

Paralegals – an important cog in the legal machine

Over the last decade some consternation has arisen within the profession over the use of the term 'paralegal'. Although there might well have been a time when the term denoted a number of different roles, from junior administrative support to an unadmitted graduate, the meaning of the term has become largely settled and understood in the legal world.

The term has come to apply to non-legally qualified staff within a law firm or legal team who possess, in addition to general administrative skills found in most office environments, specific skills and experience that pertain to legal work. They are required to have an understanding of legal concepts and legal procedures and the ability to perform work which is particular to the provision of legal services, whether that is in private practice, government law or for in-house legal teams.

Although a variety of bespoke courses are offered through various educational institutions that result in paralegal qualifications of varying levels (including degree-level courses) possession of these qualifications is not necessary to be considered a paralegal. Similarly, holding an accreditation which is not recognised by law societies and regulatory bodies may not justify the use of the term.

The term is not defined in the *Legal Profession Act 2007* (Qld), and if a staff member is to be deemed a paralegal an assessment of the skills, experience and duties performed by that member will need to be made. A person who provides standard administrative support, but also can manage the mechanics of a conveyance, navigate the filing regimes of courts and government departments, or make such appearances in procedural matters before courts and tribunals as are permitted by legislation is likely doing paralegal work (see examples below).

Ultimately, whether or not a staff member possesses sufficient experience and skills to justify the position of paralegal will be a matter for the leaders of the firm or team in question, and the title should not be granted lightly. Holding out a staff member as having skills and experience above and beyond other administrative staff, when in fact the staff member is quite junior or does not have those skills, is misleading.

Caution should be had when billing for paralegal work, as it is likely that their work will involve a blend of pure administrative and legal-specific work and apportioning it may prove difficult. If paralegals are to be charged separately, both the rate and the work to which it will apply must be particularised in the costs agreement and specifically raised with the client before the agreement is signed. In the *Legal Services Commission Regulatory Guide 8 – Billing Practices: Key Principles*, the Legal Services Commission notes that "Professional work also includes paraprofessional ('paralegal') work performed by non-legally qualified law practice employees."¹

We should also be mindful of our obligations under Rule 37 of the *Australian Solicitor Conduct Rules 2012* which provides that

A solicitor with designated responsibility for a matter must exercise reasonable supervision over solicitors and **other employees** engaged in the provision of the legal services for that matter.

Paralegals have become an essential cog in the legal profession, allowing firms and legal teams to provide faster and more efficient service. As digital tools and artificial intelligence become more widespread, it is likely that paralegals will see their work broaden. By appropriately identifying paralegals and their work, practitioners can ensure they are an asset to both solicitor and client.

¹ Legal Services Commission, *Regulatory Guide 8 – Billing Practices: Key Principles* (2019) 10.

Examples

- *Bob works at a suburban conveyancing firm. In addition to typing up letters and scheduling clients, he undertakes searches, prepares draft documents, arranges for cheques and attends settlements.*
- *Tina works for a government regulator. She undertakes word-processing duties and conducts licence searches, as well as filling in pro-forma disciplinary forms from investigator reports, which are then settled by a government legal officer. She also attends tribunal callovers at which she arranges for matters to be listed in accordance with instructions from the team's legal officers.*
- *Juan is employed with an in-house legal team in a national engineering firm. She is studying law full-time and works five days per fortnight at the firm. She prepares draft affidavits and statements for the litigation solicitor, and does research for the commercial area. All her work is reviewed by the other solicitors within, and she assembles briefs for barristers and sometimes accompanies them to court.*

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