Ep #22: How to Write Effective Law Firm Policies

Full Episode Transcript

With Your Host

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I have talked in several episodes of this podcast about the importance of making policies explicit. And that's one of the core practices of the Kanban method which is the most common method that I use and follow in my work with clients.

In today's episode I'm going to dive a little deeper on what it means to draft an effective policy, how to write policies and procedures that strike the right balance between engaging your team and helping them truly understand the reason behind the policy and also giving them clear steps and directions about what people need to do in order to make sure that the goals of the policy are accomplished. 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.

Welcome back. So today I am going to respond to a listener question. This one comes from Tatiana and Tatiana wrote me and specifically asked for some more information and examples around how to write effective policies for your law practice. And if you remember in episode 10, I talked about the importance of making policies explicit and making sure that things are getting out of your head and out into the open so other people can understand them and also respond to them.

And then in episode 13, we talk specifically about an email communications policy. And I actually gave an example through my website of what that policy might look like and a lot of you downloaded that and so hopefully you found it useful.

So, in response to Tatiana's question and hopefully for the benefit of all of you, I'm going to start with sort of a high level sense of what I think are the elements of a good policy. And I've actually sort of boiled this down to a policy template. And I will put that template at agileattorney.com/start so that you can download it and reference it and make it your own. But basically, there are just a few high level components that I want to see in a good policy, most of the time. This isn't necessarily an absolute 100% rule, but directionally I think this will get you to the right place.

So obviously a clear title for the policy. That's sort of a no brainer. I do talk in the template a little bit about trying to sort of distinguish between a policy which is more of a rule against a process which is sort of high level steps. And then a procedure which is a little bit more around detailed steps. That might be more nuanced than you need to capture right now. They all kind of fall under the high level heading of policy. But I do think that there are some distinctions to be made if you're getting in the weeds a little bit, which I tend to do, around the difference between those two things.

Som after the title, I like to start with a high level statement of the policy. What's the core of the policy? To whom does it apply? What are the situations where this policy applies? And then what, if any, exceptions are there? What are the things we might want to think about whether or not we need to follow the policy in that situation or not? That's usually pretty bulleted. I want it to be high level.

It's sort of navigational material, but it also serves as that executive summary. So, if someone is going through it kind of quickly they can get the gist just by reading that part. From there, and this is a part you've probably heard me say this before, I really like to have a statement of purpose for the policy and the header in my template says why we have this policy.

Again, my feeling is that this section needs to contain at least a high level description and bullets are totally fine, describing why this policy is important and what principles it supports. We want to sort of get to something so that people understand that we're not just turning off our brains and being automatons. That we're actually understanding why we're doing the particular thing a particular way.

And as you'll see in the template and this was created for the Commons Law Center and so it's got actually, a reference in the template to the mission and some of the purposes behind the work that the Commons Law Center does. You can replace that with a mission statement and purpose statements for your own firm, but I think it's helpful to have in the template as an example.

The next section to the policy template is the process itself. What are the steps that we need to take in order to do the thing or what are the rules that we need to follow if it's more of that policy document? And this I really like having just listed out in ordered bullet points, an ordered list. It can have some parts, we're trying to find that Goldilocks level of detail. Not too much detail, so that it's not easy for someone to follow, but not too little detail, so that people wind up struggling with understanding exactly what it is that they're supposed to do.

And then the last part of the template is, if it's necessary, maybe a more detailed procedure statement. If you really do need to get in the weeds or be really detailed about a thing, it can be useful to do that then. Sometimes I use that section just for canned language. So, if it's a recurring email or a phone script or something, then we'll put the actual script down there at the bottom. Sometimes it can be references to other materials. So, we're doing this because of a particular rule or regulation or whatever else.

And so that last section is really sort of the more info section. And the information that's needed will vary based on what policy we're talking about.

The other thing that I'll share with you, and I'll admit this is a little bit nerdy. This maybe has the potential to be in the weeds, but I think it can be a really useful and effective exercise to sort of take this step back and develop the thing that I'm about to introduce, which is at the Commons Law Center we have a policy on policies. It's very meta. We talk about in more detail what it means to write a good policy. And I'm not going to read the whole thing to you, but there's some good stuff in here so I am going to hit a few of the highlights.

Number one, the high level statement of policy is that policies should empower our people to consistently deliver high quality work. And to flush that out a little bit, it is the policy of the Commons Law Center to use policies, processes and procedures in a way that empowers individual members of our team to deliver good quality work in all situations. That's a big ask. I'm not saying every single one of our policies meets that goal, but that's what we're going for.

We're trying to actually make sure that we're using these things to empower people. It then goes on to say we accomplish these things when the following things are true.

Number one, the policy uses clear and plain language. And the reason we have that is part of the mission of the Commons is training people. We train law students. We train new legal professionals. We do a lot of education for our clients. Therefore, we want to make sure that we're writing policies to sort of an everyday person audience.

In the policy itself we talk about whenever possible, write out acronyms and initialisms and abbreviations. And make sure that we're defining, or at least clarifying, technical terms. We want people to be able to follow this information without having to dive too deeply or go to other places to look stuff up. We want it to be as self-contained as possible.

Number two, we talk about a policy should be more of a quality standard than a to-do list. And you've heard me talk about this in previous episodes as well. But the purpose of any policy is to improve the quality of work we deliver to our customers and that can be clients, that can be internal customers, whoever. And we want to strike a balance for a policy that increases quality and prevents errors, but does so without extinguishing individual style and creative thinking, creative problem solving. We want this to be an empowerment tool.

And what that means is we really want people to engage with the policy, understand the purpose behind it so that they're in a good position to begin to assess whether or not their work product meets the standard that we're trying to set in the quality standard, in the policy itself.

Number three, we talk about every policy has to include a purpose statement or should include a purpose statement again, it's not draconian. And the reason for that is that no policy can cover every single situation. On top of that, even the best intentioned people aren't going to follow a policy 100% accurately 100% of the time. On top of that, policy drafters are not omniscient, they're not infallible. There are mistakes that might get made in the creation of the policy, and we want people to have their brains turned on.

And so, we want to make sure that we've got a good statement of purpose in the policy so that people understand and have background that allows them to deal with novel situations in a creative way. So that when people deviate from the policy that the deviations still tend to accomplish the purpose of a policy, even if they don't follow it to the letter.

And also finally, so that people feel empowered to suggest improvements to the policies. We're not going to get them all right the first time. So, if people's on the ground experience is leading them to better solutions, we want them to feel empowered to give that feedback and give us a reason to update the policy to match what they're seeing.

Number four, we want all of our policies to be captured in a central, accessible location. It's not useful if the policies are kept away in a drawer, whether that drawer is physical or virtual. And so, we really want to make it part of the everyday practice for people on the team to be referencing these policies on a regular basis.

At the Commons, we mostly do this using the knowledge base that we use, which is called Guru, that's at getguru.com. There are other tools that other firms like. I know I've got a number of clients that use Tettra, T-E-T-T-R-A. And then I think, Ernie the Attorney, over in his group, he's a big fan of SweetProcess. So, there's no one-size-fits-all.

I am actually a big fan of Guru. There's some features inside of Guru that I think are really effective for keeping policies fresh, making sure they get reviewed on a regular basis. So, if you're going to check one out, Guru would probably be my first suggestion, but any of them is fine as long as they're accessible.

The other thing, and I'll talk about this in a minute when I give some examples. With some of my clients more and more are starting to embed policies into Kanban card templates that we use as part of the Kanban workflow management system or software within the firm. So, both Businessmap and Kanban Zone, which are my two go-to tools. Those are tools that allow you to build template cards.

And I embed a lot of information about policy and the why statement. Sometimes the expected time commitment or other information inside of those template cards. And that means that when someone goes to work on a card that's using that template, all of the relevant information is already self-contained inside of that card. It makes it a really effective way to communicate on a just in time basis.

And that actually goes to support the number five thing in the policy on policies, which is that we want people to reference the relevant policy every time we engage in work covered by that policy. We don't want people just holding that information in their head. The goal of the policy is to empower the team to consistently deliver work to the appropriate quality. And when we assume we know the policy without actually referencing it, we increase our chances of variation. And sometimes that variation is going to be mistakes.

But if we consistently reference a policy, then we also are going to create opportunities to clarify or improve it. If we're looking at the policy in the context of real work, real deliverables, then we might look at the policy and say, "That doesn't quite sound right." Maybe this is an opportunity to make some updates or at least start a conversation around making updates to that policy.

And then the last thing that we have in our sort of high level statement and I know this is awfully detailed for a high level statement. Number six, we revisit each of our policies on a regular basis to ensure that it is usable, accurate and relevant to our work. We recognize we are a learning organization and so we have to regularly adjust our policies and our work to incorporate new information.

We're also a teaching organization as I mentioned before for both our team, our internal users and for our customers. And so, we've got to loop back with them, with the audience and make sure that our learning objectives are meaningful to the audience that we're teaching to and that our methods are working to meet those objectives.

So that's the high level piece. There's some other components to this policy on policies that I think can be useful. We talk specifically about the process for capturing a policy and I won't go into that right now, but I'll encourage you to download a copy of it at agileattorney.com/start. And you can sort of read through it and figure out what makes sense for you and your firm in terms of capturing a policy.

Now, there's one other thing about this policy that you'll notice when you download it, and that is that it is unfinished. And this is actually sort of a funny technique that I've stumbled upon that winds up being really effective. But one of the most effective ways to roll a policy out to a team is to actually hand them something that is not 100% finished work.

So, there's something sort of funny psychological that happens that if you, the law firm owner, the boss, the authority figure, say, "Okay, this is our policy for this." And it's presented in sort of a new rule sort of way, then people will tend to turn off their brains and just say, "Well, I guess this is what I've got to do because the boss says I've got to do it."

But if you roll out a policy or really sort of anything that you want to get engagement around and it's not quite done, you show that you've given it a lot of thought, that you certainly care about it because you've captured a lot of the good high level things. But then you leave some blanks or you leave some Lorem Ipsum text or whatever it happens to be. And you say to the team, "Hey, I need you to read through this and then help me finish it. Tell me, did I get this right? Could we say this better? And then how do we say this one thing that I wasn't quite sure how I should express it?"

By getting their actual engagement and getting your team members to turn on their brains and think hard about what it is that you're trying to accomplish with this policy document or whatever the document happens to be. You'll wind up getting a lot more engagement. You'll be able to tap into the individual intellect and creativity of the different members of your team.

And then maybe most importantly, the team will then feel some ownership over the policy. It's not something that you pushed on to them, but it's something that you co-created together. You're going to have a lot easier time having folks follow that policy if they feel like they participated in the creation of that policy.

So, Tatiana, in her request also asked for lots of specific examples and I don't have time to give a lot of specific examples, but I will give a couple. One of them is a version of a policy that I've done with a few different clients, and that's an evergreen retainer policy or an evergreen fee deposit policy. And that can be a really effective tool for practices that are still billing hourly and I know that there's lots of you.

And again, this is something that we learned at the Commons, was something that's important, I have been doing it with a lot of other clients. I didn't come up with the notion of evergreen retainers. They've been around for a long time. If you're not using them, they are a really great way to make sure that you get paid for the work that you do.

Thinking back to last week's episode in terms of having profitability be the first prong of what I help my clients with. An evergreen retainer policy is a really great way to make sure that you are going to remain profitable for the work that you do for your clients.

And so, I'm just going to read from a version of this policy, the high level statement of policy for this evergreen retainer policy is in order to safeguard the viability and sustainability of our business. It is our policy to ensure that we always have minimum funds available in our client trust account before we engage in hourly billed or flat rate legal work for a client. And for hourly billed matters, we expect clients to maintain a minimum balance using an evergreen fee deposit model.

So that's it, high level. We're going to make sure that we've got money in the door before we do the work. Relatively straightforward. When we get into the why statement around this policy, because I will say, this evergreen retainer policy can feel a little strange to people that haven't adopted it already. But the why statement here says this policy helps to promote respect for ourselves and our team members, for the individual clients we're working for and for the collective clients of the firm.

The obvious purpose of this policy is to protect the firm and its employees from investing their time, energy, knowledge and skill on work that does not yield a return on that investment. We know the value of our work and the outcomes we achieve for our clients and this policy helps us promote self-respect for the firm overall and the individuals within it by ensuring that our clients value our efforts appropriately. We don't do work for free unless that really is your model.

An equally important purpose of the policy is to create clear and respectful guidelines for our clients on how they need to finance their legal work with our firm. While the individual rules within these guidelines may seem rigid, they serve the important function of allowing the client to place a value on our work and on the matter itself.

If the client shows that they no longer value our work or the matter by not paying for their work, we shouldn't necessarily take it personally although we should check for obvious problems on our end. But neither should we let a client drag us or themselves along because they're waffling on their commitment to the matter.

Finally, this policy helps us respect and protect the interests of all of the other clients of our firm, each of whom has a strong interest in getting their matter worked on and moving forward. When we invest our time and effort into work on a client's matter and that client doesn't pay us, they're not just stiffing us on a bill, they're stealing from the progress we could have been making for another client.

So, I'll leave it at that. And again, that's a little bit long as a policy statement, it's four paragraphs. But it really gets to the core both for the owners of this firm to sort of get language out that necessitates the need for this policy and for the workers within the firm who are going to follow this policy. It gives us a good reason as to why we're doing things that may be uncomfortable. Asking for money is uncomfortable, but we're doing it for good reason.

So, the other example I'll give you is a little bit more of a procedure document than a policy one. And this is specifically for converting a potential client to an actual matter in the law practice management system. And in this case, that system is Clio. This is, I'm reading to you now from a card template inside of Kanban Zone and this is something that I do a lot with slightly more advanced clients.

I wouldn't necessarily say that this is a place to start in your journey with these Kanban tools, but it's also one of the things that I really like some of the more advanced tools for that are true Kanban systems as opposed to other systems that are just using a Kanban board interface. And so again, specifically we have a purpose of this card or task set. Number one, ensure the matter is correctly set up in Clio.

Number two, make sure that all information about the client and other key contacts is correct in Clio.

Number three, to ensure that service level expectations and other delivery dates are calendared in Clio and also listed in Kanban Zone so that we can meet the necessary expectations.

And number four, so that we receive payment necessary to work on this matter. And this is another firm that has an evergreen retainer policy.

One of the things that I like to include when we're in more of these procedure documents is an expected time commitment. Here we say the time needed for this card and task set will vary depending on the complexity of the matter. But plan on spending about 30 minutes to make sure we have everything we need and that everything is set up correctly in Clio.

We actually have a task list attached to this card template so it automatically shows up with the actual sort of checklist items that need to be accomplished. And one of them is adjust the size of this card to reflect the expected amount of work after reviewing the file. So, we recognize that not all matters are created equal, some are more complex than others. But we want to give people at least a ballpark of how much time we think it's going to take. That time or the size of the card actually also plays into how we're using work in process limits and doing other sort of daily planning and weekly planning with the team.

I won't go too deep into that, but there's multiple uses for that time estimate that wind up being effective. And then from there, this is an estate planning practice and so, it's relatively straightforward, but input data from the estate planning questionnaire into Clio. Ensure that client names, addresses, etc., are correct in Clio. Enter known beneficiary names and known contact information in Clio. Enter the client CPA name and known contact information if there is one in Clio, things like that.

I won't give you the whole laundry list, but this is really the punch list of all the things that need to be true, or at least accounted for before we consider this matter set up phase or this matter set up task set to be complete. So hopefully between those two things, the evergreen retainer policy and this new matter setup procedure, it gives you a little bit of a sense of how I like to think about crafting policies.

Again, I know that I didn't quite get to the volume of examples that Tatiana was looking for. And she actually had a specific question around basically a style guide. She's a contract attorney. She does a lot of drafting for her clients. And so, her specific question is, is it too petty for me to say that quality in contract creation means that you've used word style guides function and the contract is arial 10 point font unless otherwise requested by a client? Not at all, that's not unreasonable as long as that is really what we know is to be effective for the client.

So, my advice to Tatiana or anyone that is thinking about style guides or other drafting guides is to make sure that in the why we have this policy section, you can actually articulate a decent reason for it. It doesn't have to be a perfect reason, but just a good colorable argument for everyone else on your team to know that you're not just doing this because you think it should be a certain way. That you actually are making an informed opinion and that you've got some real reasons behind what it is that you're doing.

You don't want it to be because I said so. You are, if you own the law firm, you do get to have because I said so's. They're just not especially motivational for the people on your team. Alright, so I'm going to leave it at that for now. In terms of next steps, please go to agileattorney.com/start, go grab these templates. Hopefully you will find them useful. If you have questions or you want to talk about them more, feel free to shoot me an email or reach out to me.

I am doing a little bit of a summer slowdown and so I'm a little harder to get a hold of than I might otherwise be, but send the email and I will respond to it when I can. Thank you again to Tatiana for giving me this request. If you have a request for a topic you'd like to see me cover or dive a little deeper in like I've done today, please send it my way. Thanks so much for listening and I'll talk to you next week.

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