

# Legal Week

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## Knowledge Management: Measuring success

*'Doing' knowledge management will no longer be enough: reality matters, argues Matthew Parsons as he examines the varying approaches taken to knowledge management both in the UK and the US*

Something decidedly strange is happening in the world of law firm knowledge management (KM), with very different approaches being seen either side of the Atlantic.

Conventional wisdom is that UK and Australian firms lead the US firms in embracing and deriving value from KM. For many years, the investment of the UK and Australian firms in people and systems has outstripped their US counterparts — with the roles of precedent lawyers and professional support lawyers unknown across the Atlantic.

Then, with increasing globalisation, and the increasing availability of a range of KM technology platforms and applications, US firms started embracing KM. Primarily, they sought a technology 'golden bullet' solution to the 'problem' of managing knowledge.

Two years ago, Jones Day announced a multi-million-dollar global KM programme as one of the firm's most important strategic projects. The project was specifically championed by the firm's managing partner and an experienced and successful chief information officer, Terry Crum, was recruited as the firm's new chief knowledge officer (CKO). Dedicated resources were identified and hired. A strategic KM plan was prepared.

In March this year, as part of deep IT cutbacks, all of the KM personnel were made redundant and the programme eliminated. KM at Jones Day would now be addressed by spare capacity among lawyers, without the leadership of dedicated knowledge management or IT professionals.

This pattern is being repeated in other US law firms as they grapple with a softer domestic market for legal services and attempt to evaluate the value and progress of their KM investments.

A leading advocate of KM in the US was the failed San Francisco firm of Brobeck Phleger & Harrison. Its highly-publicised KM initiative comprised a CKO (partner) and five full-time lawyers. As the firm responded to the severe downturn in the dotcom sector last year, more than half of the KM lawyers were let go. Then the CKO left to link up with Clifford Chance.

In September 2002, the firm's new CKO, Jonathan Wong, touted the implementation of its new advanced portal: "Brobecks' ultimate goal for its new KM system is to increase existing client relationships and customer satisfaction while maintaining client confidentiality and privacy."

In other words, KM was now a marketing/client relationship initiative. In January this year the firm closed its doors in a very public collapse. KM naysayers pointed to the firm's leadership position in technology and KM and its apparent inability to build a sustainable business as a reason for its downfall.

If KM is merely a technology-driven programme focusing on increasing client relationships, then it is a very expensive and very risky marketing exercise. Further, firm dissatisfaction in the US with KM can be seen in the average tenure of law firm CKOs. Most have a maximum of three years before they part company with their firms and become consultants, or move to another firm.

KM in law firms is very expensive in human and software terms — unless the firm has a clear understanding of KM and the specific value to be delivered by its KM investments. Then these resources will be among the first to be cut as the finance committee slashes overheads in a drive to increase their margin.

So, why is there greater stability and success with KM in the UK and how can UK firms improve their efforts further?

So far, the UK firms have a higher degree of understanding of KM and have invested a greater share of their KM budget in human expertise

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and culture that makes a difference to the way legal services are actually delivered. UK firms have not followed a technology first strategy.

However, in these tighter economic conditions, UK firms should review and refocus their KM investments based on the lessons from the last decade of failed attempts at technology-centric KM.

#### **KM does not equal IT**

When you speak of KM at some firms, the questions quickly become technology centric. "Have we invested in the right technology? Have we invested enough in technology? Are our systems user-friendly enough to encourage lawyers to submit information to the system?"

Similarly, the reasons firms often give for the lack of success of their KM initiatives sound very similar. "We do not have the right technology. Our database is not effective because it is not user friendly enough. We need to have a review of our database to make the design better — and then people will use it."

The reality though is that the technology dimension of law firm KM is not particularly novel, difficult, or complex. There are now more than enough mature, fully featured products to choose from in each category, whether it be portals, document management, document assembly, document databases, client databases or search engines. Further, consultants are readily available to assist with the technical issues of system implementation.

But law firm KM success is not assured by technology. The success or failure of a law firm KM initiative rises and falls solely on the behaviours of lawyers and especially the behaviours of partners.

If partners believe that the firm's clients are entitled to the collective expertise of the firm, that consistent quality is important, and that failure to deliver these things will not be tolerated — then KM will be successful. Their actions, clear example and directions will be irresistible to junior lawyers — irrespective of whether the KM system is manual or electronic.

#### **The need for effective KM**

Imagine that your firm's best client calls one morning. He explains that they are looking at KM for their general counsel department and has some time this afternoon to visit and would like you to take them through how you manage knowledge at your firm.

"Your reputation for sharing knowledge, avoiding reinventing the wheel and giving your clients access to the collective experience and knowledge of the entire firm is one of the major reasons we selected your firm in the tender."

He visits your office and you make a short, generic presentation about what you use, the databases you have access to etc. The head of KM attends the meeting — all is going well, so far the client is impressed. Then they pull from their pocket a short list of five detailed pieces of advice that the firm has provided during the past year, four of which were provided by other lawyers in the firm, and three of which were from different offices. They ask you to locate them as if you were working on a similar matter for him. He wants to see the system in action.

How confident are you that you would be able to proudly and quickly find all five advices in your firm's KM system; not in your document management system by searching for a document reference or matter number, but in your KM system? Even if you are disciplined about KM processes for your finished advice, how confident are you about the practices of your fellow partners and lawyers? How many would you find, and what does that say about the reality of your KM programme?

The day is coming when clients will be more demanding in understanding precisely how their law firms are managing their knowledge and will ask for such a direct demonstration. The reality of firm's KM programmes will be exposed to clients.

This is driven by the fact that hourly rates continue to be the dominant way by which law firms charge for services. While law firms do not have an economic incentive to identify and invest in methods and processes to make the delivery of legal services more efficient (thus decreasing firm revenue), their clients certainly do. In the US, major clients are already creating their own KM platforms and directing their external law firms to provide content as a pre-requisite to providing legal services.

This decade will see far more demanding clients — not of the technology of KM, but of the delivery of effective KM in firms with a greater quality and universality than even the best firms are delivering currently.

It will not be enough to say that you 'do' KM — leading clients will start actively driving efficiencies in law firms. Clients will want to see the reality, not the feel good marketing hype. Now is the time for firms to get their KM house in order, which must start with a firm-wide understanding of what KM is, why the firm is doing it and what the firm

will and will not do under the banner of KM?

### **A model for effective KM**

Given the economic model of law firms, focusing on generating profit per equity partner, there are three categories of KM project.

First, there are "must have KM projects", which are necessary to compete, necessary to have to be in business. This would include access to appropriate legal information and reference resources, a set of high quality clauses and precedents that are customary in the market, style guides and document editing tools. Note that lawyers need to be educated that KM does not mean a blank cheque to create a precedent for every document that a lawyer might ever need. If the market expects the law firm to have a precedent, then fine. Otherwise, it simply does not make economic sense to make the investment in a low usage, specialised area — even though it would yield a more efficient, cheaper and better service for the client.

Second there are 'should have KM projects', which require very little investment and are either important for the functioning of the firm, or which make non-billable tasks more efficient. These projects include a range of registers (client arrangements, tender commitments, competitor information), resources for marketing and tenders (resumes, tender database, tender clauses, mailing database), current awareness assistance (noticeboards, e-mails, internal publications) a matter library (profitability, legal and commercial lessons learned, survey information) and a project methodology for non-billable projects at the firm.

Finally, there are 'investment KM choices'. These should only be done for one of two reasons: first, if there is a compelling business case that indicates a profits per equity partner increase after all costs are taken into account (via a leverage increase) and secondly where the project supports a core value of the firm and the firm is prepared to commit the expense consistently.

For example, an indexed database of all of the firm's prior advice is not necessary to run a modern law firm. Indeed, the reality of many firms KM initiatives is that they currently practise without an effective database of prior advice as the real contribution and usage rates are so low.

However, if your client value proposition is that clients get the benefit of the collective expertise and experience of your firm, then such investment is not optional. Importantly, where the KM investment project is undertaken for this second reason, it will not of itself yield a return; indeed, it will likely make a negative return — it becomes a cost of doing business.

It is also time for firms and KM leaders within firms to acknowledge that it is the lawyers, not the databases, that do the legal work. The objective of a KM programme is not to create information nirvana. The objective of a KM programme is not the building of a great database. The objective of a KM programme is to generate a higher degree of intellectual capital than would exist without the programme.

In no firm will every lawyer know all that is useful to know, that is known by every other lawyer in the firm. Rebekah in M&A in London will never know everything that John in banking knows — even though they work in the same building. Further, Rebekah will never know everything that Annabelle in M&A in New York knows. Even with the most effective knowledge strategy ever conceived.

The role of KM is to generate a productive, more valuable firm knowledge ecology than would exist without the implementation of the strategy. In other words, to increase the firm's intellectual capital in a way that increases performance — not to perform a firm-wide Vulcan mind-meld.

If the measure of success of your KM programme is achieving a technology driven firm-wide Vulcan mind-meld, then like the US programmes mentioned above, the programme will be expensive, short-lived and less than optimal.

The real challenge of effective KM investment is to first develop a partner level shared understanding of where KM fits into the firm's business? Determine whether partners are prepared to tolerate reinventing the wheel and failing to deliver clients the firm's collective wisdom and expertise? Then, and only then, identify the must-have KM projects, the should have KM projects and the investment KM choices.

*Matthew **parsons** is the author of a forthcoming book, *Effective Knowledge Management for Law Firms: How Law Firms Can Get KM Right at Last* published by Oxford University Press.*

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