Firm Leader

Providing Effective Feedback

Introduction

"Feedback" describes many different types of conversations. Feedback can provide positive reinforcement as well as constructive criticism; it can focus on long-term development as well as short-term issues; and it can involve joint problem-solving as well as advice. The tips on the next pages focus on the most difficult type of conversation: confronting a colleague about a specific problem or an opportunity to improve.

Confronting a colleague about a specific problem or an opportunity to improve is one of the most difficult types of conversations because of the potential for defensiveness. We never know how the other person will react, and we can't be sure of how we may react to their reaction. Whenever we feel defensive, it's human nature to deflect responsibility ("it was someone else's fault more than mine," "it was out of my control," "there must have been a misunderstanding") or "attack" the source, by arguing ("this isn't fair, you don't have all the facts"), questioning credibility ("who are you to be giving me advice?"), lashing out ("you're only saying that because you want the credit for yourself"), or making threats ("If I am not appreciated, then I will have to consider my options"). Defensiveness can undermine any conversation and may strain an ongoing relationship.

How can you manage a difficult conversation so as not to provoke defensiveness, and what can you do if defensiveness rears its ugly head? The tips on the next pages offer some practical advice.

There's no single formula for delivering feedback effectively. What works best will depend on the issue you're dealing with, your relationship with the other person, his or her personality, and your own style. Underneath all the variables, however, three qualities are critical:

- **Honesty:** Are you frank and forthright – or evasive and indirect? Do you complain about associates' performance to other people or in a written evaluation long after the fact, without having given them the feedback to their face? Can associates trust that you will tell them truthfully what you think and what they must do to improve?

- **Fairness:** If your management or communications could have contributed to a problem, do you acknowledge this (without letting the associate off the hook)? If it's not clear why something happened, do you ask for the associate's perspective? Do you listen? Do you communicate with respect? Do you ever ask for feedback about how you managed an assignment?

- **Intention:** Are you genuinely interested in the success and development of the associate – or simply making judgments? Do you coach as well as complain? Re-engage rather than disappear? Praise as well as criticize? Have you taken the time to identify their strengths and consider how you might help them succeed?

A fourth quality is also critical, but it has to do with what precedes and follows the conversation. Have you actually demonstrated a commitment to the other person's development and success? A demonstrated commitment requires a track record of actions, such as the following:

- Singing the person's praises to others, especially when the person is present.
- Showing interest in the other person as a person.
- Being accessible to, and spending time with, the person.
- Following through on promises related to the person's development (e.g., brokering work opportunities with other senior lawyers, assigning increased responsibility and client contact, and meeting with the other person to provide feedback).

This section contains seven best practices for feedback conversations and tips and techniques for each. The first ("*Facilitate Ongoing Dialogue*") is aimed at reducing the need for constructive feedback by ensuring there is an ongoing conversation and, therefore, less chance of a miscommunication or the work going off the rails. The second ("*Manage Your Assumptions and Intentions*") will help you prepare and "take the edge off" potentially difficult conversations.

The remaining five best practices focus on how to provide constructive criticism, but they are presented in no particular order. As noted above, the approach you decide to take in a given situation will be influenced by the circumstances, your relationship with the other person, his or her personality, and your own style. For example, if you are already inclined to be straightforward, you may be comfortable getting started ("*Be Direct*" and "*Be Objective in Your Delivery*"), but you may be looking for advice on how to generate dialogue ("*Find Out What You Don't Know*") or deal with defensiveness ("*Frame the Conversation in the Future*" and "*Anticipate and Defuse Defensiveness*"). Choose the best practices and specific techniques you would like to use more consistently or effectively in your feedback conversations with colleagues.

I. Facilitate Ongoing Dialogue

This best practice is about reducing the likelihood that difficult conversations will be necessary by ensuring there is ongoing dialogue that enables you and your colleague to spot and deal with issues before they become problems, and to make course corrections as priorities evolve. Of course, another way to reduce the need for constructive feedback is to delegate in a manner that enables others to do their best work (e.g., planning ahead, gathering helpful resources, meeting in person, explaining the context, asking about the person's other experience and commitments, and being explicit about expectations for the work product, deadlines and the process of working together). Try the following techniques to encourage ongoing dialogue.

1. Kick-start the discussions in your first meeting. Create the expectation from the start that there will be dialogue. Encourage questions. Ask for their ideas and opinions. Brainstorm briefly about options and tactics, without forcing a conclusion. Or, discuss your initial take on the key issues or potential problems and ask for other approaches as the assignment proceeds. At the same time, make it clear that you expect the associate to take ownership, communicate proactively, and use your time efficiently by taking an issue as far as they can before involving you.

2. Schedule a prompt check-in and segment difficult assignments. At the end of the initial delegation meeting, schedule a check-in (e.g., later that day or the next) to confirm understanding and reinforce the expectation for ongoing dialogue. With complex assignments, decide in advance how to "stage" the coaching throughout the assignment with scheduled check-ins. For example, if the associate is drafting a major brief for the first time, you might have an initial discussion of the issues and "story"; have another discussion after the research is underway; then ask to see an outline; and finally, after you review the draft, sit down to discuss your guidance for a revision, rather than providing a redline. Each meeting provides an opportunity for coaching and dialogue.

Tips:

- Agree to talk at the same time each day or week. A regularly scheduled meeting makes it easier for an associate to ask questions and offer ideas.
- Drop by, or pick up the phone, to chat informally, without an agenda in mind ("What else are you working on?" "Did you see this?" "How was your weekend?"). These casual encounters make it easier for an associate to ask questions and offer ideas. Be sure you are "checking in" rather than "checking up."
- Impromptu get-togethers for coffee, lunch, or drinks can build relationships that facilitate open communications among team members, especially at different levels of seniority.

3. Manage your affect. Stress can be contagious. If you're busy, you may show impatience or lack of interest even if you don't intend to. It's easy to underestimate how much a "bad mood," curt reply, or defensiveness, can shut down dialogue and negatively impact the willingness of associates to communicate proactively with you. If you're stressed, take a deep breath before saying or doing something that transmits the stress to others.

Tips:

- Welcome questions and ideas with enthusiasm even if your initial reaction is to dismiss them. Ask a question to learn more: "What leads you to that…?"
- Be careful not to rely too much on e-mail, and resist the temptation to respond to an e-mail question with an e-mail answer if the question deserves a discussion. Pick up the phone, or ask the person to drop by.

4. Provide feedback in the moment. Constructive feedback delivered in the moment has three advantages.

1. It is easier to agree on the context while it is fresh in both your minds (e.g., what was said and expected).

2. It builds trust. If you delay for a week, the associate will wonder why you didn't talk about it at the time, and they may wonder if you have talked to anyone else about it in the interim.

3. The stakes are lower. Feedback offered in the moment is more likely to be received as a coaching conversation as opposed to a performance review.

An important caveat: postpone the feedback if you are upset, either because of the other person's performance or for any other reason, or if the matter is moving at full speed and everyone is under pressure. As well, take the time you need to be clear about how to explain the issue and your specific advice for improvement.

Tip:

- If circumstances allow, let the associate see your comments on a document before meeting to discuss them so he or she can be ready to engage in a discussion rather than simply listen to your explanations.

II. Manage Your Assumptions and Intentions

We can make any conversation more difficult by making assumptions about the other person or their performance that are wrong or unhelpful. As we become more senior, it's easier to do. We are convinced we know exactly what's going on, but we may be mistaken. Sometimes our own actions have contributed to a problem or our judgment is clouded by our own defensiveness, which we are slow to recognize or reluctant to admit. The following techniques are designed to help you prepare for a feedback conversation by focusing first on yourself.

5. Compartmentalize your thoughts about the person, and focus on the problem. It's human nature to be making judgments about our colleagues. We interpret and assess their behaviors, and we hypothesize about their capabilities, intentions, motivations, interests, and beliefs. Sometimes, our assessments become labels, e.g., "John is a perfectionist." But if you share your interpretations or assumptions in a feedback conversation (e.g., "you don't seem to be interested in this kind of work"), or apply a "label" (e.g., "this is not your strength"), then the other person is bound to become defensive. They will think it is unfair for you to be "mind-reading" or making judgments that imply that improvement will be difficult or unlikely. Being honest and forthright does not mean sharing whatever is on your mind; keep your thoughts about the other person to yourself and focus objectively on the problem (see #13 below).

Tips:
- Assume the other person has the best of intentions. How could their behavior be consistent with that?
- Second-guess your judgments. If you thought the person was a "star," would you interpret his or her performance differently?

6. Second-guess your assumptions about what happened. There are two sides to every performance story. What don't you know that might influence your views? Anticipate the other person's perspective and consider the following possibilities:[1]

- **You may be wrong about their contributions**. Do you have all the facts? Are you jumping to conclusions too quickly?

- **You may be right, but there may be reasons**. Do you know if the associate has done this kind of work before? What would the associate say about your assessment (if they felt they could be fully open with you)? What other priorities was the associate juggling?

[1] Adapted from Manzoni, J-F and Barsoux, J-L, *The Set-Up-To-Fail Syndrome* (Boston: Harvard Business School Press, 2002) p. 166.

- **You may have contributed to the problem.** Were your instructions clear? Did you unwittingly influence the person's initiative or self-confidence (e.g., by micro-managing the assignment)?

7. Clarify your purpose. Think beyond the conversation and broaden your perspective about the results that you would like to achieve:

- What do I really want for the other person?
- What do I really want for myself as a result of the conversation?
- What do I really want for our ongoing working relationship?

After answering these questions, second-guess your goals and approach for the conversation. Ask yourself, "How would I behave if I really wanted these results?"[2]

8. Examine and manage your emotions. The need for constructive feedback is usually triggered by poor work product or unexpected outcomes, which, in turn, can trigger negative emotions. We may feel impatient, frustrated, disappointed, let down, annoyed, irritated, or resentful. We may also be worried about the potential consequences of the situation and how it may look for us in the eyes of our other colleagues or the client. We may feel nervous, uneasy, worried, or fearful. The threat of embarrassment or looking incompetent can cause us to be defensive, especially if we may have contributed to the problem in the way in which we delegated or supervised the assignment. In other situations, we may be worried about how the credit – or blame – may be apportioned for an outcome. We may be feeling jealous, indignant or spiteful. Are our feelings justified? Perhaps so, but that's not the point. The issue is whether your negative emotions may undermine the feedback conversation.

- **Examine your emotions**. What has triggered them? Are your assumptions about the other person's intentions or motivations upsetting you? Are you feeling defensive about your role in the matter?

- **Manage your emotions**. Second-guessing your assumptions about what happened (#6 above) and clarifying your purpose (#7 above) may influence your emotions. Is it important to let your colleague know how you are feeling as part of the conversation, or not really?

[2] Adapted from Patterson, K. et al, *Crucial Conversations, Tools for Talking When the Stakes are High* (New York: McGraw-Hill, 2002)

III. Be Direct

Each of us has a preferred style of communication that falls on a spectrum of direct to indirect. If we tend towards being direct, we "tell it like it is," make requests, get straight to the point, and confront difficult situations. If we tend towards being indirect, we ask more questions, make suggestions, get to the point in a roundabout manner, and often delay confronting difficult situations. Both styles have their strengths and weaknesses. The direct style has the advantage of clarity and transparency, but an overly direct approach may offend the other person and strain the relationship. The indirect style can be an asset for finding out what you don't know and being diplomatic and supportive, but an overly indirect approach can create uncertainty and misunderstanding, may seem disingenuous, and could cause problems to fester.

As a general rule for constructive feedback, it is more effective to be direct. That said, a direct approach must be tempered in two ways: by focusing on the facts (see #13 below) rather than sharing your thoughts about the person (see #5 above), and by finding out what you don't know (see #17 to #20 below) before jumping to conclusions. Try the following techniques to be more direct in a difficult conversation.

9. Open with a topic sentence and get to the point. "I would like to talk about [this] and [that]." Take the time to think through your core message, so you can articulate it clearly and strongly. Depending on the situation, the core message may have a positive element (strengths and contributions), a critical component (how performance has failed to meet expectations), and a forward-looking element (what you would like to see for improvement).

10. Avoid leading off with a self-assessment question. Supervising lawyers often think they should ease in to criticism by asking the other person to start by assessing their own performance: "How do you think you did on the draft?" "Is there anything that you would have done differently?" The easing-in approach may actually shut down dialogue because it may seem disingenuous or unnecessarily indirect. Until the other person knows your bottom-line assessment, he or she may be unwilling to be open or play along.

11. Provide specific examples, not general characterizations.[3] Describe the concrete manifestations of the problem, rather than characterizing it in general terms (e.g., "sloppy"). Avoid the trap of broadening a specific issue into an unfair generalization by using words like "always" or "never". Then, provide specific examples of the desired performance. Specific examples will help for two reasons:

[3] Kinlaw, D., *Coaching for Commitment, Interpersonal Strategies for Obtaining Superior Performance from Individuals and Teams*, 2nd ed. (San Francisco: Jossey-Bass/Pfeiffer, 1999) p. 86.

1. The other person will be more likely to understand the problem if it can be described with specific examples, particularly in the case of behavior as opposed to work product.

2. The other person will be more likely to accept the criticism as valid if you can point to specific examples. If they don't think it is valid, they are likely to be defensive.

12. If it's serious, be direct about the potential consequences for them. Sometimes it is important for an associate to know you are disappointed or that their work needs to improve significantly. If your approach is indirect – hoping that they will "get it" – the danger is that the associate may not appreciate the seriousness of the situation. Before taking a direct approach, second-guess your assumptions (see #5 to #7 above) and examine your emotions (see #8 above). If you still believe a serious message is necessary, consider taking the following steps:

1. **Describe your expectations and the gap between their performance and what you expected:** "I was expecting something different… this analysis deals with A, but not B. I was expecting the analysis to address B in this way."

2. **If appropriate, describe the impact on you:** "I was disappointed… I am getting anxious about our timing… I was frustrated that I had to re-draft…"

3. **Describe the potential consequences for the other person:** "[Partner X] won't have patience for this, which may mean he will be reluctant to involve you in future matters" or "You will have to show you have mastered the facts in order for me to feel comfortable with you managing the communications with the client."

IV. Be Objective in the Delivery

The other person is more likely to listen constructively to critical feedback, and less likely to take it personally or react defensively, if the feedback focuses objectively on the behavior or work product rather than what you may be thinking about the person's capabilities, intentions or motivations. Here are some techniques for delivering a message objectively.

13. Stick to the facts. Objectively describe the problem and its impact or potential consequences. The "problem" is usually "words on the page" or behavior that you witnessed. Stand back from the situation and describe what occurred, dispassionately as a neutral observer. Consider the following examples.

> <u>Less effective</u>: *I didn't like the way you failed to emphasize the first option in your draft, so I rewrote it to make it clear that the first option is preferable. Did you really think the second option was just as good as the first?* [Focuses on the person, rather than what occurred]
>
> <u>More effective</u>: *The key difference between the first and second drafts is the emphasis on the options. The first draft presented both options without indicating a preference. In the second draft, I tried to make it clear that the first option was preferable. What was your reasoning when you were laying out the options in the first draft?* [Focuses on what occurred]

In addition to describing the problem dispassionately, it's important to describe the impact or potential consequences of "what happened" because that is why you are having the conversation. The following techniques provide options for a more objective approach than simply saying "This is what I prefer."

14. Take on the perspective of the client or another third person. Describe the impact or potential impact of the problem from another person's perspective: how would the client, a senior partner, opposing counsel, or a judge react to the document? Inviting the associate to "step into the shoes" of the client is often the most effective approach.

15. Focus on the ultimate goal. The outcome you are trying to achieve also provides an objective frame of reference for the discussion. "This won't get us there because…"

16. Invoke a standard of practice. "This is the approach we usually take in the group." "The active voice is more effective than the passive voice."

V. Find Out What You Don't Know

17. Balance explanation with inquiry. Generating dialogue is not just about asking questions. A dialogue requires you to explain and test your perspective and inquire into the other person's perspective. The goal is for both of you to make your thinking visible to one another. Consider the following examples of what to do and say.[4]

What to Do	What to Say
When explaining …	
State your assumptions and what data led you to those assumptions	"Here is my perspective and here is how I got there."
Explain your assumptions	"I assumed that …."
Make your reasoning explicit	"I got to this conclusion because …."
Encourage the other person to explore your approach, assumptions and data	"What do you think about what I just said?" or "What else might we take into consideration?"
Encourage the other person to provide a different view	"How do you see it?"
When inquiring …	
Encourage the other person to expose his or her thinking	"What leads you to that conclusion?" or "What causes you to say that?"
Probe without provoking defensiveness	"Tell me more about your thinking here."
Draw out their reasoning	"What is the significance of that?"
Ask for examples and implications	"Can you give me an example of what you are saying?"
Check your understanding	"Am I right that you are saying …."

[4] Adapted from Senge, P. et al, *The Fifth Discipline Fieldbook, Strategies and Tools for Building a Learning Organization* (New York: Currency Doubleday, 1994) pp. 256 – 258.

18. Probe with "how" and "what" rather than "why." Questions that begin with "why" can provoke defensiveness by implying that the other person must justify – rather than explain – their thinking or actions. Consider the subtle differences in the following questions.

Why did you draft the opening paragraph that way?
vs.
What led you to draft the opening paragraph that way?
How did you decide to draft the opening paragraph that way?

19. Probe when you sense hesitation or you're puzzled by remarks. More junior lawyers may be reluctant to tell you what's on their mind in a feedback conversation because they don't want to appear defensive or to be making excuses. If they are feeling that the feedback is unfair or unbalanced, and they do not express their thoughts, those thoughts will still get in the way of their listening and learning. Be alert for hints that the associate has more to say. Look for hesitations or pick up on off-hand comments that you may find puzzling. The associate may be waiting for you to invite them to share their thoughts: "*What are you thinking?*" (when you sense hesitation) or "*Say more about that*" (when you're puzzled by a comment).

20. Ask one more question. This technique encourages the other person to put everything on the table, especially when the other person may be feeling his or her side of the story has not been fully appreciated.[5] After it appears as though the feedback conversation has run its course, pause and ask:

What other thoughts do you have?

When you are confident everything is on the table, bring closure to the conversation with the following question.

Is there anything else you would like to say?

[5] Malandro, L., *Say It Right the First Time* (New York: McGraw-Hill, 2003) p. 53.

VI. Frame the Conversation in the Future

Framing the conversation in the future is critical for two reasons. First, it reduces the potential for defensiveness. Talking about "how something might be done in the future" is likely to be received constructively as a collaborative, coaching conversation, rather than defensively as a performance evaluation. The more time devoted to describing, interpreting, and assessing what happened, what worked, what didn't, and why, the more it will feel to the other person that you are apportioning blame. Second, the future is where you want to be to generate changes in behavior.

Feedback conversations are likely to begin in the past as you describe the problem and its consequences directly and objectively. However, look for opportunities to shift the conversation to the future as soon as you can, using the following techniques.

21. Focus on improvement. Shift the conversation to the future by engaging the associate in a problem-solving conversation about how to improve the work product for next time.

- *If we had the chance to do this again, here are my suggestions for how it might be done differently. What are your thoughts?*
- *How do you think this could be improved?*
- *What could I do differently next time to enable you to do your best work?*

22. Brainstorm possibilities. A variation of the improvement conversation is brainstorming. Shift the conversation to the future with phrases such as:

- *How could we do this differently next time?*
- *What are the possibilities for…?*
- *Would either of these approaches make sense?*
- *What do you think the client would prefer next time?*

23. Handle excuses by moving on – without agreeing or disagreeing. When an associate says something that sounds like an excuse (e.g., "I was juggling three matters that all had the same deadline," or "I didn't realize that's want you wanted."), a supervising lawyer will often feel stuck. You don't want to "agree" with the excuse because that might let the associate off the hook, and you don't want to "disagree" with the excuse because that might provoke defensiveness. However, there is a third option: (i) listen attentively, allow them to make their point, and reflect your understanding (without necessarily agreeing or disagreeing); and then (ii) shift the conversation to what they (and you) might do in the future to handle the situation differently.

> *I see that you were working all weekend on several matters, which I hadn't appreciated. Next time we begin a new matter together, let's make sure we talk more about what else is on your plate.*

24. Dispel uncertainty about whether you will work with them again. An associate on the receiving end of constructive feedback may be worried about whether they have fallen into your "out-group." The anxiety or uncertainly they may be feeling will get in the way of listening and learning. You can defuse the tension with one simple phrase:

> *Next time we work together…*

VII. Anticipate and Defuse Defensiveness

Many of the techniques discussed above are designed to defuse defensiveness, which is always lurking in the shadows of a feedback conversation. Consider the following additional techniques.

25. Acknowledge the person's strengths and contributions. Ask yourself, "What is the strongest praise I can offer genuinely to this person?" If your remarks focus only on what could have been done better, the associate may feel that the criticism is unbalanced, which may provoke defensiveness (whether they express it or not). While you do not want to "sugar-coat" or confuse a serious message with praise, it's important to acknowledge the other person's strengths and contributions for two reasons.

1. They are unlikely to accept criticism fully unless their contributions or strengths have been recognized.

2. The more confident they become about their strengths, the more their overall performance is likely to improve.

Guard against qualifying your praise: "You did a good job here, **but** there were other parts that could have been more effective." Banish the word "but" from your feedback conversations. After acknowledging an associate's contributions, pause to let the message sink in. Deal with your concerns as a separate topic.

For praise to be effective, it should be as specific as any other form of feedback. If it's not, it may lack credibility, and it will not tell the other person what specific behaviors or skills you are praising. Use feedback to reinforce good performance or habits. Junior lawyers may not know what they are doing well.

Even if there is nothing to praise in the person's work product, either because it's not good or it's simply meeting expectations, you can always thank them for their effort. A simple thank you can set a positive tone for the conversation.

26. Share responsibility appropriately. If an assignment has not met your expectations, it is likely you may have influenced the outcome, unintentionally of course. If the feedback conversation focuses only on the contributions of the associate, the associate may feel the criticism is unbalanced, which may provoke defensiveness (whether they express it or not). Acknowledge your own contributions: "I may not have been clear about…" or "I should have let you know about my timing." Sharing responsibility will create a balanced, problem-solving tone for the conversation, and is likely to prompt the associate to take full responsibility for their contributions rather than to be defensive. But be careful not to share too much responsibility so that you don't let the associate off the hook.

Tip:

- Use "we" as much as possible, rather than "I" and "you," in feedback conversations to signal you are working together as a team.

27. Talk about your own learning experiences. Share examples of mistakes you have made, or of difficult situations you have faced, as a way of breaking down barriers to communication. Disclosing your own doubts, mistakes, and lessons learned can lead to a more open conversation by building trust and modeling the behavior you want to encourage from the associate. Express your confidence that the associate can and will learn from the experience, just as you did.

28. Clarify your intentions with the "Don't / Do" contrasting technique.[6] If you sense the other person is anxious about the conversation or becoming defensive, you can defuse the tension by clarifying your intentions. This technique involves first saying what you "don't want" followed immediately by what you "do want." The don't part addresses any concerns the other person may have about your intentions or whether you respect their capabilities. The do part clarifies your purpose or confirms your respect.

- [The don't part] *The last thing I want to do is leave the impression that I don't appreciate all the work you put into this. I think that your effort on such short notice has been excellent. [The do part] I do want to suggest that we communicate more often when we're in a crisis mode, even if it's hard to find me*.

- [The don't part] *I don't want you to think that these comments are going to make me think twice about working with you again. [The do part] I do want to work with you again. My goal is to help you develop your client skills.*

The don't/do contrasting technique can also be used at the end of the conversation to recap an important point:

- [The don't part] *I don't want you to think that I don't want you to be making judgments about what to include in the document for the client. [The do part] I do want you to make those judgments. I also want you to keep me in the loop as you are making them.*

[6] Patterson, K. et al, *Crucial Conversations, Tools for Talking When the Stakes Are High* (New York: McGraw-Hill, 2002) pp. 76 – 80.

