

BUSINESS & CAREERS

Knowledge management know-how

LUIGI BENETTON

Knowledge is the secret sauce that keeps clients coming back to you. You ought to bottle it.

But first, you have to know what you want to bottle, and why. Ted Tjaden, McMillan LLP's national director of knowledge management, sought to help people understand the what and why in a 2009 paper entitled "The Seven Faces of Legal Knowledge Management."

Here's Tjaden's list of the what:

1. Document/records management
2. Precedent development
3. Legal research/intranet content delivery
4. Professional development / training
5. Litigation support
6. Practice management
7. Client-facing initiatives/alternative fee billing

And here's the why: "In simple terms, knowledge management (KM)... is about working smarter, leveraging the collective wisdom of the firm or department, and not reinventing the wheel."

Care to explore more what and why, with a dash of how thrown in? Read on.

KM BEST PRACTICES

KM exists because it helps businesses improve the bottom line. Consider some of the following best practices for your law firm.

Encourage information sharing

Nurture a firm culture that encourages stars to share their secret sauce with colleagues, thus raising everybody's game.

Sharing can also happen outside the firm. Tjaden regularly meets with fellow knowledge management professionals from other law firms to share insights.

Cut down on data duplication

"We used to say paper storage was expensive and electronic storage was relatively cheap," says Susan Nickle, co-founder of Wortzman Nickle Professional Corporation. "Now we hear the cost of storing informa-



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Knowledge is a law firm's 'secret sauce' that lures clients in. Managing, and organizing that knowledge is key to success.

tion — much of which isn't needed anymore — is escalating."

Nickle spotlights one particular culprit: data duplication. In an ideal world, one "true" version of a document gets shared and maintained. "In the real world, a document can easily exist in 20 places: attached to emails sent around as drafts for comments, on people's hard drives when they took them home for the weekend to work on at the cottage, and so forth. That isn't necessary."

Combine KM and the firm library

Libraries generally hold externally-sourced information, while KM curates

information created inside the firm. Firms can add value by tracing links between the two, especially if they're kept in what Tjaden calls a "one-stop shop for knowledge."

Integrate KM into automated business processes

A firm that integrates a KM system with other tools may be able to partially automate workflows. For instance, the act of opening a matter in a financial management system can auto-generate the matter on the document management system, which in turn auto-generates subfolders for that matter.

Make KM part of project management

Creating checklists and lining up document templates for specific services can reduce the cost of providing said services.

Use KM to track staffing needs

"Your firm might have an IP department," says Dominic Jaar, national leader, information management and e-discovery for KPMG, "but if those lawyers end up doing commercial law because they don't have enough IP law work, that's good for HR to know."

Use KM to bring new lawyers up to speed

"People don't go to law school saying 'I want to be an estate litigator,'" Suzana Popovic-Montag admits. "The thought of specializing at an early stage brings up a lot of angst."

"Our firm's knowledge base becomes the stepping stone for all that we do," adds the managing partner for Hull & Hull LLP. "That comforts new lawyers a lot. Their first place to look is always knowledge management."

Review your tagging

Document management systems and tagging go hand-in-hand, but Jaar wonders how well firms tag their documents. "They often tag based on criteria like client name, matter name and other business-related information," he says. "They need to use keywords for broader contexts."

"If a document contains many instances of the word 'competition' but never mentions 'anti-trust,' it might not show up when lawyers search using 'anti-trust' as a keyword."

Consider virtual practice tools

Many people already interact with websites, so you might attract prospective clients who are willing to use your site to handle certain aspects of KM (like client intake forms) themselves.

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Ethics constant issue for lawyers

Many leading law schools have a module or a course on ethics. Most have a discussion on the jurisdiction's law society codes of conduct. The thoughtful student emerging from the thoughtful course determines there's never a "goodbye" when it comes to these issues. Reflection is always advised. Moreover, codes, ethics, morals and laws are not all the same thing. Many conflict with others.

At Osgoode Hall Law School of York University I read of the Lake Placid body case. A criminal lawyer found, moved and photographed a dead body and didn't tell anyone. This ethical, moral and legal error was justified because the lawyer was providing zealous advocacy for his client — as required by law society guidelines. I also read of the different guidelines in different jurisdictions and pondered my own non-legal practice. Intake interviews with new clients, file reading and leaving no stone unturned all happens on billable time — another ethical dilemma.

Other famous articles, such as Harry Arthur's article, discussing the merits of the less-adversarial German justice system and the



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“**What if the developer/client is a bad person? Is anything achieved by withdrawing services? Does that client become a better person if I do or don't work for him?**”

notion that law societies serve the interests of lawyers, not the public.

The fact that all these matters are still in my mind is a compliment to the rich and full curriculum I experienced at Osgoode. These matters were especially on my mind when I visited the Canadian Centre for Architecture (CCA) in Montreal. The current

exhibit is entitled *Architecture in Uniform: Designing and Building for the Second World War* and stimulates thoughts on the duty of professionals as they serve clients.

National Film Board shorts document wartime housing, recycling and many other initiatives. Drawings, posters and pictures take the visitor back to the era. A model and drawings of Buckminster Fuller's Dymaxion home is a highlight for me, having met the genius in his later years. The centre is a merger of two old Montreal mansions and a large new addition — a project of architect Phyllis Lambert — the “P” in CEMP Investments — Sam Bronfman's real estate arm. I have a soft spot for Mr. Bronfman too — he having been my father's boss for a time.

Back to ethics — reasonably easy to deal with in the law, you might think. The lawyer as officer of the court presents the best case possible and the judge determines matters of law, guilt and innocence. All are entitled to their day in court, due process and the presumption of innocence. These are high callings and trump, for the most part,

personal preferences, morals, religion, ethics and such. It's the “for the most part” part that complicates matters.

Imagine being a judge in Nazi Germany just administering laws pertaining to race and religion. This is where Albert Speer and many others come in. What business is the moral fibre of a client to an architect? What are those people going to do in those homes, apartments and condos? What if the developer/client (Hitler in this case) is a bad person? Is anything achieved by withdrawing services? Does that client become a better person if I do or don't work for him? Would Speer's replacement have designed a lesser Berlin with fewer amenities for average folk?

Where to draw the line? An engineer or architect might rightly design a prison, as some do for Bechtel today. In war there would be a commission for a prisoner of war camp. The right-minded professional might make it a little more humane. What if he/she then finds the facility is used as a concentration camp for citizens whose crime is race, religion or sexual preference?

In the export of Canadian products there can be an “end use certificate” helping to determine and trace whether a despot gets that armoured personnel carrier or airplane with military applications. But in many professions the advice, drawing, material or finished product gets used and reused with unintended consequences.

These disturbing thoughts can be pondered in magnificent surroundings on Rene Levesque Boulevard in an exhibit at the CCA. The exhibit also has you ponder a design atelier held in a concentration camp.

A few famous names in the history of architecture did a few infamous things. A few unknown and unsung names kept ethics alive at the same time.

The centre is as mandatory a visit as reflection on ethics is mandatory in any profession. ■

Allan Bonner coaches leaders from his base in Toronto. He is the author of several business books on communication and crisis management. He has worked with several of Canada's largest law firms.

Knowledge management is crucial to success of any law firm these days

KM

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GETTING STARTED WITH KM

Jaar lists several levels of data sophistication, from information through to documents and records. The sum of all these is knowledge.

If firms don't effectively manage the documents and records they create and receive every day, “it's almost impossible to identify added-value information, which is knowledge,” he says.

Want to start collecting that added-value information? Try these ideas.

Be aware of how you work

“Pay attention during your daily routines to what aspects of your work could be done better, faster, cheaper by either an automated process or a person with the right tools,” say Marc Lauritsen, author of *The Lawyer's Guide to Working Smarter with Knowledge Tools* and president of Capstone Practice Systems.

Designate a knowledge “gatherer”

Does somebody at your firm show interest in document management, document automation or similar fields? Get that person to check all work going to clients.

“You can start building a taxonomy based on the content generated by the organization,” Jaar says, adding that the “point person” can also make content anonymous so it can be reused as templates, models or precedents.

Create simple policies and doable procedures

“What is a business record? What is NOT a business record? How long do you need to keep documents?” asks Nickle.

Answer these and other basic questions first, then give clear direction on how to routinely implement the answers. “Make records management a business process,” Nickle advises.

Adapt systems to how people work

“Find out how people work today and tailor policies, procedures and systems that conform to that workflow as closely as possible,” Nickle says. “The bigger the change, the less likely it is that people will adapt to it.”

Periodically audit your KM efforts

Do your policies, procedures and systems help you achieve your business goals? Regularly check how they're working. Speak

with the people who use them. Be ready to tweak them, to improve their usefulness over time.

Consider automating processes using KM

Law schools don't yet teach KM, but Lauritsen wrote about an interesting “Apps for Justice” initiative in an article entitled “Five Tips for Prospering in an Age of Legal Fee Deflation.”

The idea is to radically expand the number of schools that offer courses in which students build useful applications like dynamic questionnaires and document templates as part of their education. It received enthusiastic support from an audience of deans and professors. Imagine a rising generation of tech savvy practitioners, aggressively wielding intelligent tools.

While still a proposal among law schools, firms can build their own intelligent tools to create competitive advantages.

Augment your internal KM efforts

Tjaden notes the U.K.-based Practical Law Company (PLC) bills itself as a “knowledge management department in a box.” Already set up to serve the U.K., PLC recently opened an equivalent service for the U.S. market.

“Increasingly, law firms will supplement their internal precedents with sources like PLC,” he opines.

Get professional help

If you can't take one of your lawyers off billable hours, enlist pros to set up the right policies, procedures and technology tools for your needs.

Warning: one size does not fit all

No two firms work precisely the same way, so policies, procedures and technologies that fit one firm might be square pegs in round holes in another firm.

Also, some tactics simply don't work according to plan. For instance, IT departments once limited the size of email inboxes, thinking people would take the hint and discard unneeded messages, file important things in the right places and develop other good KM habits.

Many people didn't take the hint. “People created their own PSTs, they stored stuff on external drives and otherwise worked around the limit,” Nickle says.

CAPTURE TACIT KNOWLEDGE

Explicit knowledge rarely provides the kind of competitive advantage that tacit knowledge does. What lawyers know that isn't writ-

ten down (especially their experience and professional judgement) is what makes them stand out.

“In most firms, tacit knowledge is transferred through mentoring, training and allowing a knowledge-sharing culture to flourish,” says Tjaden.

But Jaar argues that actually capturing tacit knowledge is feasible, given current technology. “To capture tacit information, the lawyer must open a matter and enter certain information,” Jaar says. “What type of file are you dealing with? What type of organization? What value does the organization attach to the deal?” By routinely capturing such information, Jaar posits lawyers can use it to improve their businesses.

For instance, Jaar states that firms can use tacit knowledge to move to flat-fee billing. “Let's say a law firm had been capturing case information for the past 25 years,” Jaar says. “When it next encounters, say, a Canadian firm suing a U.S. firm over a certain type of dispute, it could refer to a database of explicit knowledge that would enable it to estimate the cost of litigation.”

“The firm could say that over 25 years, cases that meet certain criteria cost anywhere from \$100,000 to \$250,000, so the firm can charge a \$250,000 project fee. In the worst-case scenario, the firm breaks even. Otherwise, it makes money.” ■