

Presentation for ASA Quality Conference: 26th January 2021

I think we'd all agree that the quality of advice that a person gets shouldn't be dependent on how much they can afford to pay.

How much they can pay can often be an accident of birth and luck and opportunities.

Why should someone's access to high quality help depend only on the way the financial dice landed?

I'd hazard a guess that you're all with me on this point.

Of course, the quality of advice a person gets can be just as open to a throw of other dice.

Those dice relate to the experience, competence and capacity of the adviser.

Hit the right adviser on the right day and the quality of advice is fantastic.

However, hit the right adviser on the wrong day or the wrong adviser on any day and the quality of the advice might not be what we'd hope or what the service users deserves.

That's not to say that we actively employ poor quality advisers but some lack experience; some lack time; and some just have bad days. Of course, sadly, some aren't necessarily up to the job and we don't always find that out as quickly as we might like...

It shouldn't matter how a service user accesses advice; or which day they access it on; or who fate gives them as adviser – they should all get consistently high-quality advice (and if at all possible, brilliant advice provided in the best way for that individual).

Now, of course, quality is an odd concept. We know it when we see it but drawing it is harder than you might imagine. Quality in advice must surely mean:

- The right advice
- Accessed simply
- Given in the right way for that client
- Leading to the right outcome...

But it also means available and accessible and for those to happen we need secure advice agencies able to offer services at the volumes necessary.

You can have the best advisers in the world but if no-one can access them or if the wait to access them is super long then it doesn't really matter how good they are because only a few people will ever benefit.

So let's look at how you can ensure quality of advice.

One of my previous employers, the Legal Aid Board, developed LAFQAS in the 1990's. LAFQAS was the LEGAL AID FRANCHISE QUALITY ASSURANCE STANDARD. This was a set of things which you'd expect to see on well managed files and within well managed legal aid firms. LAFQAS became the Specialist Quality Mark and thus evolved the AQS or Advice Quality Standard. Late to the party the Law Society also developed it's LEXCEL quality standard.

The common theme of all of these is that none directly independently measure quality. Instead, they are all PROXY quality measures. This means that they measure the things that an organisation will have in place if it is likely to be delivering a high quality advice. Likewise, with those things in place the service is far more likely to be of a higher quality.

So, what do they do?

Proxy quality standards measure (and indeed to an extent drive) the building blocks of a quality service. In order to obtain a quality standard, you must either have or implement the systems, policies, processes and controls set out in that standard.

They require you to have, for instance:

- Proper open recruitment processes
- Staff recruited against clear job descriptions and specifications
- Induction processes

- Training and development processes
- Processes for allocating work according to competence and capacity
- Structured case management procedures
- Appropriate client care procedures
- Appropriate legal and regulatory processes
- Proper procedures supervision and file review
- Complaints and client feedback monitoring and
- Annual appraisal and review processes

Of course, apart from file reviews, none of this measures the quality of advice given to a particular client on a particular matter on a particular day. And even file reviews may not pick that up.

Passing a proxy quality standard doesn't tell you how good a piece of advice was or how timely the responses to the clients were.

It doesn't tell you if the language used when communicating was appropriate or if the client got the outcome they wanted or needed.

However, if you:

- Recruit the right people who
- Understand what their job is
- And who are properly trained about the way you do things
- And whose training continues through their employment with you
- And if they are only allocated work that they have the skills to do (and time to do)
- And they do that work in the way you have told them
- And if they communicate well with the client
- And make sure they follow the regulatory rules
- And if they are supervised by more experienced colleagues
- Who also randomly check files to make sure that everything is tickety-boo
- And if you watch out for complaints and listen to what your clients tell you

- And have a way to feed that back to the staff member say every six months or every year then...

Chances are what they do will be of a much higher quality that if you weren't doing any of these things.

The fact that all IF your staff are applying the same rules then there should be consistency across your agency.

This means that you, your trustees and your funders and partners can have some assurance that your agency is built around a quality framework.

But this isn't all that proxy quality standards like the AQS do. They also require agencies to:

- Be clear about their independence and state their vision and values
- Have a periodic business planning / strategic planning process which they document in a business plan (or strategic plan)
- Have clear policies on things like diversity and inclusion which drive the way they work
- Have a clear management and governance structure
- Have clear HR procedures (including disciplinary and grievance procedures)
- Properly budget
- Regularly review the variance between actual income and expenditure against budgeted income and expenditure
- Have proper financial systems and controls
- Have proper signposting and referral pathways
- Communicate clearly with partners
- And have robust IT systems

The truth is that, in my experience, most advice agencies and law firms see quality standards as a thing they have to pass, and many put their effort into making sure they have all of their ducks in a row just in the lead up to an audit.

Here's a tip – if you want to know if your agency is like that (and the truth is you probably already know) then look at your office / staff manual. If it says things like “we will” or “we do” then chances are it was written to persuade an auditor.

If it says things like “you should” or “you must” then it was written to help your staff do things better.

One is about compliance – the other is about quality.

Go back to your office and have a look at your policies and procedures. Do they reflect what you really believe and do? Could a new staff member read them and really understand how they are supposed to do their work?

If not, what are they for?

For me a quality standard shouldn't be about compliance or passing an audit – it should be a framework for running a practice. A skeleton of best practice around which you can build your agency.

If you live your quality standard rather than just pass it then you should have an agency where quality is part of the DNA and not where quality is a test to be passed periodically.

The unexpected management benefit of proxy quality standards is that for most of us accidental managers (and most of us in this sector are accidental managers) they give us a working framework for effective organisational management and operation.

If we live them rather than pass them then they can make our lives much much simpler.

I ran some training on the Law Society's Lexcel Standard a few years back and I framed it in the way I'd just suggested to you.

At the end of the training a very long in the tooth practice manager came up to me and said that he wished he'd attended my training when he first became a manager as seeing Lexcel for what it could be rather than what he'd treated it as would have really helped him better run the practice.

He now lives Lexcel all year rather than before an audit. Don't get me wrong, he's not a Lexcel zealot but he does appreciate that having the right systems in place is a leg up to excellent practice management.

Of course, proxy quality standards still don't actually independently measure quality...

File reviews are, of course, audits where files are checked against certain defined criteria. Was the file opened properly? Was a conflict check done? Was the client set an introductory letter? Was the advice clear etc.

File reviews and supervision processes create a mechanism for quality review but if you've got something wrong structurally then that may affect the supervisor in the same way that it does the adviser.

Sometimes internal politics and hierarchies – the power dynamics of an organisation – may make file review processes less effective than it should be.

The most effective way to independently measure the quality of the service a client got (or is getting) is through a PEER REVIEW type process.

Peer review is where another experienced individual from a different agency or organisation, looks at the actual client files and gives constructive feedback on the quality of advice and on things like the quality of the communications and the outcome for the client.

Peer review is an excellent process for learning and improving – for getting an independent non-partisan view on whether things could be improved.

I give my work to someone else who, with independent and objective eyes, can tell me where I nailed it and where I could have done things differently or better.

Get the right peer reviewer and my chance to learn and develop is immense.

Asking for feedback is something that I personally embrace. Why wouldn't I want to learn from other experienced lawyers. It just makes sense.

Implement a peer review process within the framework of a lived proxy quality standard and surely we've heavily weighted those dice in the client's favour.

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