

INSPIRING LEADERSHIP

A Report on the Use of
Upward Reviews by US Law
Firms

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WHO WE ARE

Volta Talent Strategies is a leading consulting and coaching company focused on lawyers and talent management for law firms. We advise firms on initiatives and programs designed to support the recruitment, development and retention of their lawyers. We also have one of the largest specialized lawyer coaching teams in the US.

Our team of consultants and coaches is based in New York, Chicago, Denver, Los Angeles, Philadelphia, San Diego and Washington, DC. We work with over 90 law firms, including more than half of the Am Law 100, providing consulting, coaching and training services. We are certified as a woman- and minority-owned business.

ABOUT THIS REPORT

This report is intended primarily for Professional Development, Talent Management and HR professionals in law firms. It is also intended for partners and senior law firm administrators who are curious to learn more about the use of upward reviews in law firms.

We welcome your questions and feedback.

Use of pronouns: In this report, we use 'they' and 'their' instead of 'he or she' and 'his or her.'

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Volta Talent Strategies LLC is certified as a Minority-Owned Business by the National Minority Supplier Development Council (NMSDC) and as a Women-Owned Business by the Women's Business Enterprise National Council (WBENC).

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INTRODUCTION

Welcome to Volta's legal industry report on upward reviews. As we were originally preparing to release this report in March, the world was suddenly turned upside down by the coronavirus pandemic. Suddenly, major initiatives such as upward reviews were shelved as law firms and legal departments struggled to come to terms with the many unexpected challenges they faced.

Originally, my draft introduction read as follows:

“Now that associate retention has firmly established itself again as a management issue at many law firms, upward review programs are not surprisingly back on the agenda. Over the last couple of year or so, the post-recession balance of power has shifted back to the associate body in many law firms. With that shift came renewed calls from associates for the opportunity to evaluate and provide feedback to senior colleagues. Firms are increasingly responsive to the concept. In broad terms, implementing an upward review program demonstrates that the firm is committed to best practices in the context of performance management and demonstrates that they are listening to their associates.”

Coming back to it now, what strikes me is how the pandemic has complicated the picture in myriad ways. It is unclear how firms and companies that have in recent years used regular upward reviews will respond to the changed environment. Will they pause their programs, or will they tough it out and seek feedback despite the impact of COVID on office cultures, working environments and partner-associate relationships?

Based on anecdotal feedback, perspectives are varied. Some firms that already have well-established upward review programs intend to continue with their programs, especially if they are in that group of firms which avoided taking cost reduction measures such as salary reductions, furloughs, buyouts and outplacement. Unsurprisingly, others are pressing pause. Clearly, law firms that took such precautionary cost-reduction measures may prefer to defer seeking feedback on their partners. Firms that had not yet adopted upward reviews but were considering doing so are now waiting to see how things shake out.

This report is primarily intended for those law firms and legal departments that have little or no experience of upward reviews. However, whether you are now thinking about whether to adopt or to continue with an upward review program, one of the many potential benefits addresses two issues that are more urgent than ever:

1. Upward reviews enable firms to assess and develop their culture in support of their diversity, equity and inclusion initiatives.

The MCCA (Minority Corporate Counsel Association) recommended in 2009 that law firms should develop and implement upward review or 360-degree processes to provide feedback on how partners are assigning work and providing feedback to junior lawyers, as well as evaluating, mentoring, teaching, and developing them. MCCA wanted to see law firms hold partners accountable for fully participating in the equitable professional development of all junior lawyers and for their biases to be

checked. This recommendation has been echoed by NALP and other organizations. In the current environment, with issues of racial equity having taken center stage, there is increased urgency to look at every aspect of a firm's talent management model and revisit how it creates and supports opportunity for lawyers in minority groups.

2. Culture and values are at the heart of how legal employers manage their people more broadly. Since March, work and home has blended in new ways.

People may be working remotely on a full-time basis but, despite the lack of commutes, studies suggest that they are working more not less. And, on top of client work, there are added demands on people's time and wellbeing as individuals with wildly different contexts navigate the ups and downs of issues as diverse as mental and physical health, childcare, schooling, elder care, and self-care. Now, more than ever, lawyers look to their firms and companies to manage teams thoughtfully and with empathy.

Despite the challenges of managing a law firm while addressing a public health crisis and its impact on corporate culture and the work environment, we are sharing this report now in the hope that it adds to law firms' and legal departments' understanding of upward reviews and inspires new initiatives in this context.

Nicholas Jelfs-Jelf

CEO, Volta Talent Strategies

October 2020

UPWARD REVIEWS: AN OVERVIEW

Definitions

For the purposes of this report, we predominantly use the following terms:

UPWARD REVIEW

The process by which less-senior lawyers are invited to review and provide feedback to more-senior lawyers by reference to set standards. Also referred to as “upward feedback” which some firms prefer in order to avoid using the term “review” in the context of partners. These types of programs are typically referred to in organizational psychology research as “multi-rater feedback.”

At an institutional level, an upward review, ideally annual or biennial, enables a law firm to understand how effectively its partners (and sometimes other senior lawyers who supervise) lead and manage their colleagues. It also highlights those individuals who may need support with honing their people management skills. This can support firm initiatives to create a positive working environment, engage and retain associates as well as inform firm governance and succession planning.

An upward review program can also provide a rich dataset that can be sliced and diced to identify any key professional development and management themes, e.g., by seniority, by practice group or by office. In turn, it enables the firm to prescribe specific individualized development plans for reviewees and appropriate interventions, whether by coaching and/or leadership training and accordingly, support can be tailored for those who need it.

360 FEEDBACK

A process by which colleagues (superiors, peers and subordinates) provide feedback to an individual. The best practices highlighted in this report generally relate to both upward review and 360 feedback programs.

REVIEWEE

Typically a partner, although upward reviews may include or be conducted exclusively in relation to cohorts of senior lawyers in other groups such as counsel, of counsel and senior associates.¹ For the purposes of this report, we use the term “partner” as well as “reviewee” interchangeably.

REVIEWER

Typically associates who are invited to provide feedback to partners (and/or other senior colleagues). May include other lawyers such as counsel or of counsel. For the purposes of this report, we use the term “associate” as well as “reviewer” interchangeably.

Benefits of Upward Reviews

The potential benefits of an upward review program include:

- Identifying gaps between institutional values and individual behaviors;
- Identifying top performers among the partners in relation to non-financial performance;
- Building a more collaborative work environment;
- Increasing associate engagement;
- Improving efficiency and enhancing client service;
- Improving associate morale;
- Supporting diversity and inclusion;
- Reducing attrition rates²; and
- Uncovering hidden problems or unknown issues.

While conceptually upward reviews were originally designed to serve individual reviewees, in practice, the tool enables law firms to shape, drive and evaluate organizational change.

The Feedback Dilemma for Partners

Lawyers often become partners based largely on their performance as individual contributors – based on what they know and what they have done as associates. They may have lacked opportunity or training that supports their learning and developing strong leadership and people management skills. And, as a result, they, like everyone else, need and deserve feedback.

In theory, the best kind of feedback a partner can get is feedback that they ask for immediately after a call, a meeting or an assignment. In practice, it is unrealistic within a typical law firm culture to expect that even if invited to do so, associates will give candid and complete feedback in real time. The power dynamic of the relationship does not lend itself to that. And the higher you go, typically, the less feedback you get. This is problematic since research indicates that individuals at higher levels, i.e., partners may have less accurate self-perceptions, which can, in turn, mean lower performance. "The more power we attain, the less self-aware we tend to be" asserts Tasha Eurich, an organizational psychologist and author of 'Insight'.³

Learning from Other Industries: McKinsey

"When properly implemented, 360 feedback has significant value that can extend well beyond self-driven development. Increasingly, 360 feedback has been used for a wider and wider range of decisions beyond development, including performance management, staffing, promotions, high-potential identification, succession planning, and talent management."⁴

McKinsey is a well-known example of a professional services firm where there is enough trust and buy-in to use upward feedback for both developmental and assessment purposes. One cannot become a McKinsey partner if one's upward feedback scores are poor. ⁵

KEY FINDINGS

The Big Picture

41%

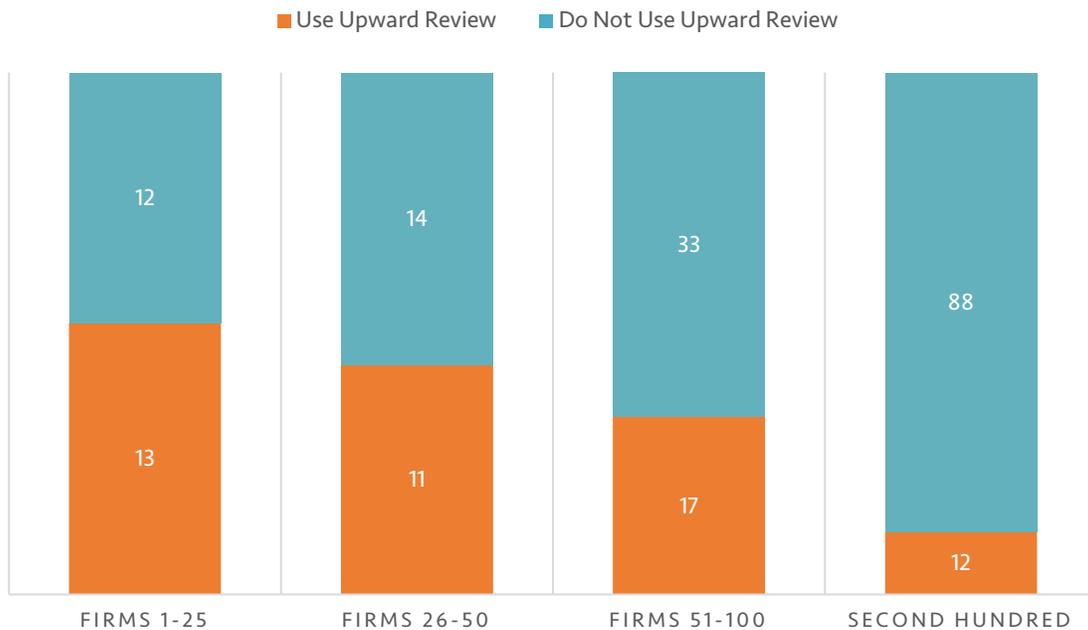
of the Am Law 100 report using upward review in some form or another.⁶

12%

By contrast, only 12% of the Second Hundred (firms ranked 101-200) do so.

26.5%

In aggregate, 26.5% of the Am Law 200 (i.e., 53 firms) use some form of upward review.



Over the last 15 years, technology has fueled a dramatic increase in the use of 360 feedback (including upward feedback) across organizations generally but its impact on the legal industry is hard to assess. It appears that the uptake in upward review/360 feedback has not been as pronounced among law firms as it has in other types of organization. Reliable statistics are few and far between but from our research, it seems that the law firm use of upward review has not changed dramatically over the years.⁷ This is all the more significant in light of the recommendations of organizations such as the MCCA, NALP and the New York City Bar.

Market Segments

We looked at other segmentations of the legal market to determine what relationship exists, if any, with the use of upward review. We found that in each of

- *The American Lawyer*' A' List; and
- Top 20 by Profits Per Equity Partner⁸

15 (75%) of the 20 firms listed report that they use upward review. Coincidence or connection?

These findings suggested a possible connection. However, we then looked at the top 20 law firms in two other well-used rankings expecting to find a similar correlation:

- *The American Lawyer* Mid-Level Satisfaction Survey⁹
- *Vault Law 100* (2020) - Prestige Rankings.¹⁰

We found that the percentage of firms using upward review that were represented in each of these rankings dropped to 55%. The correlation between associate satisfaction and upward review was not apparent. That said, the latter rankings are more opinion-based and subjective so perhaps, after all, the leadership and management behaviors encouraged and measured by upward reviews may be more likely to lead to strong performance with resulting financial success. This is an area that deserves more attention and research.

Survey Results

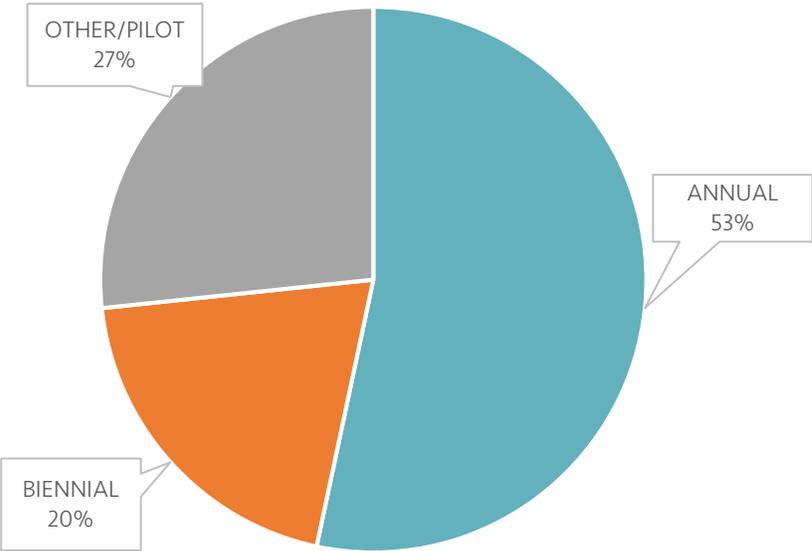
We set out to publish this report in late 2019 and invited law firms to respond to a 12-question survey in January 2020. We subsequently conducted a small number of interviews with senior talent management professionals. Below we share our findings based on that survey.¹¹

Frequency

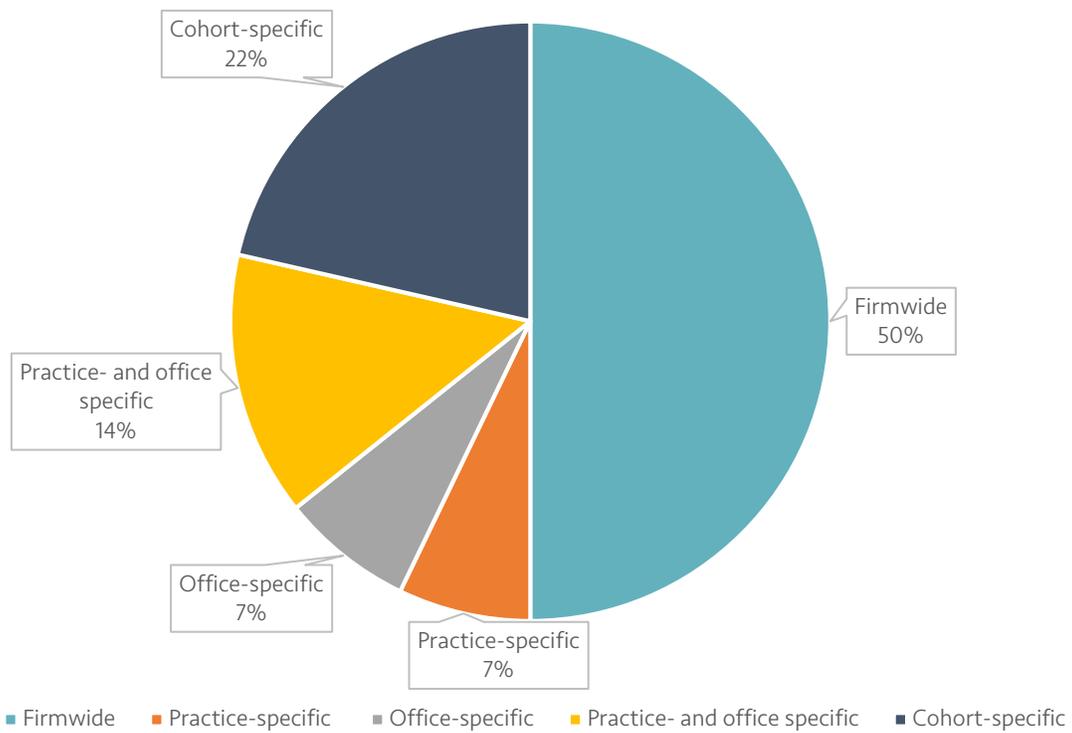
In response to frequency, the most popular choice was annual. Those firms that have more established programs and use the feedback for both developmental and decision-making purposes tend to have much more rigorous approaches. However, we noted that given the size and duration of some firms and projects, some firms opt for a biennial approach. One firm operates a rotation system to review a third of the firm's partners at a time.

The received wisdom is that when starting a new program, it should be run annually in the first two to five years in order to establish a robust base of information for each reviewee and for the firm as a whole. This also has the advantage of familiarizing both reviewers and reviewees with the process and getting people comfortable with it. At that point, for those reviewees with a body of feedback, some firms may choose to run reviews every other year.¹²

How Regularly Have You Conducted Upward Review In The Last Five Years?



Was your firm's last upward review firmwide?

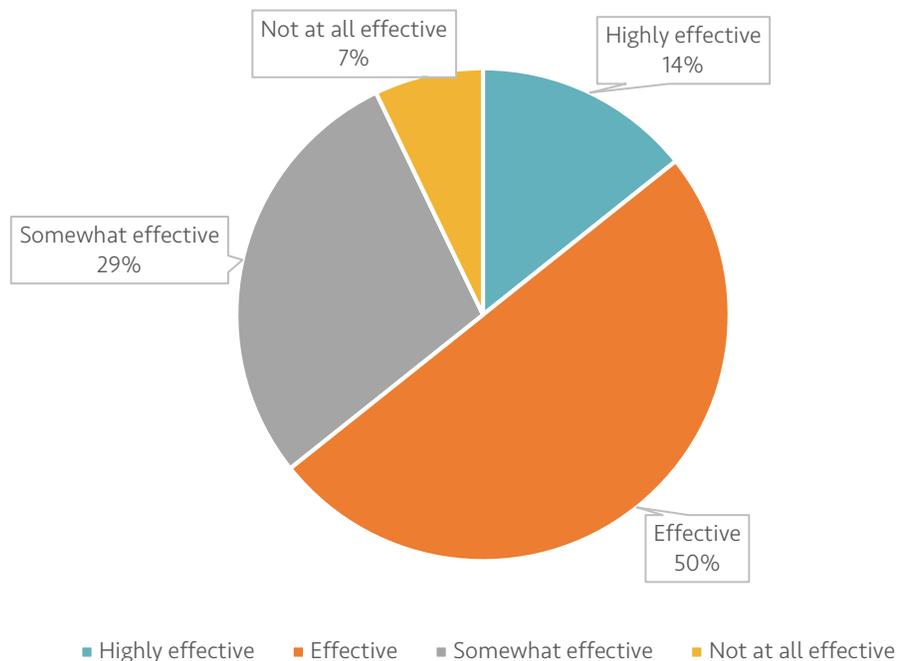


Note: Several of these were pilots. At the one firm, the program extends to the business services professionals.

Effectiveness

Nearly two-thirds (64%) of our respondents reported that firm leadership sees upward review as highly effective or effective. In anecdotal feedback, we found talent management professionals are more positive about the use, benefits and outcomes of upward review than some firm leaders. This may create an opportunity for talent professionals to find ways to communicate benefits and outcomes on an ongoing basis to maintain momentum with, and interest in, what is, by its nature, an episodic as opposed to continual process.

Is upward review seen by the firm's leadership as effective?



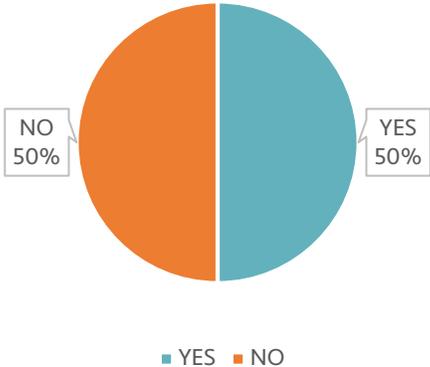
Self-Assessment + Peer Review

We recommend self-assessment as a key component of any upward review. This is consistent with the organizational psychology research. The self-reflection serves as a useful starting point for any feedback discussion, particularly if there's a gap between how the reviewee sees their behavior and how those on their team see it. However, some firms resist including self-assessment on the basis that it is seen as adding a burden to the reviewees and can extend the duration of the program.

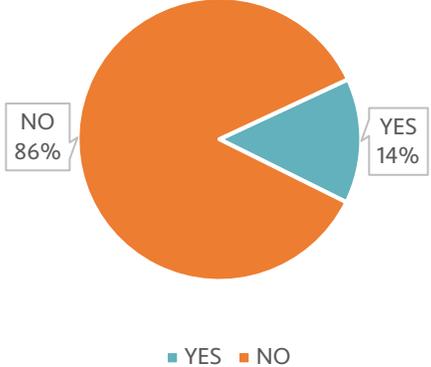
Of the firms that responded to this question, they were evenly split (50%) between those that do incorporate self-assessment and those that don't. By contrast, the use of peer review is far less

common with only two firms among our survey respondents using the opportunity created by an upward review to gather feedback from peers.

Did your firm's last upward review provide a self-assessment option?

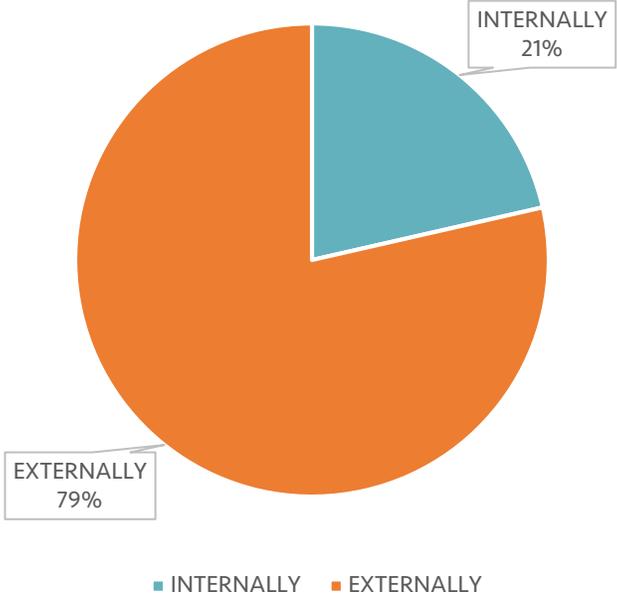


Did your firm's last upward review include peer review?



Administration

How was your firm's last upward review administered?



Drivers

Originally, when law firms such as Willkie, Farr & Gallagher and Shearman & Sterling first adopted upward review processes in the 90s and early 2000s, it was generally in response to associate attrition. Industry news reports from the period reflect this.¹³

The principal reason now cited for implementing upward reviews is as a response to associates expressed desire to provide feedback to partners (anonymously). One firm reported using upward review to support “culture change.”

One firm in our survey uses upward review for associates as a leadership development tool and as part of a broader associate training and development initiative.

Among the firms that responded to say that they do not use upward review, they cited various reasons. These centered on:

- ⦿ Firm culture and the partners lack of openness to feedback;
- ⦿ Fear of retaliation and a lack of trust on the part of associates (re. anonymity and confidentiality);
- ⦿ Time and effort and disruption to lawyers’ schedules; and
- ⦿ Expense.

SUPPORTING DIVERSITY + INCLUSION

In our survey, there was little mention of diversity although in 2009, the MCCA (Minority Corporate Counsel Association) [recommended](#) that law firms should develop and implement upward review (or 360-degree) processes for junior lawyers to provide feedback on how partners are assigning work and providing feedback to junior lawyers, as well as evaluating, mentoring, teaching, and developing them. One reason given for the recommendation was to “hold partners accountable for fully participating in the equitable professional development of all junior lawyers.” The MCCA went on to say, “Without the input of younger lawyers on how senior lawyers are participating in their professional development, the biases of partners to select the lawyers they mentor and develop, based on their own comfort zones, continues unchecked.”¹⁴

This recommendation for using upward review as a device to support the retention of diverse lawyers has been repeated since, most recently by NALP in its [Diversity Best Practices Guide 2020](#): “Institute anonymous upward reviews, with diversity, equity, and inclusion competence as a component.”

Whether now just embarking on an upward review journey or seasoned users, law firms (and legal departments) have an opportunity to design or review and bolster their programs to robustly incorporate elements that more proactively support their diversity, equity and inclusion initiatives.

THE CHALLENGES

As positive as the potential benefits of upward reviews may be, they come with real challenges—see Benefits and Challenges—and some criticism.

Risk Management

Ask any law firm's general counsel and they will tell you that there are legal risks inherent in gathering feedback about partners and other senior (supervising) lawyers. This is particularly true if the firm opts to seek narrative feedback as we recommend as a best practice. As a result, we recommend that you involve your firm's GC or employment counsel in the design and implementation of the program.

Lack of Trust

Those who run upward review programs are accustomed, especially in the early years of an initiative, to hearing concerns raised by associates about whether the process—even one run by outside consultants—will truly protect their identity and ensure that feedback, when relayed to partners, is anonymous.¹⁵ Understandably, associates are concerned that negative feedback may lead to retaliation or diminished relationships.

The Yelp Effect

The anonymous nature of feedback provided as part of an upward review makes it important to support both those providing feedback and those receiving it. The price of anonymity for the reviewers is that they can say what they like. As one commentator notes "the opportunity to review someone anonymously seems to give rise to jaw-droppingly bad behavior."¹⁶ At Volta, we call it the Yelp effect.

At a very human level, it can be hard for a senior lawyer who is not accustomed to receiving feedback to find themselves back in that role. And, if partners are not used to receiving feedback, you can be sure that (junior) associates are not used to giving it. Recognizing how challenging this aspect can be is key to designing a program.

The practical reality is that at any one time within a law firm, a junior lawyer may have a complaint about a senior lawyer, and this can lead to narrative feedback that is brutal. This is not reason enough to avoid an upward review, but it does make it necessary to put some guardrails around participation and to improve outcomes for everyone involved by providing training and guidance. This will not only help reviewers understand how to make the most of the opportunity to provide feedback but also help prepare reviewees for the experience of receiving feedback.

In practice, focusing reviewees on their shortcomings will not necessarily encourage or enable learning – instead it is important to have reviewers focus on the impact that individual senior lawyers have on them. After all, reviewers are a source of experience and perception rather than a source of truth. In *The Feedback Fallacy*, Marcus Buckingham and Ashley Goodall observe: “we can tell someone whether...he’s persuasive to *us*; whether his presentation is boring to *us*. We may not be able to tell him where he stands, but we can tell him where he stands *with us*.”

Avoiding Retaliation (or Anything That Looks Like It)

Some partners cannot help themselves but try to “reverse engineer” upward feedback to understand who commented on their behavior or performance and this can lead to their directly and indirectly confronting or addressing associates to whom they attribute certain comments (whether accurately or not).¹⁷ This kind of behavior needs to be actively discouraged and may need to be proactively managed by the firm with certain individuals.

The Need for Follow-Up

The importance of good follow up cannot be overstated. Lack of it is a major point of failure for upward reviews. Ideally, feedback needs to be coupled with a good debrief conversation and ongoing support through training or coaching, where appropriate.

The prevalent use of technology has led to the scenario whereby a report is generated and emailed to a partner with little to no interaction and interpretation or support in terms of understanding how to read and absorb the feedback and no follow up to support the partner in addressing what they learn.

A debrief conversation is recommended first to help the reviewee process the feedback and any emotion they may have around it and then to help them use the feedback to enhance their performance (or adjust course in terms of their behavior). A talented HR professional or coach—who is skilled in debriefing feedback constructively and holistically—can help a reviewee make sense of the feedback in a way that a colleague may not be able to.

The Greatest Challenge

Despite all the potential positives, an upward review program comes with a big caveat: If the firm is not willing to do something with the feedback it receives in relations to its senior lawyers, it is simply better not to ask. One complaint among associates is that they often they do not see positive changes in partner behavior as a result of the process.¹⁸

An upward review program requires courage on the part of the firm and openness on the part of the reviewees and trust on the part of those giving feedback. The firm must have the courage to act on feedback regardless of the value and influence of the partners with "development issues." And the

associates have to trust that if they give feedback, not only will their identities be kept confidential but also the firm will act on the feedback, where appropriate. Absent that trust, the upward review program will not achieve its goals. And if the firm fails to act on negative feedback, it will undermine all the effort and expense of the program and set itself back in terms of associate morale.

This is why we always tell clients: If you can't or won't act on any feedback you may receive, don't ask for it.

THE BENEFITS + CHALLENGES OF UPWARD REVIEW

Provides individuals with feedback that would otherwise not be shared.

Reinforces the firm's cultural values.

Clarifies which behaviors are seen by the firm as important for partners to demonstrate.

Gives a voice to the associates.

Serves as a recruiting and retention tool since it demonstrates firm-wide commitment to development at all levels.

Supports diversity and inclusion initiatives.

Identifies important themes at an organizational and individual level in terms of leadership and development.

Looks at how reviewees behave rather than at their technical knowledge and competence.

Increases self-awareness for partners of their impact on associates.

Sets expectations regarding competencies and desirable behaviors.

Identifies blind spots for partners to be addressed.

Identifies and highlights strengths to be leveraged.

Increases accountability among partners for their behaviors.

Has potential to improve working relationships and team performance.

Requires buy-in at different levels within the organization.

Requires thoughtful design.

Labor- and time-intensive for both the talent management team as well as the lawyers.

Requires significant associate engagement to be worthwhile.

Can fail to add any value (or worse still be negative) if feedback process is not managed well.

Needs to be socialized in order to get associate and partner buy-in and participation.

Requires a large amount of data to be collected and processed.

Requires both the firm and individual partners to be seen to do something with the feedback.

Raises concern among some associates about possible retaliation.

Raises expectation among associates that there will be change, where required.

Anonymity prevents partners from asking for and obtaining clarification.

Requires careful implementation particularly as it relates to sharing feedback gathered.

Anonymity can lead to personal criticism rather than constructive feedback.

May be seen as expensive if appropriately administered by an external consultant.

THE UPWARD REVIEW PROCESS

Conditions for Success

1. **Clarity of purpose:** Don't skip the purpose discussion. If your firm or participants lack clarity as to the purpose of the program, it will result in misunderstandings among everyone involved and is likely to adversely impact participation rates. It is essential that the firm communicate expectations and intended outcomes to partners and associates.
2. **Clarity of communications:** Communications need to come from the top down—i.e., from the firm chair supported by practice leaders and other influencers within the firm—to demonstrate management buy-in and support for the program. Also, communications need to explain the purpose of the program and how the feedback will be used together with the parameters of the program and expectations of everyone involved.
3. **Socializing** the idea: Involve the associates and partners in a discussion of the program's purpose, and process and how the feedback will be used.
4. **Anonymity** of who provides feedback and the feedback given. This is intended both to encourage candid feedback and to address concerns about damage to relationships and retaliation.
5. **Confidentiality** of feedback received. Apart from needing to ask the right questions, are confidentiality and minimizing the fear of retaliation. These can be managed through structure, design and implementation of the program.
6. Using **self-assessment**. Self-assessment enables those being reviewed to compare how they see themselves with how others experience them. This can be useful in revealing blind spots and helps to promote self-awareness.
7. Using **narrative feedback**. Numerical ratings are useful for comparative and ranking purposes but the real benefit of any feedback program—and upward reviews are no exception—is the provision of specific actionable feedback and that is best captured through narrative feedback.
8. Making it **routine**.
9. **Follow up** is everything.

Some Key Decision Issues

Questions you need to consider early in the planning and decision-making include:

How will you ensure the anonymity of reviewers?

That is the **number one** question.

Other key questions are:

1. What's your long-term objective?
2. What do you want to measure and why?
3. What can, and what should, be measured?
4. How will you secure buy-in from the different constituencies involved?
5. What's your proposed timetable and how realistic is it?
6. Who will be reviewed?
7. Who gets to provide feedback? How will they be selected?
8. What do you plan to do with the feedback?
9. Who will have access to the feedback?
10. How will you manage confidentiality?
11. How will feedback be delivered and who will deliver it?
12. What checks and balances will be used to protect everyone involved from bad actors?
13. What support will you offer to those whose feedback indicates that they need to develop or enhance specific skills?

Purpose: Developmental or Evaluative?

If creating a program, beware of introducing it on the basis that it is for development only and allowing it to morph into an evaluation or decision-making tool unless that is what you determine that you need and want and are transparent with the partners.

Upward review should not be used for decision-making until there is a climate of readiness and support within the firm, especially among the partners. We recommend starting with a pilot for developmental purposes only and then moving toward widening its application as both partners and associates become more experienced and sophisticated in how they engage with the process.

Methodology

Typically, firmwide upward reviews in BigLaw are conducted by online surveys using a web-based system (as with associate evaluations). While firms use commercial software such as Micron or Vi for associate evaluations, the critical need for anonymity and confidentiality leads many firms to look to

external consultants to help design and implement the program and to host the information gathered in a database to which the firm has no direct access.

Some firms use individual one-on-one interviews. Interviews allow probing in a way that online surveys do not and can increase participation and engagement.¹⁹ They are also more likely to lead to actionable feedback. However, an interview-based process is labor- and time-intensive (and expensive) and needs to be carefully managed to ensure that the data is gathered consistently from all the reviewers.

Designing the Survey

When it comes to designing a survey questionnaire, there are various essential best practices. Specifically, when using behavioral statements, it is important to:

- Use the language and vocabulary of the firm so that it aligns with the firm's culture and how people at the firm speak to one another.
- Use specific and observable behaviors that are highly job-related.
- Forget about traits, attitudes, motives, values, thoughts, or feelings – none of these is capable of objective measurement and should not be rated.
- Use one statement for one behavior, i.e., avoid compound behavioral statements.
- Keep the language you use simple, clear and unambiguous. It needs to be understandable in the same way to everyone involved.
- Ensure that the behavior being assessed is capable of change, i.e., actionable.

In terms of what is being measured, upward reviews focus on leadership, management and supervisory behaviors (rather than legal skills). However, in practice, most law firms do not have well-defined competencies for partners. As a result, the design process typically needs to begin with a discussion of what performance standards are seen by the firm as essential to the effectiveness and success of a partner or other supervising lawyer in the context of the firm's values.

Participation

Participation can be hard to achieve. When looking to maximize the potential benefits of an upward review program, we recommend that you seek to minimize the likelihood that the lawyers experience the program as "something being done to them" rather than "something they are doing for each other." To that end, we recommend involving a firm's associates committee in the discussion and the design. The more associates feel ownership, the better and the more likely it is that they will participate. The more you socialize the idea, the better the engagement.

During the survey period, we encourage clients to manage participation proactively in order to get a level of participation that will maximize the number of partners receiving feedback and justify the time and expense involved in such programs.

In our experience, deadlines are regularly extended for internal projects and initiatives in most law firm cultures. This will be no exception. We always recommend that you assume that you will need to extend your initial deadlines and plan accordingly.

Reporting

MANAGING THE FEEDBACK PROCESS

An upward review process is an imperfect system for delivering feedback. The reviewers face the challenge of conveying sometimes nuanced feedback with ratings and narrative feedback. While it is an opportunity to make people aware of their behavior, in reality, reviewers across a firm will not calibrate their feedback the same way. Nor are they able to speak to an objective standard of performance. The power of upward reviews lies in feedback that speaks to the experience reviewers had and the impact on them of a given reviewee's behavior.

INDIVIDUAL REPORTS + DEBRIEFS

Partners with responses from enough people (typically a minimum of three) receive an individual feedback report providing both ratings and narrative feedback in response to open-ended questions. For practical (and integrity) reasons, narrative feedback is typically provided verbatim to the partners.

Some firms operate on the basis that they gather and collate the feedback and simply provide a written report to the partner. The downside of this approach is that it requires individuals to review and interpret their own feedback. While this is apparently quick and effective, it can be ineffective in terms of addressing behavioral changes or development requirements. For example, reviewees may:

- ❏ Simply opt not to download or read their individual report. In one reported case, a program manager reported that over a quarter of participants failed to download their reports.
- ❏ Find it hard to interpret the report and translate the ratings they receive into specific actionable items.
- ❏ Try to discover the source of feedback they don't like or do not understand. This can adversely affect relationships within a team and undermine associates' willingness to participate in future upward review programs.

If you are managing a program, we recommend that you:

- ❏ Check what percentage of reviewees download their report and follow up accordingly; and
- ❏ Manage the feedback debrief process closely.

Debriefing upward feedback is a skilled task.²⁰ For example, feedback may represent different reviewer's perceptions that may contradict each other while each being true and valid observations.

Similarly, reviewer perceptions and therefore feedback may be contradictory in narrative feedback. These and other issues all need to be managed thoughtfully in a debrief if it is to have value for the reviewee.

EXECUTIVE REPORTS

Firm leadership and management may also choose to receive executive reports which aggregate and synthesize the results and identify patterns and themes across the firm and broken down by practice and/or location. Identifying skills gaps at an institutional level informs the firm's ongoing training needs and allows the firm to target its professional development and talent management resources to support lawyers in focusing on what's most important to the effectiveness and success of the firm as a whole.

Learning from Other Industries: Google

Google is a tech giant and has capacities of which law firms can only dream. That said, it has been open about how it uses upward feedback and it shares a lot of its people management expertise in an open source way. As such, it can be an inspiration for other organizations including law firms.

Using its considerable data analytics capabilities, Google set about determining what makes a manager great at Google but not without first having a research team try to prove the opposite: that managers actually don't matter and that the quality of a manager didn't impact a team's performance. This was called Project Oxygen. Since the original project, as described in his book *Work Rules* by Laszlo Bock, Google's former head of People Operations, Google's upward feedback program has been refined and the survey questionnaire has been updated and expanded. Google has also reduced the minimum number of employees whose feedback is required in order to generate a report to three. There are two open-ended feedback questions and all narrative feedback is shared verbatim.

For more on the current process and its evolution, see <https://rework.withgoogle.com/>.

Once Google's People Operations team "had identified what makes a great manager at Google, the team set about helping managers understand how they were doing and how they could develop" supported by actionable feedback. Manager feedback is gathered annually as part of an employee survey and Google has reported a steady improvement in how employees view their managers.

MANAGER FEEDBACK SURVEY

Here is Google's simple and short feedback survey:

1. I would recommend my manager to others.
2. My manager assigns stretch opportunities to help me develop in my career.

3. My manager communicates clear goals for our team.
4. My manager gives me actionable feedback on a regular basis.
5. My manager provides the autonomy I need to do my job (i.e., does not "micro-manage" by getting involved in details that should be handled at other levels).
6. My manager consistently shows consideration for me as a person.
7. My manager keeps the team focused on priorities, even when it's difficult (e.g., declining or deprioritizing other projects).
8. My manager regularly shares relevant information from their manager and senior leadership.
9. My manager has had a meaningful discussion with me about my career development in the past six months.
10. My manager has the technical expertise required to effectively manage me.
11. The actions of my manager show they value the perspective I bring to the team, even if it is different from their own.
12. My manager makes tough decisions effectively (e.g., decisions involving multiple teams, competing priorities).
13. My manager effectively collaborates across boundaries (e.g., team, organizational).

The two open-ended questions are:

1. What would you recommend your manager keep doing?
2. What would you have your manager change?

WHAT DOES THE FUTURE HOLD?

As more firms move away from traditional annual reviews for associates (e.g., Hogan Lovells²¹, Cleary²²) and as more Millennials take their place in the partner ranks, will we see a similar shift away from expensive and time-intensive large-scale formal upward review programs toward less formulaic feedback delivery models?

Contemplating Your First Upward Review?

Remember that upward review is a long-term investment and needs to be used for several years before its efficacy can be properly judged. The Center for Creative Leadership suggests: “Start small, run a pilot, and then address the larger numbers. Make sure that the first person and the last person going through the process will have the same high-quality experience.”

Based on our experience, we recommend that law firms (and in-house legal departments) start by instituting upward reviews for developmental purposes only, ideally in conjunction with leadership training and coaching. Once a firm has built a culture around upward feedback, it can adapt its program for use in decision-making (evaluative) contexts.

In terms of implementing an upward review program, there are multiple 360 assessment tools available in the market. If you are a small or mid-sized law firm, we suggest that you consider adapting Google’s Manager Feedback Survey or using an out-of-the-box tool that allows for affordable customization.

The key is always to ensure that whatever system you use, the behaviors being assessed are relevant and important and that the firm actively takes action in light of feedback provided.

Let Us Help

We are expert in the use of upward reviews within law firms and we enjoy sharing what we know. We take a research-backed approach: Our 4c process™ combines our deep experience of the legal industry with our expertise in people management and best practices established by organizational psychology research. For more, please take a look at our [upward review deck](#) or give us a call.

We invite you to talk with us if you would like to discuss using upward review at your firm, whether implementing a program for the first time or looking to review and enhance an existing program. We work with law firms of different sizes and can help you design and implement a program for thousands of lawyers or for a single office or practice group.

Please reach out to [Nicholas Jelfs-Jelf](#) at 212.660.3902 or nicholas.jelf@voltagepeople.com.

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NOTES

¹ One of the respondents to our survey reported that any associate in the third year and up is eligible to receive upward feedback.

² Early adopters cited associate attrition as a key reason for introducing upward reviews. This reflected the findings of the New York City Bar's Task Force on Lawyer's Quality of Life which, in 2002, noted that junior and mid-level associates were often subjected to poor supervision and management by senior associates and partners. Its recommendation was to use upward reviews as an effective way of identifying problems and enabling firms to take steps to address them.

³ *Do Higher-Level Leaders Have Lower Self-Awareness?*, Victor Lipman, Forbes, April 17, 2018.

⁴ *The Evolution and Devolution of 360 Degree Feedback* by David W. Bracken, Dale S. Rose, Allan H. Church, *Industrial and Organizational Psychology*, Volume 9, Issue 4, December 2016.

⁵ *The Leadership Imperative: A Collaborative Approach to Professional Development in the Global Age of More for Less*, Scott A. Westfahl & David B. Wilkins, *Stanford Law Review*, Volume 69, June 2017.

⁶ This information is based on our own analysis of the *NALP Directory of Legal Employers 2019* at www.nalpdirectory.com (accessed on September 6 and 7, 2019). In the NALP form, law firms are asked "Does your organization use upward reviews to evaluate and provide feedback to supervising lawyers?"

⁷ Ten years ago, NALP reported that according to its 2010 Directory of Legal Employers, upward reviews were not normal albeit they were more typical of smaller firms. The overall percentage of all offices among all firms whose offices responded to the survey was 32%. However, the use of, and reference to, office-based (as opposed to firm-based) information means that the resulting statistics are hard to understand in the context of firms as individual and single organizations. It does not lend itself to a direct comparison with more recent data established by our review of the NALP Directory of Legal Employers.

⁸ Based on *The American Lawyer* 2020 Am Law 100: Ranked by Profits Per Equity Partner.

⁹ *The American Lawyer* Mid-Level Satisfaction Survey rankings are determined based on feedback from third through fifth year associates in relation to their own firms.

¹⁰ Vault Law Prestige Rankings are a national ranking of the most prestigious law firms based on the assessments of lawyers at peer firms - nearly 20,000 associates rated the reputation of firms other than their own.

¹¹ Our survey and outreach enabled us to gather data from 24 law firms. Of those, 15 have used upward review in the last five years. The remaining nine have not used upward review. Of the 15 firms that have used upward review, three had run pilot programs—two are still assessing whether to expand their use of upward review and the third has pressed pause indefinitely.

¹² See, for example, *Maximizing Law Firm Profitability: Hiring Training and Developing Productive Lawyers* by Susan Manch and Marcia Pennington Shannon, Law Journal Press, 2013 at §13.02.

¹³ For example, *Winning Points* by Stephanie Francis Ward, ABA Journal, December 2003.

¹⁴ *Sustaining Pathways to Diversity®: The Next Steps in Understanding and Increasing Diversity & Inclusion in Large Law Firms*, 2009.

¹⁵ This is consistent with observations shared by Scott Westfahl in *The Leadership Imperative* (see above).

¹⁶ *360 Reviews Often Lead to Cruel, Not Constructive, Criticism*, by Meg Halverson, New York Times, February 28, 2016.

¹⁷ *The Leadership Imperative* (see above).

¹⁸ *The Leadership Imperative* (see above).

¹⁹ O'Melveny's participation rate among associates and counsel was an impressive 93 percent in the round described in *A Firm Commitment to Culture* by Carol Patton, Human Resource Executive, October 16, 2018.

²⁰ *360 Reviews Often Lead to Cruel, Not Constructive, Criticism* (see above).

²¹ <https://www.hoganlovells.com/en/news/hogan-lovells-replaces-annual-review-with-pathways-a-modern-approach-to-associate-development>

²² *Cleary Launches New Feedback App for Associates* by Meghan Tribe, The Am Law Daily, December 27, 2018.