

A Brief Overview of Legal Knowledge Management

by Ron Friedmann, Fireman & Company (August 2015)

[A Brief Overview of Legal Knowledge Management first appeared as a chapter in [Leaders in Legal Business](#) (Stephen McGarry, 2015), a collection of essays by thought leaders in the legal market. [Click here](#) for a direct link to this chapter in the book.]

KM Definition and Benefits

Legal Knowledge Management (or “KM”) helps law firms win and keep business. For law departments, it supports more efficient and effective operation. In a market where clients demand value and efficiency, KM is an essential approach to reducing cost while maintaining quality.

KM captures and reuses lawyers’ collective wisdom. It consists of both processes and systems that identify, save, profile, disseminate, and use prior work and accumulated expertise to solve legal and business problems. KM means many things to many people; this short article provides an overview of how leading legal KM professionals view their own discipline. This includes the recent expansion of KM to lead or support legal project management and process improvement.

Documents, Precedents, and Professional Support Lawyers

Legal KM started with a focus on documents: identify and index prior work product, and create precedents. Work product is any substantive document lawyers create; in contrast, precedents refer to vetted, more general documents specifically designed for regular reference and reuse. Precedents can include legal research, templates of litigation filings, model transaction documents, and checklists.

Early work product retrieval systems relied on key word (or “Boolean”) searches. These systems turned out to be only somewhat helpful because they often yielded too many

irrelevant results. Moreover, even a relevant result might prove not as helpful as hoped because it is so situation specific.

The limited reuse value of work product led lawyers to try to develop precedents. They quickly discovered, however, that creating precedents requires dedicated resources. Good intentions notwithstanding, busy lawyers lack the time to convert client-specific documents into a more general precedents. To address this gap, law firms hired professional support lawyers (PSLs) whose job includes creating precedents. They also monitor legal updates and perform other functions.

PSLs are expensive and typically not billable. This led to rise of commercial services such as Thomson Reuters Practical Law Company, Lexis Practice Advisor, and LexisPSL, which serve as centralized, outsourced PSLs. Of note is that U.S. law firms hire fewer PSLs than the U.K., Australia, and Canada. Law departments typically do not have any PSLs on staff.

The explosion in the volume of email has challenged not only PSLs, but also lawyers. Many lawyers now dispense advice via email. Furthermore, too many lawyers use email software such as Outlook as a way to manage documents instead of using central document management systems. Capturing and reusing the advice rendered in email turns out to be even harder than doing the same with documents.

Finding Experienced Colleagues Turns Out to be More Valuable than Finding Documents

Even when lawyers can find relevant document, precedents, and email messages with good content, these materials have less reuse value than one might expect. The context in which they were originally used is very important to understanding and reusing them; rarely, however, do lawyers capture that context.

An example of capturing context – and immediate learning – is the U.S. military’s “after action reviews” (AARs), a technique to debrief after an action and capture the learning from it. A few firms and departments do engage in AARs, but that is the exception.

Consequently, KM emphasis had to shift from finding documents to finding experts. The expert could both identify useful documents *and* explain their context and use. Early expertise location efforts relied primarily on self-rating. These attempts almost always failed because lawyers would not participate and, if they did, they typically under- or over-rated themselves.

Smart Enterprise Search Solves Document and Experience Challenges

Around 2005, technology emerged that helped address the challenges of PSL costs, absence of context, increasing email volume, and an inability to systematically identify experienced experts. *Enterprise Search*, a method of organizing information derived from multiple sources, went well beyond keyword searches of Word and PDF documents; this technology searches multiple sources of information – documents, email, time entries, matter intake databases, and client relationship management systems – and applies sophisticated algorithms to create a Google-like search experience inside of law firms and departments. These systems also demonstrated that finding a related matter is very helpful, as finding a case similar to the one at hand identifies both lawyers with experience *and* relevant documents.

With a few words, lawyers can search for documents, email, matters, or experts and have a very good chance that the system would show highly relevant results at the top of a search result hit list. They also display search filters to narrow results (for example, by jurisdiction, lawyer, or file type). Today, several products are available to accomplish this; leading programs include Recommind, HP Autonomy, and BA Insight.

In 2014, a new product, Neudesic Firm Directory, was released; its sole purpose is to find experienced lawyers. It can work with or without SharePoint and offers a very easy interface to search for colleagues. Behind the scenes, it populates key information from other sources. On the front end, the program uses modern design and approaches (e.g., badges, which represent lawyer activity such as completing certain sections and that, in many organizations, motivate participation)).

The Rebirth of Intranets as Practice Portals

Law firms and law departments started building Intranets around 1995, shortly after HTML was invented. Early Intranets focused on administrative information and static legal content. With tremendous advances in the Web and content management, forward-thinking legal organizations now build portals with dynamic legal content.

Dynamic content by itself, however, is not enough. The advent of the iPad and iPhone has dramatically affected design sensibility for all computer interfaces. Today, a good user experience and user interface (UI/UX) is critical if lawyers are to use any tool, especially if it is a portal designed to support practicing lawyers.

Modern portals are a great way to share KM content because they allow ready access to large quantities of information with just a few mouse clicks. It is essential to understand

that they do not create content, though; they merely present it. Consistent work is required to collect and categorize content and then to design an interface suitable for a lawyer's workflow.

Creating the right UI/UX typically means using "personas," or user profiles, that drive what the portal displays. A persona can be as general as a lawyer or staff, or as specific as a senior associate in a certain practice. Since network login credentials identify a particular persona, the system can display the appropriate legal content. The next level of sophistication is when portals "know" what a lawyer is working on based on recent time entries, email, or documents, and further customizes content based on that information.

The best portals rely on searches to populate some content, humans to populate other content, and an "app store" to allow for customization of the experience and quickly performing common functions such as looking up a client-matter number.

Specialized Content and Tools to Enhance KM

Law firms and law departments can deploy a range of specialized tools to enhance KM across practices. For litigation, West km and Lexis Search Advantage, products offered by Thomson Reuters and LexisNexis, respectively, enhance enterprise search by building document profiles, which then allow users easily to filter search results by, for example, jurisdiction, judge, opposing counsel, or legal topic. They also link online research to a firm's work products. For transactions, tools such as KM Standards and Exemplify allow analyzing and comparing contracts, and DiligenceEngine and eBrevia facilitate due diligence. A wide range of document assembly tools allows for automation of frequently used documents. For corporate law departments, contract management lifecycle software helps with drafting, storing executed versions, managing rights and obligation, and anticipating renewal dates.

Even with Technology, Organizations Need Dedicated KM Staff

KM does not happen by itself. Few lawyers complete document profile fields or conduct after-action reviews. Many give documents titles that have little meaning to colleagues (or to the author, after a few weeks pass). Even with enterprise search and especially with portals, someone must be in charge of KM. Many law firms have directors of KM, and some have chief knowledge officers. Note that these roles are separate from PSLs; any PSL typically reports (sometimes directly, sometime with a dotted line) to the head of KM.

The Recent Expansion of KM to Legal Project Management and More

Starting around 2010, the legal market began embracing alternative fee arrangements (AFA), legal project management (LPM), and professionals to support both. The legal market is still at the early stages of fully integrating and adopting these disciplines. In many law firms, KM professionals lead or contribute significantly to AFA (and other pricing issues) and LPM. For example, KM professionals often lead evaluation of LPM software (good examples are Elevate Services' Cael LPM and Prosperoware's Umbria for Legal Process Management).

AFA and other new approaches to pricing – that is, offering clients more value – will continue to drive more legal project management. LPM, in turn, will drive the search for efficiency and lower cost. KM supports this by allowing reuse of work product, quicker collaboration with the right expert, and automating previously manually-intensive tasks. Fixed prices especially are a strong motivator to do more KM.

A focus on pricing and LPM has also given rise to more interest in process improvement in legal work. A few law firms and departments have embraced Lean Six Sigma or similar techniques to routinize and simplify common law practice tasks.

Opportunity Lost? Collaboration and Social Media

Knowledge management often includes efforts to improve collaboration within firms and law departments and between clients and firms. Many lawyers and KM professionals initially thought that the firms and departments could borrow from the advent of Web 2.0 and an array of consumer social media services. Many law firms experimented with internal social media tools (e.g., Yammer) but few if any of these efforts have succeeded. The overwhelming volume of email still drives some to consider moving to better collaborative tools, but a way to rely less on email remains unclear at best.

Information Governance, Records Management, and KM

For several years, driven by e-discovery and other legal requirements, lawyers focused on records management. RM generally means classifying documents and email so that they can be preserved or destroyed according to defined schedules. The RM concern has recently broadened to Information Governance (or “IG”), which deals with security, acceptable uses, and retention. For example, organizations may need to lock down documents with personally identifiable information such as social security or credit card numbers. Some of the goals of IG, for example, limiting document access to just the

team working on a matter, are at odds with the goals of KM. IG is rapidly evolving, and its ultimate impact on KM is still unclear.

Developing a KM Plan - A Bullet-Point Checklist

So how should a law firm or department start with or integrate KM? The answer, of course, depends on where that law firm is now, what competitive pressures it faces, and what resources it has. What follows is a rough inventory and sequence that applies to many firms and departments.

- Deploy Enterprise Search
 - Make it easier for lawyers to find work product and colleagues with expertise.
- Evaluate Specialized Search for Litigation Documents
 - WestKM and Lexis Search Advantage extracts citations, jurisdictions, judges, and law firm names from litigation documents. It enhances searches and integrates online legal research to a firm's or department's work product.
- Improve Experience Management with Better Matter Intake
 - More systematic matter intake that collects richer profile information will enhance search results. A reasonably-sized taxonomy helps here.
 - In law firms, marketing and finance will also benefit from better matter profile data that allow, for example, more easily identifying prior matters related to an RFP and aggregating like matters for profitability analysis.
- Try Professional Support Lawyers (PSLs)
 - Test the value of one or more full-time professional support lawyers (PSLs) to find, create, and maintain KM content.
 - Metrics for proving ROI are hard to define, so the value is a judgment call.
- Develop an Email Management Strategy
 - Look for a proven email filing and search systems, which means keeping an eye on specialized products
- Hire a KM Professional
 - Deploying search, email management, and building KM resources requires that this be someone's full-time job.
- Develop a Portal Strategy
 - Develop plans for a new, continuously maintained portal with a practice-focused user experience that is rich in content. Make sure to use personas and to invest in good design.

- Evaluate New Ways to Collaborate and Communicate
 - Lawyers are drowning in email. In their personal lives, lawyers use social media and collaborative software.
 - Despite early experiments that have failed, keep trying new tools for and approaches to Web-based collaboration.
 - Develop a Vision for the Electronic Matter File
 - In the digital world, there is no single place for all of the materials related to a matter.
 - Technology is improving to pull different types of information from multiple systems into a single, easy-to-use program that consolidates the data and provides context-sensitive views of it.
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Fireman &
Company

Ron Friedmann

Senior Consultant

[+1 703.527.2381](tel:+17035272381)

ron.friedmann@firemanco.com

www.firemanco.com

Additional Links for Ron:

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