



Fresh Thinking in an Established World

3Kites Consulting Limited

**Making Know How Central
to the
Business of Law**

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Introduction

This paper seeks to cover the role of knowledge within law firms, both as it exists now and how it could be in the future. The lawyers in most firms consider know how to be little more than a collection of sanitised ‘template’ documents that have previously been used in a matter, sitting alongside articles, opinions and the like that have been gathered over many years and which are often out of date.

However, knowledge extends far beyond these items, and is already held in the systems that many firms employ to hold financial, client relationship, and personnel information. It sits for the most part unused, and rarely joined to related information from these other systems. It includes skills and experience, charge rates, realisation rates, time recorded, client referrals (which can affect the perception of a client which generates modest income), and more besides.

Properly marshalled, this knowledge is truly powerful – with it, a firm has a more accurate grasp of what work it does most profitably, and maybe that which it should radically change its approach towards or even drop altogether. A firm can alter the way it charges, and improve the service it provides to its clients. Without a joined up approach to this knowledge, a firm is at risk of falling behind those firms who have the agility to meet this challenge – increasingly, these are mid-tier and/or regional firms who are starting to knock on the doors of the City.

This paper is divided into the following sections:-

- Law Firms as Knowledge Businesses – Contrasting the commonly perceived product of a law firm, i.e. time, with the actual product as required by clients, i.e. knowledge, expertise and experience
- Harnessing the Firm’s Knowledge – Capturing knowledge through the use of categorised and where possible standardised matter-based documents
- Legal Knowledge and Business Knowledge – Broadening the solution to incorporate elements such as time/cost estimating and skills profiling
- Implementing Knowledge-Based Solutions – How to engage the business in order to implement a solution that will provide real benefits for clients and lawyers alike
- So Where do we Start ? – Overview of a three stage approach that can be adopted to assist the firm in becoming an effective knowledge-based service provider

All of the ideas covered in the paper can be implemented today by correctly configuring existing solutions or, in one or two cases, creating bespoke solutions. However, a crucial point here is to acknowledge the differences between one firm and another which reflect their target markets, practice areas, rate structures, ethos and the like. Just as with legal advice, it is often more effective to use (or modify) an existing approach where appropriate, but also important to recognise when to start afresh. 3Kites will help you to make the right decisions here, and assist your firm to take advantage of the knowledge held within it.

Melanie Farquharson and Paul Longhurst – April 2007

Law Firms as Knowledge Businesses

Superficially it appears that lawyers sell 'time'. Their bills are generally calculated by reference to the number of hours spent. Rather simply than buying hours, however, the client is generally looking for experience and expertise. Indeed, when lawyers pitch for new business, they refer to their own and their firm's previous experience of similar work as a reason for the client to appoint them. The clear implication is that the knowledge gained on previous matters will be applied for the benefit of the next client. In many cases, however, this does not happen, or does not happen to the extent that it could.

Using lawyers who worked on previous similar cases is one thing – provided you can readily identify them and they are available. However, it may not always be possible or desirable to use an identical team. Firms will often want to spread experience around their fee earners, particularly when it comes to complex and profitable business. So a method must be found to bring new members of the team up to speed with past experience. Traditional methods such as on the job coaching will help here, but this can often be hit and miss when the partner or senior lawyer who has the experience is too busy to spend time imparting the benefit of it to junior colleagues.

Harnessing the Firm's Knowledge

Use of basic know how collections containing precedent documents from matters in which the firm has been involved may help it to harness some of the accumulated knowledge. However, this either requires documents to be classified correctly so as to facilitate identifying the relevant ones, or use of a sophisticated search engine which can categorise documents automatically, or both.

Taking this further, firms that have professional support lawyers (PSLs), or whose culture and reward structure encourages fee earners to spend time on knowledge capture, may be able to add value to the collection of precedents by putting them into context so that it is clear how the document in question was influenced by particular circumstances. Ideally, for common types of matter, the firm may be able to purchase (or its PSLs may be able to create) standard forms with notes guiding the lawyer as to the ways in which the documents may require to be changed in different situations. Better still, the documents will be complimented by a practice manual covering procedural aspects of these common types of matter and identifying collections of documentation that will be required, rather than just single documents.

As the market place evolves, firms will want to marshal their knowledge further, by sharing experience of significant matters and how the business climate affects the way the lawyers apply their skills. This can be done effectively in 'matter debrief' sessions – but their value is limited unless the issues raised are somehow captured for future reference and flagged in the context of other precedent material relating to similar matters. One vehicle which could facilitate this capture would be a summary file which could accompany the document collection and provide details about how the firm approaches this type of matter.

Legal Knowledge and Business Knowledge

Thus far we have described a very traditional approach to knowledge management in law firms, focusing on legal knowledge and the way in which lawyers have applied the law in past matters. The firms that manage to do all of this consistently, systematically and regularly in all practice areas are few in number. It requires organised processes, resources in terms of people with relevant understanding who can spend time organising the material and categorising it, and a culture which values this effort and therefore encourages it.

However, there is a broader picture which should not be forgotten.

The lessons learned from past matters relate not only to the documentation and the way the legal issues were addressed. They also relate to how the firm managed the matter, how it estimated its charges, whether time had to be written off, who the key participants were, how much elapsed time it took to complete the job and so on. All of this information sits in a raw form in the firm's systems somewhere, be it the time recording or billing system, the HR system, or the CRM system. Making that information work for the firm's benefit, enabling lawyers to deliver a better service to their clients, is the main objective of taking a broader approach to know how.

The key to this approach is defining what information the firm requires to deliver this level of knowledge, what information the firm currently captures/holds, and how to bridge the gap between these two without adding to lawyers' existing workloads. This work forms part of the implementation, which is covered in the next section.

Implementing Knowledge-Based Solutions

The implementation of traditional knowledge management systems and processes in law firms is in itself quite a task. It must start from an understanding of the practice areas the firm covers, and initially focus on one of the following:-

- The most important area in terms of the firm's profits or strategic business plan
- An area which is readily able to grasp the knowledge management vision (with the aim being to create a best practice model that can be spread to the rest of the firm)

Many practitioners will have their own personal collections of know how, which can be used as a starting point, although it may be necessary to overcome a reluctance to part with this material into a black hole. Identifying the kinds of material that practitioners feel would be useful to have at their fingertips is a useful way of creating a structure (and, often, a large forward pipeline of work for the PSL team).

Purchasing or creating a repository into which this material can be collected, classified and tagged with relevant metadata is the next step. Such repositories may sit within the firm's document management system or be held separately, and can range from the very simple to the highly complex. Either way, ease of use for the lawyer who will want to retrieve material from the repository must always be the paramount consideration. It must therefore use terms and classifications that the lawyers in the firm will recognise and understand, and it must give them results that they can work with displayed in a way that does not require them to open scores of documents before finding the one that will help them. Flagging and prioritising value added content (such as standard form documents and practice manuals) will also be important. Setting up the processes for contributing material to the collection, and for reviewing material over time, is important too and these processes must not be so complex as to be a disincentive to the growth of the knowledge base.

All of this is valuable and is the bedrock of knowledge management in law firms. It is also likely to require ongoing effort to keep the knowledge base current and to adapt to changes in the market and in legal practice.

Over and above this, there is much that technology can do to help firms to glean greater value from the information that sits in their various systems and turn it into knowledge that practitioners can use to serve their clients better. Search engines can gather information from each of these systems and, with varying degrees of additional effort, provide an integrated view of the firm's knowledge as it relates to, say, a specific client, a market sector, a specific matter, or a matter type. In terms of matter types (e.g. tax advice in relation to an M&A in the energy sector), this could include document collections, matter summary files, the firm's skills profile (i.e. who has the relevant experience), average costs/time/realisation, etc.

In order to ensure that the search engine delivers information that has real value, it needs to be able to link data from different systems, e.g. matter type classification can help to link raw data about time recorded on specific matters to make it useful for lawyers estimating and resourcing new matters. This level of knowledge capture and utilisation requires clearly defined and comprehensive client and matter inception processes. This may be one area where greater lawyer input is necessary, although use of external systems (e.g. providing standard industry codes) should help keep this to a minimum. The inception process is the cornerstone to categorising knowledge within the firm – if categorisation is inaccurate, the ability to successfully re-utilise knowledge will be diminished.

So Where do we Start ?

“Let’s start at the very beginning, a very good place to start”. Starting with the process of taking on new clients and opening new matters, a three stage approach can be employed along the following lines:-

Stage 1 – Inception

Before considering know how document collections or search engines, the firm should look at its inception process. As noted above, this would require a definition of what information should be available, what is currently captured/held, and how to bridge any gaps between these two. With this analysis in place, the firm can begin to construct an inception process that will enable it to support knowledge-based solutions throughout the business.

Stage 2 – Basic Know How

Once the inception process is in place, attention can turn towards the implementation of a basic know how system. This would cover the creation of a know how repository (including some form of categorisation or taxonomy which links back to the inception process), document standards, guidance standards, and a simple but robust submission process.

Stage 3 – Extended Know How

Adding a search engine to the firm’s knowledge-based solutions will allow it to integrate information from a number of separate systems around subjects such as clients, sectors, matters and the like. This would also be the stage at which estimated and actual pricing/time information could be brought to bear and where matter and matter-type summary files could be introduced. As with stage 2’s basic know how, much of the work here would need to be related to the inception process, but would additionally need to be linked with a matter closure process to ensure accuracy is maintained.

For further information relating to any of the concepts contained in this paper, or indeed any aspects of legal IT, please contact one of the authors:-

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