

Communications at the Core

Legal project management (LPM), which law firms are adopting in droves for greater efficiency and profits, is widely thought to be a green-eyeshades exercise focusing on budgets, deadlines, and the like. So it came as a surprise to some when a new study found that the leaders of more than 50 of the largest law firms believe that the most important elements of LPM are client communications and, its close cousin, defining the scope of a matter.

As one managing partner summarized:

There are two [issues] that I would rank the most critical: the setting of objectives and scope, and managing client communications and expectations. Those, to me, are linked at the hip.... You can run into difficult parties and unforeseen problems, and that's where an understanding between you and the client has to be solid enough that you can have those kinds of conversations. And work your way through it.

Clients agree, if the Association of Corporate Counsel (ACC) can be believed. The ACC has listed responsiveness/communications among the most important factors in client satisfaction.

The new study is *Client Value and Law Firm Profitability* by Jim Hassett, founder of LegalBizDev (of which I am a principle). It includes comments from leaders of many of the most successful firms in the world. But even they are frustrated by the difficulty of improving their firms' client communications. These challenges require significant personal interplay directly with the client as well as behavior change from partners. They cannot be addressed by software, as some other LPM issues can.

But the comments of these leaders do suggest a number of ways to improve things.

The following points are drawn from their comments and from our years of experience training lawyers in LPM. If you've heard some of these points before, that's okay. Keep hearing them until you get inspired to do something.

1. Clients really do want better communications. The first thing to understand is that, despite their busy schedules, clients want you to communicate with them. Consider this comment from a senior partner at a top 200 firm:

Client communication is far and away the single most important factor in the relationship. Clients don't want surprises. They want to know if you're a proactive communicator. Do you know how they want you to communicate? Are you consistent and timely, and communicate to them information they need to know?

Clients want you to be able to figure out what they want communicated and what they don't want to be bothered with. They want you to know *how* they want you to communicate. What do you do to find that out? Try asking. They'll tell you.

Make sure clients know they can contact you at any time for any reason. Keep them regularly informed. Consider sending them brief weekly or monthly status reports. Ask them if your communication methods work for them.

2. Make your communications direct. Clients want to hear from *you* and not your marketing department through mass-mailed client advisories and the like. As one survey respondent put it:

When I was a GC, I would trash all the client alerts I got. I had 27 of them

on the same case. But the ones I kept were the ones where an actual lawyer said to me: “I saw this article about X, and it made me think of you. If there’s anything you want to talk about, or if there’s anything I can do, here’s what I was thinking...” It was really creative, value-added communication.

That’s right, you don’t even have to labor over an exhaustive client advisory. An article forwarded to the client that touches on something critical to the client demonstrates you know and care about his or her issues.

Most lawyers consider themselves better written communicators than oral. But the more direct, the better. A phone call trumps an email, and an in-person meeting trumps a phone call. In any event, avoid communicating exclusively by email.

As one chair put it:

The greatest thing that provides value to the client, in my view, is constant communication and responsiveness. And I’m not talking about emails. It is so much better to be in constant telephone communication or breakfast meetings or lunch meetings, or just visiting. What we’re trying to do is not just deal with litigation. We’re trying to prevent litigation.

3. Listening: the soul of communications.

The most important element of communications is not self-expression but listening. Showing how smart you are is an unfortunate carryover from law school and your associate days. It’s more important to ask diagnostic questions and to listen until you find out what the client really wants (sometimes, instead of what they say they want). Instead of talking, ask open-ended questions that tend to prompt them to do most of the talking (e.g., “Tell me more about...” or “What makes this urgent?”)

When I was a Chief Marketing Officer, I once suggested to a diffident partner that he

ask the prospect in an upcoming meeting, “What keeps you up at night?” He shrunk away in horror at such a personal question. “Well, use it if you get stuck,” I said, which he did, and later reported back in wonderment, “Well, I asked him what kept him up at night. *And he told me!!*”

4. Bad news can’t wait. One of life’s enduring mysteries is why we tend to avoid confronting difficult issues and conversations, even when we know that doing so will only make them worse. Lawyers are no exception. Are they hoping that the brilliance of their work will neutralize an unexpectedly large bill on the horizon? Or maybe they’re just hoping to die before they have to bring it up.

This senior executive’s response was typical of many:

It drives me crazy when a lawyer says that the client’s going to be really stricken by this month’s bill. I then ask the lawyer “When did you know the bill was going to be really high?” And they say they knew it a while ago.

Contrast that with this comment:

We had a fixed fee a couple of years ago on a \$300,000 matter. The partner managed it very well and had continuous dialogues with the client. The \$300,000 turned out to be closer to a million, and he got pretty much every penny of it. There were things that happened that were out of control, but there was constant communications about what was going on, which is so important.

5. Communications is a process not an art.

Unlike what many people think, communications is more of a process than an art. (The real art in communications is in forming the right questions and in the “active listening” discussed above). Like most things not directly related to the legal matter, communications is likely to get lost in the chaos. That’s why the LPM agenda includes process aids.

It may seem mechanistic, but mechanization is the soul of successful project management. It's not unlike those checklists that hospitals have imposed, which physicians thought were dopey and demeaning until they saw how many deaths, diseases, and injuries they eliminated. If someone who's qualified to open your skull and rout around in your brain for a few hours can benefit from a checklist, perhaps you can too.

One aid is a "RACI matrix," a simple chart that will increase efficiency and communications by clarifying the roles of team members in completing tasks and deliverables. It establishes the level of communications they should receive. RACI is an acronym for who's *Responsible*, who's *Accountable*, who should be *Consulted*, and who should simply be *Informed*. It's a simple chart with the names of members of your team listed across the top, and the tasks listed vertically on the side. An R, A, C, or I is assigned wherever the task and a name intersect.

Another aid is a communication plan. It's another simple chart, with the following listed across the top: the task; who's responsible for communications concerning it; to whom the communications concerning that task be directed as well as how often or when; and how (in person, by email, *etc.*).

6. The critical points of communications.

To some lawyers, the perfect communications plan consists of taking the order and reporting back with a good result. But it's not that simple. For one thing, just "taking the order" requires communications back and forth, perhaps a number of times, if you're going to understand what the client wants and if you're going to give him or her an accurate idea of how long it will take and of the cost.

The best communications plan unfurls throughout the life of the matter. But it's particularly critical to communicate at three key points. The first, as indicated above, is when there's bad news. The other two points ironically don't occur during the matter, but before it starts and after it ends.

The seeds of many, if not most, problems that occur over the life of a matter are sown before it even begins, when the scope is being discussed. The client already may have been living with this problem for months and wants to offload it as quickly as possible and move on to the next problem. She or he may not be happy spending a lot more time on it, and be overly curt in answering the dozens of questions you'll have—some of them, perhaps, uncomfortable for the client—after you've just parachuted in.

For your part, you're loath to risk a bad start, or even a loss of this windfall, by quoting a time frame or cost that, whether or not it's realistic and informed, is likely to jar the client. So the tough questions are swept under the rug in the hope that, when you bring in a good result, all will be righted.

If you're in the business of building relationships rather than just taking orders and billing time, this is where a relationship of mutual trust is established or strengthened. You've got to take the time upfront to find out what the client wants by asking a raft of questions. Some are obvious and others might not naturally occur to you.

For example, just in setting the scope of the matter, questions abound, such as:

- What business issue does the client want to address in the legal matter?
- Are any of several outcomes acceptable?
- What are the crucial deadlines along the way?
- Are there strict budget limits?
- Who is the ultimate decision-maker?
- What would a successful result look like to the client?

There are many other questions to ask along the way that will enable you to apply the best principles of project management, which include:

- Identifying and scheduling specific activities
- Assigning tasks and managing the team
- Planning and managing the budget

- Assessing and preparing for likely risks to the budget and schedule
- Managing quality
- Negotiating changes in fees and expectations when the scope of the matter changes unpredictably

You have to go to the drawing board and divide the matter into its component parts so that you have an informed idea of whom you'll need to do each component task, how many hours and at what rate, how long each task will take, and all those other uninteresting details that get in the way of having fun doing legal work. But such knowledge enables you to push back constructively when the client balks, with informed explanations for the cost, time, number of staff, *etc.*

7. The post mortem: turning the end into a new beginning. This practice has so many benefits that it's hard to understand why it so often gets neglected. Undoubtedly, it has something to do with getting on to the next substantive legal issue and avoiding "administrative" matters that may bring up uncomfortable issues.

To put it simply, after virtually every matter, particularly with clients who could send you more work, ask the client to do a post-mortem with you so you can provide even better service in the future. These sessions are both learning and marketing opportunities.

In a large matter, you should consider a "lessons learned" review after each significant milestone. If they regard it as an imposition on their time, they'll tell you, and the only thing you'll have lost is a little bit of perceived arrogance.

There are countless useful questions you can ask—questions about the client's perceptions of value, bigger-picture business questions, active listening questions, and the like. The ACC even gives you questions in the section of its Web site, "How to talk with outside counsel (or clients)."

The process is simple enough, and can be accomplished with two questions. First,

"What did you like about the way we handled this matter?" That's an easy one for clients and, when they list a few favorable things, they feel less awkward about answering the more important question: "What could we do better?"

Don't argue with the client. Resist the temptation to defend criticized practices or to explain why you did what you did, even if there's a good reason why. It is not about understanding reality but understanding the client's perception of reality. If an explanation is really necessary, it can wait for another time. Just listen and let them do most of the talking.

There are numerous other good questions to choose from, depending on the specifics of the matter. Pick only about three key ones and see if they lead elsewhere as well. Let the clients go wherever they want to go. Whatever they say at this point is useful.

If you think your client will not be able to respond to open-ended questions (which are the most useful), you'll need to list some areas and ask them to rate your performance 0–10 in each one. That makes it much easier for many people.

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Lawyers pride themselves on their specialized knowledge. But a plumber is a specialist, too, and always subject to questions about how much time something took and whether someone else could have done it quicker, better, cheaper. Effective communications is your first step from fungible specialist to trusted advisor.

And trusted advisors seldom have fee disputes—or proposals to write. ■

—Ed Burke

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