How to talk so associates understand you

Did you get a clear agreement that the brief would be done at a certain time?

By Cami McLaren

"I want you to work on this brief."

"I needed that yesterday."

What do these statements have in common? Answer: They are common ways of communicating that actually communicate very little.

The biggest communication problem I see in law firms is a *lack of clarity.* This includes misunderstandings as to what is being requested and clear timelines. The second communication problem I see is *a lack of curiosity.* I will address both problems throughout this article.

Let's look at two types of communication you might have with an associate (or a staff member; or really, anyone). (1) Asking for an agreement to do something; (2) Addressing a failure to do something.

We will take each in turn and look at best practices for clear communication. Clear communication is *communication that gets you the result you are after*. The first question to ask yourself in communication is, "What do I want to be walking away with at the end of this conversation?" This points up a common failing in law firm communication – the failure to recognize that so much of what you are doing in your communication with an employee is making a request; i.e., asking them to do something specific. If this is not made explicit, often miscommunication occurs.

The brief, is it done?

For example, you say to Mary, "Please work on this brief." Mary says, "OK" and puts it in line after the research you asked her to do yesterday and the motion another partner gave her a week ago. Next Friday, you come to her and say, "Are you done with the brief?" She says no. You get upset that she has not done "what you asked her to do."

The effect of this entire communication pattern is, among other things, an erosion of trust. Your trust for her diminishes because you thought she would be done by Friday and she was not. Her trust for you fades because you were not clear in what you wanted or by when and so she – consciously or unconsciously – decided when it was due. In her mind she did not miss that deadline. And now she does not trust your judgment or fairness as a senior partner because you got mad at her or disciplined her in some way for something she does not believe she did.

And so, the first thing to recognize is this – anytime you ask anyone for anything,

you are making a *request* of them. The best way to build trust with people – and to get what you want – is to recognize that you are making a request and to do it mindfully and carefully. Take responsibility for making clear requests, because as you can see above, your unclear requests lead others to mistrust you. And trust is a fundamental element of strong relationships – particularly those in your office. (If you are interested in learning more about the dynamics of trust in a business, read my blog series on the topic: http://www.mclarencoaching.com/category/building-trust-in-business/).

Recognize that when you make a request, you are asking someone to make *an agreement with you*. You are asking someone to promise you something. When we put this kind of language on it, it starts to feel more significant. If you look at it this way, you might slow down and think about what you are asking.

Asking for an agreement to do something

There are five elements to attaining a clear agreement with another person.

(1) **A committed speaker**

That's you. Are you present? Or are you on the computer or focused on something else? Are you clear what you are asking for? Often we are in such a hurry that we don't stop for a moment and ground ourselves before a meeting. However, this method does not save time. It leads to confusion, which wastes time down the road. Take a moment and decide what you want to ask for. Then make sure you are not distracted during the process of making the request.

(2) **A committed listener**

Is your associate on the phone? The computer? Distracted by something else? If you want a clear agreement, take the responsibility for making sure you don't talk to her when she is distracted. I have seen people say to their clients, friends or children who are on their devices, "I will wait until you are done." Often the person responds, "It's okay; I'm listening." But the speaker will still say, "I can wait; I just prefer to talk when you are focused on me." There is no judgment or attacking. They are taking responsibility for making sure the other person is fully focused and listening.

(3) **Terms of the agreement sought**

Be crystal clear what you are asking for. I coach a lot of associates who are spinning their wheels doing something the wrong way because the attorney who assigned it did not take the time to be clear on what they were expecting.

- Slow down.
- Be clear.
- Ask questions.
- Have them repeat it back to you.

This is the first place I want to mention curiosity. Ask questions. See if they really get it. It takes a while to truly understand a person's experience and skill level. Be curious. This will save you a lot of time in the long run.

(4) **A time element**

This cannot be overstated. It is so important that it is set forth as a separate element in the process of making requests. How often do we say, "Will you please do this?" and the other person says, "Yes" only to fail to come through? What is the problem? As above in our example with Mary, when no time element is stated, both parties "make up" their own deadline.

You are much more likely to get what you want when you include a clear time element. You are also more likely to hear if the person actually has the time to do it if you include a time element. This is an important point with associates, particularly if they are working for more than one attorney. I have seen two major downfalls in communication between partners and associates, especially as it concerns work assigned.

First, the partner is giving multiple projects to the associate, but is not clearly communicating the deadlines for each project. As such, the associate is guessing. Sometimes they do it in a "first received" order. Sometimes they try to figure out the priority. Sometimes they just work on things as fast as they can. Often (and this really is an indication of the effectiveness of the communication in your office), they are afraid to ask for timelines and priority levels. Either they are afraid because you have given them the impression that they should not ask or should "just know," or they are afraid out of an internal belief that they will look incompetent if they ask.

There was a time, a while back, when the practice of law was an apprenticeship. Now though, a person goes through law school, passes the bar, and then gets hired in a firm where they are thrown into the deep end with little to no mentoring. This turns out to be ineffective in terms of time, money and attorney turnover.

The second issue I have seen occurs when the associate works for multiple partners and the partners are not communicating with each other about how much work they are giving the associates. The associates in turn, are uncomfortable prioritizing the work of one person over the work of another person. Sometimes all of the partners are assigning the majority of their tasks as "rushes." But again, the only one who knows this is the associate. I am always amazed at how many law firms have this situation.

(5) **A response from your listener**

Responses to a request include: yes; no; or a renegotiation.

"Yes, I will do X, Y, and Z by Friday at 5 p.m."

"No, I will not do it."

"Yes, I could do it, but not until Tuesday." Or, "Yes I can, if I can get some help on this other matter."

This is another good place to talk about the importance of asking questions. If you want to get a clear agreement from someone, make it possible for them to be honest with you. Many newer associates do not feel they can say "no" to their bosses. As stated above, many newer associates (and some not-so-new associates) work for several different

partners. And those several different partners are all assigning tasks to the associates. And the associates think it reflects badly on them to say, "No, I can't get to that this week." Or, "Partner X has already asked me to work on this project this week, but I could do that next week for you."

Ask questions

"Will you do this project for me?" "Can you get it to me by ___________?" Watch their faces. Ninety-three percent of communication is non-verbal. If they look concerned, ask a question. "You look uncertain. Can you commit to getting this to me by Friday?" "Do you have questions about this project?" "Is something else concerning you?"

There seems to be a school of thought that says, I can get what I need better if I don't give them the chance to say no. However, it is much more efficient in the long run to find out what the obstacles might be up front. If you need something done by Friday and your associate really can't do that, but feels she must say yes to you, that outcome probably will not be one that supports you. Or the associate.

Coaching to success (addressing a failure to do something)

Let's say your associate is late on a project. Or does it incorrectly. What is the best response to that?

Step One**:** Again, slow down and be intentional. When you address someone, be a committed speaker and make sure your listener is focused and present and not needing to run off in five minutes to another meeting.

Step Two**:** Be clear with yourself *before the meeting* what outcome you want from the meeting. Is your intention to train the associate on how to properly draft a Motion for Summary Judgment? Is it to warn her that her job may be in jeopardy if she does not show up earlier each day? Is it to find out about his work load? You are going to approach things very differently based on your objective.

Knowing your outcome ahead of time will help you decide what to say and how to say it.

Step Three**:** Ask questions. Ask curious questions. Curious questions are those that are designed to gather information.

A curious question is an open-ended question. Open-ended means a question seeking information. It is distinct from a closed-ended question. A closed-ended question is one that calls for a Yes or No answer.

If you already think you know what happened, set that aside. It is hard to be curious and really listen if you have already decided what the answer is.

A curious question might be, "I am noticing you were late on the brief and I wanted to ask you what happened?" The associate might tell you he had an unexpected death in the family. Or he might tell you about his work load. Or it might turn out that you were not clear about how to do it or when you expected the product delivered to you. Whatever his answer, ask more curious questions. Just listen and ask questions. You are gathering information. Continue until you feel you really understand.

Step Four**:** Engender accountability. From here you want to support a sense of accountability in your associate. What we mean by "accountability" in this context is a willingness to take ownership for his mistake, to learn from it, and to meet his obligations going forward.

The best way for you to support this level of accountability is to ask, after hearing all of the answers to your questions, "What are you planning to do about this?" Or, "What can I or we do about this?" Brainstorm some options, remembering to encourage ownership on his part; i.e., what will *he* do? This definition of accountability does not mean blaming or seeking to find fault. It is an empowering definition of accountability that means when something is not working out the way you want, what can you learn and what will you change so that you get the result you want in the future? As the associate's superior, you can help with this by asking questions about what he intends to improve. Ask for specific action steps.

Step Five**:** Provide a call to action and follow up. Let's say your associate's challenge is that he is regularly giving you work product with typos and misspellings. Ask what he will do in the future. His plan might be "run spell check" or "have my secretary proof my product before I turn it in." This is his action step. It is fairly useless to have an employee say, "Yes, I see my mistake. It will never happen again." What you want to hear is *specifically* what he will do to *make sure* it does not happen again. Beyond hearing what he has *learned*, you want to hear what he will *do* based on what he has learned. Then you can say, "Okay, I will check your work product for the next two weeks and we will meet again on this issue in two weeks to see that it has improved." The follow-up is an important part of accountability.

People are far more likely to follow through on their action steps if they know there will be follow-up. This is the beauty of external accountability. It is why you are more likely to go to the gym if you tell people you are going. It is the reason people are able to change so much when they have coaches. It is not punitive. It is a support to the person who wants to make the changes. And it is good for you as the boss to do this as well so you have closure on the issue or you know there is more to do on it. The matter is not over after a single conversation.

Step Six**:** Repeat. If you do your follow-up and you see there are still issues occurring, follow the above steps again – be curious and ask what the person can do differently and what they might need from you. *Differently* is the key word here. If he again says, "I'll run spell check," it is appropriate for you to say, "That is what you said in the last meeting. Why did that not work? What do you need to do now that is different?" Make sure it is specific and there is a follow-up scheduled.

In the end, you are looking to see if this person is "coachable" – are they

committed and willing to take the action to change? Are they willing to be accountable? Sometimes (and it seems to me this is less often than most partners believe) a person is not truly coachable and not a right fit for your firm.

An associate might not be the right fit for you if they ...

Give you repeated excuses. An excuse sounds like "The traffic was heavy and that is why I was late." This is particularly obvious as an excuse if the person is habitually late. Accountability is an indicator of coachableness. An accountable answer will take some ownership. For example, "Traffic was heavier than normal today, but in the future, I am going to check traffic patterns on my phone before I leave and will give a 10-minute buffer because it is important to me that I am on time."

Habitually blame other people. "My secretary did not get it done on time." "The client was slow to respond." This is again more suspect if the person is repeatedly late or incomplete with projects. An accountable answer could include pointing fingers *if* it includes a solution. "You know, I have noticed that Dan has been late a lot over the last couple weeks. I am going to talk to him and see what's happening. And I am going to figure something out with him because I don't want to use his lateness as an excuse for my not getting things to you on time."

Complain a lot. This means, "I have too much work." Or "Too much is expected of me." Or "Person X, Y or Z is not supporting me." The distinction between this and an accountable response is that the latter would *include a solution*. Complaining tends to be repetitive and is stated typically in a powerless sounding way – as in, "Nothing can be done about this." A more accountable way of stating a situation is "This keeps happening and it is frustrating; I am going to talk to the person or look at the situation and brainstorm how to fix it."

In the end, we are advocating a coaching model management style. What we have described is a way to work with associates (and all employees) (and children too) (maybe even spouses) that engenders ownership and that acknowledges a desire to do one's best and make the changes necessary. Try it and see what you think!


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