Constructive Feedback Techniques

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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 common type of conversation: feedback about a specific problem or missed opportunity.

But first, before the 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. If you’re working with a junior associate for the first time, for example, you will handle feedback about a mistake quite differently than if you had worked with the associate for years. Underneath all the variables, however, three qualities are critical:

- **Honesty**: Are you frank and forthright – or passive-aggressive 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 what you think, and promptly?

- **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?

- **Fairness**: If your management or communications could have contributed to a problem, do you acknowledge that (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 ever ask for feedback about how you managed an assignment?

1. **Have the conversation as soon as possible.** Constructive feedback delivered in the moment has three important advantages.

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

   2. In the context of a matter, the other person will have a chance to redeem himself or herself before the matter is over (as opposed to receiving the feedback when the matter is at an end).

   3. The stakes are lower. Feedback offered in the moment is more likely to be received as a coaching conversation as opposed to a review conversation.
An important caveat: Postpone the feedback if you are upset, either because of the other person’s performance or for any other reason. As well, if the matter is moving at full speed, and everyone is under pressure, you may wish to postpone the feedback until calmer times.

2. **Second-guess your assumptions.** There are two sides to every performance story. Anticipate the other person’s perspective and second-guess your assumptions about the person’s performance. Consider the following possibilities.¹

- **You may be wrong about their performance.** Do you have all the facts? Are you jumping to conclusions too quickly? If you thought the person was a “star,” would you interpret his or her performance differently?

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

- **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)?

3. **Think beyond the feedback conversation.** Be clear about your intentions. What do you really want to happen as a result of providing constructive feedback? Ask yourself the following questions.²

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

After answering these questions, second-guess how you might behave in the feedback conversation.

   4. How would I behave if I really wanted these results?

4. **Acknowledge the person’s strengths and contributions.** While it is important not to “sugar-coat” or confuse a serious message with praise, it is important to acknowledge the other person’s strengths and contributions for two reasons.

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1. The other person is unlikely to accept criticism fully unless his or her contributions or strengths have been recognized.

2. Most people will need to draw on their strengths to move up to the next level of performance.

For praise to be effective, it should be as specific as any other form of feedback. If it is not, it may lack credibility, and it will not tell the other person what specific behaviors or skills you are praising.

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

On the other hand, in the right circumstances – not when there was a glaring mistake – questions that focus on the work rather than the person can be effective. For example:

   *How do you think the process of getting to the closing went, and what should we do differently next time?*

   *Could you walk me through your thinking for this conclusion?*

6. **Focus on the problem and its impact, rather than the person.** 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 person’s specific behavior or work product rather than the supervising lawyer’s conclusions about the other lawyer’s capabilities, intentions or motivation.

Some techniques: (i) describe the problem and its impact from another person’s perspective; how would the client, a senior partner, or a judge react to the document? (ii) compare the work to an objective standard or assess whether the work helps to achieve the desired outcome; or (iii) describe what occurred dispassionately as a neutral observer. Consider the following examples.

   *I didn’t like the way you failed to emphasize the first option in your draft so I rewrote it to make it clear, without directly saying so, that the first option is*
preferable from a legal perspective. Did you really think the second option was just as good as the first? [Focuses on the person]

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, without directly saying so, that the first option was preferable. What was your thinking when you were laying out the options in the first draft? [Focuses on the problem]

7. Provide specific examples, not general characterizations. Describe the concrete manifestations of the problem, rather than characterizing it in general terms (e.g., “sloppy”). Then provide specific examples of the desired performance.

Taking the time to recall specific examples will help for two reasons.

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.

8. Shift the conversation to the future as quickly as possible. If the focus of the conversation remains in the past, the feedback is more likely to feel like blame as opposed to coaching that is intended to help the associate improve. You can shift the conversation to the future with the following types of phrases and questions.

- “How would we do this differently next time?”
- “What are the possibilities for …”
- “What would it look like if you were to do it in the way we have been discussing?”
- “Next time we work together …”

The last phrase is particularly important for signaling to the associate that you plan to work with the person again, thereby reducing the tension that the associate may be feeling about the implications of the feedback.

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9. **Balance explanation with inquiry.** Generating dialogue is not just about asking questions. A dialogue requires you to explain and test your perspectives 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.7

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

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10. **Probe with “how” and “what” rather than “why.”** Questions that lead off 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?”

11. **Anticipate defensiveness – on both sides.** If associates seem defensive or overly argumentative, allow them to make their point, acknowledge it, but then turn the conversation back to what they should do next time. And don’t assume that their initial defensiveness is a permanent rejection of the feedback; difficult feedback often takes a while to sink in. If the other person says something that causes you to feel annoyed or defensive, don’t rise to the bait. Defensiveness begets defensiveness. You must be prepared to listen and probe and avoid being drawn into a debate. Pause. Take a breath. Ask a question. Remember your intention.

12. **Clarify your intentions with the “Don’t / Do” contrasting technique.** If you sense that the other person is becoming defensive or may become defensive, you can reduce defensiveness by clarifying your intentions. The 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 whether or not you respect their capabilities. The do part confirms your respect or clarifies your purpose.

   [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 improve your client skills.

13. **Use self-disclosure to encourage disclosure.** Disclosing your own doubts, mistakes, and lessons learned, can lead to a more open conversation. Self-disclosure can build trust and model the behavior that you want to encourage from the other person.

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It is important to use personal pronouns instead of impersonal statements. Example: “I have found that my tendency to be a perfectionist has led me to overwork documents to the point where I am no longer adding value for the client,” as opposed to “Perfectionism can lead to overworking documents at the client’s expense.”

14. Demonstrate your commitment to the person’s best interests. It will be much easier to deliver constructive feedback if you already have demonstrated to the other person that you are committed to their development and success. Demonstrating commitment, sometimes referred to as “walking the talk,” is different from simply professing to be committed to the person’s success. Examples of “walking the talk” include the following.

- Singing the other 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 other person.
- Following through on promises related to the other person’s development (e.g., brokering work opportunities with other partners, assigning increased responsibility and client contact, and meeting with the other person to provide feedback).

It takes time and opportunity to demonstrate commitment. Supervising lawyers who are effective at delivering constructive feedback anticipate that they will have to deliver constructive feedback at some point, so they lay the groundwork by demonstrating their commitment to the other person’s development and success.

15. Ask one more question. This technique encourages the other person to put everything on the table, especially when the other person may be feeling that his or her side of the story has not been appreciated fully. 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 that everything is on the table, bring closure to the conversation with the following question.

“Is there anything else you would like to say?”

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