

Performance indicators

By [Peter Scott](#) 14 July 2022

Peter Scott considers law firm performance measures in light of the SRA's recent thematic review on workplace culture

As someone involved in working with law firms on measurement and reward of performance, my attention was drawn to the sections 'Measuring and Rewarding Performance' and 'File allocation and capacity measures' in the SRA's [Workplace Culture Thematic Review](#) referred to in the recent guidance issued by the SRA on the workplace environment.

The overall direction and content of the guidance and the thematic review is a laudable attempt to improve the wellbeing of people in law firms, yet there is no reference to other effective performance measurement practices currently used by law firms, as they seek to promote both the well-being of their people and their financial health.

Performance measures

The section in the Review on measuring and rewarding performance focuses on what is regarded as over-reliance on measuring certain financial performance, at the expense of measuring other activities. This is understandable as it is in the financial arena that most businesses feel comfortable with measurement, and it is not surprising in challenging economic times that financial performance is often prized and rewarded above other contributions. However, many firms do already measure and manage peoples' performance by using 'Balanced Scorecard' models, which attempt to measure not only financial contributions, but also other value-added activities which focus on factors that influence or control financial performance, including client relationships, firm growth, and personal development.

Even when pointing to an over-reliance on certain financial measurements, the Review could have made reference to other widely followed financial measurement practices to provide a broader perspective of what can be regarded as 'good practice', including the following.

Education

If financial performance by a firm's people is to be measured, then financial education is also necessary for both their well-being and a firm's financial success. In many firms, lawyers do not understand much about how their law firm works financially. As a senior associate in a large firm once said to me, "I don't have a clue about the financial reports I receive".

If a firm does not involve its people in financial management and explain to its lawyers the financial reports they are given, and what action they are supposed to take on the basis of those reports, then of course that can both cause uncertainty, anxiety and stress for lawyers and harm the financial well-being of a firm.

Lack of understanding by lawyers of the purposes of financial measurement, is well illustrated by the quote used in this section of the thematic review from a five years PQE solicitor when discussing chargeable/billable hours targets: "It is not conducive in this century to be monitoring an employee's work every six minutes."

Clearly it had not been explained to that solicitor the important and valid reasons why lawyers need to fully record their time spent on client matters. Client time is a vital management tool for many purposes, including on-going and frequent measurement of peoples' workloads to ensure proper and fair allocation of work, to prevent them from becoming overloaded and risking 'burn-out'.

On the other hand, if a firm begins a programme of educating its people as to financial matters which relate to them, then they will better understand why they are being asked to take certain actions in relation to their work, and they will feel more comfortable and willing to do those things, without creating unnecessary stress for themselves.

If firms can educate their people in this way, then many of the problems outlined in the thematic review – such as the impact on people of being given certain financial 'targets' – can be avoided.

Firms need to 'take their people with them' and a programme of financial education can be effective in creating a better working environment.

Measuring what matters

It is often said that if something cannot be measured then it cannot be managed, and appropriate performance measurement is important for both the financial health of a law firm and the well-being of its people.

A firm's people will therefore need to know:

- the key areas in which their performance will be measured
- their performance goals pertaining to each area
- how their performance rates in relation to each of these areas, and
- how their performance will be rewarded.

At the same time, firms are also required by paragraph 2.4 of the SRA Code of Conduct for Firms to “actively monitor their financial stability and business viability”, which cannot be achieved without appropriate financial measurement.

These requirements raise the question, in the context of the sections in the thematic report on ‘Measuring and Rewarding Performance’ and ‘File allocation and Capacity measures’, of what should be measured in a firm to promote its peoples’ well-being and its financial health?

While supporting much of what is said in these sections, including the checklists at the end of each designed to promote ‘good practice’, there are other financial measurements law firms can use, and which many already do, to put ‘meat on the bones’ of what is written in these sections, and to achieving good practice.

Key measures

Clarification is also needed in relation to some of the terminology used, to bring it into line with more current language. The focus in these sections is, in particular, on ‘chargeable/billable hours targets’. However, such terminology has for a number of years been going out of use by those firms which ‘set the standard’ in how to best manage their people and their finances.

Giving people ‘chargeable/billable hours targets’ has long been shown to be counter-productive, not only as the section explains, in terms of peoples’ well-being, but also in relation to a firm’s financial health. It has been shown that if lawyers are told to record their chargeable/billable hours, then they will take it upon themselves to decide whether time spent on client matters will eventually be chargeable/billable to the client and only record such time as they believe they will be able to invoice. As a result, law firms do not have accurate information to properly invoice clients and run their businesses, and as a result they lose profitability.

However, there is a practice which many firms follow and which I strongly advocate, namely, instead of using the terminology of chargeable/billable hours, use language such as matter/client related time, which if used in the following ways can help to improve not only financial performance but, crucially, peoples’ well-being.

Recorded matter/client time

The important measurement, from which many benefits flow, should be of recorded matter/client time, but there is only one mention of this in these sections of the thematic review, in a quote by a large international firm, which sensibly said, “We record client time but do not have billing targets or targets for non-chargeable activities”.

Management of workloads

If lawyers, as in the firm quoted above, fully and honestly record all matter/client time, and that time is monitored by those supervising on a daily (or if not daily, then at least weekly) basis, then it is easy to identify how busy or not so busy people are, and potential problems of people being overworked or not having enough work, can be quickly picked up and resolved. This is the way in which law firms can (and many already do) apply good measurement practices to promote their peoples’ well-being. However, this good use to which recorded matter/client time is put, and the other valid management tool reasons for capturing such time, first need to be explained to lawyers, otherwise they will not (as the five-year PQE solicitor quoted above did not), understand why they need to fully record their matter/client time.

Allocation of work

Allocation of the work to ensure lawyers have manageable workloads can then be more effectively based upon actual knowledge of work being carried out by each person, rather than based on perceptions of how busy people are, or on their self-certification, or on traffic light systems with capacity indicators. However, it needs to be clearly understood that active and frequent personal assessment of workloads in this way is the clear responsibility of those supervising others.

Delegation and supervision

Having accurate measurements of how much time people are actually spending on client work makes it easier to agree what can reasonably be expected of them in relation to their recording of matter/client time, without the need for ‘chargeable/billable hours targets’. To do this well will involve people management on a ‘one to one’ daily or weekly basis, and will require those delegating and supervising work to be well-trained to do so. But how many people in law firms are trained to effectively delegate and supervise?

Management of WIP

Mention is made in the section on measuring and rewarding performance about billing targets. If the recording of matter/client time is managed in the way described above, then billing targets as such become unnecessary. Recorded matter/client time becomes work in progress (WIP) and if lawyers are educated about the risks to cash generation and financial stability of carrying too much WIP (including inability to pay their salaries), they will understand why billing to manage their WIP is a virtuous thing to do, and indeed they should be rewarded for doing so. Instead of being given

billing targets, if lawyers understand the maximum levels of WIP they can carry, to manage a firm's ability to generate cash (call them 'WIP targets' if you wish), then billing tends to look after itself.

Collaborative performance reviews

To expand on these sections of the thematic review, which touch on performance development reviews (PDRs) and feedback, there should ideally be embedded into a firm a uniform and transparent approach to performance measurement to help a law firm's people achieve their full potential.

Collaborative PDRs are a process by which a business works with its people to plan, monitor and review work objectives and overall contribution to the business. It involves continuously setting objectives, assessing progress and providing on-going feedback and support (such as training, coaching, and mentoring) to help people meet their objectives and career goals. The process should recognise that the main source of motivation for most professional people is their desire to achieve and to develop personally.

PDRs should not be annual form-filling exercises but a process to help improve the performance of everyone, and as a result, the competitiveness of a firm. Monitoring and providing feedback should be a collaborative process whereby both reviewers and those being reviewed contribute by two-way communication.

In PDRs (and indeed on a daily basis) good performance should be recognised to reinforce positive behaviour by:

- acknowledging and saying 'thank you'
- celebrating successes
- giving public recognition, and
- offering everyone challenging and satisfying work.

To provide a broader perspective of how measurement practices can be used to promote lawyers' well-being, it is useful to consider as well all that is mentioned in the thematic review.