

Setting, Measuring and Coaching High Performance

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Anecdotally, 2019 was a solid year for most practices throughout Australia and New Zealand. It has been a long time since I have heard a partner tell me they don't have enough work to do, and it is even rarer to hear a partner say that they are not looking to employ a talented solicitor for a particular practice area that is going through a growth phase.

Despite these positive signs, what has become common is hearing partners and senior practitioners bemoan the performance levels of the junior lawyers and paralegals in their firm.

To an extent these comments appear well founded. FMRC research shows that there is very little difference in the performance levels of principals across different locations (central business district, suburban and country) where their annual effective chargeable hours^[1] averaged around 1,150 hours. The performance of employed solicitors was a much different story. The results indicated that the further from the General Post Office that a solicitor practices, the fewer effective chargeable hours they record.

In its simplest form, the reason for these differentials is the quality and rigour with which solicitors and other fee earners are being managed. Some firms do this very well, and it is in these firms that performance is high.

Those firms that would consider the performance of their solicitors to be below par don't manage their people well, if at all. It is not uncommon for partners to manage their fee earners through angst, where the partner privately sits and thinks 'I wish these young people would just do more [insert activity here]' whilst outwardly focusing on their own performance and hoping everyone else will follow. The idea of talking to their fee earners about performance is a little too confronting.

From a solicitor's perspective, many employed solicitors do not know what is expected of them. Whilst this may seem unlikely, very few firms have taken the time to meet with their fee earners and set out what they see as acceptable (or high) performance. And even fewer firms have gone the next step and held people accountable for these performance levels.

Admittedly, most practices have targets for chargeable hours and billings. But what happens in these firms if people don't meet these targets? More often than not – nothing.

Setting High Performance

What will make a difference in your practice? To determine high performance for each of your fee earners, consideration must first be given to the activities that will make a significant impact on the way the firm operates.

Therefore, the first task is to identify those activities that will:

- Increase client satisfaction
- Improve staff morale and productivity
- Optimise the financial performance of the firm
- Contribute to building an enduring legal business – not just maximise short-term profits

Depending on the firm, it may be appropriate to conduct this identification process on a practice-group level. You may wish to ____

When this exercise has been conducted with firms or in workshops, the list of activities is quite thorough. Not surprisingly, there is very little difference between the activities of various firms or groups.

Common client activities include:

- Visit key clients every six months
- Assess client satisfaction
- Take documents to key clients, rather than have the client come to the firm
- Attend internal client meetings
- Write industry specific articles
- Implement a practice-building program for all lawyers

Common personnel / staffing activities include:

- Improve delegation – delegate to the most appropriate person
- Increase staff skill levels
- Conduct internal training
- Spend more time training / mentoring junior fee earners

Common financial activities include:

- Increase chargeable hours recorded
- Secure partner approval for WIP write offs > 5%
- Monitor completion times for fixed fee matters
- Ensure all time is entered into the system by 10 am the following morning
- Implement rigorous debtor-management system

By utilising the activities that will make a difference in the practice, it is then an easy next step to develop performance excellence for each of your fee earners. Table 1 provides an example of performance excellence for a senior associate who has supervision and practice-development responsibility in addition to their fee-earning requirements.

Measuring High Performance

From the list of activities you identified as making a difference in your practice and those that appear on the Performance Excellence Criteria, note which activities you want to measure. In terms of measurement, I don't mean you will have a 'gut feel' about it, or that you will 'sort of work it out'. I mean what regular, quantifiable, documented measures do you have that you could show to an outsider to explain the performance of each activity?

If we are defining 'excellent performance', there needs to be an objective measure as to the level of performance achieved. It is pointless to set performance goals and not have a system to monitor the performance. Goals without a measurement component are just high ideals.

For most practices the only measurements relate to the financial activities of the fee earners. We measure time recorded, level of WIP write offs, monthly billings, etc. Very few firms measure supervision time, delegation, client visitations and client

satisfaction levels and so on. If these things are important to performance, they need to be measured.

The Performance Excellence Criteria will include both objective and subjective performance levels. Many of the subjective performance measures can be translated into projects. The use of non-chargeable time is integral in measuring the subjective performance criteria.

Using the example of the 'Performance Excellence Criteria' in Table 1, the senior associate is to record 6.0 hours time against client files and 2.0 hours per day to firm-related activities. Utilising these two hours per day of 'firm time' effectively will ensure the senior associate achieves the subjective performance criteria. Whilst management may not examine the two hours on a daily basis, what is important is that the senior associate invests and records 10 hours per week or 40 hours per month in achieving the non-fee-earning performance criteria (i.e., staff development, service delivery, client development and personnel development). Failure to do these activities and record it will mean that performance has been unsatisfactory.

For example, if a senior associate is to visit a rotation of clients once a month, this can be recorded on the time-management system with all the details in the narrative to enable management to ensure that it was done.

Similarly, one of the performance criteria is 'Optimise workflows by delegating to the appropriate person'. This subjective measure could be achieved by meeting each morning with the junior solicitor to delegate work and assist them in planning their day. This would be recorded on the time-recording system. Failure to properly delegate would be easily detected if the hours and billings of the junior is low and no time has been recorded against meeting with the junior.

Coaching for High Performance

Having determined the Performance Excellence Criteria, it is essential that you meet with the individual lawyers to discuss what each item means, how it will be measured and what is required to achieve it. Having discussed the firm's expectation of the individual, seek input from the lawyer as to their personal and career goals, and how these goals can be incorporated into the Performance Excellence Criteria.

These discussions may form part of the six-monthly performance reviews of your staff. The agreed Performance Excellence Criteria can now form a basis for coaching toward high performance. Both the lawyer and the firm know what is expected of each other. In order to bring out the best in your people you will need to invest time – say 30 minutes each week for senior lawyers and up to 30 minutes each day for juniors – coaching them toward achieving their performance criteria.

This coaching will need to be tailored to the individual. In some instances, it may involve setting weekly / monthly plans and reviewing progress against these plans each week. Other lawyers may require more assistance in managing their files and developing their client relationships.

It is important to bear in mind that many lawyers (and firms) view success purely as a function of doing the legal work and billing clients. If this is the case in your practice, setting performance criteria and measuring performance will be relatively easy.

If the Performance Excellence Criteria developed for your fee earners includes activities other than financial performance, the definition of 'success' must reflect this. For example, activities that relate to staff development and client relations are often seen as nebulous concepts that are actioned 'when we get around to it'. Such an attitude will not deliver high performance. It is therefore essential that the firm apply equal importance to a lawyer achieving excellent financial performance as to one achieving excellence in relation to staff and client development. Taking this a step further, the rewards system of the firm must reflect this equal weighting.

It is the responsibility of the firm to coach people to achieving high performance, monitor this performance and hold them accountable. Failure to do this is a recipe for partnership angst and frustration at overall performance levels. The alternative is to invest time in developing your people properly and enabling all parties to enjoy the benefits.

[1] Effective chargeable hours are calculated by dividing an individual's personal billing by their charge rate, the result being their recorded hours less any WIP write-offs

Edge Principal Sam Coupland is considered the foremost authority on law firm valuations in Australia, offering firms a robust valuation methodology to help them calculate accurate capitalization rates and assess the risk profile, cash flow and profitability of their firms. He is a frequent presenter on practice-management-related topics, delivering dynamic presentations to hundreds of lawyers every year in the areas of financial management, business development, succession planning, strategy, and people management.