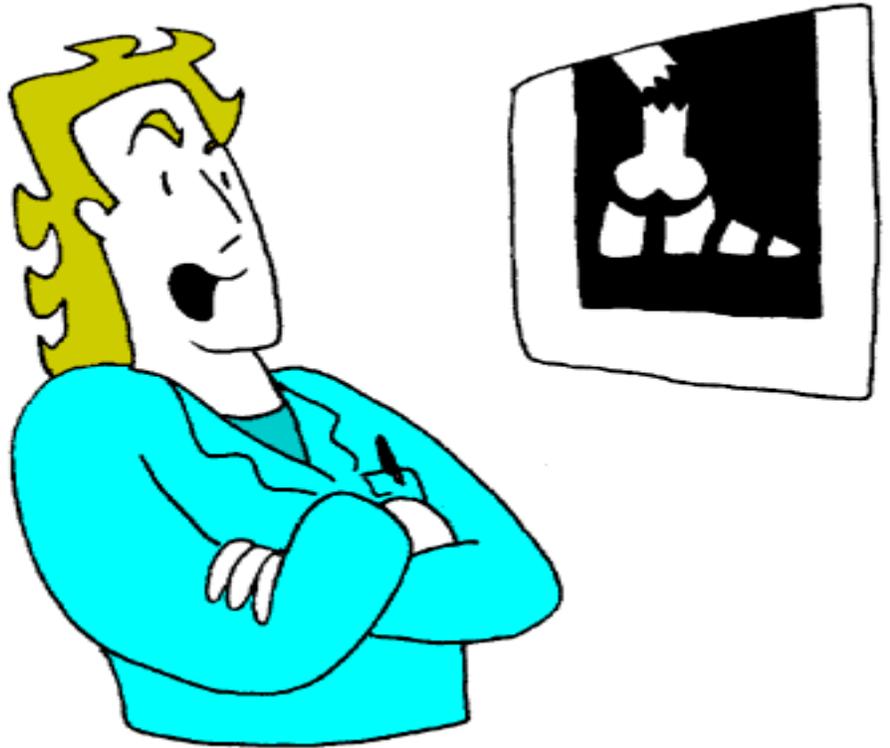


Peer Review in “Quality and Cost”

- Peer Rev. Mark 2
- 718 cases
- 55 contractees
- 5 work areas
- 173 double marked
- 18 PR/ MC cases
- Selection; training; criteria; sample; monitoring.



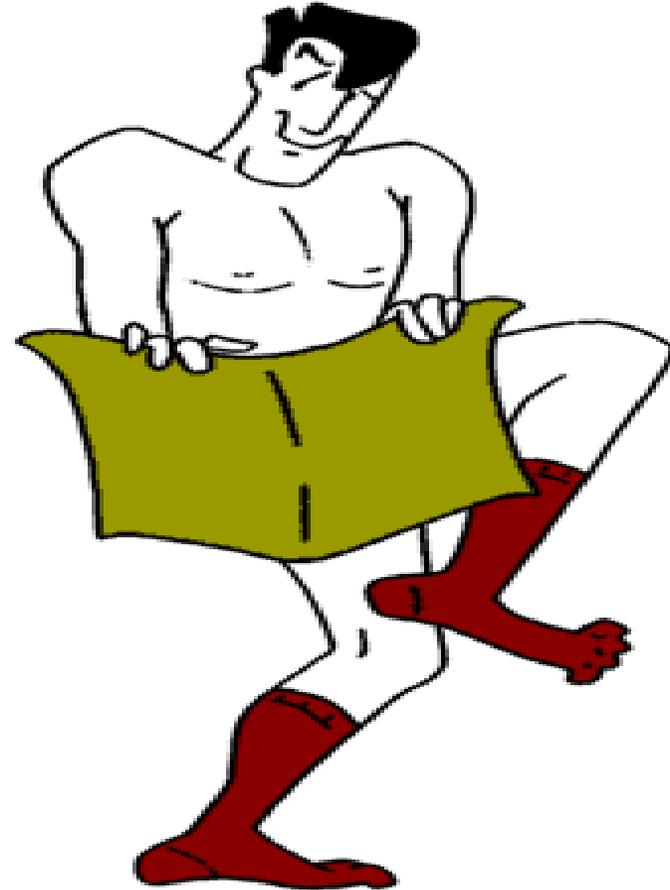
Peer Review cont.



- Reliability:
 - of instrument
 - of reviewers
 - ditto inter se
 - rating contractees
- Conclude:
 - Double mark
 - Whole Org. only

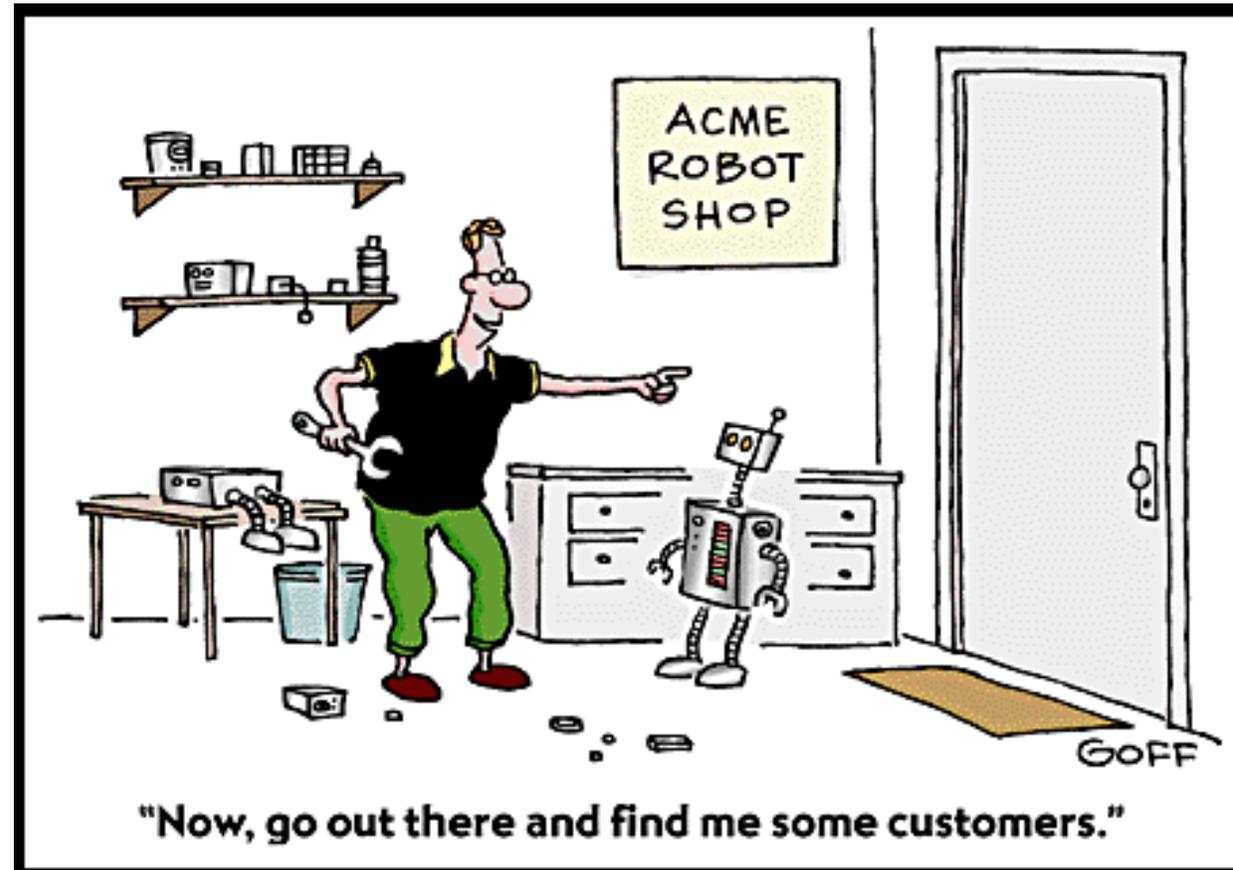
Peer Review results (ii)

- Solicitor vs NFP
- + financial results
- Time per case
- 3 peer reviewers
- Cases <99 days
- PI and Housing
- Region (L' pool)



Model Clients and Peer Review

- 45 visits (1/3)
- Groups, regions, work categories
- Service: access, quality of advice+ immediate follow-up
- 1 visit, 1 adviser
- Debt, employment, housing. PI.



Model Clients Results

- Access difficulties: -
 - initial contact -
 - appointments -
 - advice -
 - advice system

- Quality via MC/PR: -
 - incomplete
 - cf: MC & PR
 - inaccurate
 - impractical
 - woolly
 - confusing contradictory
 - inappropriate

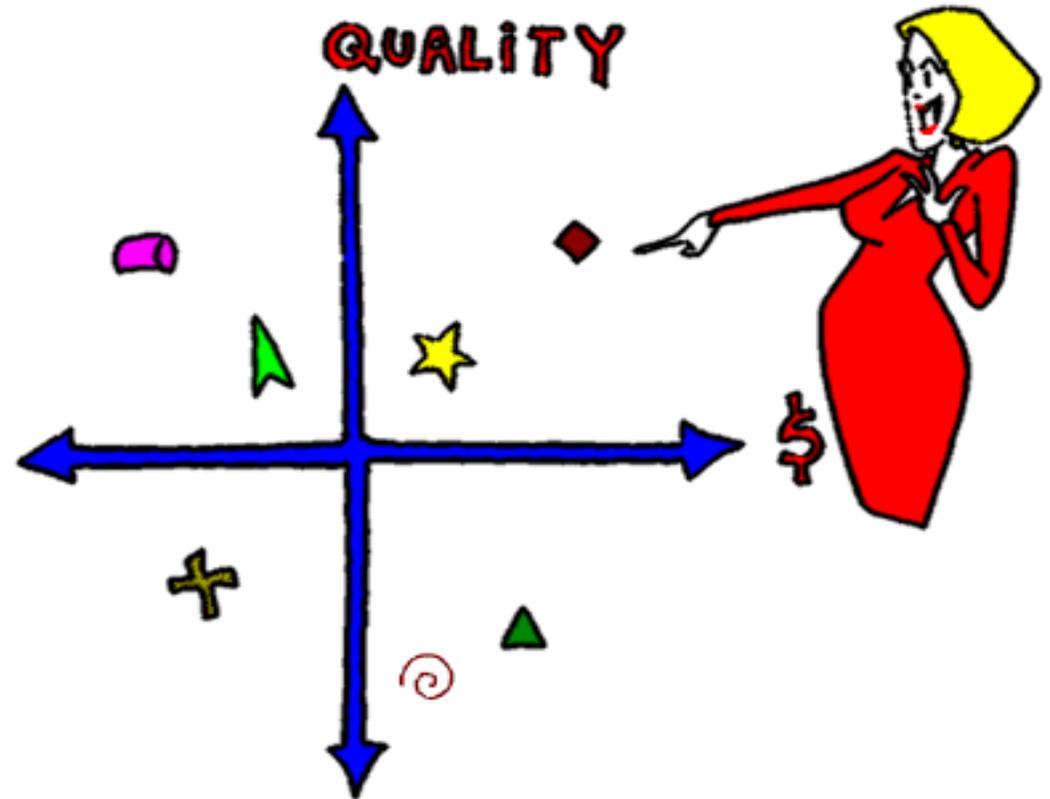
Model clients - example

Model client: “The adviser showed an impressive level of concern for my job security, understanding that I could not afford to lose my job. Made a point of telling me that it can be quite common for part time women workers to encounter unfair bosses because they know how much they need the job and think that they will be able to get away with it (i.e. treating them unfairly). Overall he was very helpful, reassuring and personal...”

Peer reviewers: “Although very clearly empathetic, this adviser does not really know enough about the law to be using legal aid money. A good example of touchy feely advice.”(PR4)

Quality interrelating

- Clients
- Model Clients
- Peer Review of MC
- Outcome Measures: -
+financial result
- Case profiles, e.g.:
 - court
 - disability
 - adversarial



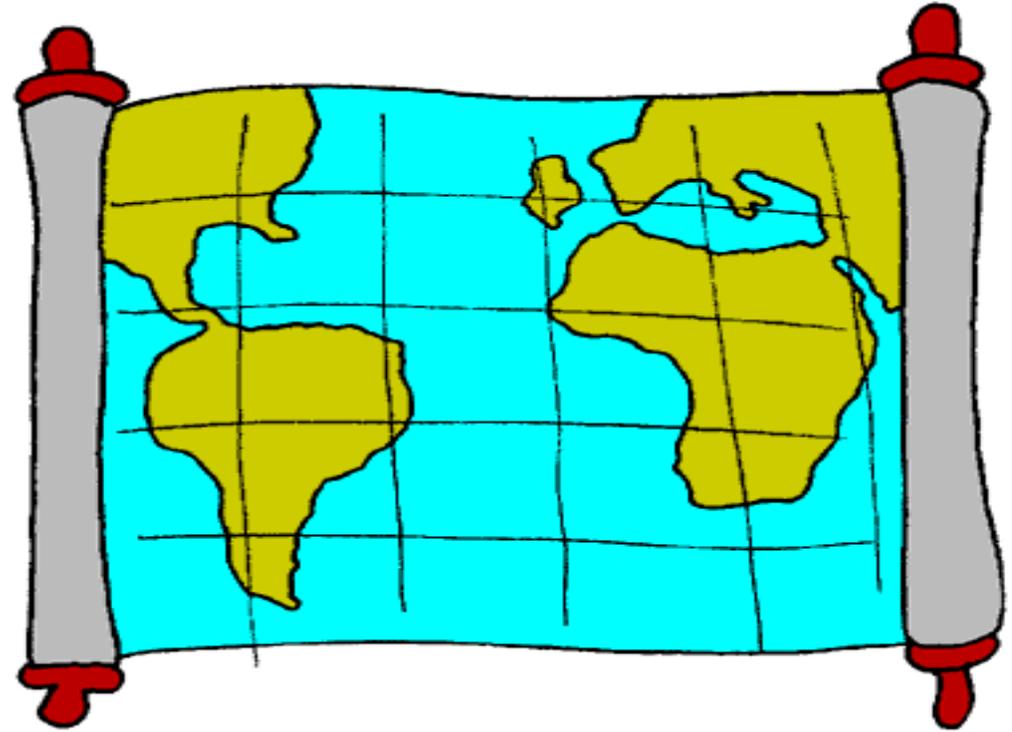
Quality futures



- Peer Review: -two track:
 1. Random
 2. Targeted
- -sensitive implementation
- Cf: -Cost
 - TCs
 -
- Compliance

Peer Review in Operation

- Selection
- Training
- Criteria
- Sample
- Monitoring
- 1. Random



2. Targeted

Peer Review- Became Used for:

- Tolerance
- Model Clients
- Welsh Pilot
- Preference
- Concordance
- Summary Reports
- Analysis
- Support and Target
- “Certificated” work
- All Family
- All civil areas
- Crime
- P R P R
- Consistency
- Trial
- Preferred Supplier

The Civil Criteria



The Gradings



- 1 = Excellence
- 2 = Competence Plus
- 3 = Competence
- 4 = Below Competence
- 5 = Failure in performance

Please circle one only

1 2 3 4 5

1 2 3 4 5

1 2 3 4 5

1 2 3 4 5 N/A

1 2 3 4 5 N/A

Y N

Further Comments

A. Communication with the Client:

1. How well does the adviser appear to have understood the client's problem
2. How effective were the adviser's communication and client-handling skills?
3. How effective were the adviser's fact and information – gathering skills?
4. How effectively was the client informed of:
 - a) the merits (or not) of the claim, and
 - b) all developments?

B. The advice:

1. How legally correct was the advice given?
2. How appropriate was the advice to the client's instructions?
3. How comprehensive was the advice? (For Family, see below)
4. Was the advice given in time/at the right time?

C. The work/assistance

1. If no other work was carried out, was this appropriate?
2. If any further fact-finding work was carried out
 - a) how appropriate and
 - b) how efficiently executed was the work?
3. If any other work was carried out
 - a) how appropriate and
 - b) how efficiently executed was the work?
4. How effective in working towards what the client reasonably wanted/needed was any further work carried out?
5. If no disbursements were incurred was this appropriate?

6. How appropriate were any disbursements incurred
7. Where this is necessary did the adviser consider/advise on/act on an effective referral?
8. Throughout the file how effectively did the organisation use resources?
9. Did the adviser or their work in any way prejudice the client?
10. If yes, provide details.

B.3 Family

- a) How comprehensive was the advice in relation to divorce?
- b) How comprehensive was the advice in relation to children?
- c) How comprehensive was the advice in relation to ancillary relief?
- d) How comprehensive was the advice in relation to injunction?
- e) How comprehensive was the advice overall?

Overall mark

1 2 3 4 5

Please detail any further necessary comments.

Criteria Guidance for each discipline

- Specific guidance written for reviewers by reviewers.

HOUSING PEER REVIEW — WHAT DOES QUALITY LOOK LIKE?

(A Practical Guide)

Melanie Gongga



Process of Peer Review

- Initial call for files
- Initial review
- The Report
- Representations
- Final Report



Search ID: kscn4914
"IF OUR WORK PROCESSES AREN'T MEETING THE CUSTOMER'S NEEDS, THEN WE HAVE TO BRING OUR CUSTOMERS IN LINE!"

Taking Instructions

- Personal Data, Family Circs, Financial Circs, Relevant Health Circs
- Housing Circumstances and Presenting Housing Issues – Landlord Details, Tenancy Details & Status, Rent, Court Proceedings?, Last Known Address?, Disrepair?, Deadlines/Urgency?
- Advice on Each Presenting Issue
- Funding Advice



Initial Advice Letter

- Templates & Precedents?
- Introduction
- Instructions' Summary
- Scope of Work Agreed
- Advice on Law & Procedure – is it given, tailored & accurate?
- Timescales
- Next Steps for Client & Provider
- Funding Confirmation
- Standard Client Care Information



"You're not covered since breathing is considered a pre-existing condition."



Next Steps

- Contact with landlords and/or opponents – information sought, client case put?
- Contact with Court?
- Does the case call for expert reports – e.g. medical, surveyor – if so, have these been properly and fully instructed on issues, and disbursements incurred where necessary?
- Contact with Housing Benefit Department, DWP, Social Workers, other third parties, or witnesses
- Appropriate Funding in place



"I'm disappointed. If anyone should have seen the red flags, it's you."

Consideration of Evidence

- Has evidence been chased, where other party non-responsive?
- Has evidence obtained been considered, weighed and advised upon?
- Does evidence suggest further enquiries needed, and are these made?
- Does the evidence assist or harm case?
- Has the advice to the client been updated in light of the evidence?
- Does the evidence result in any change of plan?



Representation

- Written representations & submissions, including pleadings/ statements of case
- Representation via negotiations with opponent/landlord
- Representation at Court – in-house or use of Counsel



"He was much more effective in the field."

Results & Outcomes

- What was the outcome?
- Was the outcome as might be expected in view of the evidence/issues?
- Were proactive steps taken towards achieving an appropriate outcome?
- Were the client's interests protected and case adequately advanced?
- Was the client advised of possible outcomes and why?
- Was the client advised of actual outcome and its implications/requirements?
- Was advice on outcome given promptly?
- Was there any need to advise on appeal, or steps client might wish to take going forward (e.g. if matter becomes out of scope, client becomes ineligible, matter lacks merit to further pursue)?



"You know why I'm sure the sales chart will be great?
Because this is the morale chart."



**BLACK
LIVES
MATTER**

“Do”s & “Don’t”s (1)

- You do not have to have typed attendance notes; you do have to have legible attendance notes, which should be sufficiently detailed to justify the time claimed
- Do not equate a lengthy initial letter to the client with good quality; although the initial client letter may be long, it should focus only on the relevant issues (and be spell-checked!)
- Do not assume precedent or standard letters are best; the best letters may use standard headings, but are always those that are tailored and specific to the individual client
- You may use standard leaflets, where generic information may be required (but remember to review and update these); do not use standard leaflets/letters as a substitute for properly tailored advice & do not give all clients the same advice
- Letters to clients need not quote specific legislation; letters to opponents/others, may need to
- On possession matters, do not start with an offer of an SPO and automatically assume this will represent a good outcome for the client; start by considering the full range of outcomes; on Warrant cases, act with urgency, but do not assume the earlier Court papers to be unnecessary or that all earlier technical requirements have been complied with; on homelessness cases (especially reviews) do obtain and fully consider a copy of the housing file; on disrepair cases, do obtain expert evidence; and on unlawful eviction cases, consider and advise on the full range of remedies the client might seek – if reinstatement is one of them, act with all haste

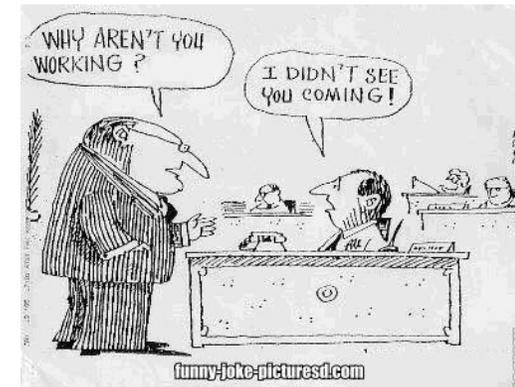


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“Do”s & “Don’t”s (2)

- Diarise dates and make sure deadlines are advised on and complied with, unless mutually agreed otherwise – e.g. on homelessness matters
- Do make third party and opponent enquiries, outlining or putting the client’s case; do not send clients off to make third party enquiries and gather their own case evidence and witness statements
- Be proactive – do not be easily “fobbed off”; follow-up issues instructed upon and chase for replies, using multiple means, if those tried have not produced the required results
- Do make enquiries of DWP, UC, HB, where material to the client’s case – these departments are, effectively, potential “witnesses”
- Where housing files, medical notes, expert’s reports etc are obtained, do not merely file these to “bulk-out” the file; actively consider the evidence and how it impacts the case
- Do update the client whenever there is a material development in the case, or as the evidence changes the case; do not assume you can best choose what the client wants, or alternatively bombard the client with so much information they cannot choose – assist the client to make an informed choice, based on advice on his/her options



“Do”s & “Don’t”s (3)

- Do draft your own pleadings where appropriate (e.g. where the standard Defence Form does not fit) & do not be afraid of referring to specialist Counsel, if required
- Do not keep multiple copies of the same document on file, or file documents – as opposed to correspondence & attendance notes – on the correspondence pin; do use document wallets, separate folders and/or ring binders (which are not over-stuffed)
- Do review files regularly & do ensure all staff, but more junior staff especially, have their files reviewed
- Do undertake advocacy or attend panel meetings, material to the case-outcome (these can almost always be justified), but do not assume Help At Court is a substitute for certificated funding permitting a different standard of advocacy to apply
- Do know your funding & use the right form of funding for the case and always give plenty of detail to support which ever form of funding used and/or the amount of work done/claimed
- Do notify clients of outcomes and what is therefore expected of them, promptly to ensure compliance; do not assume sending a copy of a Court Order is sufficient.



Common misconceptions

- Peer Review audits my costs and form-filling
- Providers that use typed attendance notes score best
- It is better to use template/standard letters
- Tidy/big files score best
- If I use legalistic language, it shows I know what I'm talking about
- Once I have advised a client, it is up to them to follow-up and progress their matter
- I am not allowed to do any "Housing Benefit" or "other benefit" work
- Disrepair work is no longer covered by Legal Help
- Unlawful eviction damages cases are no longer covered by Legal Aid
- I am not allowed to incur disbursements under Legal Help
- I will be judged more harshly on Peer Review if I do not get the outcome my client wants
- Legal Help financially limits the work I can do for clients
- I can do all the work I need to under Legal Help, so there's no point applying for a Legal Aid certificate



Hidden agenda.



Examples of Poor Practice

- ❖ Untrained and unsupervised staff running cases
- ❖ Very long handwritten attendance notes which are difficult to read
- ❖ Very long advice letters which consisting of a recital of what took place at the first meeting and general advice on the law but no clear advice on the client's problem
- ❖ Important questions not being asked
- ❖ Case workers not understanding a problem and what the solution might be which means that they do not take control of or progress the case towards a solution.
- ❖ Deadlines being missed and files becoming inactive

Examples and Ideas for Good Practice

- Use a check list for obtaining the important information so that important issues are not overlooked
- Turn long attendance notes from the first meeting into a Statement of Case in the client's own words and send it to them for amendment or approval
- Prepare an initial advice letter which should be separate from the client care letter
- The advice letter should be sent to the client as soon as possible after the first interview. It should enclose the statement of case set out
- The advice letter should contain a summary of the case and what will be a positive outcome.
- An outline of the relevant law and advice on how the law applies to the client's case.
- Details of what the solicitor has done so far what they will do and what the client should do.

Tips and Useful Guidance

- If you are going to delegate the day to day running of the case to junior staff make sure that it is regularly reviewed by a more senior case worker.
- Set review dates for when the case should be looked at again.
- Set dates for responses from client and third parties
- Follow up on the review dates
- Confirm telephone conversations with clients in writing

Any Questions?

Thanks for watching!

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