Knowledge Management (KM) is an area of management still under development: there are a number of schools of thought, but so far without an established, coherent cannon of theory. It is an area difficult to define, which seems to encompass a number of other areas such as Information Management, Content Management and Records Management.

We have seen a number of industries being disrupted over the past few years with changes such as social media and shrinking world economies; the legal industry has not been immune to these changes. It is possible for KM to provide some answers in uncertain times if organizations can get themselves organized and take advantage of some of the methods it provides.

What is Knowledge Management (KM)?

There are as many definitions of Knowledge Management as there are organizations and consultants. It is important, whichever organization you work with, to establish a definition you will use to help explain and define the activities to be undertaken by the KM team, even if that is just one person (you).

Some see it, at its most basic level, as the re-use of work product from the knowledge workers, in this case lawyers and law students. The two definitions I like the best, however, are:

Connecting people to the knowledge they need to do their jobs, whether that knowledge is tacit (in people’s heads) or explicit (documented).

OR

Providing the right knowledge to the right people at the right time in the way they need it.
Explicit knowledge—i.e. documented knowledge—may take numerous forms in the legal setting. It might be things like client lists, work products (letters, factums, agreements), forms and agreement precedents, meeting minutes, and even content in blogs and wikis. Some argue that—depending on your definition—this is all simply information and not knowledge at all.

Tacit knowledge—i.e. the knowledge inside individuals’ heads—is more difficult to access. It may take the form of an individuals’ social network, who is in that network, and details about those in those networks; knowledge of the intricacies of the law; knowledge of a particular judge and how best to approach him or her in court; or summaries of client matters that have not yet been written down but reside in the key partners’ head.

Getting access to tacit knowledge might be accomplished with in-house training or professional development, formal mentoring, in Communities of Practice (i.e. Practice Groups), during formal interviews, or in social situations such as at the water cooler, over coffee, or in after-work events where people are more relaxed and more willing to share thoughts. Also, having someone contribute to a blog or wiki (even just in the comments) is another way to gather tacit knowledge.

**Methodology**

There are many methods for embarking on Knowledge Management with an organization. In her 2011 Ark Group Report *Aligning People, Process and Technology in Knowledge Management*, Stephanie Barnes of Missing Puzzle Piece Consulting maintains that people, process and technology all have to work together for KM to work (see Figure 1 below).

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**Figure 1: Approach** *(used with permission of Missing Puzzle Piece Consulting)*
So often we see technology raised up as the solution to all problems, but ignoring people (such as with change management) and the processes they are to use will be fatal for any KM project. Similarly, looking at just people and process but ignoring the technology requirements could also prove fatal.

In working with law firms, Barnes and I have put together a Knowledge Management Framework (see Figure 2 below) to show various activities that take place within KM in a law firm. This is not exhaustive; other activities do exist, but this gives a general framework for working through them.

**Figure 2: Knowledge Management Framework**

Governance and Enabling activities are needed to develop a mature knowledge organization. The Component Activities (detailed in Figure 3) are, however, really the core activities of Knowledge Management. An organization can work on these three types of activities simultaneously, providing a plan is established.
Barnes has also put together a list of steps for implementing a full Knowledge Management program in an organization, the Knowledge Management Roadmap (see Figure 4 below).
The first four steps of Collect, Analyze, Resolve and Select are preparatory and planning steps which may take several months—or even a few years depending on the organization—to accomplish. The last four steps, Design/Develop/Test, Implement, Use and Evolve are the actual implementation stages and may take many years to achieve.

KM in the Legal Setting

Knowledge Management in large Canadian law firms has not yet encompassed all the aspects of KM as outlined above in the Framework. Early focus was primarily on documented knowledge. It was typical for a large firm to first embark into KM by pulling precedent agreements and legal research (notably in the form of research memoranda written for specific client issues or matters) into a central database for use by all lawyers and law students. Other organizations such as smaller law firms and government agencies often first encounter knowledge management when they try to organize documents on their share drives so that everyone can find them.

Ted Tjaden, National Director, Knowledge Management of McMillan LLP has documented 7 forms that Knowledge Management currently takes in a range of legal settings (See: “7 Faces of Legal Knowledge Management”):

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

There is room for more development of KM in the legal setting, especially in undocumented or tacit knowledge. A rising concern in many organizations is how to retain knowledge developed by senior lawyers and professors inside the firm once they are gone, and also how to retain the knowledge of associates who transfer out laterally into other positions. In law firms, for example, the traditional articling program wherein the student works closely with a partner and others to learn the tricks of the trade is sadly waning as clients—in these economically tighter times—become less enthusiastic about paying for the learning of future lawyers.

Fortunately law firms have also unwittingly used the KM concept of Communities of Practice in the form of Practice Groups throughout the years. Practice Groups are made up of partners, associates and articling students organized by type of law (such as Litigation) or industry served (such as Energy). They will sometimes (but not always) include support staff such as clerks, practice support lawyers and librarians. Practice Groups are sometimes brought together for marketing purposes, but can be used as a venue for discussing work and passing along tacit knowledge. Some highly developed Practice Groups also use meetings as an opportunity for professional development, organizing speakers from both inside and outside the organization.
Still, there are other concepts such as Lessons Learned or After Action Reviews and Peer Assists that are rarely, if ever, seen in the legal industry context.

It is becoming evident that the legal field—like many other industries—is undergoing some fundamental shifts. The way law firms are conducting business does appear to be changing; the perception that lawyers charge too much when billing by the hour (commonly known as “the billable hour”) is in question, and alternatives to this such as alternative fee arrangements (or AFAs) are topics for a lot of discussion within the industry, even if they are not yet being put into place.

In his discussion at LawTechCamp 2012 in Toronto in May 2012, lawyer and author Mitchell Kowalski posited that only law firms with good Knowledge Management practices already in place can successfully move away from the billable hour and provide value-based billing to clients.

**Role of Law Librarians in KM**

The role of law librarians—especially those in law firms—is quickly changing. Today’s librarian is quickly adapting to changing resources and responsibilities. One area that we can provide support and leadership in is Knowledge Management and its many manifestations. Legal knowledge managers come from a range of backgrounds; in some larger firms KM teams are often made up primarily of lawyers. In other organizations, however, KM is included among the activities undertaken by the Library.

Within each of the “7 faces” of KM that Ted Tjaden identified, he went on later in his paper “The Evolution of Law-Related Knowledge Management in North America – Opportunities for Law Librarians” to suggest activities that law librarians can take on to further KM and move our roles beyond traditional library and legal research responsibilities. This is a brief outline of the activities he has suggested; see his paper for the full discussion:

1. Document / Records Management
   a. Taxonomies
   b. Naming conventions
   c. Search guides
   d. Evaluation of technologies
2. Precedent Development
   a. Harvesting, organizing, profiling and updating internal precedents
   b. Making lawyers and law students aware of external precedents
3. Legal Research / Intranet Content Delivery
   a. Developing a “one-stop shop” for internal and external information
   b. HTML and web design for presentation of information
   c. Other technical skills such as organizing with SharePoint, pushing out information with RSS
4. Professional Development / Training
a. Internal support for the development of professional development and training
b. Use of video and Web 2.0 technologies to capture continuing legal education (CLE) training
c. Support in the creation of CLE materials

5. Litigation Support
a. Monitoring e-discovery case law and trends
b. Developing a “one-stop shop” for internal and external litigation precedents (for example, pleadings)

6. Practice Management
a. Developing firm standards for “look and feel” of documents
b. Support in management of conflicts of interest, ethical walls and other risk management issues
c. Business Intelligence and Competitive Intelligence re: other law firms
d. Other activities that align with the business goals of the firm

7. Client-Facing Initiatives / Alternative Fee-Billing
a. Business Intelligence and Competitive Intelligence re: clients and their industries
b. Providing client access to information via virtual deal rooms and extranets
c. Providing client access to resources available from the library
d. Legal project management.

The role of law librarians in Knowledge Management should not be limited to these activities, however. Tjaden encourages law librarians to become entrepreneurial and develop their role in new ways. In some law firms librarians become involved, for example, with the Practice Groups, participating in meetings and organizing the knowledge artifacts such as minutes, notes, audio recordings, and lists of resources that come out of the meetings. Some take on a secretarial role with the group, organizing the meetings themselves.

The watch-word is looking to the organization’s bottom line and their key objectives, and aligning the activities with those core objectives. In the past few years this has been a push to “doing more with less;” that is, becoming more efficient with fewer resources, something KM was meant to do.

**Knowledge Management versus Information Management**

KM and IM are two separate areas of work with large overlaps. Both get into organizing, and using tools and methods such as content management, document management, intranets and taxonomies. Knowledge Management first arose in the private sector in the late 1980s when organizations, after many staff cut-backs, caused a lot of corporate knowledge to walk out the door and suffered as a result. It grew out of the earlier Quality Assurance (QA) movement in the manufacturing industries. On the other hand, Information Management came to the fore first in the public sector, with the public expecting government to be able to show how information was being used and that it was being handled efficiently since it was public money paying for it.
So, often you will see in government settings that Knowledge Management falls within the auspices of those who oversee Information Management. And, conversely, in law firms, Information Management is often overseen by the KM Director. One might argue that, to effectively handle documented knowledge, good information management practices such as information architecture and taxonomies must be in place first. So while these two areas developed in parallel, they really do work hand-in-hand.

I interviewed Stephanie Barnes for another perspective. She indicated to me that she sees Information Management as organizing the documentation of what has already happened (i.e. is backward in perspective), whereas Knowledge Management is documenting and organizing the forward-thinking ideas that will drive an organization into the future. The intranet, document management system and content management system all enable both of these.

**Conclusion**

Knowledge Management can take many forms, and has not yet been fully explored by law-related organizations. Librarians have roles to play both as KM leaders and supporting KM team players. It is good to see what has been previously done by law firms in Canada, the US, the UK and elsewhere, but it is also smart to see what other industries are doing and learn from them.

One way to be innovative is to apply ideas from other industries, so it is good to cast a wide net when learning about KM and management theory generally. With changes we are seeing in the industry, now is a good time to look for new solutions to challenges; Knowledge Management may provide some excellent avenues for good solutions to the legal industry.
Bibliography / Selected Resources

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Organizations

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