SUMMARY

After-action reviews lead to greater efficiency, cost-effectiveness, responsiveness, professional development, managerial skills and knowledge. The improvements that results from acting on these findings of an AAR enhances competitiveness, client loyalty, teamwork and profitability. From the client's perspective, the relationship with the firm should be more valuable as a result of greater accountability for costs and legal results, transparency and continuous improvement in how work is done.

AFTER-ACTIONS REVIEWS FOR LAW FIRMS: The value of taking stock

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Why do an After-Action Review?

The Legal Project Management ("LPM") framework calls for a kick-off meeting, budgeting, planning, monitoring and communicating across the legal team and with the client. Each of these steps is intended to achieve specific outcomes. The last step in the LPM framework, the After-Action Review ("AAR"), reveals how well the legal team achieved those outcomes.

The adoption of LPM by law firms, in whole or in part, is driven by three key motivations: improve margins and realization; reduce friction with clients over process and costs; and improve competitiveness by capitalizing on management effectiveness.[1] An industry under pressure to transform must take every matter as an opportunity to cement more knowledgeable, trusting and productive relationships. Thus, the AAR focuses on how the

[1] The client's economic goals are essentially the same, except that law departments are not measured by their profitability, margins or realization; instead they are assessed by their productivity and skill at managing costs of legal services and working well with internal clients.

countless activities, events, relationships, communications and changes during the matter were handled and their impact on the economics of the matter.

In the short-term, responding constructively to the findings of an AAR should lead to greater efficiency, cost-effectiveness, responsiveness, professional development, managerial skills and knowledge. If the team is well managed, stress will decrease. In the long run, from the law firm's perspective, the continuous improvement that results from acting on these findings enhances competitiveness, client loyalty, teamwork and profitability. From the client's perspective, the relationship with the firm should be more valuable as a result of greater accountability for costs and legal results, transparency and continuous improvement in how work is done.

Ultimately, an AAR is a joint undertaking between a legal team and its client. Prior to that joint review, a firm should fine-tune the AAR process on its own and address those elements of performance that are within its sole control. Firms that adopt LPM techniques encounter responses from clients ranging from "what took you so long" to "just win at the lowest possible cost and follow our guidelines." Interactions with the client should be calibrated without diminishing a firm's managerial progress.

How to do an After-Action Review

An After-Action Review can be done in a 15-minute call, through email exchanges, over lunch, or in a structured workshop with members of the team. The level of detail and formality of the review should be commensurate with the importance of the matter or client and the standards and sophistication of clients. Take the time. This is as important as any other activity to strengthen a client relationship.

Can you answer five questions?

The LPM framework calls for legal team members to answer five key questions at the launch and throughout the course of the matter, even in the face of changing circumstances, in a manner commensurate with their roles. The AAR assesses, qualitatively and quantitatively, the presence and effect of alignment, gaps or inconsistencies in the team and client's understanding.

The five questions are:

1. ***WHY*** are we handling this matter for this client—why is it important to the client's business?
2. ***WHAT*** work will accomplish the client's business goal, and what work will specifically not be done?
3. ***WHEN*** and in what sequence must work be done and what are the uncertainties and dependencies regarding timing?
4. ***HOW*** do we manage the work given constraints and requirements such as budget, strategic importance, client mandates, timing and risk management protocols?
5. ***WHO*** is involved in the work and what is that person's role and responsibility?

The answers to these questions have consequences—positive, negative and neutral—for fees, costs, resource allocation, work plans, scope of work, stakeholders, roles and responsibilities, teamwork, training and client satisfaction. Not all observations require action; some may require more detailed analysis.

Do you have all the facts?

An AAR is a fact-based discussion that requires data. The primary source of data should be the timekeeping records of the firm and the corresponding billing information. Use these records to chart what was done, who did it, in what sequence, for what purpose, at what cost and at what realization rate. Aggregate information by phases of the matter; a granular look at tasks distracts attention from bigger systemic issues and opportunities.

Data-gathering processes, timekeeping protocols and report templates should already be in place to permit this kind of look back and comparison to the initial plan. If the data are unavailable or

unreliable, or it is difficult to do this kind of analysis, a lesson is learned: action is required to improve data-gathering and reporting protocols, training or timekeeping practices.

Assemble the following:

1. Brief description of the matter
    a. Engagement letter with client and documentation relating to the fee arrangement
    b. Write-up of the matter as if it were to be used in a response to the client's auditors
2. Client materials
    a. Outside counsel guidelines
    b. Description of law department matter management approaches, budgeting needs and reporting expectations
3. Formal or informal budgets, estimates and revisions that had been given to the client
    a. Firm financial information
    b. Budgets and assumptions (internally prepared)
    c. Time records
    d. Information on realization and profitability
    e. Sample bill for this client/matter
    f. Description of billing practices and work flow (pre-bills; e-billing)
    g. Description of monitoring practices (weekly reviews of time recorded; timekeeping expectations)
4. Communications
    a. Example of status reports internal to the firm and external to the client
    b. Templates used for internal and external reporting
    c. The Project Charter, work plan and Gantt chart

Plot the information that has been gathered against the elements of the project plan that were set out, explicitly or implicitly, at the launch. Look for how the information was updated as circumstances changed. If there are significant gaps or deficiencies in the information available to ground this discussion, the factual foundation for conducting an AAR is missing. Lesson learned: well-run law firms have matter management protocols in place; action is required.

Analyze the facts

After analyzing the information, address the following issues from an LPM perspective, i.e., efficiency and client relationship:

1. What did we intend to accomplish at each point in time and why—what were our goals and our strategies?

2. What did we actually do, who did it and how did we implement our strategy?
3. What were the differences between our intended goals, strategies and execution and what we actually did? Why were there differences? What was the root cause of both distress and success?
4. What could we have done to improve our implementation?
5. What were the differences between our approach and the client's expectations?
6. What were our successes and how do we repeat or export our successes to other matters?

Look at what caused tension, surprises and write---offs. Examine "near misses" and "close calls." Fertile areas for review are those characterized by rework, write---offs, duplicative effort, misunderstandings and poor communication, and the associated effort to avert disaster and get back on track. Focus on the root cause of variances from plan and the steps taken to recover. Identify better practices for next time.

What might you find

A recent AAR revealed significantly different realization rates and time lines for closing acquisitions of similar properties for a client depending on which partner handled the matter. The primary source of the variation resulted from how each partner utilized paralegals. The AAR findings raised important questions about perceptions of risk, client expectations, resource allocation, roles and responsibilities, internal training and the firm's view of "best practices" that had not previously been surfaced within the firm nor discussed with the client.

Often differences in processes, time lines and cost arise depending upon which of a client's internal lawyers or businesspeople is running a case. Facts, not impressions, are needed to document and address the causes and implications of variations with a client. In one after---action review, the discussion turned to time spent on administrative aspects of the relationship; the client had asked for budgets and forecasts six times during the past year. The law firm partners serving the client did not understand the purpose of the requests and some at the client found the firm's information lacking. The client also did not realize how many of its people were asking for different cuts at budget information. As a result of a collaborative AAR, they agreed on a work plan and a timeline for the budgeting and reporting process.

Look for what worked well and should be replicated as a best practice. "Good work" should result in lessons learned, new action plans, training opportunities and templates for use in other matters. Watch the tendency to be hypercritical—find the positive. Also watch out for regression to the mean; consensus does not necessarily mean that a common practice is a "best practice." Strive to raise the bar. Understand how your work product and advice meet a range of client objectives. Ask for candor about what is important to them—how they define predictability, accountability, risk and value. Learn more about their budgeting process and internal stakeholders.

AARs can reveal distinctive characteristics and drivers of client loyalty, repeat business from existing clients and new business. Often, clients do not hire lawyers and firms just on the basis of expertise, which, while impressive, is rarely unique—and they often do not replace firms on the

basis of expertise alone. How the work is done and clients are accommodated may be a significant factor. One firm recently took over a larger share of a private equity fund's deal work. The firm assumed it was because of their "expertise." A post---closing AAR found that the actual reason is that the firm's tax lawyer is one of the few the client had come across who could explain to the satisfaction of the CEO the tax implications and bottom---line impact of alternative deal structures.

Progress to joint reviews with the client

A predicate of LPM is the existence of a compact between the client and the lawyer/law firm: both are committed to protocols for meeting objectives and an economic arrangement that benefits each other. Act on the internal evaluation of the firm's matter management and take the steps necessary to improve, then gradually bring the client into the AAR process. Clients have varying levels of skill and commitment to management, transparency and communication. Progressing to collaborative AARs requires candor, mutual respect and clear standards for future work. The result will be less friction, better realization and more knowledgeable, trusting and productive relationships.

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