



**Omar Khan, a paralegal at TV Edwards LLP, and Miranda Hearn, a student of the Graduate Diploma in Law, summarise the main findings of a survey carried out by Young Legal Aid Lawyers (YLAL) on supervision in legal aid firms.<sup>1</sup>**

# Supervision in legal aid firms and new lawyers

YLAL has conducted a survey on supervision of caseworkers in legal aid firms. The research was prompted by the Legal Services Commission's (LSC's) proposal to require civil contract holders to have a minimum supervisor to caseworker ratio. In the LSC's consultation paper, *Civil bid rounds for 2010 contracts*, it consulted on whether one supervisor to four caseworkers (1:4) would be an appropriate minimum ratio.<sup>2</sup> The LSC stated that it would prefer organisations with higher supervision ratios in the tendering process.

YLAL agrees that, in the absence of other quality controls, it is necessary to restrict the number of caseworkers a supervisor can supervise in order to ensure quality. We welcomed the idea of a minimum supervision ratio. The purpose of the survey was to canvass practitioners for their views on supervision standards and the appropriateness of the 1:4 ratio.

## The shift away from quality assurance

On 25 June 2009, the LSC announced that peer review will no longer be incorporated into the tendering process, but instead will be used on a risk-based and random-sampling basis.<sup>3</sup> It also disclosed plans to transfer the costs of quality assurance to providers. Furthermore, in its response to the civil contract consultation, which was published on 30 June, the LSC amended its supervision requirement proposal to

require a minimum ratio of 1:6 and confirmed that it would not favour organisations with high supervisor ratios for contracts after all.<sup>4</sup>

However, YLAL's survey data on supervision standards reveals a common concern that poor-quality casework harms clients. In our view, the LSC needs to ensure that it only contracts with high-quality firms, and that quality assurance requirements should not be too onerous for small practices.

## The survey

The survey was completed by 78 respondents between December 2008 and July 2009. The majority were trainees, qualified solicitors or paralegals. In July 2009, respondents were invited to comment on the updated proposal of one supervisor to six caseworkers instead of one to four; a further 12 responses were received.

## Dangers of poor supervision

Around one-fifth of trainees or ex-trainees rated the supervision they received as less than adequate. Common reasons cited were the supervisor's heavy workload, or that s/he had to supervise too many staff, and a lack of experienced colleagues from whom to obtain advice. There were calls for greater monitoring and guidance on the content of training. One respondent, who shared one supervisor with four other caseworkers, commented that:

*... [supervision] is patchy and a lot of the time I am left to run cases I do not know how to handle. I am then reprimanded if I have not done everything required.*

Other experiences of poor supervision included:

*I often end up doing things my boss does not know how to do so I am on my own.*

*By the end of my training contract I was undertaking judicial review cases and at times it felt like I was supervising others!*

## Recommended supervision ratios

- 82 per cent of respondents said that a ratio of 1:4 would not be suitable across all areas of legal aid work.
- 92 per cent of those who commented on the 1:6 ratio proposal thought it would have a negative impact on quality.
- Several respondents were doubtful that one supervisor could keep track of six caseloads in addition to his/her own in any meaningful way.
- Based on their experiences, 92 per cent of all respondents recommended a ratio of no more than 1:3 as an appropriate supervisor to caseworker ratio.

Respondents cited the complexity of legal aid work and the link between close supervision and quality as reasons for imposing a high ratio of supervisor to caseworker.

*I previously worked in a local authority and dealt with a number of legal aid firms, including one firm in particular which did high-volume community care legal aid work and had a very low ratio of supervisors to supervisees. I continually received letters from paralegals and trainees at this firm, all containing the same errors of law. They never 'pushed' or 'fought' on behalf of their clients ... Whatever the underlying merits of their clients' cases (which often were not particularly clear) the outcomes they got for them were not as good as for those firms whose clients were represented by proper solicitors.*

### Different supervision ratios for different areas

Many respondents felt that a single ratio could not be applied to all areas of legal aid work. Several respondents said that overstressing supervisors could result in substandard representation in complex areas, such as public law:

*The 1:4 [...] ratio is potentially a disaster ... The consequences for clients are obvious. For example, if a case throws up a public law angle, an under-qualified or under-supervised caseworker may not spot what could be a very important point to bring forward by way of judicial review. This is particularly problematic as judicial review challenges have to be taken extremely promptly and therefore even if the supervisor picks it up, subsequently it may be too late for the client.*

Other areas in which respondents considered intense supervision crucial included child care law, community care law, discrimination work and actions against the police.

### Supervision ratios should reflect experience

Many respondents felt that trainees and inexperienced paralegals should be afforded a higher supervision ratio than more experienced caseworkers. The vast majority believed that supervisors should supervise no more than two trainees or three experienced paralegals. It was felt that the supervisor's level of experience should also influence the ratio.

It was commented that the term 'supervisor' needs to be defined more thoughtfully. One respondent felt that using the number of hours worked as a criterion for qualifying as a 'supervisor' could discriminate against solicitors who work part-time and are unable to complete the required number of hours. Variation in the size of supervisors' caseloads was cited as another reason against a one-size-fits-all ratio.

### Incentivising quality and encouraging new lawyers

Some respondents noted that pressure to cut costs makes low supervision ratios tempting. YLAL believes that it is essential for the LSC to introduce an effective minimum ratio requirement as a condition of the grant of a contract. In addition, rewarding firms that prioritise supervision will help to preserve quality in supervision in a difficult economic climate. These measures will protect firms that prioritise quality from being forced out of the market by those employing armies of under-supervised paralegals as a means of lowering costs. There is some evidence that the quality of supervision has already been adversely affected by recent changes to legal aid. One respondent commented:

*Since the fixed fees regime, the level of supervision has changed dramatically as my supervisor has to supervise many more lower-level staff. I benefit from being a paralegal before the reforms and having almost one-on-one supervision. Now I contend with two people lower than me, and that is likely to rise again. My supervisor is amazing and copes so well with offering as much supervision as she can. But people coming into the system now are not experiencing the same as I did when I first started, and I am afraid that, later on, that will translate to big gaps in knowledge.*

YLAL is also concerned that young lawyers in pursuit of good training and opportunities to progress will be deterred from the legal aid sector. The concerns revealed by our 2008 paralegal survey will grow (see 'YLAL survey reveals unfair treatment of paralegals', March 2008 *Legal Action* 8). Unless qualifying as a solicitor is a requirement of achieving supervisor status, a dearth of qualification opportunities is inevitable.

### Conclusion

YLAL supports a mandatory minimum supervision ratio. However, our survey findings reveal overwhelming opposition to the suggestion that a minimum ratio of 1:4 – let alone one of 1:6 – is appropriate. The experiences shared by our respondents are fresh evidence that poor supervision leads to poor-quality work for clients, pressure on caseworkers and less confidence in the legal aid sector. We hope that the LSC will consider YLALs' recommendations (see below) and read our full report on the survey.

### YLALs' recommendations

YLAL proposes the following possible solutions to ensure good-quality legal services in the future. The LSC should:

- urgently review its supervisor-ratio requirements for future contracts, bearing in mind the concerns of junior lawyers;
- require a ratio of at least one supervisor to four caseworkers in all areas;
- require a higher ratio of at least one supervisor to two caseworkers or another enhanced supervision standard in the following situations:
  - where the supervisor is not qualified or has less than ten years' experience in the relevant area of law; or
  - where the caseworker is not qualified and has less than five years' experience in the relevant area of law; or
  - where the area of law is complex;
- create an enhanced supervisor standard based on ability and experience rather than hours worked; and
- provide tangible rewards for organisations that maintain a high ratio of supervisor to caseworker.

- 1 YLAL was formed in 2005 and has over 1,200 members, comprising students who intend to practise legal aid, and trainees and newly-qualified legal aid lawyers. The group has campaigned to ensure that changes to legal aid do not reduce the quality of publicly-funded legal services. The full report, *Supervisor ratios: ensuring quality legal aid lawyers for the future*, is published at: [www.younglegalaidlawyers.org](http://www.younglegalaidlawyers.org).
- 2 Visit: [https://consult.legalservices.gov.uk/inovem/gf2.ti/f/137474/2185765.1/pdf/-/CivilBidRoundsfor2010Contracts\\_Final\\_withcovers.pdf](https://consult.legalservices.gov.uk/inovem/gf2.ti/f/137474/2185765.1/pdf/-/CivilBidRoundsfor2010Contracts_Final_withcovers.pdf).
- 3 *Quality in legal aid SQM outsourcing: a discussion paper* is available at: [www.legalservices.gov.uk/docs/cls\\_main/Quality\\_in\\_Legal\\_Aid\\_SQM\\_Outsourcing\\_A\\_Discussion\\_Paper\\_-\\_24\\_June\\_09\\_TO\\_USE.pdf](http://www.legalservices.gov.uk/docs/cls_main/Quality_in_Legal_Aid_SQM_Outsourcing_A_Discussion_Paper_-_24_June_09_TO_USE.pdf).
- 4 Visit: [https://consult.legalservices.gov.uk/inovem/gf2.ti/f/137474/2789765.1/pdf/-/Consultresp\\_FINAL\\_.pdf](https://consult.legalservices.gov.uk/inovem/gf2.ti/f/137474/2789765.1/pdf/-/Consultresp_FINAL_.pdf).

**YLALs' fourth annual 'Question Time' takes place on 15 October 2009, 7 pm, at the Keyworth Centre, London South Bank University. It will be chaired by Jon Snow and includes panellists Lord Bach, Carolyn Regan, Henry Bellingham MP, Afua Hirsch and Kat Craig. For more information about YLAL and tickets for the above event, visit: [www.younglegalaidlawyers.org](http://www.younglegalaidlawyers.org).**