



Wowing the clients by Ann Page

'One can't do today's job with yesterday's methods and be in business tomorrow'
Marc Schroder

3.1 Two Essential Communication Techniques to Managing Expectations, Difficult Clients and having Cost Conversations

What did the other person hear and what did we hear?

What message did they/you take in, process, and respond to?

Obviously, it only partially depends on what you/they said and did. You and your clients hear with ears but you and they listen with your minds. The mind will convert the messages received through your intellectual process and experiences so that what you hear becomes something that they can understand and connect with.

The interpretation process also depends on and individuals history, memories, beliefs, values, and perception that the other receiving person used as she/he heard and responded to any communication.

To repeat - the client's internal processing of your message completely determines the information that got communicated to them irrespective of what you actually said. This is why it is really important to be fully present and actively listening in the communication process or misunderstandings will occur.

Active listening is absolutely essential for managing client expectations

Research shows that writing is the most taught language skill and yet it is only used 9% of the time. Reading is another vital skill but used only 16% of the time. Speaking is used 30% of the time but speaking to engage listeners is not really taught in schools. Listening is the least taught of the skills and yet is used for 45% of the time.

This is also a very important skill to cultivate when dealing with difficult people and situations. A common reaction to hearing 'abuse' of any kind is to switch off and not listen. Listening does not however imply you are agreeing or supporting this type of behaviour. People always know when they are being listened to or not – even if this is on an unconscious level.

The 3 key steps for active listening are:

1. Giving full attention to the speaker

- Careful, non-evaluative attention and eye contact with the speaker supports them to express what they want to say.
- Give the speaker comfortable eye contact and do not let your eyes wander aimlessly.



- Much of the meaning behind the speaker's words will come from facial expression, gestures and body movements.
- Expect to be interested otherwise you may quickly become bored and lose interest.
- Do not read your file while listening, nor
- Repeat inside your head the words you are actually hearing to avoid thinking about your own internal dialogue about what they are saying nor what responses you are going to make to what you are hearing!

2. Be encouraging

- Attentive body language is the act of showing through body language that you are listening and hearing what another is saying. Yawning or nodding off would be an example of inattentive body language. Being able to properly exhibit attentive body language can make a huge impact if you are applying for a job, or are in any field of employment that requires verbal contact with people.
- Strong attentive body language shows that you have a sincere interest in what another is saying, is flattering, and will most likely result in mutual attention. Confirming nods of the head and confirmatory sounds ('hmmm..' 'I see') provide a warm accepting atmosphere for free expression of thoughts, ideas attitudes and values.
- Keep the reaction appropriate – and be aware of tone as an inappropriate tone will be a dead giveaway that you are not really listening and just going through the motions.

3. Reflecting back

- This process is like holding up a mirror and reflecting back the ideas and phrases as you hear them.
- You can say 'I think this is what you are saying. Am I correct?' This is obviously easier with a slow speaker – but be careful not do reflect back too many times it feels like interruptions instead.
- With a voluble talker you may have to interrupt to get the space to reflect. Use phrases like – 'Sheila, I am interrupting to check my understanding' – or 'can I just check I've understood the points so far'. This also gives you time to check your understanding before reacting.

3.2 What did I learn from the Active Listening Exercise?



3.3 An Introduction to Influential Language Patterns: pacing and leading.

Pacing and leading can be used as a tool for building rapport and influencing people. Pacing demonstrates your flexibility to respectfully pick up and match other people’s behaviours and vocabulary.

Before you can **lead** someone you first need to **pace** him or her. For instance, if you are in communication with someone who is in a serious mood you may naturally pace him or her by being serious yourself.

In this stage of the *conversation* you are making unarguable statements about the present situation of the recipient. In other words you must start from the other person’s perspective – see example below - otherwise it would be like trying to catch a speeding train.

Therefore you are looking for ‘yes’ responses to your pacing statements.

Once you can successfully **pace** someone, you can then gradually **lead**. Having successfully matched and paced the seriousness of a colleague you may gradually begin to be less serious and to test whether your lead is being followed. Leading is when you are attempting to change the other person’s mind by subtly taking them (with integrity) in a new direction. So you direct the attention of the other person to where you want it to be.

Example 1

Suppose you are in a business development meeting with a potential client. When you are about to do your pitch, however you sense from her body language that she is skeptical and a bit hostile.

You could use the following statements to pace and lead.

“We’re here at the Strand Hotel, it’s early in the morning, it’s raining and you might be wondering what I have to say that might make your coming here worthwhile”

Pacing – true	Leading – speculative and believable
We’re here	
At the Strand Hotel	
It’s early in the morning	
It’s raining	
	And you might be wondering what I have to say that might make you’re coming here worthwhile

By using pacing in the run-up to your speculative attention gaining statement, you have got her into a yes frame; and it’s easier for her to accept the speculative statement. You could combine this with body language calibration skills to check that you are getting signs of agreement to the pacing statements, such as an imperceptible nodding of the head.



If she was wondering no such thing and it was something else then she is likely to share the other reason for her hostility or if you sense that she is withholding you could then follow on with a question – ‘Am I right or is it something else?’

Example 2

You are a personal injury solicitor and your new client phones you with his version of what damages he expects from a discussion with his mate in the pub: and you know that this is not the figure normally granted in these types of cases.

Pacing – true	Leading – speculative and believable
You have spoken with your mate in the pub	
He said you could get £15,000 damages	
So now you are expecting £15,000	
And you are wondering what I have to say about this?	
	In our 30 years of experience of these cases we have found that the damages paid out are £10,000.

Sometimes this process can work immediately and sometimes more rounds of these statements are required and even may take several conversations to achieve this. It depends on the rapport you have with the recipient – for pacing to work effectively you must move and match the other person. As you continue to pace their world your level of rapport goes deeper

If it is not followed at any time, you will need to pace further before attempting again to lead.

3.4 Managing Difficult Clients

Why are aggressive behaviours difficult?

It is a fact of life that we experience aggressive behaviour both in our professional and personal life. Being ‘difficult’ is effective because it works very well in the short term to get what the ‘difficult’ person wants. *However it is very damaging to the establishment of productive long-term relationships.*

Aggression in the work place gives people a false sense of control and security in times of stress. Also sometimes a sense of importance and power, which is why clients who are in demanding emotional states purchasing legal services are easily tipped into this type of behaviour.



Planning & Preparation

If you are aiming to be **more** effective in your relationships with clients who can switch into angry and aggressive behaviour, then it is **vital** that you plan & prepare especially for key working relationships which are not working.

As you cannot change the person, you need to start with changing your response, which may in turn change that person's behaviour.

Please remember that you are aiming for a win-win situation.

Three Coping Strategies for handling angry/aggressive behaviour:

1. **Stand Up but don't fight – these people just have to win.**

As Dilbert says '*Don't meddle in the affairs of Dragons, because you are crunchy and taste good with ketchup!*' or '*Never argue with idiots. They drag you down to their level then beat you up with experience.*'

The main point is to demonstrate that you are not intimidated by this behaviour. You do this via your body language only.

This is crucial first stage before moving on to the other steps. It really is very important that you **don't fight** as these people need to win and on the rare occasion that you might, these people would not forget. They are also then likely to 'snipe' at you. So you will have turned their aggression from overt to covert.

Use your body language to remain assertive and strong. Make sure you are either sitting or standing straight which is neither passive nor aggressive.

Literally stand up when listening on the phone (where the person is in front of you look them in the eye). And where possible use assertive body language, even though they cannot see you, as this will reflect in your voice.

2. **Breathing Exercise to use to control your own anger when confronted and you choose not to fight.**

Lynda Field, author of Weekend Life Coach recommends an anger management technique called 'square breathing'. She writes 'Use it when you need to control your anger or when you need to bring awareness and clarity to a situation. It's a brilliantly easy way to calm down...'

Start by inhaling slowly while you count to 5; hold this breath for a count of 5. Count to 5 before you breathe in again, and repeat this cycle 5 times.

Whilst breathing allows them to run out of steam – you are in control – they are not – stay in an assertive position.

Simply because they are aggressively stating things does not make them true. Do not react to the yelling – just keep standing breath deeply but quietly and maintain eye contact.



This is because when anger is in full flow, it is not possible for that person to access their rational side in that moment.

So focus on staying as calm as you can and wait for the appropriate moment to respond. Other body language cues will be shown in class.

3. Use Active listening and pace/lead communication methods.

Timing is crucial when responding to anger.

When someone is behaving aggressively they tend to expect disagreement and charge ahead not listening. *To respond showing you are not only listening to what they say but also acknowledging their emotional state is unexpected and often breaks up the continuation of anger/aggression.*

When the anger has abated sufficiently for them to access their rational side then use pace/lead. It is a way of side stepping their issue and still retaining your point of view and integrity by agreeing with some part of what they say.

*'I can't believe it, **this bloody firm** has let me down again, and now I am not going to be able to.....'*

Your response

*'**Yes, Client, I know it much is a shock and that you feel that the firm has let you down again. That we have failed to keep you informed of the progress of the matter and this has/is causing you some distress. So let's look at the possibilities which would be best for all, how about.....'***

Using the word '**yes**' in the above examples takes them by surprise and really helps to put the breaks on.

3.5 Cost Conversations

Introduction

There are two elements here that can be systemic when it comes to Cost Conversations.

1. Confidence is absolutely critical to good pricing behavior. Do you set and negotiate prices confidently or from a perspective of fear; fear of losing the client and/or fear of losing the job?

2. It is common that there is a **broad lack of price negotiation skills** and a lack of awareness or understanding of the many pricing strategies and tactics available to lawyers results in pricing that is often a poor 'fit' for the client and/or the firm. Most firms still do not have pricing policies, templates and pricing precedent to allow consistency across the firm.

Is there is a shared and consistently implemented approach by the firm to charges and payment – then this must be implemented.

So what can a lawyer do to make the bill easy to sell to an increasingly skeptical



client?

Three key factors have to be in place in order to ‘make a stand’ on your hourly rate or fixed fee then you have to do WOW the client as follows:

1. **Finish well.** *Clients remember most clearly what happened most recently, which is normally the bit just before the invoice.* So don't delay the invoice so that the client has time to forget what a good service he has received.
2. **Start Well.** The beginning of any client transaction requires the lawyer to understand both the job and its importance to the client. This is scoping. By scoping well a lawyer is demonstrating their commerciality rather than asserting it. Use the SPIN questions at the beginning and ensure by actively listening and ‘pacing/leading’ that the client has accepted the price and not just nodding to it. If the latter then they are more likely to renegotiate further down the line or at the end. Too many lawyers make unwarranted assumptions – especially around what the client does or doesn't understand about legal process and why some changes would require extra costs which seem out of line with the obvious level of extra work involved. Managing expectations up front, especially around how changes will be paid for and communicated, makes the final bill far more understandable. Set up is crucial for any cost conversations down the line – do not rely on the client letter enclosing the terms and conditions.
3. **Run the matter well.** Whilst the client remembers the middle bit of any transaction less than either the beginning or the end, but it is the cornerstone of effective cost control. Your communication process during the transaction should be informing the client that not only are you still thinking about them/working on their matter but also about the value they are receiving. The client should be led to believe that the matter is being run well and they are getting added value, if the communication is good. What is meant by good communication must be defined up front by the client, after which the lawyer must engage in regular two-way updates. A constant bugbear for clients is when it goes quiet, whereas I've never encountered a client's complaining that their lawyer is over-communative. Veer toward over-communication so that your client is never faced with an unexpected invoice and subsequent embarrassment.

Do these three things well and you are more likely to get paid quickly and with the minimum of rancor. The final fee note should be the culmination of everything that has happened in the transaction to date. It is expressed as a number to be paid, but the client is setting it against the experience of working with you.

3.6 Consultative Selling Process for turning Enquiries into Instructions for Legal Work

Introduction

‘Sales remains a ‘dirty’ word in law firms, but as the market transforms under the Legal Services Act, expect more firms to realise that growth, and indeed survival, is not possible without paying due attention to dreaded ‘S’ word’. (Mike Jones Director of Intrinsic Values.)



Any kind of selling involves personal risk of rejection and the need to focus on the client’s interest not the firm’s targets. **Chapter 1 of the Code of Conduct expressly requires solicitors to focus on the client’s interest.** This is why focussing on the conversations around their needs/wants is really useful here.

So you need to be selling products or services based on the client’s best interest and well-being and/or their success with you. This will also assist in building a relationship based on trust. **Basically you want to make it as conversationally as possible as you ask questions to guide the client to the service they need.** Please see SPIN below, which contains ‘grouped’ questions.

Another way to take the ‘sale’ edge off the conversation is to centred on service not selling. See the checklist below.

Service	Selling
Client driven	Self-driven
Talks with you	Talks at you
Provides guidance and leadership	Takes or attempts to take control
Belief in services and products solid	Belief in quality irrelevant – sale is important
Opens relationships – in for long term – leaving client feeling nurtured	Closes deals – and moves to next deal

S.P.I.N. stands for:

Neil Rackham, former president and founder of Huthwaite Corporation, created this system of ‘grouped’ questions. It’s aim to build long term relationships by using questions to assist you to match the service/product with the client’s needs expressed or not.

It is not meant to be used like an interrogation process but as a way of expanding the enquiry conversation.

1. Situation Questions

These are intended to gather relevant background information and understand the context of the purchase for the prospect/client.

They should not take the place of homework preparation. For example do you have a generic question sheet that your support or junior staff can take clients through and guide them to the service best suited for their needs? DO YOU?

Situation questions will have a disastrous effect on the prospect/client if it is information they thought that you should already know about them. So the more background information you can collate beforehand the better. It is also a good way to build rapport by demonstrating your genuine interest and memory recall (or Google research!).



Link your questions logically to previous questions/answers, what you've seen, and what you know from other client situations which can then be used to demonstrate your credibility. Use of statistics is very advantageous here.

Example questions:

Business client:

Tell me about your future plan for your company?

To what extent do you specialise in a particular area?

Tell me something about your customers (they're likely to focus on the key ones).

Private Client.

How's everyone at home coping with the litigation for damages for the injury you have suffered? In our experience most of our clients require a counselling service to ease them through it?

2. Problem Questions

This type is to explore the prospect/client's dissatisfactions and concerns, challenges and aspirations; and you should use questions from your own experience that uncover these. **Do you have a Q & A sheet of general problem questions that clients have when making enquiries of the type of legal service you deliver.**

Or you can start with generic questions, and if appropriate drilldown from there. Vary your questions: use *Where, When, Who, How Often, What Happens* etc. Be wary of sensitive areas. **Focus your questions in important areas where you can offer solutions.**

Example questions

What do you find frustrating about the way your legal work is handled by xyz?

What concerns (or frustrations) do you have now about the other side in the negotiation?

What happened the last time you tried to fix this?

Make sure you have all the issues on the table before moving to implication questions.

3. Implication Questions

These might be used to develop and link apparently isolated problems by examining their 'knock-on' effect on the areas of the prospect/client's business or matter. These types of questions should focus the prospect/client's attention on the consequences or effects of their problems, other parts of your legal services and fees.

Don't ask too early in the enquiry process – or with implications you can't solve. Also you may need to be comfortable to deal with any negative issues that may come up either for them or the service they are receiving. The goal of using these questions is to persuade the customer to EXPLICITLY state a need that you can solve.



Example questions

Business Clients

'Does your company experience a lot of delays in trying to get your bills paid?

'How much time is wasted with dissatisfied employees?

Generic ones

What will it take for your concerns to be assuaged?

What does success look like?'

4. Need-payoff (benefits) Questions

These critical questions invite the prospect/client to strongly correlate to success in your enquiry conversation.

So now they need to consider the benefits of solution(s) to their problems so that they can express an explicit need for the solution or the value and/or usefulness the prospect/client perceives in the solution.

Example question

"If I can show you a proven way to find a permanent solution to this adverse situation, would you be willing to hear my brief presentation?"

Don't forget to involve the client in ownership of the solution – do not be tempted to exclude them here, as it will then be your solution.



Take Away Work Book

Situational Questions	Problem Questions
Implication Questions	Need/pay off (Benefits) Questions



Client Learning Sheet for those key relationships you want to change your behaviour in managing client expectations etc

Date

Time

Place

What was the situation?

What was my response?

Aggressive, Passive, or Assertive seen, heard or experienced



What went well?

What was not effective?

How did I feel at the time/and afterwards?

What would I do differently the next time if any?



Third Session – Wowing Clients

'One can't do today's job with yesterday's methods and be in business tomorrow'
Marc Schroder

SRA Code of Conduct: Aspects of Client Care – Fiona Gillam

What do we mean by client care? Open discussion

My client is a sophisticated user of legal services: what are my obligations? How is that different if my client is elderly and vulnerable?

N.B. There is no professional requirement to provide a client care letter. However some information must be given to the client in writing so careful consideration must be given if the practice seeks to justify not using a CCL.

Some pointers:

- Does your practice use standard client care letters are how often are they reviewed?
- Do I still need to do a client care letter if the advice is within our free half hour scheme?
- Are our complaints reducing, static or increasing?
- How are we monitoring client satisfaction?
- How do we know we are treating clients fairly?
- Clients must be given the best possible information about the cost of their matter, both at the start of the retainer and throughout. For example: the basis for the fixed fee or the relevant hourly rates and an estimate of the time to be charged; whether rates may be increased during the period of the retainer; expected disbursements and likely timeframes for these being due; potential liability for others' costs, where relevant and VAT liability
- Do you have procedures to ensure that this is being done by all your fee earners, (for example by having File Reviews)?
- In litigious matters, how do we record any costs benefits analyses?
- Are you using PLAIN ENGLISH ?
- What about font size?

Resources

Client Care Information:

<http://www.lawsociety.org.uk/support-services/advice/practice-notes/client-care-letters/>



Complaints handling

<http://www.lawsociety.org.uk/support-services/advice/practice-notes/handling-complaints/>

Client Care letters and Terms of Business

“There is no regulatory requirement to set out terms of business. However, the Law Society believes that it is good business practice to do so. Terms of business will normally set out details of:

- (i) standards of service clients can expect
- (ii) information on professional indemnity insurance (also see requirements under Provision of Services Regulations 2009)
- (iii) data protection issues
- (iv) storage of documents and any related costs
- (v) outsourcing of work
- (vi) auditing and vetting of files
- (vii) any clauses limiting liability
- (viii) processes for terminating the retainer
- (ix) client due diligence you will undertake
- (x) payments of interest on money held in client accounts” (LSPN)

Lexcel: Client Care

Client care is a key aspect of the Lexcel standard and Lexcel assessors form a clear view of the client care aspects of a practice by selecting and auditing files during an assessment.

Lexcel requirement (6.1.f) under V6 is for practices to have within their Client Care Policy the provision of reasonable adjustments for disabled clients. Is your practice doing this?

Fiona Gillam
My Compliance Colleague
0757 079 3728
fiona@riskadvice.co



Bonus Material – Code of Conduct – Aspects of Employing and Inducting Staff - Expanding your Business

'One can't do today's job with yesterday's methods and be in business tomorrow'
Marc Schroder

SRA Code of Conduct: aspects of employing and inducting staff – Fiona Gillam

Employing staff:

O(2.3) you make reasonable adjustments to ensure that disabled clients, **employees** or managers are not placed at a substantial disadvantage compared to those who are not disabled, and you do not pass on the costs of these adjustments to these disabled clients, employees or managers;

O(2.4) your approach to recruitment and employment encourages equality of opportunity and respect for diversity;

IB (2.1) having a written equality and diversity policy which is appropriate to the size and nature of the firm

Recruitment and selection

How fair and effective is your selection procedure?

Is unconscious bias preventing you from accessing the best candidates?

http://www.barcouncil.org.uk/media/165213/recruitment_guidev22_18sept_merged_readonly.pdf

Security and ID checks

O(7.2) you have effective systems and controls in place to achieve and comply with all the Principles, rules and outcomes and other requirements of the Handbook, where applicable;

Inductions

O(7.5) you comply with legislation applicable to your business, including anti-money laundering and data protection legislation;

The importance of training

O(7.6) you train individuals working in the firm to maintain a level of competence appropriate to their work and level of responsibility;



+IB(2.2) providing employees and managers with training and information about complying with equality and diversity requirements

Supervision

O(7.8) you have a system for supervising clients' matters, to include the regular checking of the quality of work by suitably competent and experienced people;

Appraisals and rewards

O(7.3) you identify, monitor and manage risks to compliance with all the Principles, rules and outcomes and other requirements of the Handbook, if applicable to you, and take steps to address issues identified;

O(7.4) you maintain systems and controls for monitoring the financial stability of your firm and risks to money and assets entrusted to you by clients and others, and you take steps to address issues identified;

O(7.6) you train individuals working in the firm to maintain a level of competence appropriate to their work and level of responsibility;

Other factors to consider when growing a business:

Outsourcing legal work and processes

O(7.9) you do not outsource reserved legal activities to a person who is not authorised to conduct such activities;

O(7.10) subject to Outcome 7.9, where you outsource legal activities or any operational functions that are critical to the delivery of any legal activities, you ensure such outsourcing:(a) does not adversely affect your ability to comply with, or the SRA's ability to monitor your compliance with, your obligations in the Handbook; (b) is subject to contractual arrangements that enable the SRA or its agent to obtain information from, inspect the records (including electronic records) of, or enter the premises of, the third party, in relation to the outsourced activities or functions; (c) does not alter your obligations towards your clients; and (d) does not cause you to breach the conditions with which you must comply in order to be authorised and to remain so;

Q: Does your practice have an Outsourcing Policy and is every outsourced provider subject to a Confidentiality Agreement?

Remotely working staff

O(7.8) you have a system for supervising clients' matters, to include the regular checking of the quality of work by suitably competent and experienced people;

O(7.9) you do not outsource reserved legal activities to a person who is not authorised to conduct such activities;

Succession planning and business continuity

+IB(7.3) identifying and monitoring financial, operational and business continuity risks including complaints, credit risks and exposure, claims under legislation relating to matters such as data protection, IT failures and abuses, and damage to offices;

See <http://www.lawsociety.org.uk/support-services/advice/practice-notes/business-continuity/>



Q: Does your practice have a Business Continuity Plan?

Holiday and absence management

+IB(7.4) making arrangements for the continuation of your firm in the event of absences and emergencies, for example holiday or sick leave, with the minimum interruption to clients' business

Financial stability

O(7.4) you maintain systems and controls for monitoring the financial stability of your firm and risks to money and assets entrusted to you by clients and others, and you take steps to address issues identified;

+IB(7.2) controlling budgets, expenditure and cash flow;

Fiona Gillam
My Compliance Colleague
0757 079 3728
fiona@riskadvice.co