Client Listening: Why it Pays and How to Do it

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Chapter 1: The trend in favour of client listening

What is client listening?
Client listening is a beautifully straightforward concept. It is simply the act of obtaining feedback from clients regarding their satisfaction with any services that they have received; often combined with asking clients about their likely future needs and preferences. The corollary of listening to clients is that firms should visibly apply the lessons learnt in their subsequent service provision. There are two principal means by which law firms listen to their clients. The first is by engaging in semi-structured discussions, either face to face or on the telephone. The second involves the completion of more rigidly composed questionnaires, which may be administered face to face, on the telephone, via the web, or on paper. Although client listening is arguably broader than merely taking feedback, the terms are often used interchangeably. Indeed there are a variety of labels adopted by firms to describe their listening activities. Client satisfaction surveys, relationship reviews, and audits would all fall within the ambit of client listening as described in this report. In all cases, the emphasis is on learning from the client and demonstrating client care. Guidance is provided in Chapter 5 to enable readers to choose how best to listen to their clients. Used well, client listening is an extremely powerful form of client engagement. The bare fact of displaying an interest in a client can enhance the client relationship enormously.

Having defined client listening, this chapter examines the rise of client listening in law firms before providing a critique of current practice. This chapter draws inspiration from other industries before concluding with a vision of how firms can optimally apply the feedback that they obtain from listening to their clients.

Is client listening new?
To believers, listening to clients is such an obvious way for professionals to conduct themselves that it has been considered a natural part of professional life, not deserving a special label. To sceptics, client listening may sound like the latest fad dreamt up by marketers and market research agencies. In fact, client listening is not new. The novelty lies in the formalised, systematic approach to client listening being taken by modern firms. The zone of innovation is now in the creative utilisation of feedback data by law firms.

Traditional listening in the legal sector
Client listening is as old as the professions that employ it. This is the case even though the nomenclature of ‘client listening’, ‘client satisfaction’, ‘client feedback’, and ‘market research’ may not have been part of a lawyer’s vocabulary until recently. Client listening is a practice that has always been employed by successful lawyers to enhance their client relationships, to ensure that they provide the best possible service to their clients and to win business. It
has been a hallmark of highly productive rainmakers and trusted advisers who have appeared to understand their clients’ needs and preferences instinctively. It has been exhibited by those partners who easily and regularly find reasons to pick up the phone to their clients or to take them out for a drink or a meal. Such partners always seem to know the latest developments at their clients’ companies, before they have been announced. They place themselves in pole position to be instructed on new matters. They will be a client’s first port of call even if a matter arises which is outside their area of legal specialism. It is an example of what learning and development professionals call ‘unconscious competence’. They may do it because it feels like the right thing to do rather than because it has been mandated by the firm or formed the subject of a training course.

Traditional client listening has been entirely ad hoc and partner led. Firms have left it up to individual partners to elect whether to engage with their clients and how to do so. While partners have generally enjoyed a budget for client entertainment, they have been left to their own devices as to how to conduct themselves and particularly what to discuss while wines and dining, watching sport, or attending the opera, to name the most popular partner-led business development activities – at least until the advent of the Great Recession, which has seen such activities fall dramatically from favour. Some lawyers have preferred to keep such meetings purely social. This might have been due to the belief that social bonding is required to deepen a client relationship. This may be true for some clients and cultures but others like to keep it ‘strictly business’. Another reason for sticking to light topics is a fear of inviting criticism. Chapter 4 explains why the ostrich-like head in the sand approach is a counsel of disaster. However, it is true that both lawyers and clients may shy away from launching into a critical tirade while being entertained. Indeed it can be difficult for clients to raise concerns with their client relationship partner and many firms with formal client listening programmes insist that the feedback is obtained by somebody who is independent of the client relationship. The pros and cons of sending the relationship partner to obtain feedback versus an independent partner or third party are covered in Chapter 5. Suffice it to say here that the feedback obtained by traditional methods has often not been as candid as would be desirable.

A further feature of traditional client listening in law firms was that more often than not the partner would not share his findings with any colleagues. This might have been because the partner did not discern clear take-away actions from the meeting. Commonly, no notes would have been taken. Lawyers have often worked very autonomously. It may not have occurred to them that more junior members of their team or their partners in other practice groups should be made aware of their clients’ preferences. For some, it will even have been a deliberate ploy to grasp their clients tightly to their chests and to defend their personal client portfolios. Others will have been horror-stricken at the notion of exposing their frailties to colleagues.

**The emergence of formal client feedback programmes**

Younger readers may be astonished to learn that law firms were not always permitted to advertise. The rules varied from country to country, as they still do.

In the US, the landmark Supreme Court decision in *Bates vs. State Bar of Arizona* 433 US 350 (1977) permitted law firms to
advertise and market their services openly for the first time. It was not until 1984 that the UK followed suit and amended the Solicitors Practice Rules to permit advertising.

This liberalisation of the restrictions on advertising by law firms was a catalyst for change. Once law firm advertising was allowed, law firms began, tentatively at first, to employ marketing professionals. As marketers became an accepted feature of law firms, their remits expanded from organising client events, drafting advertising copy, and designing brochures (and more recently websites and social media communications) to encompass, amongst other things, brand management, pitching for new business, client relationship management, and business development.

Marketers and business developers deserve some of the credit for introducing formalised client relationship management processes into law firms. Derek Jones of Acuigen, a company that provides the technology to underpin large scale client feedback programmes, likes to point out that, these days, client listening activity is often instigated by firms’ business development functions. Firms recognise that they must harness information to remain competitive. Marketers were quick to recognise the need for client listening. To take one example, Paul Amit, Head of Sector and Client Marketing at DLA Piper, is forthright in his view that ‘client listening is the single most important marketing activity in law firms’.

Although anecdotal evidence points to widespread belief in the power of client listening amongst marketing heads at law firms, those views are not necessarily shared by all the firms that employ them. While most successful firms have a thriving marketing culture, to many lawyers marketing is, in the words of Aquila and Marcus, “something ‘done by that person down the hall’ and is something of a ‘dirty word’. The theme of marketing professionals and lawyers working together in law firms to take advantage of client feedback is expanded upon in Chapter 3.

Current uptake
The most comprehensive recent research into the use of client listening by law firms was conducted by Martindale-Hubbell® in 2011. Its survey included responses from 415 senior law firm personnel around the world. It reported that 48 per cent of respondent firms had established formal client feedback programmes; many of these programmes had been established within the last five years. Sixty-six per cent of respondents expected their efforts to obtain client feedback to increase in the future. This indicates that formal client feedback programmes are a relatively recent but very much growing phenomenon within the law. Ninety-one per cent of those conducting feedback exercises deemed the activity to be either ‘important’ or ‘very important’ to their firms. This appears to be a ringing vote of confidence for client listening yet the researchers found that 52 per cent of the firms surveyed still had no such programmes.

This finding is corroborated by a separate study undertaken by legal market insight specialist Acritas. Its 2011 Sharplegal survey captured the views of 2,500 general counsel across 45 countries. Only 20 per cent of the clients who participated in the survey had been invited to participate in a feedback exercise. Of those that had, 86 per cent had found the experience valuable. Seventy-eight per cent of the survey respondents declared that they would have participated in a feedback exercise had they been given the opportunity.

Given the patent desire of clients to provide feedback, this is an area of
glaring omission by many firms. In light of the increasing activism of clients and the growing trend for clients to insist that firms tendering for business should put in place client feedback mechanisms as a condition of engagement, the days of some firms avoiding the collection of feedback look set to be numbered.

Weaknesses in client listening practised by law firms

The researchers at Martindale-Hubbell® asked those firms that did not engage in client listening to provide a rationale for their behaviour. Fifty-nine per cent suggested that obtaining client feedback was not a priority for their firms’ leadership. This is a truly astonishing statement given the oft-repeated mantra of most law firms that they are ‘client centric’ and place clients at the heart of their businesses. Many others cited a lack of staff or resources which perhaps points to a misallocation of effort and resources within such firms. Silvia Coulter, head of the Legal Sales and Service Organization, comments that ‘Visiting your clients a few times a year (which costs quite little…) seems to warrant hours of meetings with one another in a law firm to discuss whether or not they should visit clients, ridiculous discussions about what to talk about with clients, arguments (in many, many firms) about compensation and who’s [sic] client it is, etc. etc.’5

The data from Martindale-Hubbell indicates that, of the firms surveyed, some were electing to obtain feedback through written or electronic surveys while others were conducting face-to-face or telephone interviews. Discussion of the advantages and disadvantages of each of these methods is reserved for Chapter 5.

Harvesting data is one matter. Using it wisely is quite another and there are wide discrepancies across the legal profession regarding the ways in which feedback data are compiled, disseminated, and acted upon. These are the subjects of Chapters 7 and 8 respectively.

Of firms that do engage in client listening, the professionalism and consistency of their endeavours is open to question. An ALM Legal Intelligence report, which obtained responses from 79 of the AM Law 200, commented that, of the firms that measured client satisfaction, nearly half said that they did so only ‘episodically, on a case-by-case basis or that such measurements were rarely “on-going”’. This finding led the report’s compilers to conclude that US law firms were demonstrating a ‘lackadaisical’ attitude to measuring their clients’ satisfaction.6

The law firm CMS Cameron McKenna, which is featured in Case study 3 and has been an early and enthusiastic adopter of client feedback, has tackled this issue head-on in a publication entitled ‘Why don’t law firms listen?’ In its report it appraises the roles of the professional governing bodies, legal education providers, buyers of legal services, and, of course, the law firms. Its conclusions are that professional regulators have traditionally underemphasised the importance of client service. As a result, client service has not formed a significant part of the formal training provided to lawyers. It is hardly surprising therefore that asking for feedback has not come naturally to all those in the profession. With the undeniable rise in client activism in recent years, coupled with the professionalisation of law firm business development functions, updated law school courses, and modern approaches to professional regulation, firms that do not listen can expect to constitute a diminishing minority.
Other industries pointing the way forward
Interest in formal client relationship management and tracking customer satisfaction and loyalty began in earnest in the 1990s. By the time formalised client listening programmes began to gain traction in law firms, they were already very well established in many other industries.

Consumer businesses
Consumer businesses, such as supermarkets, fast food outlets, hotel chains, and telecommunications providers, avail themselves of every opportunity to learn about their customers. In addition to conventional feedback activity, these businesses, in view of the size of their customer bases, the homogeneity of the goods that they sell, and the point of sale data that they collect, are able to take advantage of technology-driven solutions reliant on mining data from client purchasing behaviour—an activity that is largely unknown and would probably be viewed with some distaste in the legal milieu. In addition to paper-based and web surveys, such companies also regularly utilise focus groups, which are generally shunned by law firms. These methods do not sit comfortably in the professions but there is no doubt that the data gleaned enable such companies to shape new products and services and to determine optimum price points in their highly competitive markets.

One way in which significant numbers of world-beating companies such as Apple, American Express, and GE track the loyalty of their clients is by establishing their Net Promoter® score, also referred to as NPS®, as pioneered by Fred Reichheld of Bain & Company, Inc. According to Reichheld, the aim of companies or firms that track NPS is ‘treating customers so well that those customers become loyal promoters’. Organisations that have adopted NPS have used it, writes Reichheld, ‘not just to measure loyalty but to transform their organizations.’ As Reichheld sums up, the Net Promoter score ‘provides a practical measurement process that can accurately assess a company’s progress. It provides a management system that can help a company capture the spirit and drive toward greatness.’ This metric, derived from asking clients a single question (described in Chapter 2), can certainly be adopted by law firms and has been by some, such as CMS Cameron McKenna featured in Case study 3.

The professions
For many centuries, there were considered to be only three learned professions. These were divinity, medicine, and law. It is instructive to note that the medics, in the UK at least, have embraced feedback more wholeheartedly than lawyers to date. To maintain their licences to practice, doctors in the UK are now subject to a periodic revalidation process. Colleague and patient feedback is one of the required elements for revalidation.

These days, lawyers might also search for role models amongst the accountancy profession. The practice of obtaining client feedback is firmly entrenched amongst the world renowned Big Four firms, such as KPMG as featured in Case study 5. Opinion amongst client listening practitioners seems to be that client listening is more systematised and consistently rolled out worldwide across these accountancy firms than has been seen in the legal profession. Experience of law firms by contrast indicates that many firms struggle to establish substantial client listening activities and that this problem is particularly manifest outside the UK, with law firms generally citing...
cultural differences as a major obstacle to the expansion of their programmes.

The most commonly voiced explanation for the comparatively advanced state of client listening in the largest accountancy firms is that they have simply been doing it for longer than the law firms and have had more time to embed and develop their programmes. Others point to differences in the approach to service provision between accountants and law firms. Terry Lloyd, a consultant, CPA, and financial analyst, points out that:

‘The Big Four are trying to create a firm brand and firm relationship with the clients. They minimise the role of the partner and other professionals. While law firms go to lengths to put impressive resumes and contact data on their websites, it may be almost impossible to find even a list of partners on the sites of the Big Four.’

Lloyd’s statement is also interesting because it points to a current dichotomy in law firms where managing partners and business development teams are desperately trying to encourage team hunting and would like partners to consider clients to be ‘clients of the firm’ as Lloyd describes in the accountancy world. Many partners, on the other hand, particularly working under ‘eat what you kill’ remuneration structures, hug their clients proprietorially close and rely for financial security on the portability of their client lists. The future of client listening in law firms could be dictated by the winners of that particular battle.

A vision for client listening in law firms

The Martindale-Hubbell survey asked respondents to rank, in order of importance, the objectives of their feedback exercises. The primary goal of most law firms was to measure client satisfaction. This was closely followed by a desire to improve client service. Lesser goals, as ranked by the survey respondents, were to increase client loyalty, to uncover problems, to identify business development opportunities, to generate revenue, and to gain competitive intelligence. Is this the right prioritisation? Proponents of client listening fall into two camps. There are

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Figure 1: Feedback objectives in law firms shown in descending order of importance
Based in findings of Global Client Feedback Initiatives, LexisNexis® Martindale-Hubbell® in association with the Wicker Park Group, 2011
those, such as Derek Jones, who view client listening as market research, enabling firms to judge the perception of their brands, to develop new products and services, and to define their growth strategies. In the other camp are those such as K&L Gates (featured in Case study 4) who maintain that ‘what is of value to you as a partner is to hear about your client or another client that you might be able to contribute to.’ Both arguments are valid and need not be seen as mutually exclusive.

It is undeniable that firms are gradually organising and managing themselves more as the businesses that they undoubtedly are. Professional services firms have traditionally been structured as partnerships. In an admittedly dwindling number of firms, decision making is by unanimous voting. Inaction is much easier to achieve than action. Consensus-driven decision making has been a feature across the professional services arena. However, as firms get larger and as traditional partnerships give way to LLPs, executive committees are starting to hold more sway. A more corporate style command structure is emerging. Law firm leaders, whose remit and interest goes beyond their individual client lists, now require actionable intelligence on which to build their firm’s strategy and to monitor the effectiveness of its implementation.

In the final analysis, a firm is only as good as, and depends upon, its client relationships. Clients, be they private clients, corporate clients, or government bodies, all operate through individuals. At this individual level, clients may have widely divergent preferences. Sometimes even personnel working for the same client organisation have conflicting requirements. It is essential that partners know how to please and anticipate the needs of the individuals that they serve. As one general counsel said, ‘it is all about relationships and understanding my business and what I need.’

The message of this report is that listening to clients is one of the most important activities that a firm can undertake to assure longevity, stability, and success. For optimal results, partners need to receive tailored feedback from their own clients upon which they can be seen to be acting. At the same time, the firm’s leadership must be apprised of the strengths and weaknesses of the firm together with the opportunities and threats to which it is exposed. Firms that succeed in harnessing information at both the relationship and the strategic levels will be able to plan for success.

References