

## The Renaissance of Knowledge Management... and what it means for In-House Lawyers

*This article first appeared in The Legal Technology Insider (www.legaltechnology.com) , Corporate Legal Supplement, June 2007.*

In recent months, much has been made of how Knowledge Management (KM) has been experiencing a second wave within the legal sector. Why is this, how does it differ from the first wave, and what does it mean in practical terms for lawyers ? I hope to try and answer all three questions in this article.

### Managing Knowledge – a Brief of History

Before computers invaded the world, lawyers would re-utilise previously created content by remembering that they had written something (or asking around to find out whether their colleagues had done so) and then having this re-typed with relevant changes to suit the latest matter. With the advent of word processing, content could be re-utilised more easily by virtue of cutting out the re-typing stage, but it still had to be found. This was often easier said than done, as early document storage was not good at replicating the seasoned filing systems employed by lawyers and their secretaries (although it did provide a modicum of searching which could assist when trying to find a document without the context of its matter).

As document management systems came onto the scene and then matured, it became easier to find content stored under previous matters than was the case with the manual systems these applications sought to replace. However, the re-use of lawyers' work product was not restricted to documents in these systems – email attachments, Know How systems, external websites and the like were all included in the search for the best and most relevant content. And this, allied to the general hype surrounding the dot-com bubble in the mid to late nineties, was the point at which the first wave of KM vendors fell upon the legal sector.

Salesmen hurried to the City with stories of KM nirvana and price tags to match. Some firms, eager to lead the way into the brave new world of 21<sup>st</sup> century commerce, embraced these systems and sat back expecting their lawyers to shower them with thanks. Unfortunately, the reality often included overly heavy categorisation, woolly or inaccurate search results, and little or no return on major investments. This led to a swift fall from grace for KM, and added to the suspicions of lawyers who felt ransomed by IT departments over the (supposed) impact of the millennium date change.

### The KM Renaissance

Less than ten years later, and firms are once again turning their focus on KM. However, this time it is against the backdrop of the ubiquitous internet and its de facto search engine, Google. People in all sectors have an idea not only of what is possible, but also how it can be delivered. The so called dinosaurs that once held sway in law firms are fast becoming extinct – replaced by lawyers who, even if not fully embracing technology themselves, understand the implications for their firms of using such systems wisely and (more importantly) the opportunity cost of not doing so.

The understanding of KM has also changed in this intervening period, extending from documents and precedents to areas such as best practice, time and cost estimates, and skills profiles. It is also starting to become entwined with issues about conflicts, client confidentiality and information barriers (formerly Chinese walls), which, if not handled sensibly, have the potential to prevent rather than improve KM. The other axis that has shifted in this time is the sheer volume of data that firms hold – manual systems, whether more or less efficient, simply could not cope with the number of items being referenced by anything but the smallest firms.

Given this greater understanding of technology amongst lawyers, especially its ability to assist when searching for needles in the haystack that is the internet, it is easy to see how search vendors are receiving a warmer welcome from the legal sector. For their part, the vendors of search products (many of whom are new kids on the block, and some of whom see legal as their primary market) have improved the quality of the solutions provided. Their products are often able to provide more accurate results with ever decreasing requirements for categorisation, whilst lawyers have also ceded ground by accepting that definitive answers may be limited to a known corpus (e.g. Know How libraries, selected external websites, etc.) and more general results will be acceptable elsewhere... sort of like a Google search.

This is not simply about searching though – social software, incorporating Blogs and Wikis, has also started to break into common parlance. It may be relatively early days for these solutions in law firms, but some have already dipped their toes... and with more foresight than the heady days of dot-com. Blogs are like shared, online diaries where individuals post entries which others are able to comment on without changing the original posting. These could be used in a similar way to email, allowing people to garner opinion on, say, a point of law. Wikis differ from Blogs in that content is posted but others are able to change this content. The use here is therefore to evolve content such as, say, guidance notes. However, you only need listen to the introduction of many TV parlour games to hear witty references to the inaccuracies of Wikipedia (one of the better known examples of social software) to understand that there are pitfalls for uncontrolled access in an area where accuracy is paramount.

### **Helping Lawyers... both Private Practice and In-House**

I'm no fan of glib labels like 'knowledge workers', but it's indisputable that law firms trade on expertise and that this is largely about what they have done before and how that can help clients in future. As such, any IT strategy that does not have KM close to its heart is likely to be missing a trick. However, this is not simply about installing a search engine and hoping that it will cover up the ills of existing and/or poorly conceived solutions. This is about helping lawyers to use the firm's accumulated expertise more effectively to the benefit of clients and, let's be honest, the bottom line.

The use of KM must therefore start with the inception process – if effort is put in to categorising, richly and accurately, all new work and clients, less effort will be required to analyse and re-utilise any item stored against the same. That said, inception is only one half of the process for new business, with matter closure offering practitioners the chance to adjust categorisation to ensure that reality is reflected, e.g. a matter opened as non-contentious that becomes contentious.

If the clients and their work are accurately categorised, it should be easier to provide lawyers with guidelines for their time and costs estimates based on (an ever increasing number of) similar matters previously undertaken by the firm. It should also be easier to identify useful precedential content based

on a combination of the matter's inception/closure categorisation, the client categorisation, and each fee-earner's practice area.

Search tools are able to tap into this categorisation and, in some cases add to it, to provide information taken from a number of underlying systems and integrated with clients and matters. When viewed this way, it is easy to see why KM should be at the heart of a firm's technology strategy rather than on the periphery as is so often the case

As an In-House lawyer, all of this may seem to be fine and dandy but may equally seem to have little relevance to your own situation. On the contrary, whilst In-House legal departments are often poorly provided for in the technology stakes, this also means that they are not encumbered by solutions which have been created with little consideration for KM. As such, they might be able to work KM into the heart of any re-appraisal of their existing technologies and, more importantly, ensure that any new systems are purchased with due consideration for KM as part of an overall strategy.

Unfortunately, none of this comes for free – it will require time and effort to plan a well thought strategy, and patience to implement it correctly. However, console yourselves with the thought that some of those cash rich law firms have spent buckets of money yet still managed to leave KM languishing on the sidelines. Spending lots of money does not always equate to money well spent, so cut your cloth accordingly and make sure that it provides intelligent solutions that meet your real needs.

*Paul Longhurst is an independent consultant working in the legal sector for 3Kites Consulting Limited*