Knowledge Management: Making It Work

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The knowledge management fad for law firms today is not dissimilar to the marketing fad that was in full swing a few years ago. It was new and exciting and had a number of experts interested in its advancement. However, few "got it" and fewer still "got it right." The following principles set out the framework for a successful knowledge management (KM) program:

For most firms, a successful KM program represents a major change in culture, process and structure. It's not an overnight phenomenon; it must be planned, managed and measured carefully over a strategic planning horizon (two to three years).

This simple fact should lead you to a second, more universal principle: "Any action causes an equal and opposing reaction." Expect and plan for resistance, dissatisfaction and insurgency. It will happen. Make provisions and accommodations — be prepared to penalize, ignore or cajole, depending on the importance of your KM program.

In this vein, your KM program should set modest, phased goals. Like any major undertaking, it should have clearly defined goals and measurable objectives and milestones to gauge progress — you need to make it a manageable process, which means you must have metrics to ensure that it's being measured. Count on two to three years of implementation and change management before you can declare success.

KM is a "soft" science; it requires a holistic, strategic view of your firm, your people and their position on both the technology and the practice management continuum.

KM is not a matter of mandating a conversion (like the WordPerfect to Word conversion). You cannot design it and then let it drop out of the sky like an anvil on the unsuspecting heads of the firm. KM is a matter of changing habits and priorities. And it's easier to do if your firm is already making good use of networked technology and has been working effectively in practice groups rather than as sole practitioners. If neither of those two is already in place, you should rethink your KM strategy and focus on these two basic prerequisites.

Get All Systems Working

There are a number of prerequisites to a successful KM program. The "right" kinds of systems is one of them. However, you just cannot buy and install these KM systems and then consider your work done. KM systems *must* be layered on top of other highly secure, highly reliable and high performance (read fast response time) systems. You first have to invest capital in the invisible infrastructure before investing your capital in KM systems.

Remember, KM represents, first and foremost, a major shift for lawyers and their support staff from an offline, paper-based world to an online world. They will not make that leap without having total confidence in the "ground under their feet." And they won't make that leap if those online resources are not available 24/7 — just as their file cabinets and desks are today.

System Accessibility

In real estate, the byword is: location, location, location. In software, the byword is: design, design, design.

KM systems are "fed" and feed on many "downstream" systems, such as the firm's document management system (DMS), finance & practice management system (F&PMS), e-mail/groupware system (GWS), docketing/case management systems (CMS) and records management systems (RMS). If those systems are not well designed to either (1) facilitate and encourage access and use or (2) capture information in a compatible and relevant fashion, then your KM systems and processes will be difficult, if not impossible.

For example, if, as in most firms, your DMS has only one library for all documents with only one profile for all users, the odds are great that the indices are mostly inconsistent and/or too "watered down" (general) to be meaningful for KM purposes. Revisit your DMS design and look at your options for multiple libraries for different types of files (e-documents) and for different profiles to suit the needs of different users. We like to design simple profiles for lawyers (as few index fields as possible with as little data entry as possible) that enable them to quickly "flag" documents for more extensive indexing by paralegals or secretaries.

A good KM system for end users is generally some derivative of "portal" software, i.e., a piece of software that sits in front of all the aforementioned systems and lets the end user access the information in all those systems through the single portal interface. In other words, an end user can access the portal and issue a search for a party named "John Q. Smith" and "infringement" and request that the portal either search all databases (DMS, RMS, GWS, F&PMS, etc.) or just selected databases for information with those terms.

Ideally, the firm has established design standards for capturing and storing similar types of information in all its production systems so that, for example, this sample query can search for party-related information in the different fields specified in that query: first name, middle initial and last name.

Protecting Firm Knowledge

Once the information is online, it is not only, more accessible and "usable," but it's also much more vulnerable to loss, damage or unauthorized use. One of the fundamental principles of a KM system is that it has proprietary information and institutionalizes and shares knowledge from all members of the firm. Be sure to protect these assets by:

• Incorporating the appropriate references in your employment agreement.

• Applying rigorous access controls in the KM system and monitoring them.

• Applying copyright notices or the appropriate attributions to pertinent documents.

Incorporating KM Into Your Daily Processing

There are three aspects of KM that relate to these mainstream processes – the capture of information, the classification of that information and the administration and management of that information. Each of these three aspects of daily operations should be integral to the KM program and should be second nature — done correctly and consistently without a second thought. Getting to that point takes patience, strong management and a holistic approach to KM (see all the above points).

There are a number of mainstream operations that are especially important to the KM process: file/matter opening, "document filing," and file/matter closing. While other processes in the lifecycle of a matter are also relevant to a KM program, these are critical:

➤ **File/Matter Opening.** This process should include gathering information that leads to knowledge about how to classify a matter for a particular area of law. Simply stated, using IP as an example, the matter should be categorized as trade secret, patent, copyright, trademark in the area of prosecution, renewal, litigation, arbitration or negotiation

➤ **Structure the matter.** If the KM system is already working, there will already be a standard proposal or retention letter that provides a fairly standard description of the scope of the work to be done, the approach to be taken (step by step with an estimated timeline, budget and staffing) and a list or

reference to deliverables along the way. With the opening of this file, the structure of this matter should be added to the knowledge base.

➤ **Staff the matter.** Once again, with the KM system working, there should be a system that provides reference to who in the firm has experience with these types of matters and with the size, type, geography, jurisdiction or industry of the client. With the opening of this file, the staffing of this matter should be added to the knowledge base.

➤ **Price the matter.** Just as the existing KM system should have standard proposals or retention letters, there should be phase- and task-based budget templates (spreadsheets) for generally running the type of matter being opened. Sometimes, those budget templates must be necessarily general such as:

• *Phase I:* Matter Management (setting up protocols and expectations with the client).

• *Phase II:* Discovery (gathering the background information necessary to perform the legal service or develop the legal product).

• *Phase III:* Analysis and Development (developing the product or preparing arguments or research for service delivery).

• *Phase IV:* Delivery.

• *Phase V:* File Closing (wrapping up loose ends; performing the type of KM tasks that benefited this client in the first place and will benefit other clients in the future).

➤ **Document Filing.** Filing is the bane of every lawyer, secretary and paralegal, but this is where the KM rubber hits the road. This is where serious KM players have:

• Designated KM people (or given them KM tasks) to focus on separating the "wheat from the chaff" as documents are produced and sent to "filing." Those people have those KM tasks in their position descriptions, performance evaluations and compensation plans.

• Established or integrated KM programs and procedures with "teeth," e.g., business controls and performance metrics that enable the firm to see that the people and processes

are working as planned.

• Design systems to make the KM processes non-obtrusive and intuitive; the document management system has different libraries for different types of documents and simple document index profiles for lawyers and more complex profiles for paralegals or secretaries to fill out for the KM candidate documents.

➤ **File/Matter Closing.** As mentioned earlier in the file opening process, it's wise to budget time in each matter for the File Closing process — which is the ideal time to harvest knowledge for the new files (matters) to come. And this knowledge to be harvested is not just substantive knowledge to be found in work product; it is knowledge that is obtained from, to name a few important sources.

• The clients through satisfaction surveys.

• The internal team through 360 degree "post-mortem" reviews.

• The financial management system in terms of time and fees for the type of matter and for the phases and tasks within that matter (gathered through the time entry phase and task-based codes).

KM Must Have PM

Knowledge management and practice management work hand in glove. One simply doesn't work without the other. PM implies teamwork and discipline and these are two absolutes for a credible KM program. PM also leverages, drives and, in the end, requires KM. KM provides a revenue-based focus on PM strategy and daily application. It also provides added value for attracting and retaining clients, lawyers and staff.

KM: The Harbinger of the MDP-Type Cultural Transformation

We don't believe that law firms will transform into Big Five types of organizations. However, they probably will transform into more focused and more organized professional service firms that have to be more competitive in the marketplace, i.e., they'll want and need better structure, leverage and, in doing so, will make better use of technology and business controls to realize better profits and provide better value to their clients. KM will be a key component of this new team-oriented culture and work ethic.

KM Costs Should Displace Other Costs

KM costs should be transparent, over time, to you and your client. They will require some "seed" money to get started but should be integrated into your cost structures and, in fact, reallocate and add value to those costs as you move through the program.

Overhead is incurred in one of two ways: (1) the time expended by professionals and support staff (a function of rates and/or time) who function in a non-KM world (reinventing the wheel, rifling through paper files, poor quality without reference to the appropriate information) and/or (2) KM people or systems that should displace those costs once they are fully integrated.

There are two basic ways to achieve profitability — either through tactical, short term exigencies (doing what you have to do, no more, no less) or through strategic, long-term investments that protect your brand, your client and your people.

Change Requires Management

Major projects do not get accomplished on an ad-hoc, as-time-and-resources-permit basis. You do not achieve a cultural transformation without a strategic focus and a strong plan that takes into account your existing resources, your planned priorities and strategies and the value of time. Getting a KM program off the ground will take two to three years of concerted effort.

If you're serious about undertaking KM in your firm, take a look at the balanced scorecard program for effecting change. It's a fairly pragmatic, managerial approach toward implementing strategic programs where:

• "Executives" define the vision.

• "Managers" develop the strategy.

· • "Process participants" (lawyers and staff) validate the strategy.

Key metrics are designed to measure, monitor, report and feedback progress against the strategic goals and objectives.

Bridges do not get built without the basic project management techniques; culture and processes do not change without change management techniques.