

# A Fresh Look at Appraisals in Law Firms

By Nick Jarrett-Kerr

## Introduction

Most law firms claim to have appraisal systems but the trouble is that very few of them are effective. Implementation seems to be the main headache; 'It's a nightmare getting the Partners to do it,' is a comment I have frequently heard on the subject. However, despite the patchy history of limping and ineffective appraisals systems, I believe that a well designed system, methodically

applied, and rigorously enforced, can add a lot of value. Apart from all other considerations, the young professional is increasingly demanding some form of regular career development consultation. Further, many young professionals are increasingly taking jobs not just for what the job pays but also for how it will help them develop their careers. It is time for firms to take a fresh look at appraisals and re-invigorate their processes

abilities and helping the Firm to make the most effective use of its people.

The guiding principles are well known but worth repeating as they are often forgotten. First, there should be good feedback on performance. Second, the discussion should be future looking - there should be some clear attainable objectives. Third, there must be a high level of appraisee involvement in the setting of those objectives.

In order to sustain an effective appraisal sys-

### Ten Point Plan for Conducting Appraisals

- 1) Review performance - often against agreed business objectives
- 2) Assess overall competencies, address weak areas and assess training/learning needs
- 3) Improve overall performance and encourage effort
- 4) Allow the employee to comment formally on their own performance
- 5) Identify and develop talented people
- 6) Acknowledge that information is relevant for remuneration, but avoid explicit salary discussions or specific links to pay
- 7) Plan and set objectives for future performance
- 8) Discuss current problems/difficulties
- 9) Provide information for succession
- 10) Provide overall career development for the individual to achieve potential

tem based on the aims outlined above, there are some essential elements. The appraisals should be

- Carried out annually as a minimum and formally followed up at least once during the year and preferably more often

## Reinvigorating Appraisal Systems

For an Appraisal system to be successful, it has to be focused on two main aims - helping the individual to make the best of his/her

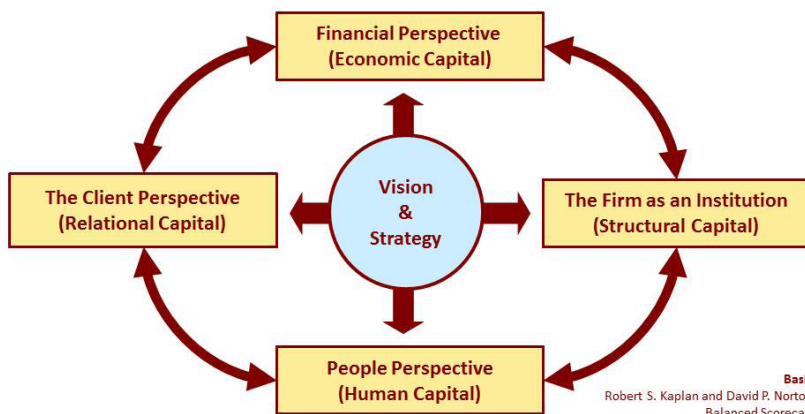


- Done by the partner immediately supervising the person being appraised
- Conducted in accordance with the Ten Point Plan (opposite)
- Informally followed up by regular meetings linked with continuous informal feedback
- Carried out in a safe or non-threatening environment – a neutral office (or even somewhere outside the firm’s offices) works well
- Recorded and agreed – with particular attention to SMART objectives and Training Needs

## Using a Balanced Scorecard

The Balanced Scorecard is a methodology to align a firm’s every day operations to its long-term strategy. Its purpose is to translate vision and strategy into all the actions

The Balanced Scorecard



Basis:  
Robert S. Kaplan and David P. Norton,  
Balanced Scorecard  
And Edvinsson etc, Intellectual Capital

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that the organisation undertakes. This is done by looking at desired results from certain perspectives. For professional service

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firms, we suggest changing the basic model (suggested by Balanced Scorecard authors Kaplan and Norton) in two ways. First we have aligned the model to reflect the concept that the main constituent assets of professional service firms are elements of Intellectual Capital, rather than tangible assets. Second, we have developed the Balanced Scorecard methodology to fit the environment in which professionals develop their careers by serving their clients, processing their work, and making profits.

Hence the perspectives are:

**Relational Capital (Clients):** how well we develop our relationships with the outside world

**Human Capital (People):** how well we develop the capabilities of our professionals

**Structural Capital (The firm as an ongoing institution):** how well we develop the ‘way things are done round here’ - work-flows, processes, and knowledge manage-

ment

**Economic Capital (Financial contribution):** how well we combine our intellectual capital to achieve financial and commercial success

## Grading and Rating

Most appraisers are reluctant to score, grade or rate their people.

The perceived problem is that if you score low, it can result in an argument; if you mark high, it can make the appraisee complacent or arrogant. Most appraisers tend to play it safe and mark somewhere in the middle, thus making the entire scoring process rather pointless.

It is worth remembering again that we are

seeking an Appraisal System that concentrates on getting the best out of the individual in the future rather than scoring the past. But for any Firm looking at promotion or the issue of merit based pay, some method of performance assessment is vital.

There are many models for an overall rating. One I recently came across is in Andrew Mayo's book *The Human Value of the Enterprise*. He suggests a five point judgement scale on people

A = Aware – can speak the language; knows what is involved

B = Basic – Has a rudimentary knowledge of the field

C = Competent – Is able to discuss and work competently

D = Distinguished – Is one to whom work colleagues turn to for advice

E = Expert – Is known within and beyond the organisation for his/her expertise

Any scoring system has to be not only fair but seen and trusted as fair – no easy feat. In part this is down to the credibility of the Firm, its values and the credibility of the management team. In part it is also down to the assessment itself being properly and professionally conducted. Some firms insist, for instance, that any per-

son who has the responsibility for completing a review, and for making remuneration recommendations, must explain how and how much he has mentored the individual in question over the period between appraisals. What must be avoided at all costs are two extremes. At one extreme reliance is placed on anecdote and title tattle and at the other extreme, an over-legalistic ap-

proach demands explicit proof and forensic evidence of defaults particularly in the case of an adverse review. And the individual must have their say – there must be some element of self-assessment in the system. Whether or not the individual is required to produce a memorandum or to address his/her performance in other ways will vary from firm to firm but it is vital that each appraisee should be required to deal with the specifics of, amongst other things, performance against objectives.

And notice, in particular, that we are talking about more than billing performance here – we need to look across a broader spectrum. And for that, we recommend – as mentioned above - a balanced scorecard approach, based on carefully identified competencies.

## Managing

### Typical Appraisal Fears

- Worries – cynicism even – as to whether the firm is taking the Appraisal system seriously or cares about their welfare
- Straightforward fear, anxiety, reluctance, embarrassment
- The desire to maintain good relationships and the fear that confronting issues openly might harm those relationships
- Fear of confronting issues which (on the part of either Appraiser or Appraisee) have been ignored
- Lack of confidence in a positive outcome
- The perceived unnaturalness of the interview
- Embarrassment about giving praise
- Perceived lack of commitment from the top to the process
- Bad experiences previously
- Feelings of being judged/categorised

## Expectations

As mentioned earlier, appraisals are two-way. The objective is not just for the firm to be able to carry out reviews on its staff and



partners, but they also form an important part of the younger professional's career requirements. Every professional wants

- o To have the opportunity to state his/her views on how well he/she is doing
- o To voice his/her concerns about issues or factors which may have impeded his/her progress and performance
- o To be praised for work well done and obtain guidance on how to improve in areas which are less well performed
- o To discuss training/development needs and future progression

As the time for the Appraisal approaches, it is good to appreciate some of the fears and obstacles which professionals (and those who appraise them) might have about the process. Some of these fears and worries are set out in the box opposite.

It is important for partners to recognise and understand these feelings, both in themselves and also in the professionals they are appraising. The aim should be to develop an approach which will make what is a positive process in theory equally effective in practice. This means that the approach to effective appraisal interviewing is based on the practice of some core skills:

- o Asking the right questions and listening effectively. Here the old adage comes into its own - that you have two ears and one mouth and that you should use them in those proportions – see separate note on listening and questioning skills
- o Giving feedback, both constructive and formative
- o Planning and preparation – which should involve seeking formal or informal feedback from anybody else in the firm who has worked with the person to be appraised



- o Setting Objectives along with performance and quality standards

## Giving feedback

The basic rules for giving of feedback are often not observed, often with consequences. In appraisals, great care has to be given to give feedback both constructively and specifically. There should be a distinction between giving positive or motivational feedback on the one hand and giving constructive or coaching feedback on the other. It is always good to start by giving positive feedback where you can. Here it is best to focus on what you specifically liked about the appraisee's work. Don't just say "you did a great job on that report" follow it up with specific comments "I particularly like the way you set out the facts and highlighted the key issues". Having stated what you liked you can then move onto what could have been done differently or better.

The second stage is where constructive criticism has to be given. There are some simple steps that can be followed for giving constructive feedback.

1. Give the headline or context "I would like to talk to you about the work you did on the Adams matter
2. Replay - then you go through the things that have been done in order
3. Make some recommendations as to how those things could have been done differently.
4. Give your reasons.
5. End on a high note with some more positive feedback

### 8. Gaining Feedback from Others

Before the appraisal, the appraiser should, at the very least, get some informal feedback about the appraisee from other partners and from appropriate senior members of the management team. The obtaining of

this feedback should follow all the themes already outlined:-

- Start by asking for positive feedback before moving on to areas for improvement
- Ask for feedback across the whole of the balanced scorecard
- Take great care with negative or destructive feedback – disregard such comments as ‘that assistant is completely useless’ unless full and constructive details are given
- Find out whether any of this feedback has been already communicated to the appraisee
- Find out if the partner giving the feedback is prepared to be quoted or wishes to remain anonymous (and be suspicious if it is the latter!)

Some firms now also formally seek upward and 360 degree feedback. Upward feedback occurs when employees give information on their superior’s performance (and is usually therefore feedback from fee-earners about the partners for whom they directly work). 360 degree appraisal is a variant of upward appraisal, and extends the feedback to the whole of the firm. 360 is often used as a shorthand for any combination of upward, downward, peer, colleague, client or supplier appraisal of an employee.

Upward and 360 degree feedback processes have to be introduced with very great care. They have two key features:

- They are usually based on a questionnaire, paper-based, or web-based, or facilitated by email.
- Feedback is usually anonymous, sometimes through a facilitator who can have a key role in helping the individual interpret results and feedback.

## Setting Objectives

In many years of appraising (and moderating

appraisals), I have found that the most difficult and badly done section of the annual appraisals is the setting of objectives. One problem is that this is an area which is normally left until last on the appraisal form and is dealt with when both parties have become tired or when time has run out. There are six typical Objective Setting problems which need to be avoided

- o The objectives are hurriedly drafted and skimped – they do not adequately reflect appropriate career development
- o The objectives are too vague and aspirational – they cannot be interpreted, acted on as a series of tasks, or measured
- o The targets are unrealistically high or too low – either will demotivate the employee
- o The process has become bureaucratic – it is seen as a paper chasing exercise
- o The objectives have no meaning and are left to gather dust – the appraisee will wonder if the review process has been worthwhile
- o The objectives are simply imposed by the partner and not ‘owned’ by the appraisee – the appraisee will view their involvement as insignificant

There are eight principles in setting objectives

1. The most important rule is to ensure that the objectives are linked to the overall aims set out in the introduction and in particular are focused on career development
2. Where you can, try to focus on outcomes rather than activities. This is much easier said than done. For example, instead of “work to improve cash collection”, one might say “ by the end of the next quarter negotiate interim billing arrangements with





the following clients". Instead of "assist with precedent building", one might say "review and redraft the firm's standard lease for small offices by October 31st"

3. Make sure the wording is SMART (Specific, Measurable, Agreed, Realistic and Time Constrained) and carefully worded

4. Check that the objectives are prioritised (use words like 'must', 'should' and 'could' to give a sense of this)

5. Make sure that it is clear how the objectives are going to be measured. Some metrics are obvious. Others are elusive, particularly when they are less specific and more aspirational. The key to this is to keep asking the question 'how will we know when we have achieved success?' The aim is to be able to set some measures based on one of four yardsticks - time/speed, cost, expected quality level, or positive results.

6. Make sure that you agree some mechanism or timetable for regular monitoring

7. Clarify training and development needs. Here, it is vital to have a range of possible activities in mind to discuss with the individual - there may also be a need to raise the awareness of the appraisee that training involves much more than just attending a training course

8. Finally, make sure that the objectives are mutually agreed.

## Summary

Law firms are people businesses. These precious people assets – our Human Capital - walk in through the door in the morning and leave every evening. As someone once said to me "If instead of people we had a

money-making machine in the corner of the office turning out twenty pound notes, we would nurture that machine, oil and feed it regularly, develop it and attend to its every need." In the same way, a well run Appraisal system can be a powerful addition to our people management/development toolkit. It is also instructive to think about some of the issues raised and questions asked in this note and to relate them to the whole firm – questions like:-

- o Have we developed a clear vision of what has to change in our firm and why?
- o Are our decisions, processes and business recipe linked with and grounded in our strategy?
- o What SMART outcome-based goals would indicate success for the firm?
- o What are the skills and competencies which are most critical to our success?
- o What feedback are we getting from our clients which will help us to improve and develop?
- o What are the behaviours and working relationships which must be mastered in order to drive performance?
- o What plans does the firm have to gain commitment from its people?
- o Who are the people most critical to success?
- o Who are the people who are material to our succession planning?

