

A practical guide to the delicate matter of lawyer peer reviews

By **Emily Morrow**

When a group of lawyers practise together, they form a human system. This is true whether they are partners in a law firm, barristers in a chambers or an in-house legal team.

Although each human system of lawyers is unique, there are some common characteristics in terms of how the participants interact with each other.

When lawyers initially start practising together, they tend to operate in a formative, “founders’ phase”. The group develops habitual ways of doing things, approaching problem solving, interacting with each other and so forth. This is a relatively informal and fluid phase.

After a while (typically five or more years of practice together), a law firm human system becomes more formalised and segues into an “institutional phase”. The transition sometimes happens quite seamlessly, but often involves some growing pains. For example, in the case of a typical law firm, the institutional phase is accompanied by financial growth, newcomers joining the firm, norms and expectations solidifying and everyone being somewhat less reflective about what they are doing and how they do it. Much more becomes accepted as “the way we do things around here”.

Although moving into the institutional phase is all well, good and predictable, it can result in a lack of group critical thinking. The lawyers begin to take each other and themselves for granted and have relatively little accurate insight about the extent to which their habits and behaviours are functional or dysfunctional individually and collectively. They can become more resistant to change and less accurate in their perceptions. I call it “ossified individual and group thinking”.

Role of a lawyer peer review

This transition can be an excellent time for the group to undertake a peer review process. Optimally, a peer review process is a feedback loop in which a group regulates itself by taking an intentionally objective look at itself individually and collectively. The group chooses to hold a mirror up to itself and then modify its future functioning based on what it sees. Ultimately all optimal evaluation processes are well designed and well implemented feedback loop processes.

For such a process to add real value, it needs to be consistently accurate, reliable, predictable and neutral. If it can achieve this, it will be perceived as fair and will be endorsed by everyone. Without that, it will be unhelpful



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if not divisive and destructive. Optimally, the review process needs to:

- provide constructive and practical feedback to each participant;
- be viewed as fair, accurate and of high integrity; and
- incorporate a follow-up process to encourage professional accountability for each individual and the group.

Each participant will need to understand what the group expects him/her to achieve, his/her developmental areas, benchmarks for success and consequences.

When is a lawyer peer review process appropriate?

A group of lawyers would be well advised to consider engaging in a lawyer peer review process when:

- they have been practising relatively consistently with each other for several years;
- there is some lack of alignment among the lawyers about a shared vision for the practice;
- some lawyers lack an accurate perception of themselves and how others perceive them;
- there is evidence of friction, frustration and diminishing respect/trust within the group; or
- the lawyers seek to further their professional development by receiving accurate, constructive peer feedback.

Evaluation criteria

I suggest the areas for evaluation in a lawyer peer review process include financial KPI’s (where appropriate), marketing, personal development, staff management, professional development and office “citizenship”.

In terms of financial performance/marketing (within law firms), I recommend having the firm provide each lawyer with a summary of his/her financial and billing results to date which constitutes the “objective” component of the process. The firm should articulate its financial expectations of each lawyer so individual performance can be evaluated against that.

Typically, the numbers speak for themselves, subject to extenuating considerations. The importance of a lawyer’s financial performance vis-à-vis other more “intangible” criteria will vary from individual to individual. A lawyer might be a very strong financial performer, but less adept



at staff management or firm citizenship. By making it clear that there are many ways to contribute to the success of the firm, participant anxiety will be reduced and acceptance of the process will be enhanced.

As to the more intangible areas of staff management, professional development and firm citizenship, each participant will be asked to reflect on how he/she and his/her peers are doing. Although peer perceptions may not be 100% accurate, receiving composite peer feedback provides everyone with information about his/her successes, developmental areas and blind spots.

A “blind spot” is something we do not know about ourselves that others know about us and do not tell us, but that we would benefit from knowing. A blind spot is different from a “weakness” and infinitely more helpful to know about. If a lawyer peer review process can provide each participant with some accurate insight about his/her developmental areas and blind spots, it will be successful.

Review process

I typically develop a questionnaire for a client to use to gather peer feedback containing both a numerical measurement scale and a comments section for each criteria. By including both objective/subjective feedback, the process will generate more useful information. The questionnaire

is tailored to what the group wants to achieve in the feedback process.

Participants can have comments attributed to them or not. That said, my preference is that each lawyer knows who said what about him/her, both to hold reviewers accountable and to create the possibility for constructive follow-up conversations (either formal or informal).

Some clients provide reviewers with the option of anonymity. I have noticed that when comments are provided anonymously, lawyers try to guess who said what, which can be more counterproductive than actual attribution. Participants should be candid but constructive in making comments. Following completion of the questionnaires, the comments should be incorporated into individual written feedback summaries for each participant.

I also prepare a participant self-evaluation form applying the same criteria and find it works well to have each lawyer prepare his/her self-evaluation before reviewing his/her peer feedback summary. After reviewing the peer feedback summary, some lawyers choose to provide management with his/her views about the feedback he/she received. This is optional.

Thereafter, each lawyer-participant meets individually and face-to-face to discuss his/her feedback summary and self-evaluation with appropriate members of the

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management or leadership team, including the managing partner, CEO, practice manager and other members of the board, if any. If I am involved as an external consultant, I usually facilitate the discussions.

The objective should be to reach consensus on:

- successes to date;
- tangible and intangible areas for development;
- a timeline;
- benchmarks for success;
- resources needed to achieve success;
- next steps; and
- possible consequences of inability to achieve the stated objectives. The discussion outcomes should be documented for future reference.

Involving an external consultant

Involving an external consultant in the process, either annually or biennially, obviously will create some additional expense, but can add neutrality, objectivity, perspective and enhance how the process is perceived/accepted.

I typically prepare the questionnaires, review the forms for each participant, prepare the individual written feedback summaries, facilitate the face-to-face meetings and document the written outcomes summaries. As an external consultant, I ensure that the discussions are professional, constructive, practical and tailored to the needs of the individuals. Not surprisingly, these discussions can be intense, and as a neutral third party, I moderate some of the potentially unhelpful emotional reactivity.

Timing

I recommend engaging in a formal review process for each lawyer every one or two years, ideally at a time of the year when the lawyers are a bit less busy (if that exists). As part

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of the process, there should be a discussion with each participant about how he/she is doing vis a vis prior goals. The discussion can be done by the same group who participated in the initial review discussion.

Sometimes a client will suggest that only some of the lawyers in the group should go through the formal review process each year, rather than having all lawyers do so at the same time. Although I realise it can be arduous to involve everyone at once, I think it is better practice to have all lawyers go through the process at the same time. The process tends to have greater consistency by involving everyone in giving/receiving feedback and becomes a real focus for the group.

Evaluation

After a group engages in a peer review process, I recommend both management and participants reflect on how the process went using the following framework:

- What worked well?
- What did not work so well?
- What, if anything, should change in the future?

Typically, management solicits feedback on the process from all participants. This can add credibility to the process going forward.

Embarking on a lawyer peer review process is not for the faint of heart. Sometimes participants get difficult feedback which necessitates difficult follow up conversations and changes. The group should be prepared for this. However, when the process is carefully and thoughtfully designed, implemented and monitored, the outcomes are extraordinarily constructive.

A law office has one (and only one) chance to do a lawyer peer review process right the first time. If a group of lawyers does so, it will be rewarded with high quality outcomes that predictably enhance individual and group functioning.

Emily Morrow was a lawyer and senior partner with a large firm in Vermont, where she built a premier trusts, estates and tax practice. Having lived and worked in Sydney and Vermont, Emily now resides in Auckland and provides tailored consulting services for lawyers, barristers, in-house counsel, law firms and barristers' chambers focusing on non-technical skills that correlate with professional success; business development, communication, delegation, self-presentation, leadership, team building/management and the like. She can be reached at www.emilymorrow.com.

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