

Supervising lawyers and staff in a remote world

Over the last five months, **law firms** and their clients have successfully transitioned to remote working arrangements for most, if not all, of their employees due to COVID-19. While there has been a slow return to the office environment for some, most law firms and companies anticipate that a significant percentage of employees will continue to work remotely throughout the remainder of 2020 and perhaps indefinitely. It is now the case, more than ever, that “work” is what we do, not where we go.

Whether lawyers and staff are working in an office or remotely, law firms are required to “make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct” and that nonlegal staff conduct is compatible with the lawyers’ professional obligations. See Model Rules of Prof’l Conduct R. 5.1(a) and 5.3(a) (2020) [hereinafter “Model Rules”]. Any lawyer with direct supervisory authority over other lawyers and nonlegal staff also must make reasonable efforts to ensure that those individuals are acting in conformity with the Rules. Model Rules R. 5.1(b) and 5.3(a). Embodied in the Rules, of course, are all the core duties that lawyers owe to their clients—competence, diligence, confidentiality, honesty, and loyalty. Aon’s claims data spanning the last 15 years demonstrates that actual or perceived failures in performing those duties trigger most claims against lawyers, with mistakes leading the way in the number of claims and total amount of claims dollars paid. Proper supervision and case management—regardless of whether the associated time is billable—is an important tool in avoiding or mitigating those claims.

What is not as obvious for those of us who have worked primarily in an office setting pre-pandemic is how best to supervise colleagues virtually. The office experience provides built-in opportunities for communication and knowledge sharing, both direct and indirect. Access to team members and resources is generally more immediate in an office. Being physically present with team members provides visual cues invaluable to providing context, indicating where clarification is needed or issues for further discussion may lie, and providing insight into our colleagues’ wellbeing (and our own). Law firm culture and community knowledge develop organically in an office setting and isolation is less of an issue than it is when team members sit separately in remote locations. But experience shows that remote working is an excellent alternative to the office: productivity and efficiency can increase, and part-time remote work is considered a significant enhancement to our quality of life and overall wellbeing.

Virtual supervision and collaboration are also achievable, but require some adaptations to the medium, method, and frequency of communication among team members and virtual training on firm policies and procedure. These goals also presuppose access to appropriate technological tools and the competence to effectively use those tools to manage client matters, client relationships, and professional obligations.

“Supervising remote teams differs from the office setting only in the technology needed and efforts required to establish and become accustomed to virtual modes of communication.”

Jennifer Finnegan, Senior Vice President, Loss Prevention, Aon

With these issues in mind, in *Supervising Lawyers and Staff Remotely*, Loss Prevention Bulletin 20-05 (August 2020), Aon's **loss prevention** team offers detailed guidance to law firms and supervisory lawyers in checklist form for establishing and maintaining effective supervisory structures and practices for remote working. A summary of the items on the checklists follows:

Supervision Checklist for Law Firm Management (Firmwide Supervisory Efforts)

- Collect location and contact information for all remote colleagues.
- Provide all necessary hardware and updated software and ensure internet access.
- Provide technology and cybersecurity training with a focus on the duty of confidentiality owed to clients.
- Train on specific protocols for handling client files in both electronic and paper formats.
- Provide webinar training on firm policies and procedures, monitor compliance and implement enforcement measures.
- Create a virtual community space to share firmwide news, resources, and chats.
- Hold regular leadership meetings that include discussion of supervisory efforts.
- Monitor workload and quality by regularly reviewing billing and timekeeping data.
- Don't forget unauthorized practice of law concerns if lawyers are working remotely from jurisdictions where they are not licensed.

Supervision Checklist for Supervising Attorneys (Client Matter Supervisory Efforts)

- Lay the ground rules for communication routines among team members for each client matter.
- Clearly describe assignments and timelines and share overall strategy updates with all team members.
- Hold regularly scheduled team video conference meetings (e.g., once a week) and more frequent one-on-one telephone or video conferences with each team member.
- Monitor team members' performance and productivity via time entry review.

Effective supervision relies primarily on effective planning and collaboration, which in turn are based in consistent, frequent, and clear communication. Supervising remote teams differs from the office setting only in the technology needed and efforts required to establish and become accustomed to virtual modes of communication.

For more information about this topic and the value-added loss prevention services Aon provides to its legal professional liability insurance brokerage clients, please contact **Doug Richmond** or **Jennifer Finnegan**.