



Legal Week

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Technology: Doing the knowledge



It is no longer enough to tell clients that you have a knowledge management system, they increasingly want to see it adding value. Getting KM right is more a matter of culture than technology, says Matthew Parsons

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 knowledge management. For many years, the investment of the UK and Australian firms in people and systems has outstripped their American counterparts — with the roles of precedent lawyers and PSLs 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, one of America's largest law firms announced a multi-million dollar global knowledge management strategy 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 (CIO) 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 knowledge management resources were fired, and the programme eliminated. Knowledge management would now be addressed by under utilised 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 knowledge management investments.

A leading advocate of KM in the US was the failed San Francisco firm of Brobeck Phleger and Harrison. Their 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 CIO, Jonathan Wong, touted the implementation of its new advanced portal: "Brobecks' ultimate goal for its new knowledge management system was to increase existing client relationships and customer satisfaction while maintaining client confidentiality and privacy."

In other words, knowledge management was now a marketing/client relationship initiative. In January 2003, the firm closed its doors in a very public collapse. KM naysayers point to the firm's leadership position in technology and knowledge management and its inability to build a sustainable business as a reason for this.

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.

Knowledge management in law firms is very expensive in human and software terms — unless the firm has a clear understanding of KM, and the specific value (if any) to be delivered by its KM investments, then those resources will be among the first to be cut as the finance committee cuts overhead in a drive to increase margin.

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

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The answer is that so far, the UK firms have a higher degree of understanding of knowledge management, and have invested a greater share of their knowledge management budget in human expertise 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 knowledge management.

KM does not equal IT

When you speak of knowledge management 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 knowledge management 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 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 he is looking at knowledge management for his general counsel department, and has some time this afternoon to visit and would like you to take him 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 tells you.

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 knowledge management attends the meeting — all is going well, so far the client is impressed. Then he pulls from his pocket a short-list of five detailed pieces of advice that the firm has provided over the last year, four of which were provided by other lawyers in the firm, and three of which were from different offices. He asks 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 knowledge management system: not in your document management system by searching for a document reference or matter number, but in your knowledge management system? Even if you are disciplined about knowledge management 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 program?

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 the firm's KM programs will be exposed to clients.

This is driven by the fact that hourly rates continue to be the dominant way in 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 knowledge management 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 knowledge management, but of the delivery of effective knowledge management in law firms with a greater quality and universality than even the best firms are currently delivering.

It will not be enough to say that you 'do' knowledge management — 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 firms, focusing on generating profit per equity partner, there are three categories of law firm knowledge management 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 more efficient, cheaper and better services 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 and only if there is a compelling business case that indicates a profitability increase after all costs are taken into account (i.e. via a leverage increase), and secondly, where the project supports a core value of the firm and the firm is prepared to consistently commit the expense.

For example, an indexed database of all of the firm's prior advice is not necessary to have to run a modern law firm. Indeed, the reality of many firms' KM initiatives is that they currently practice 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 like paying rent, or marketing.

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 knowledge management is to generate a more 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 firm 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, and then, and only then, identify the must have KM projects, the should have KM projects, and the investment KM choices.

matthew Parsons is formerly the director of know how and online

products at Mallesons Stephen Jaques. He is the author of a forthcoming book, 'Effective Knowledge Management for Law Firms: How Law Firms Can Get KM Right at Last' (Oxford University Press).

Author: [Matthew Parsons](#)
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