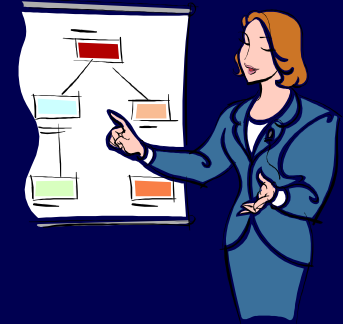


A photograph of a modern office building's interior, featuring a large glass and steel atrium with a multi-level staircase and bright lighting. The image is used as a background for the title text.

Managing Knowledge Capture and Retention with Lawyers Joining and Leaving the Firm

Joiners



- In the current climate, it is wise to ensure that KM content and use is maximised within a firm
- When a lawyer joins a firm it is essential to have specific KM training as part of the induction procedure
- That enables a personal connection to be made with the joiner and to establish their knowledge background
- This can be followed by one to one feedback on KM
- At this stage, it is also helpful to chat through specific experience or work areas that will add value to the new firm

- Lawyers will be joining with different levels of experience and of KM exposure
- Important to make contact at the beginning when they may have time to contribute
- At the moment, there is likely to be more time to develop the softer side of KM which has relationships at its core
- Useful to have a fresh pair of eyes commenting on KM content and procedures in the new firm
- Important that the joiner also receives full training at the outset to make full use of KM system



- Consider how the joiner's knowledge may be implemented in the new firm
- In the case of more senior lawyers and partners, it may be worthwhile thinking of knowledge maps to display tacit knowledge
- Knowledge maps will display expertise that will be helpful to more junior lawyers
- Knowledge maps may be transaction based and will mine accrued information and knowledge



Objectives

- Establishing that KM is an important business goal for the practice
- Also ensuring that contributions to KM are a development objective for the joiner
- Establishing trust and links with KM staff
- It also establishes the scope of the KM culture in the new firm, that KM promotion and expansion is a serious aim for the firm



- Follow this through to ensure that any KM contributions are made by the new joiner and that there is a plan in place to catch contributions
- The training process feeds into the KM process
- By actively engaging with joiners and taking on board suggestions, it makes the whole process more vital to the joiner and within the firm



- By meeting each joiner, KM then has an identifiable face and it is clear that the firm has serious KM aims
- Helpful to have a 3 month review with new joiners to see that they have got to grips with processes and whether they have more ideas and knowledge to contribute
- Sometimes, new joiners add new ideas and suggestions about how KM may be gathered or used within the new firm
- It is helpful to keep an open mind about suggestions and to be flexible in approach as some new ideas may work very well



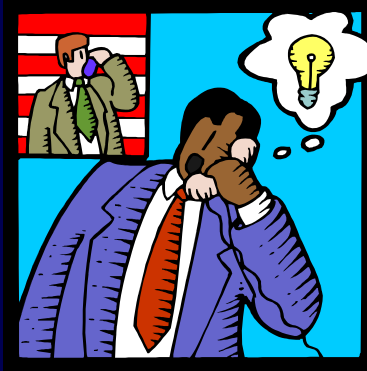
- Examples of successful ideas from new joiners have been prompts to contribute KM at certain stages of a matter
- Specific types of after action review
- Rewards for contributions
- Suggestions for training

He who receives an idea from me, receives instructions himself without lessening mine; as he who lights his taper at mine, receives light without darkening mine. Thomas Jefferson

- Joiners can devise new precedents or knowhow based on that experience
- It may also take the form of particular types of practical suggestions that are transaction based
 - Opportunity to obtain feedback from new lawyers on KM processes informally
 - Then more formal feedback at three month review
 - Review feedback on KM processes and systems
 - Judge whether any suggestions are practical for use



- Adapt suggestions for use where it is appropriate
- Some suggestions may not be viable because of budget or size of firm
- Consider whether the joiner can play more of a role in KM because of previous experience
- There may be a role on KM steering group or in focus groups or in whatever way KM processes are arranged



- Joiners may make practical suggestions that help with developing KM culture, ideas that worked in their old firm
- They may also spread positive attitudes if they come from a knowledge sharing environment
- May be helpful in raising profile and morale of KM in their area



- If the joiner is at partner level they may become a Knowledge Champion if they are enthusiastic supporters of KM
- Useful to garner as much support as possible at senior levels
- At more junior levels they may have a lot of practical input

Copyright and Confidentiality

- Knowhow is the intellectual property and best practice of a firm
- It is usually about 5% or less of the volume of transactional documents
- In practice, copyright for Precedents and Knowhow from a previous firm resides with them
- However it is possible to draw from a lawyer's experience in a previous firm



- In practice you would have to be very careful about Knowhow or precedents from a previous firm
- Whilst there is the entitlement to use the new lawyer's experience, actual copyright still remains with the previous firm
- If there is a good debriefing session with the joiner, it may be possible to see how their experience may be utilised to the full in either devising new materials or practical suggestions
- Use of previous firm's Knowhow would also bring up issues around risk management, house style etc as well as copyright and confidentiality issues



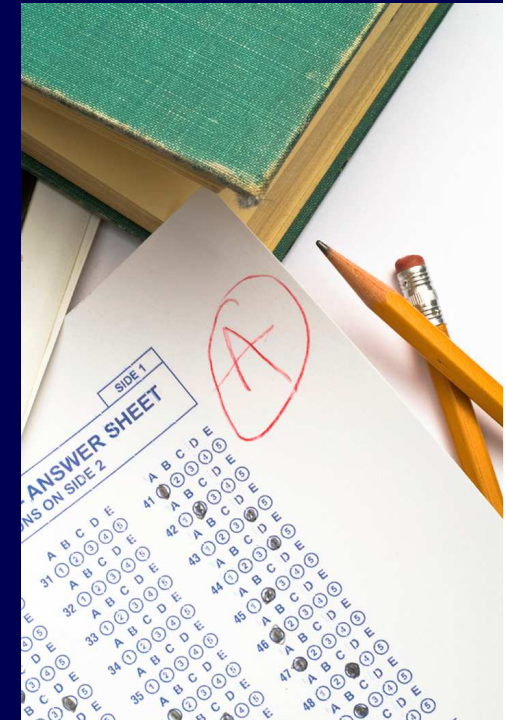
- Owners of copyright in a work have the right to prevent the following unauthorised acts
- Copying or exploiting the work
- Issuing copies of the work to the public
- Broadcasting the work



- Copyright in a work created in the course of employment will belong to the employer
 - Copyright protects works e.g. painting, symphony, piece of knowhow
 - De Minimis Principle. Copyright is not concerned with little things or for example, insubstantial copying from a work protected by copyright
 - Copyright Regulations 2003 implemented the EU Copyright Directive
 - UK considered to have Europe's toughest Copyright legislation



- November 2008, new Copyright Licensing Agency law licence
- Will allow law firms to scan, store electronically and distribute materials externally to clients
- Articles and extracts from books, magazines, law reports, journals and press cuttings
- Allows far more scope than current situation which are mainly photocopying rights





- Specifically the licence enables law firms to:
 - photocopy and scan from millions of relevant books, journals and law reports
 - send copies to colleagues within your firm in the UK and overseas
 - store electronic copies centrally for access by staff on a case or project basis

Criteria of Confidentiality

- Whether information is confidential will depend on the circumstances but the key factor is whether or not the provider of the information would have considered it confidential and treated it as such
- *Cembrit Blunn v Apex Roofing*, 2007, a business letter was held to be protected by copyright and the law of confidential information
- The Data Protection Act 1998 also requires ‘appropriate security precautions to be taken against accidental loss or destruction of, or damage to, personal data’
- The Solicitors Code of Conduct requires solicitors to keep clients’ affairs confidential – a fundamental professional obligation

- These are all fairly onerous duties so that are fundamental to practice
- Important to keep DPA and confidentiality issues in mind when dealing with firm's knowhow
- Protects the reputation of the firm

Leavers

- Persuading departing lawyers to share knowledge and contribute to Knowhow
- In practice this is something that people are often quite willing to do in ordinary circumstances
- Lawyers are usually on a three month notice period if not affected by gardening leave
- Have a leaver interview with the person departing , early in the process



- Fee earners are usually winding down and have time to think about Knowhow
- I have found that people will often contribute a volume of material at this stage
- Lack of time when in the throes of fee earning
- Maximise this opportunity to gain contributions to KM

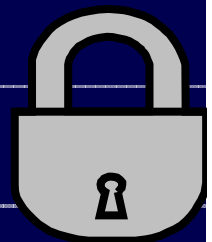




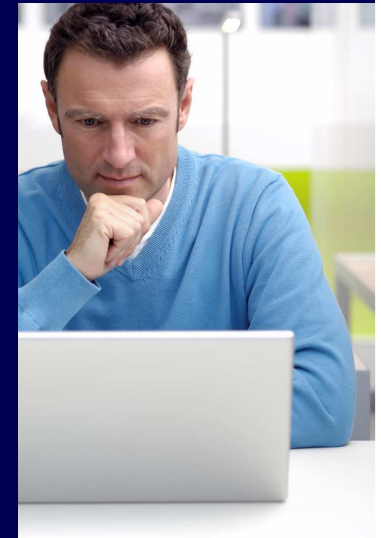
- In a specific KM leaver interview, people can be honest about processes or people that have inhibited their contributions
- Possible to reflect on what they say and to see whether any adjustments are possible in KM practices
- Departing lawyers are usually frank about people , systems and processes and possible to adjust accordingly

Security and Information

- In practice, Law firms' data and information agreements usually allow lawyers to take very little information with them
- Unless they receive direct specific consent of partners or partner in the practice area
- A leaver is usually restricted from taking KM with them
- As before, KM created during the course of employment usually stays in the ownership of the firm
- It is important that that policy is made clear to those leaving the firm so that there are no attempts to take valuable materials with them



- Information security policy will depend on what type of DMS and KM software is used
- It is usual to secure at matter level and documents may also be secured at document level
- The firm will usually have both firm firewalls and where appropriate, individual security too
- Document level security may be needed depending on sensitive transactions being handled in the firm





Question

&

Answers

