

Ep #11: The Definition of Done



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John E. Grant

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Ep #11: The Definition of Done

In today's episode, I'm going to continue on this theme that I've been on for the last few weeks around quality. And specifically how focusing on better quality standards can improve the flow of work in your law practice and create better outcomes for your clients. And today I'm going to give you two specific tools that work really well together that amount to a specific type of quality standard, a type of policy that you would implement within your law practice that will help you dramatically improve the consistency and the flow of work. Ready to become a more agile attorney? Let's go.

Welcome to *The Agile Attorney* podcast powered by Agile Attorney Consulting. I'm John Grant and I've spent the last decade helping lawyers and legal teams harness the tools of modern entrepreneurship to build practices that are profitable, scalable, and sustainable for themselves and their communities. Each episode I offer principles, practices, and other ideas to help legal professionals of all kinds be more agile in your legal practice.

In today's episode I am going to continue on this theme I've been hitting for the last few weeks around quality and how setting intentional quality standards can actually be the key to unlocking a lot of flow and efficiency and improving the client experience in your law practice.

And if we go back a couple weeks ago in episode nine. I introduced this idea that really the key to process improvement is to focus on quality. And establishing these quality standards that give you this cascade that standardize your work. And therefore allow you to apply more of your team's resources to that work in a way that ultimately gets the work flowing faster and leads to more efficiency and faster outcomes for your client.

Last week in episode 10, I talked specifically about the practice from the Kanban methodology where we talk about making policies explicit. And a policy is just an articulation of a quality standard. And we talked about how making sure that you're getting those policies out of your head and into a place where both future you and the other people on your team can

Ep #11: The Definition of Done

actually use those policies. In order to achieve the consistency and the load balancing and all the other beautiful things that I talked about just a moment ago.

Today I want to talk about a very specific type of policy known as a Definition of Done. And this is a concept that comes out of a few different agile methodologies. I first encountered it in the scrum methodology where when we're talking about user stories, which is sort of a problem that needs to be solved on behalf of a user, usually for a technology team but not always. And there's this notion in a user story of success criteria which are what are the ways that we're going to be able to tell that we're meeting this user need? And sort of inherent in success criteria is this notion of Definition of Done.

How will we know that we have done enough to actually take a decent first pass at meeting this need? In the Kanban methodology, definitions of done are usually attached to different stages of a workflow. And it's something where I sometimes see them talked about as exit criteria, which is to say, what are all the things that have to be true or at least accounted for in order for us to say we are done with this particular stage of work and ready to begin on the next phase?

Now, before I go too deep on exit criteria definitions of done, I actually want to take a step back and talk about the difference between different kinds of checklists. And to do that, I'm going to refer back to a book that is now, I think, over 10 years old and a lot of you may have heard of it, some of you maybe not. It's known as *The Checklist Manifesto* by Atul Gawande and it's a great book. I highly recommend it.

It is this really interesting look at the power of checklists to improve outcomes in really any kind of work. And I won't give you the deep, deep dive, but I do want to talk a minute about how Atul Gawande who was a surgeon by training actually came to this exploration of checklists. And at a high level and I don't have it in front of me, so I won't get this exactly right.

Ep #11: The Definition of Done

But my understanding is that there was a particular type of surgery that had an unacceptably high sort of rate of complications for people that were coming out of the surgery.

It should have been a relatively straightforward thing, and yet too many people, and I think it might have even been as many as 10% or on the way to 10% of people, were having relatively preventable problems. Because of some little thing along the way that didn't go quite right in the surgery. And the question that Gawande asks is, how is it that surgeons who are some of the smartest and certainly most highly trained professionals in all of society. And yet these really smart, really highly trained people have this sort of unacceptably high complication rate? What's leading to that? What's the problem here?

And one of the things that he found was that the surgeons he talked with were sort of averse to this idea of structuring things in too organized a way. They thought I'm a smart person. I know how to do this. I'm going to go based on what I know as opposed to sort of following a straightforward policy and procedure. And as Gawande tells it in the book, and there's also a great New Yorker article that he wrote that sort of captures the key parts of at least his initial story, the animating story of the book.

He asked the question, "Where are other places where we have highly trained professionals but have much lower complication rates?" And the place that he landed on, I guess pun not intended is in airplane travel. And for the number of flights that are taken around the world on a daily, weekly, yearly basis, the number of catastrophic complications that come from those flights is exceedingly low. And I know as I record this, there have been a few kind of high profile oopsies that thankfully have not resulted in any human injury.

But still, even with that said and those things that are in the news, airplane travel and air travel in general is generally something that has an extremely low number of complications and Gawande wanted to know why. And so

Ep #11: The Definition of Done

he went and interviewed some pilots as a good journalist would do. And the thing that he came across, of course, that is something that the pilots use pretty religiously is the pre-flight checklist.

And again, I'm kind of going off of memory, but as I understand it, as I remember it. Gawande was having a conversation about the pre-flight checklist with the pilots and he made some sort of off handed comment around, "This is great. This tells you exactly what you need to do in order to get the plane from point A to point B."

And the pilots were like, "No, that is not what's happening at all. You completely misunderstand this. There's nothing in this pre-flight checklist that tells us how to get the plane from New York to Albuquerque. We are using our skill and our experience and our training and our real time ability to react to situations in order to do that part of the flight. That's not what the pre-flight checklist is for. What the pre-flight checklist is for is to make sure that we are running through all of the things that have to be true or at least accounted for in order for that flight to be safe."

And that's the key. The Definition of Done, the checklist that they're using, it's not a to-do list. It's a quality control list. And I just gave you the answer, but when I give talks to larger groups, I will sometimes talk about *The Checklist Manifesto*. I'll show a cover of the book, but I will blur out the subtitle. And I will ask people, "What do you think the subtitle of this book is? The book is the *Checklist Manifesto*, what's the subtitle?" And almost always the answers I get are something around getting more done or getting things done. But that's not what the subtitle of the book really is.

The real subtitle is *The Checklist Manifesto: Getting Things Right*. It's about quality and that's the key. So coming back to this idea of using quality control checklists in the form of a Definition of Done in your legal workflow, And again, my brain works in Kanban. I do a lot of Kanban boards so if you can imagine the columns on the Kanban board typically represent stages of

Ep #11: The Definition of Done

work for a particular matter type, it might be litigation, might be transactional, or whatever.

And the Definition of Done for each stage is going to be all of the things that need to be true, or at least accounted for before I consider my work in this stage to be done, before it's complete. And if you think about that for each of the stages in your workflow, and even though I typically, well, I'll actually start at the right side of the board.

So let's say that we're working at the finalize and close stage of any particular matter. Where you're going to maybe make sure you've got that final bill sent. You're going to make sure that your document folders are organized. You're going to make sure clients have copies of all the relevant documents. You're going to make sure that the matter is closed in your practice management system, and that a disengagement letter is sent.

So that's, I think, five things that I just came up with that are a pretty reasonable Definition of Done for the finalized and closed stage of most law practices. And that's all it needs to be. It shouldn't be much more than, I usually say about three to eight things on a Definition of Done checklist is about right. If it's more than that, then maybe you want to break that phase into a couple of different parts. I'm not saying that 10 is too, too many. But if you're getting into 12 or 15 or 20, then you're maybe capturing too fine a detail.

If I flip to the other end of a typical matter, if I'm looking at a Definition of Done for the intake phase. Obviously, we'll want to have an engagement letter in place which documents the fact that the client wants to hire us, and we've agreed to be hired by the client. We might say that we need an initial fee deposit. We might want to say that the matter is set up in our matter management system.

And maybe either, that the client homework, whatever the initial questionnaire or other things that you need to get from the client has been assigned or maybe even has come all the way back. And you say that,

Ep #11: The Definition of Done

“We’re not done with intake until we’ve got that client homework back.” Maybe a client meeting is scheduled in order to begin the strategy phase of whatever it is that you’re working on. And again, I didn’t count that, but I think that was probably five or six things that if you were to list it out, make a pretty good Definition of Done for the intake phase.

Now, again that’s not everything you need to do in order to complete intake. This isn’t the to-do list. This isn’t the process flow map. These are the things that before you take a card out of the intake column and into the next one, you want to make sure that these things absolutely, positively have been accounted for, probably are going to be done, but at least have been accounted for.

Now, the other thing that can be really useful in a workflow, and this is sort of the mirror image of exit criteria or Definition of Done, is what I think of as the Definition of Ready or entrance criteria. And this is a really useful exercise in sort of basically checking your math. So if you define what the stages of your workflow are, and I would begin by defining those stages and going through each stage and coming up with that three to eight bullet point checklist. That is your Definition of Done for that phase.

What are all the things that you want to make sure are getting tracked? But then go through the phases again and think about them through the lens of Definition of Ready. And what I mean by Definition of Ready, sort of the easiest way I tend to think of it is this is sort of your mise en place if you are a chef or you’ve done any cooking. And even if you haven’t, you’ll probably appreciate, I mean, I’m sure you’ve done some cooking. But if you’re not a chef, if you don’t enjoy cooking, you’ll still probably have followed a recipe or two.

And the Definition of Ready is basically that act of making sure before you start cooking whatever the recipe is for. That you’ve got all the ingredients on hand, that you’ve got the equipment you need. Because the last thing you want to do once you’ve started following a recipe and maybe the stove

Ep #11: The Definition of Done

is hot and things are simmering away, is to discover that you don't have something you need. And you've got to shut the whole thing down and go to the grocery store, or maybe head to the neighbors for that proverbial cup of sugar.

The consequences of not having a Definition of Ready when you're cooking can be really high. Because something could burn, it could become soup. It could become any number of things where it's not going to work as well if you have this long pause in the middle. And frankly, legal work isn't that different. And in fact one of the most disruptive things that can happen to the flow of work in a legal workflow is starting down a path of drafting something or even forming a strategy and realizing I don't have all the information I need.

I've got to stop what I'm working on and go back and get some different information or talk to the client again, whatever it happens to be. And the problem with that. Number one, if the purpose of process improvement and the work that I do, again with most of my clients, is to improve the flow of work. That going back to get more information is quite literally, backflow, it is an anti-pattern to what we're trying to actually establish.

The other thing is, you can get pretty far down the path of drafting something or formulating a strategy. And then if some piece of information comes in that you hadn't accounted for or you get a document or something from the client that they had owed you, but you decided, I'll just go drafting anyway. It might completely change your thinking about what's needed for that deliverable. In which case, a lot of the work that you just did is waste, it's gone, it's useless.

And so we're trying to establish with the Definition of Ready or an entrance criteria. We're trying to protect ourselves from jumping the gun. And we're trying to make sure that we've got all the things in place that we need in order to actually do the work in one sitting, ideally from start to finish. We

Ep #11: The Definition of Done

don't want it to break up. We don't want these interruptions. And we certainly don't want interruptions where we have to go find something.

So if you do that and you've got for each of the stages of your workflow, a high level Definition of Done and a high level Definition of Ready. Now what can happen in practice is that the Definition of Ready for a downstream phase will merge with the Definition of Done for an upstream phase. And usually it's the immediate upstream phase, although not always.

Sometimes you'll have a Definition of Ready for something that's more in the middle of your workflow.

And you'll decide to take one or two of those items and push it forward a couple of steps. Especially if you're going to bug a client for things, it can often be more efficient to get everything you need at once from a client rather than continuing to ping them for little things along the way. So it doesn't always have to be the immediate upstream stage. It just has to be one of the upstream stages. And those two lists combined can give you a really good way of controlling the flow and ensuring the flow of work through your system.

If you are really intentional about, okay, it's not going to enter a column until all of these things are true. And then it's not going to exit a column or a stage until all of these things are true. I guarantee you will start to establish better flow and you will have far less rework. And probably less waste in terms of the effort that you're making in your legal process.

And so that would be my primary takeaway, my sort of homework for you from this episode, should you choose to accept it, is to think about those high level phases, whatever it is that you do. And do that Definition of Done and Definition of Ready exercise that I just talked about.

The one thing, if you want extra credit, and I will talk about this more in another episode. But it is actually going to come up in the very next episode that I do, which I'll tease for a minute with Alex Devendra on design in legal. But as much as you can, for each of the phases of your

Ep #11: The Definition of Done

legal work, I like there to be at least one element of your Definition of Done that creates a client facing deliverable. And I like that for a few reasons.

Number one is, you've probably heard over and over again. And I can vouch for this being true from my time on the Board of Governors of the bar here in Oregon that the number one source of complaints about attorneys from their clients is lack of communication. They don't know what the status of their matter is. And that is again, as I've talked about in this podcast already, that in itself is adding to their stress. It's not helping their stress. It's not making them happy to be working with a lawyer.

And so if there's anything you can do to demonstrate to the client the progress you've made, you should do it. And sometimes that's just including them on a deliverable that you've created for somebody else, maybe the court or an opposing party. Maybe that is creating an intentional client deliverable, even if there isn't one that's technically required by the legal process.

Sometimes it's a good idea to invent one and just say, "Hey, we just finished phase three of this overall process. Here's what I did in this phase, even though there's nothing really for you to think about from this phase, here's what I did. And here's how it served to advance your cause, how it served to move your matter forward, or help you reach your goals."

And even that little memo, and really it could just be an email. But something that allows clients to orient themselves to the flow of work and the work that you're doing for them and how it's flowing through your systems can be a really great way to expand on your client experience and improve your client experience. So you don't have to do that. Like I said, that's the extra credit. But number one, try to come up with these definitions of done, these quality control checklists, these exit criteria.

And number two, if you can, come up with some sort of a client deliverable or something that is going to go to help the client mark the passage of progress.

Ep #11: The Definition of Done

One last thing. I'm trying to keep these episodes a little bit shorter. So I am not going to close the loop on the Atul Gawande story and how surgeons started to use Definition of Ready and Definition of Done checklists to improve outcomes. I will spoil the outcome because this is at least a 10 year old story, to say that there was a dramatic decrease in the number of complications when the surgeons actually started doing this.

Part of that came from the fact that it wasn't just surgeons following the list, it was everybody on the team was empowered to follow that list, to speak up if something wasn't meeting the success criteria. And to stop the entire process to make sure that quality standards were being met. And I'm going to link to both the full book and also The New Yorker article that gives you the synopsis and will give you the full outcome of that story. And you can read it and check and see how good my memory of it is.

Thanks for listening to *The Agile Attorney* podcast. I'm your host, John Grant. If you found today's episode interesting or useful, please share it with someone who you think would benefit from a more agile approach to their legal practice. If you have any questions, feedback or maybe a topic you'd like to hear me cover, you can reach me at john.grant@agileattorney.com.

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