



The Case for Active Listening

By Natalie W. Loeb, MS and David B. Sarnoff, Esq.

Yes, we're connected more than we ever have been by technology, but are we connected as human beings?

It's simple but not easy. Living in the midst of an on-going pandemic, the transition to remote work and living with restrictions, there is no doubt that the secret to our success lies in the success of our ability to effectively communicate. One of the highest skills to possess during these times is to genuinely and actively listen to each other. Active listening is a strong interpersonal skill. When done well, it proves our humanity, it builds trust, enhances relationships, offers empathy, compassion and makes those being truly listened to feel valued and important. It also offers the opportunity to gain new knowledge, perspective and information to help us grow personally, in business and to practice self-management. When we are truly actively listening, we suspend judgement and leave space for the speaker to continue. We use both non-verbal and verbal expressions to demonstrate we are receiving information and interested in what the speaker has to say. We are extinguishing random

thoughts that come into our minds, so we can intently listen and give the speaker our full attention. Active listening is hard work. It is strenuous and requires intention, effort and focus. However, at a time, when many of us are feeling disconnected, isolated and lonely, active listening is the human gift we can choose to give to others. When done well, your hard work will pay off in numerous ways.

How to actively listen:

Active listening is a commitment to intentionally listen to the speaker with both your ears, eyes and body. It requires asking questions to clarify assumptions and demonstrating interest by testing your understanding with the speaker to confirm you heard what the speaker intended to share with you. When you are practicing active listening, you are not waiting for a chance to jump in and speak. Instead you are trying to understand fully. It's not unusual to find ourselves waiting to speak when a good response comes to mind while another person is speaking and we feel eager for them to stop talking so we can express our point. In fact, when we notice this happening and resist the impulse to interrupt, we know we are practicing active listening. More than ever, human beings are striving to be heard and understood. Problems occur when more than one person in a conversation wants to be heard at the same time. When people are interrupting each other, feelings of frustration grow. If one feels they are not being heard, you will notice stress levels increase and a breakdown in communication. Those breakdowns in communication can lead to a number of unfortunate outcomes, including straining professional relationships.



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Active listening in and of itself communicates to another person that they are valued and respected. Imagine if someone comes to you to seek advice or share an experience for your feedback. How do you think that person would feel if in the middle of what they are saying, you decided to send a text or check emails? It is a safe bet that the other person would feel disrespected and not heard. It is imperative while active listening to be present, focused on the speaker and maintain comfortable eye contact. As stated earlier, active listening is a physical activity and requires practice to increase proficiency and ability.

It is particularly important, as an attorney, to actively listen for multiple reasons. Firstly, being an active listener builds trust amongst members of your team and encourages them to communicate ideas, their challenges and feedback. It also models the way for others in your firm to practice active listening, raising their level of listening. Typically in a high stress work environment such as a law firm, many people tend to listen for the least amount of information they need to try to complete a task, in order to be able to move on to the next task. This is not the most productive way to practice, because by practicing active listening, you may identify a deeper level of understanding that may raise the caliber of your work product.

An example of this is when a litigator conducts a deposition. Litigators are typically trained to never ask a question they don't know the answer to. While that may be solid advice, attorneys tend to focus only on the questions they prepared and may not listen deeply to the responses of the witness, potentially creating other lines of questioning. Active listening would not only focus on the specific words the witness was saying, but also on how they were saying these words. Are they sweating, is their volume elevated, are they touching their face while they are speaking, are all observations that should be noticed. It also requires an attorney to focus on what the witness is not saying, and if they are uneasy and nervous. Active listening taps into our intuition

and experiences to focus completely on the verbal and non-verbal responses from a witness and have an heightened sense of what is actually being communicated.

Similarly, when presenting an argument in front of a judge, active listening is just as important as the legal research supporting your brief. Often times during oral argument, an attorney is typically hyper focused on their argument and how they will use the facts of the case to support their legal citations, a judge will interrupt with questions. For many attorneys, this can be unnerving and if you do not put your thoughts on hold and focus on what the judge is saying, you may fumble in your reply. How many times have you heard a judge say to an attorney, "you did not answer my question."

When a person is performing actively listening at a high level, they do not focus on their own thoughts or responses in their head, however, they are focused on the person who is speaking. Your awareness is tuned into the expressions, emotions and communication being transmitted from the person speaking to you. In order to do this, it requires a mindshift from wanting to reply immediately with only your reply and thoughts to focusing on how to flesh out more from the person who is speaking. This skill will in most cases provide a deeper understanding of the person who is speaking and their thoughts, aspirations and in some cases their competency.

Active listening is an important life skill to not only cultivate and nurture personal and familial relationships but can be an effective tool to building a high trust workplace in your professional life. Attorneys who elevate their active listening skills will also raise their emotional intelligence skills, self-awareness and how they show up and are perceived by their colleagues.

Below are some strategies and practices to help you raise your active listening abilities. The more you practice them, the better your listening skills will be.



- 1** Choose to actively listen and provide your full attention.
- 2** Set any distractions aside and give your full attention to the speaker.
- 3** Use your eye contact, body language and short non-verbals to show you are paying and attention. These efforts will also help you to remain engaged in the conversation.
- 4** Pay attention to the speaker's verbal and non-verbal messaging. Speed and tone of voice; along with body language clues can provide valuable additional information to you in addition to the words being used. Identifying emotions being expressed along with the words will show the speaker you are connecting, interested and value their input. This leads to building trust, enhancing relationships and improved productivity and outcomes.
- 5** Ask thoughtful clarifying questions to demonstrate you are "hearing" the speaker and want to learn more. Open-ended questions that begin with "What?" and "How?" can prompt new details about what you are really trying to understand. There's also a place for closed questions (questions requiring a one-word answer to help you gather some facts.)
- 6** Be mindful and strategic about the question types you choose to help you focus on understanding the speaker and gaining information. A closed question can help you paraphrase what you think you understand and give the speaker the opportunity to correct your understanding.
- 7** Suspend judgement and put your desire to be heard and understood on the back burner.

- 8** Be patient with yourself as you practice. This is not the natural way in which we communicate with others—especially in a disagreement. It won't go perfectly, and that's fine.

For a free listening quiz on the Psychology Today website to evaluate your listening skills click here <https://www.psychologytoday.com/us/tests/personality/listening-skills-test>

Authors



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Active Listening for Lawyers

By Tricia Fratto, Esq. and A. Jonathan Trafimow, Esq.

For our purposes, active listening for lawyers involves more than simply being able to accurately report back what another person in a conversation has said, although it certainly includes that. Active listening also involves communication while still primarily receiving information, through body language, encouragement/demonstrated interest, appropriate questions and other forms of engagement. Active listening offers value to lawyers who understand it at all phases of the attorney-client relationship.

While every lawyer does business development in their own way, we have found that active listening is a critical skill. In our experience, many business generators nurture relationships in their social networks; indeed, for some, there is no sharp demarcation between “business relationships” and their social network. Many business generators understand that those in their networks will tend to refer clients to lawyers they trust, not just to be competent and ethical, but to have the interest (and ability) to truly understand what matters to them and who they are. Active listening engenders trust; trust leads to introductions; introductions lead to business. And, active listening during the initial conversations with the prospective client may

persuade them that you are connecting with them and their legal concerns.

Following client engagement, lawyers are called upon to apply active listening in a variety of situations. Active listening is critical to truly understanding a client’s motivation and ultimate goals to help guide them to a successful outcome. Lawyers may also be called upon to conduct internal investigations, depositions, or other witness interviews. While this is the place we find that our active listening skills really shine, we have learned to be cautious about falling into the trap of rushing to judgment. People may be nervous, uncomfortable, or even defensive but not, at the same, time “guilty” or able to provide information that helps an investigation. Rephrasing and repeating questions and paying close attention to changes in demeanor or comfort, are much more productive than thinking a particular eye shift or other “tell” acts as a lie detector.

Business development is not the only skill needed in the law firm setting, and for attorneys working “in-house” for companies or non-profit organizations or in other legal settings, it may not be an important skill at all. For most of us, however, active listening is critical to building

successful relationships with people at all levels in your organization. This applies to work you may do on committees within your organization to teams assembled to work on complex matters to interactions with managers and staff. Understanding their stresses and pressures may help you successfully navigate challenging workplace situations.

Active listening can communicate to everyone in the workplace that they are being heard, understood and valued.

We end, perhaps a bit whimsically, by considering whether active listening can help attorneys in private practice get their invoices paid. In our experience, when clients question an invoice it is because there is a problem, even if that problem has nothing to do with the satisfaction with the legal services you and your colleagues provided. The challenges of running certain businesses during the COVID-19 pandemic, for example, could provide unusual challenges to a client in connection with paying for their legal services. Active listening may turn what could have been a negative conversation with a frustrated client into a positive moment of understanding, with a commitment towards working with your client through a challenging moment for them.

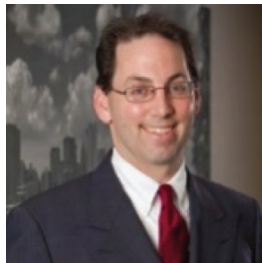
From the first introduction through the entire life-cycle of a client engagement and beyond, active listening skills enhance a lawyer's business, client, and colleague relationships. We hope that this discussion encourages lawyers to develop strong active listening skills and consistently focus on applying these skills to every interaction.





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Body Language of Listeners

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A simple article for the beginners: How your body language shows that you are listening

The strategic use of body language plays a key role in effective communication. Here are seven ways to show that you are listening:

1. Look Like You're Listening

If you want people to give you their ideas, don't multi-task while they do! Avoid the temptation to check your text messages, check your watch, or check out how the other participants are reacting. Instead, focus on those who are speaking by turning your head and torso to face them directly and by making eye contact. Leaning forward is another nonverbal way to show you're engaged and paying attention. It's important to listen to people — it's just as important to make sure that they know you are listening.

2. Use Your Head

To encourage a team member to expand on their comments, nod your head using clusters of three nods at regular intervals. I've found that people will talk much more than usual when the listener nods in this manner. Head tilting is another signal that you are interested, curious and involved. The head tilt is a universal gesture of *giving the other person an ear*.

3. Open Your Body

We reveal a lot about our attitudes, emotions and motives by the way we hold our bodies, especially when using closed or open postures.

In the ultimate closed body posture, arms are folded, legs are crossed and the torso or legs are turned away. Rounding the upper body and hiding hands are closed signals that may also represent feelings of vulnerability or depression.

In open and receptive body postures, legs are uncrossed, and arms are open with palms exposed or resting comfortably on the desk or conference table. If the arms are relaxed at the sides of the body while standing, this is also generally a sign of openness, accessibility, and an overall willingness to listen and interact.

To show that you are receptive to other people's ideas, uncross your arms and legs. Put your feet flat on the floor and use open palm gestures (which is a body language display inviting others into the conversation).

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4. Remove Barriers

Physical obstructions are especially detrimental to looking open and receptive. Take away anything that blocks your view or forms a barrier between you and the rest of the team. Even at a coffee break, be aware that you may create a barrier by holding your cup and saucer in a way that seems deliberately to block your body or distance you from others. A successful senior executive told me he could evaluate his team's comfort by how

high they held their coffee cups. It was his observation that the more insecure individuals felt, the higher they held their coffee. People with their hands held at waist level were more comfortable than those with hands chest high.

5. Activate Your Smile Power

A genuine smile not only stimulates your own sense of well-being, it also tells those around you that you are approachable, cooperative, and trustworthy. A genuine smile comes on slowly, crinkles the eyes, lights up the face, and fades away slowly. Most importantly, smiling directly influences how other people respond to you. When you smile at someone, they almost always smile in return. And, because facial expressions trigger corresponding feelings, the smile you get back actually changes that person's emotional state in a positive way.

6. Lean In

Leaning is another way your body indicates your emotions. Leaning backward usually signals feelings of dislike or negativity. It's a hardwired response from the limbic brain; we subconsciously try to distance ourselves from anything unpleasant or dangerous. In a seated conversation, leaning backward can also communicate dominance or disinterest.

Positive attitudes toward others tend to be accompanied by leaning forward – especially when sitting down. When two people like each other, you'll see them both lean in. Research also shows that individuals who lean forward tend to increase the verbal output of the person they're speaking with

7. Mirror Expressions and Postures

When a business colleague mirrors your body language, it's his or her way of non-verbally saying that they like or agree with you. When done with intent, mirroring can be an important part of listening (this time listening to what the other person's body is telling you). Mirroring starts by observing a person's facial and physical gestures and then subtly taking on the same expressions and postures.

Building positive business relationships takes more than inclusive body language and good listening skills. But don't underestimate the impact of these behaviors. They can either support or sabotage your efforts.

Carol Kinsey Goman

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