

# Linklaters

Knowledge to Action  
Increasing the Value of Legal Knowledge to Business  
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# About the research

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This report is primarily aimed at General Counsel (GCs) to support them in their constant efforts to improve, leverage and demonstrate the value to business of their legal knowledge and expertise.

The report identifies ways in which in-house lawyers and their private practice legal advisors can work collaboratively to deliver value to the business. Our key belief is that mobilising legal knowledge – through tools, processes, better ways of working and behaviours – can lead to more effective legal teams and, by extension, to more successful businesses.

Our findings and ideas are based on in-depth interviews with GCs and knowledge management professionals drawn from a range of sectors including consumer goods, financial services, information services and management consulting. Whilst interviews have been carried out in the UK, the individuals consulted have offered perspectives based on their international insights and experiences, and the report assesses and analyses the role of legal knowledge within global business today.

This report has been overseen by an advisory working group comprising active and retired senior counsel. The group has been chaired by former General Counsel and consultant, Deepak Malhotra, whose initial idea brought the group and thinking together. The group has been supported by Linklaters, with input from Ian Rodwell, Head of Client Knowledge and Learning. We would like to thank all those who contributed to the report and took the time to share their insights and experiences. We hope you find it of interest and value.





# Executive summary

Knowledge is the key commodity that passes between lawyers (whether they are in-house counsel or external legal providers) and their clients. Such knowledge informs – and interacts with – every element of the business. But how often do users of legal services reflect on how best to exploit this central resource?

Our research showed that there is no “one size fits all” solution but customising knowledge to an organisation’s sector, type of business and strategic imperatives is key. The importance of context to the development and deployment of knowledge is also closely allied to the need for clear and effective communication.

The ideas generated by our interviewees, for increasing the value of legal knowledge to business, were various. Best practice use of secondments, cross-panel collaboration, technology that connects as well as collects and knowledge “democratisation” were all identified as key tools. Yet each potential solution also raises its own challenges.

Looking to the future, our research glimpsed a world where the value of legal knowledge propels the GC and in-house teams to a higher-profile role at the strategic heart of the business. A world too where the boundaries between legal teams and the business – and law firms and their clients – begin to blur and where the watchwords are efficiencies and collaboration.

We conclude with seven principles to guide the GC in putting knowledge into action: make knowledge centre stage, know the business, communicate appropriately, use secondments wisely, be a role model, create the global corridor and seek collaboration.

Finally, a reflection about knowledge management (KM). The utility of the term was questioned by interviewees for whom it suggested passive systems for retrieval rather than dynamic approaches to knowledge-sharing. There was concern that such a focus compromised the “organic” growth of knowledge and its potential as a “force for innovation”. We believe our research supports a more expansive definition and that, as such, KM has a real role to play in enabling legal knowledge to flourish, demonstrate its value and fulfil its potential as a key business imperative.



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## Knowledge management is:

“a toolkit of different methods, techniques, approaches, ways of working, and behaviours that are all designed to enable and increase organisational efficiency. It is about the ‘know how’ and the ‘know who’ and how you put these to work more diligently.”

**Source:** Chris Collison, consultant and author of *Learning to Fly* and *No More Consultants*

# 1. Background

## 1.1 What is legal knowledge?

Legal knowledge is the “stock in trade” of lawyers and the way it is used relates directly to perceptions of service, value, cost, efficiency and profitability. As such, it can inform, and interact with, every element of the business. Yet can we be sure we are making the best of this central asset?

A further question is – what comprises legal knowledge? There is “no one-size-fits-all” definition. Rather, there is an understanding that what comprises legal knowledge will vary between companies, sectors, and those who are custodians for the use and implementation of that knowledge. This section does not define legal knowledge per se but offers some thoughts which might guide and act as a source for reflection.

Legal knowledge can be both explicit and tacit. It consists of facts – the “black letter law” of statutes, cases and regulations – but also analysis, interpretation and the application of past experience. It lives in document management systems, text books, deal bibles and, increasingly, in enterprise wikis and blogs. Such knowledge can also be codified as organisational “good practice” (for example: templates, precedents, checklists). Yet it also resides in every lawyer’s head: a complex memory of experiences built on past deals, advice and lessons learnt. The danger is it is often viewed as “invisible”, taken for granted and left unmeasured. Its value is not fully realised and is also difficult to quantify.

Such is the complex interplay of explicit and tacit knowledge, the skills of an advisor can be easily underestimated: someone might share 40 years of specialist experience in 15 minutes of advice.

A related challenge is that not all lawyers and legal teams have a knowledge-sharing mindset and culture. Valuable legal advice, insight and thinking can remain in one person’s head and so there is a risk of reinventing existing solutions or forlornly repeating the mistakes of the past.

Finally, it is important to understand from which perspective we are viewing legal knowledge. Whilst overlapping, the perspectives of the lawyer, client or ultimate consumer will of course vary. Creating an efficient and relevant legal knowledge system that adds value to the business (and which in turn is valued by the business) is as much about understanding these different perspectives and ensuring they are taken into account, as it is about knowledge content and delivery systems.

“

From a process like collecting debts right up to beyond rocket science, legal knowledge covers a whole spectrum of ways to create a legal solution to something that a business wants to do.”

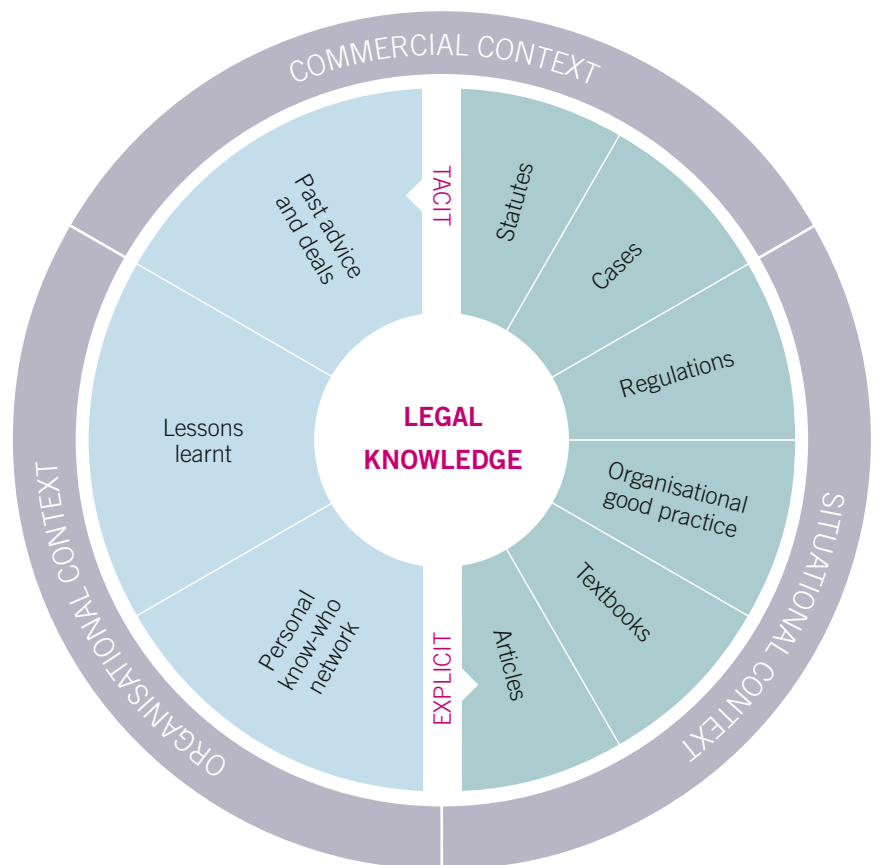
Legal commentator



The subjective application to the real world and the business context including understanding the relevant risks and risk appetite - the latter is an intellectual exercise of skill and is harder to identify, measure and share. ”

Senior Counsel  
Global Bank

### The legal knowledge complex



#### Legal knowledge is:

A blend of explicit (statutes, cases, good practice, legal commentaries) and tacit knowledge (personal experience and expertise) applied to a specific issue in a particular organisational and commercial context.

## 2. Knowledge in context – what else do we know?

### 2.1 Clear communication

The way that legal knowledge is communicated and contextualised can make a significant difference to its perceived value. Effective communication involves a clear connection to business outcomes, strategic priorities and commercial risks. Such clarity also relies on a contextually appropriate level of detail and treatment.

Our research has shown a strong preference for communication that is jargon-free and not overly academic. Organisations need legal knowledge that matches their business requirements: relevant, easy to apply, commercial, timely and practical.

Tailoring of legal knowledge to the business – and making its access and delivery more user friendly – is of the utmost importance. In this respect, legal knowledge provided within a particular business context is business knowledge and, when phrased in the terminology of that organisation, it becomes even more relevant, important and necessary. In-house counsel and external counsel have a responsibility to tailor that knowledge and communicate it clearly. Fundamentally, this goes to the heart of legal service delivery and building and maintaining a relationship of trust. Understanding the business itself is the first step in this, something which we will return to later.

### 2.2 Organisational influences

This context also includes wider organisational factors. For example, what does the chief executive or board see as the optimum role and size of the in-house legal team? This may influence whether – and to what extent – work is outsourced or retained. Furthermore, these contexts are constantly evolving. Any change in, for example, the chief executive, chief financial officer, economic cycle or market dynamics may result in a shift of priorities. The challenge for the GC is to understand, anticipate and meet these changing organisational and commercial drivers.

This is made increasingly difficult as GCs also face the challenge of bringing the legal function closer to the heart of the business. Business partnering has been a focus for some years now, and significant strides have been made not only to seat the GC at the top table, but also to ensure that their team fully engages with the business at all levels. This can result in greater commercial influence and stronger business connections but also higher workloads. Often this is done at a time when the pressure on legal teams to “do more with less” increases.

### 2.3 Alignment to needs

Context for the client can be multi-jurisdictional and even multi-sectoral. Jurisdictionally-based training and regulation of lawyers means that a silo approach to different legal systems may become entrenched and lawyers may decline to make even practical comments about matters in or across other jurisdictions. This very strictly delineated focus does not reflect the way that many organisations now do business and firms who can bring this cross-practice and multi-jurisdictional knowledge together will gain a valuable competitive advantage.

“

We are the specialists and we are the guardians of legal knowledge. It is our duty to make it usable and accessible to the business.”

GC

Telecoms sector



## 2.4 Understanding the business

The importance of in-house teams understanding the business emerged as a strong theme in our interviews and also in terms of law firms understanding their clients' businesses. In itself, this is nothing new. When one, recently retired, GC started as a junior in-house lawyer at a pharmaceutical company in the mid-1970s, he spent a week of his induction out on the road with a sales representative marketing pharmaceutical products to doctors. The management's rationale was simple – "if we don't sell any pills, there's no need for any lawyers".

A number of GCs share the corporate strategy plan with their external counsel to ensure they understand the key issues facing them and can respond quickly and with a more informed sense of what the business is trying to achieve.

This sharing of the wider commercial context with law firms who take time to listen and then act can lead to deeper and more sustainable relationships.

## 2.5 Proprietary legal knowledge

The question of context is even more crucial for many regulated businesses. Here, there is often proprietary legal knowledge which is very sector-specific, and this needs to be combined with an in-depth understanding of the business, the market and the competition. For example, in a data-centric business, proprietary knowledge might be centred on data privacy; or for fast moving consumer goods businesses this might relate to the know-how and trade secrets of the brands. This is distinct from the standard, common legal knowledge that would help inform most businesses, eg the implications of bribery, employment and anti-trust laws.

The legal function therefore has to assess what proprietary knowledge is for its particular business and/or client, and how best to protect this. This is an important way to develop and exhibit value as it goes to the heart of what drives the business and its products and/or services.



Proprietary knowledge provides an opportunity for lawyers to add real value to the business as it directly relates to how the business makes money and keeps the board out of jail ... or other reputational disasters. ”

**Retired GC and Company Secretary**  
FTSE 100



# 3. Create value from knowledge – how lawyers and clients can work better together

The holy grail of knowledge management is to demonstrate unequivocally how managing – or perhaps more aptly, mobilising – institutional and personal knowledge more effectively can generate sustained organisational value. While, in our experience, there are no universally agreed qualitative and quantitative knowledge value measures, our interviewees suggested a range of potential ideas and opportunities for making the most of their legal knowledge assets.

## 3.1. Making the most of secondments

Secondments are a staple of many law firm and client relationships, but is their knowledge-enhancing potential fully realised? What more can clients do to capitalise on this law firm resource, talent and market insight? Similarly, an effective secondment requires investment in planning discussions, agreed objectives, reporting mechanisms and an honest and constructive debrief. These do not always happen.

Deep and enduring relationships can develop by spending day after day on the same side of the desk and coping with whatever comes up. These bonds can shape legal careers. Coupling this client proximity with an ability to ask the right questions, listen, observe, roll your sleeves up, help to find possible solutions, and share knowledge and networks allows secondees to make an impact on the business, both for themselves and their firms. And with in-house teams short on resources, well-managed secondees can make a real difference to both their business service and delivery.

From a knowledge perspective, the benefits are substantial. Secondment to a legal team or business unit informs a more nuanced client-centric way of thinking and working. It builds greater client and competitor insight. This, in turn, can more helpfully inform the context for future advice. It facilitates clear communication and a greater alignment to client needs based on a deeper understanding of their business.

Equally, sending in-house lawyers (and other professionals) on “reverse” secondments to their law firms provides an opportunity for law firms to share a range of their explicit and more tacit knowledge through day-to-day working, access to systems and involvement in training. Some firms supplement this with offers of mentoring and coaching.

Secondments generate substantial client knowledge for law firms and those with effective processes will seek to share this more widely. One example involved returning secondees who made short videos of their experiences to help brief future secondees. The benefit for the client was that new secondees were up to speed and already equipped with an informed knowledge of the business.



### 3.2 Collaborating across boundaries

An increasing number of in-house teams have clear expectations of how they want their panel or preferred firms to collaborate with them – and each other – more efficiently and effectively. This may involve the joint submission of know-how content to communal portals, collective training initiatives and shared pooling of business management expertise.

However, investing time in designing the processes and buy-in to support this collaboration may not always get to the top of a GC's list of priorities. Could this role be delegated to someone else in the legal team to help drive a smarter way of working and ultimately create more value?

Clients have a strong need and desire to access the organisational knowledge of their collective legal advisors. Increasingly, they are also encouraging greater sharing across panel arrangements in order to maximise efficiency, knowledge use and transfer, and to provide a clear signal of "this is how we do things around here".

One interviewee remarked how he had persuaded a panel firm to fund a knowledge lawyer into his team for a six-month secondment. The benefits were significant – not just in terms of knowledge capture and the creation of precedents, templates and best practice standards, but in enabling the law firm to get closer to its client.

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We are seeking a better and more efficient use of external legal service providers. This includes sharing part of a legal knowledge portal with preferred firms and being more proactive. For example, telling firms exactly how we do and don't want to receive knowledge updates.

We have requested a combined update product from several firms, in a bespoke company-specific format rather than having to wade through a miscellaneous deluge of different updates. We also have a shared site where preferred firms are asked for free assistance on quick questions. ”

**Group Legal Director and Company Secretary**  
FTSE 250

### 3.3 Reshaping training

Many GCs spoke about the challenge of training junior lawyers who have joined from law firms. It is clear that a massive shift in approach is required to work in-house. Should there be additional training or, indeed, a different developmental track for lawyers who want to focus on an in-house role?

If we were to start with a blank sheet of paper and forecast the likely emergence of new in-house roles, knowledge-based risk analysis and commercial insight would be key requirements. Providing an opportunity for all trainee lawyers to spend six months with a client organisation (split between the legal team and business units, locally or internationally) could create value for both law firms and clients.

Increasingly, training is going beyond the purely technical and legal. Learning and development based on finance and business terminology, leadership and inter-personal skills – and even personality profiling such as Myers-Briggs – is becoming more commonplace and welcome. It is also featuring more prominently in panel selections and requests for proposals.

With this broadening of content, a number of in-house teams are starting to provide a framework for their training delivery with more formal curricula that blend commercial, legal and skills development. Many law firms have established similar "Academies" or "Business Schools" and there is an opportunity to share this operational know-how with clients who are setting out on a similar journey.

### 3.4 Creating the global corridor

Within small legal teams knowledge-sharing often happens informally via ad hoc and unstructured conversations in offices and in the corridor. People can easily identify those who might have the requisite experience and expertise to help with a particular question. However, as teams grow larger and work becomes more “virtual” across offices, borders and cultures, the need to share legal knowledge becomes an entirely different challenge. This is an issue for both law firms and in-house teams as they become ever more global.

Operating across extended networks requires greater clarity and agreement about knowledge policy, leadership support and investment. Creating the conditions for a knowledge-sharing culture to evolve and flourish becomes more critical and requires a focus on a range of issues including governance, process and technology.

In terms of the latter, the traditional focus has been on systems that “collect”: collating, organising and providing access to knowledge through document management systems, email folders and intranets. Now we are beginning to see an increasing interest in technology that “connects”: bringing together dispersed teams and facilitating virtual collaboration. In essence, it’s an attempt to create the “global corridor” and there is growing evidence that in-house teams are starting to exploit social media (enterprise wikis, blogs and other tools) to provide a more efficient and effective service to their business clients.

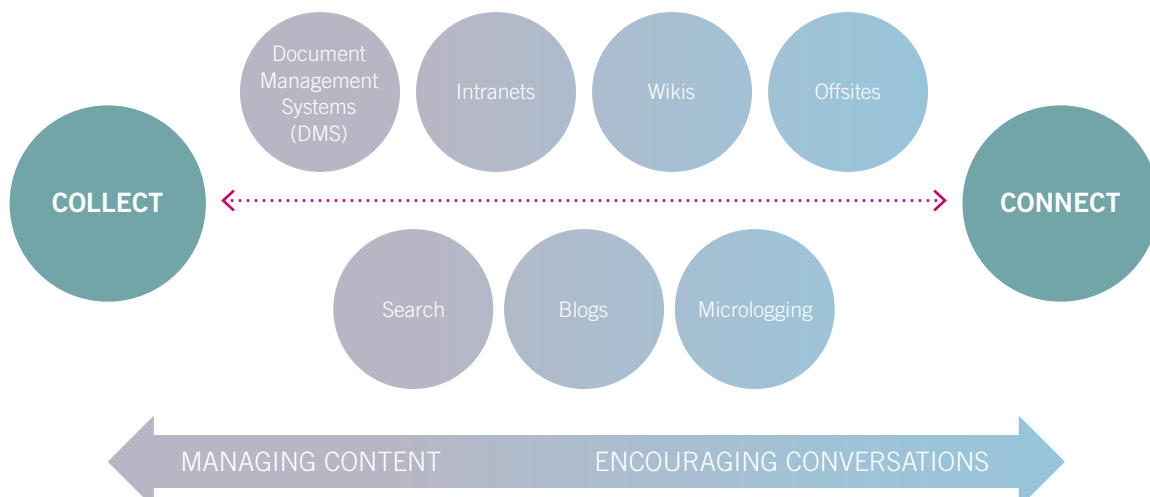
However, this is not just a technology question. Any opportunities to generate face-to-face interactions and relationship building are invaluable and help build the trust that underpins virtual knowledge-sharing. We have seen several examples of teams using offsites (involving training or strategy briefings) to build connections and develop mutual understanding.

“

I draw a distinction between “live” and “codified” legal knowledge. The sharing of live knowledge is intensely problematic and requires the investment of time, effort and a supporting culture.”

Legal commentator and academic

#### Collect to connect



### 3.5 Encouraging role models

Some law firms include the creation and sharing of legal knowledge in appraisals and use key performance indicators to measure success (for example, how many contributions have been made to the knowledge system).

This can work particularly well with junior lawyers and helps to create a knowledge-sharing mindset and an understanding that “this is what it takes to succeed”.

The role here of partners and more senior colleagues is crucial. They need to lead by example and demonstrate model knowledge-sharing behaviours. Failure to do so will effectively sabotage any KM efforts regardless of the brilliance of the technology and processes in place.

Similarly, any GC aiming to improve their team’s knowledge-sharing culture needs to be mindful of their personal influence. Anecdotal evidence shows that the in-house teams who have been most successful in their KM efforts have GCs and other senior counsel who act as exemplary champions and role models through creating and sharing their own knowledge.

### 3.6 Empowering the business

For in-house teams, there is significant competitive, commercial, cultural and developmental value in empowering people in the business with the tools to do more themselves. This easier access to knowledge benefits the end users and helps them to work more efficiently.

Successful projects that demonstrate this “democratisation” have included a contract clause database with a decision tree, templates and guidelines. These often have built-in limits where users are required to “refer to the legal team” and they are embedded through training, good relationships with the legal team and, importantly, a culture that encourages people to understand risk, ask questions and seek help if problems arise.

So far such legal processes have been relatively limited in application – is your organisation overlooking opportunities to democratise further? How many legal teams spend valuable hours managing aspects of high volume, routine processes which have relatively low-risk implications?

“

Law firms hope that their lawyers will [instinctively] manage their own knowledge and pass it on [internally and to clients] but this hope is not always sufficient. It is culture that really makes the biggest difference.”

Former HR Director

# 4. What will legal knowledge look like in the next five to ten years?

## 4.1 “Yes and...”

We predict a far greater emphasis on the value and skill of analysing and applying legal knowledge. This will lead to a clear shift in the role and positioning of in-house lawyers from the old style “no” department to an integral “yes and...” part of the business. There is evidence that a clear transition – from perceived “blocker” to appreciated “enabler” – is already taking place and this is set to accelerate.

## 4.2 Farewell *consigliere*...

Feedback from our discussions suggests that the term “legal knowledge” is inadequate and will be subsumed into the wider concept of “business knowledge”. This more accurately reflects how commercial insight and contextual awareness are an integral part of what is perceived as “pure” legal knowledge. Similarly, the very term “General Counsel” is beginning to show its age and looks set to be replaced by “Chief Legal Risk Officer” or “Chief Corporate Officer”. As one retired senior counsel observed, the title General Counsel – the firm *consigliere* – almost implies a degree of separation from the business. It suggests someone who stands on the outside proffering advice only when requested rather than a dynamic presence at the strategic heart of the business.

## 4.3 Dissolving boundaries...

We expect to see the boundaries between the legal team and the business continuing to dissolve. There will be greater democratisation of legal-related tasks as tools such as document automation enable the business to undertake more of the low-value, low-risk, quasi-legal work. This empowers both the business (freed of potential bottlenecks) and the legal team (who have greater capacity for higher-value work) and leads to smarter, more efficient working. A further trend will see in-house lawyers increasingly immersed in the business rather than contained within a separate central function (the “holy grail” as one interviewee observed). This will enable them to develop even greater insight and commercial awareness based on a deeper and more empathetic knowledge of their internal clients.

## 4.4 Efficiencies and collaboration...

Increased competition will fuel a drive for greater law firm efficiencies. Just as for in-house teams, effective knowledge management will play a key role in facilitating smarter working. For example, automated processes could help more junior lawyers add greater value at an earlier stage rather than leaving them to cut their teeth on high-volume, low-complexity work. Client expectations around greater collaboration – with and between law firms – will also become more commonplace. As a consequence, some interviewees predicted the emergence of more specialist firms who are increasingly skilled at partnering with clients, alternative business structures (ABS) and other law firms.



In the future, knowledge will be seen as the real asset of a law firm – the crown jewels – if firms appreciate the value of that asset they will acknowledge, nurture and protect it. Without that appreciation they run the risk of the knowledge walking out of the door with leavers, silos, knowledge not being turned into valuable assets leaving space for competitors to take on their clients. Firms say that clients are centre stage but this only means something if this is about understanding client wants and needs. ”

Former HR Director



# 5. Guiding the GC – the seven principles to put knowledge into action

We have seen that legal knowledge is a valuable commodity for both in-house teams and law firms and can play a key role in generating value for the businesses they advise.

By utilising knowledge management techniques – which embrace people, technology and processes – legal teams and law firms can make the most of this commodity and, in doing so, become more effective and, by extension, more successful.

Here we suggest seven principles which can help GCs, senior executives and law firm partners put their knowledge into action.

## Principle 1

### Make knowledge centre stage

Knowledge should be centre stage – to be valued, exploited and supported by the right culture, processes and governance. It should not be overlooked and misunderstood as “just something to do with a support function”. Consider the positioning of knowledge in your organisation as a telling barometer of culture, leadership and likely resilience and success.

## Principle 2

### Know the business

We have seen that legal knowledge is heavily informed by context and commercial insight. It is critical to understand the business and effective leaders will facilitate ways to achieve this – both for themselves and their wider teams. Secondments, embedding in-house lawyers in the business and increased interaction with clients can all serve to develop this crucial understanding.

## Principle 5

### Be a role model

The textbooks say that knowledge management involves the effective interplay of people, processes and technology. The first element here is the most crucial. You may have the most sophisticated intranet or processes as finely tuned as those of a Formula 1 pit stop, but if your team sees that knowledge-sharing behaviours are neither valued nor lead to successful progression, then they will achieve little. As a leader, your influence is key. Promote training, share what you know, reward desirable behaviours, even commit to posting on the legal team blog! Illustrate, don't tell.

## Principle 6

### Create the global corridor

As teams become ever more dispersed, simple, informal ways of sharing knowledge become more problematic. The traditional focus has often been on systems that “collect” knowledge and make it accessible via document management systems and search technologies. That is not sufficient to create the “global corridor”. Therefore, explore how best to “connect” people. Technology plays a part with a growing range of social media tools designed for the enterprise – such as Yammer and Jive. However, it is also crucial to create opportunities to bring people together face to face. This helps establish trust, form bonds and develop relationships. The opportunity costs are high but the benefits are immeasurable.



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### ↳ Principle 3

#### Communicate appropriately

The way that legal knowledge is communicated and contextualised can make a significant difference to its perceived value. Advice should be relevant, commercial and jargon-free. It should be clearly informed by business outcomes and strategic priorities.

### ↳ Principle 4

#### Use secondments wisely

Law firm and reverse secondments provide an excellent mechanism to develop mutual knowledge and greater commercial awareness and insight. They also have the potential to generate enduring relationships. Therefore, both parties should plan secondments diligently with agreed objectives, simple reporting mechanisms and constructive debriefs. It is also essential to share any insights gained within the wider team.

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### ↳ Principle 7

#### Seek collaboration

The boundaries between law firm and client – and law firm and law firm – are beginning to dissolve. The successful in-house team will be one that can encourage and facilitate greater interaction and collaboration with and between its panel firms. The successful law firm will be one that develops the mindset and skills to negotiate the potential challenges this involves. Therefore, be open to more collaborative ways of working and proactively explore ways to increase this.





We hope you found this report interesting. For more information, or if you have any queries, please get in touch by emailing us at [knowledgetoaction@linklaters.com](mailto:knowledgetoaction@linklaters.com) and a Linklaters contact will get back to you shortly.

