

CHAPTER SEVEN

FINDINGS AND DISCUSSION

7.1 Introduction

In the preceding chapter, data of the results of the research analysis from the research questionnaire and the semi-structured interviews were presented. This chapter provides a general discussion and reflection on the research findings by relating the findings from the analysis with the findings from previous chapters in order to be able to provide a better understanding of the basis for the suggested guidelines for a successful knowledge management in law firms in Botswana. The chapter has three parts, the first part summarises and discusses the results obtained from the personal profile of the participants, the second part summarises and discusses the organisational characteristics of the law firm, and the last part presents the results of the different research questions.

7.2 Personal profile of the respondents

Section one of the questionnaire dealing with the personal profile of the participants revealed that a majority (83%) of them had only a bachelor's degree. Other additional qualifications noted from the interviews are "conveyancer," Post graduate diploma in international law," "Master's in law," and Master's in sports executive management. One reason why most lawyers have just a bachelor's degree may be that lawyers in Botswana are too busy and have no time to pursue further studies (appendix 3, section 6.10). It may also be that most lawyers do not see any need for an additional degree because a bachelor's degree in law is the basic qualification required to practice, and many do excel in legal practice only with this. One interviewee remarked: "a bachelor's degree in law is what I need to make a name for myself." Another noted that, "anything outside the bachelors of law is a waste of valuable time that I do not have." Another interviewee said that "with a bachelors' degree I can afford a mercedez benz." Section 4 of the Botswana Legal Practitioners Act, 1996, stipulates that to qualify for practice, the person must satisfy the court that he/she has obtained by examination the bachelor's in law degree (LL.B.) together with such additional qualifications if any, as may be prescribed. Although the bachelor of law degree is the basic degree for legal practice, an additional qualification, particularly in the lawyer's area of practice or specialisation, will surely provide an added advantage to the lawyer. This is because law is a learned profession where lawyers are obliged to develop their intellectual capabilities, reasoning and textual analysis in order to be able to analyse and solve legal

problems as well as apply specialised knowledge to clients' unique problems (Leckie et al., 1996; Best, 2003). Besides, law is not static; the continuous developments and changes in the law should be a very good reason for lawyers to continue to crave for and acquire new knowledge.

A majority of the lawyers who participated in the study have practiced for ten years or less (chart 6.2). Most of the lawyers were those who had practiced for six years (25%), followed by those who had practiced for two years (12.0%), three years (10.7%), and seven and nine years (10.0%). A majority of those who participated in the research were therefore relatively young lawyers. There were two (1.4%) long serving lawyers who have practiced for thirty three years, one (0.7%) for twenty six years and seven (5.0%) for fourteen years. However, this factor did not affect the quality of the responses provided. It may be, as Staudt (2003) observed, that younger lawyers are the ones who conduct research, dig up information on new issues that crop up in the firm, draft the contracts, handle depositions and argue motions in court; whilst older lawyers tend to delegate tasks to younger lawyers in the firms with the intention of making them self-reliant at an early stage.

7.3 Organisational characteristics of the firm

Data on the organisational characteristics of the firm revealed that law firms in Botswana are mainly small firms with the number of lawyers in the firms ranging from one to nine and the mean number of lawyers being two (see chart 6.3). Lawyers acknowledged that the firm sizes are small (table 6.13, 48.5% agreed). The interviews also confirmed this pattern. An interviewee opined: "we are small firms and we only focus on making profit." Another pointed out that, "most law firms are sole proprietors and partnerships because there is a desire by lawyers to work independently and be their own bosses." An interviewee further suggested that, "law firms in Botswana will likely continue to remain small with an average of two lawyers because these firms tend to operate as complete business entities where every lawyer wants to become a partner rather than just working as a professional assistant." Another interviewee opined that "there is constant splitting up of firms by lawyers to start off as sole proprietors or to form partnerships because lawyers want to get a share of the profit rather than just a salary." Schoenberger (1995) outlines four organisational modes for legal practice: mega-firms, medium size firms, small firm with 2-10 practitioners; and the sole practitioner. Using these distinctions as a rule of the thumb, law firms in Botswana could be classified as small because they have nine lawyers or less. These firms therefore fall within the definition of small and medium size enterprises (European Union; 1996;

Small Business Service, 2004). It is worth noting that although the statistics from the Law Society as of October 2007 indicated that the maximum number of lawyers in the law firms were twelve (section 5.2), only one (0.7%) firm in the country has up to nine lawyers (see chart 6.3). This may be explained by the fact that there is constant mobility within the law firms. Although knowledge management may likely not be a priority in small firms due to their size, these firms still have the potential to benefit from the flexibility of knowledge management.

It is no surprise that the findings from the questionnaire revealed knowledge as the most strategic resource of the firm (chart 6.4) because law is recognised as a knowledge intensive profession (section 2.2). It emerged from the interviews and the responses given to the “other” category, that some lawyers considered the quality of clients and time as the most strategic resource. One interviewee commented: “time is the most important resource because knowledge without time is like a vehicle without fuel.” Another said that, “without the client there is no firm.” Although the main basis of income is the lawyers’ time, knowledge, however, remains the main sustainable resource in the law firms because the lawyer’s time is spent in deploying knowledge at the service of clients. Many experts on knowledge management are agreed that the competitive strength of law firms comes from its knowledge (Gottschalk, 2002; Hunter et al., 2002; Rusanow, 2003; Gottschalk et al., 2005; Rusanow, 2007). Knowledge is the product lawyers offer their clients in return for a fee. If a lawyer has all the time without knowledge, he/she would not be able to provide precise, unbiased and expert advice to the client or present the client’s case convincingly and confidently.

The study shows that most of the participants (72.9%) did not have a formal knowledge management programme and very few (27.1%) were planning to introduce one; most (76.4%) did not have a knowledge management officer, a majority, (78.6%) did not have a knowledge management policy, and very few firms (17.9%) had a knowledge management budget (table 6.1). The implications of these findings are that although all law firms in Botswana are unconsciously practicing some *ad hoc* form of knowledge management (table 6.6), they have not yet adopted formal knowledge management programmes. One of the reasons may be that a majority of the firms are sole proprietors (39.3%, chart 6.3) and two lawyer firms (35.0%, chart 6.3) who lack the personnel to man formal knowledge management programmes and therefore consider knowledge management as a concept for large firms only. Lawyers acknowledged in table 6.13 (48.5% agreed) that the size of the firm is a barrier to knowledge management. It is also evident from the empirical findings

of studies in small and medium size firms that these firms have been slow in adopting formal, comprehensive and systematic knowledge management practices because they lack an understanding of knowledge management and their activities and operations are governed by informal rules and procedures (Ghobadian & Gallear, 1997; Lim & Klobas, 2000; Sparrow, 2001; Egbu & Botterill, 2002; Yewwong & Aspinwall, 2004; Egbu et al., 2005). However, small law firms like other small firms have unique potential to benefit more from knowledge management than larger firms and should tailor their knowledge management objectives to the needs of their firms. Hunter et al. (2002) in a study of knowledge management in Scottish law firms revealed that the 3 firms that were genuinely pursuing an active knowledge management policy were the large firms while the two smaller firms were still grappling with knowledge management and its potential.

It became obvious from the interviews that most law firms in Botswana are not aware of the concept of knowledge management (section 6.8.1) and therefore did not consider it as one of their strategic objectives that may necessitate a policy. The following responses from the interviewees about the meaning of knowledge management revealed that lawyers were still grappling with the concept of knowledge management: “knowledge management is trade secrets;” “knowledge management is a client’s affair;” “knowledge management is difficult because clients are not sufficiently rich to pay for same.” This is not surprising because several empirical studies have shown that most small businesses lack an understanding of knowledge management processes and are just beginning to understand how knowledge management might assist them (Lim & Klobas; 2000; Egbu & Botterill, 2002; Egbu et al., 2005).

7.4 The different categories of knowledge in law firms in Botswana

The findings on the different categories of knowledge in the law firms confirms the views of researchers (Gottschalk, 2002; Hunter et al., 2002; Kay, 2002; Rusanow, 2003) that knowledge in the law firm resides in the head, skills and experiences of lawyers and staff; embedded in organisational routines and administrative procedures; is codified in the form of manuals, legal texts, statutes, precedents, judgements specialised databases or acquired from external sources. Also, drawing from the different categorisations of knowledge (Edwards & Mahling, 1997; Gottschalk, 1999, 2002; Kay, 2002; Rusanow; 2003), this study classifies knowledge in the law firm in Botswana under three broad categories: tacit knowledge, explicit knowledge and knowledge of the business of law (section 4.2). This is because elements of tacit and explicit knowledge run through the different categorisations of knowledge suggested by the various researchers.

Tacit knowledge in the law firms is knowledge on how to do something without thinking about it, like arguing a case in court or drafting a summons. The different types of tacit knowledge in the law firms are ranked in table 6.2. as follows: skill and expertise of lawyers and staff (98.6%), procedural knowledge (95.0%), lessons learned from past projects (82.6%), analytical knowledge (78.9%), tips on drafting (hints on creating legal documents, 77.2%) and conversation by the hall ways (60.7%). The ranking of skills and expertise of lawyer and staff (98.8%) in the first place reflects the fact that most of the knowledge in the law firm is from the head and experiences of the lawyer and staff in the firm (Edwards & Mahling, 1997; Kay, 2002).

Explicit knowledge in the law firm is the kind of knowledge that is easy to put down on paper and is directly accessible to those who wish to transfer it. Examples of explicit knowledge (table 6.2) identified in the law firms in order of significance are standard documents (95.0%), legislation and case law (90.0%), knowledge of the law (90%), court decisions (87.9%), legal texts (80.0%), knowledge from judges (58.6%) and expert opinion (43.5%). The literature also reveals that standard documents, legislation and case law, and knowledge of the law constitute the major types of explicit knowledge in the production and management of legal work (Kay, 2002; Rusanow, 2003; du Plessis, 2004). Standard documents are required in the day to day legal operations to ensure consistency and enhance productivity. On the other hand, every legal issue in the law firm requires the knowledge of the law and the application of case law and legislation (Gottschalk, 2002; Rusanow, 2003). Lawyers spend five years in the law school in Botswana acquiring explicit knowledge of the law. The least important form of explicit knowledge is expert opinion. It may be that law firms do not resort to expert knowledge unless it is unavoidable because engaging the services of an expert is usually costly to the firm. A lawyer remarked that “the legal experts’ fee is often very high and so my firm engages a legal expert only when it is absolutely necessary.” Another opined: “due to the high cost of engaging legal consultants we often informally consult the legal academics at the University of Botswana for most challenging tasks and will only request the services of a consultant if the client is ready to pay for it.”

The knowledge of the business of law or non-legal knowledge consist of administrative data¹⁷ and knowledge of the firm’s market position and business strategy that makes it possible for any one to find and access the firm’s procedures and policies (Kay, 2002;

17 Administrative data includes all the information about the firm’s operations such as hourly billing rates for lawyers, clients’ names and matters, staff payroll data and client invoice data.

Rodriguez et al., 2002; Rusanow; 2003). Examples of knowledge of the business of law identified in table 6.2 are: client information (66.4%), financial information (38.8%), and marketing information (22.9%). Knowledge of the business of law was the least used type of knowledge in the law firm even though the practice of law is a business where lawyers seek to maximise profits. This may be because a law firm depends almost entirely on the legal knowledge, the skills and experience of the lawyer and staff in providing services to the clients rather than knowledge of the business of law. Ethical concerns may explain the low rating of marketing information (22.9%, table 6.2). Legal ethics requires lawyers to serve clients rather than seek an active quest for pecuniary gain by solicitation of prospective clients (Blades & Vermylen; 2004; Schnell, 2005). Marketing the firm's information may be seen as advertising the firm for active search of clients, whereas lawyers in Botswana as in most countries in the world are prohibited according to Section 53(2) of the Legal Practitioners Act, from advertising.

Clients' details and financial information such as financial news, data, clients' names and matters, staff payroll data, and clients' invoice data are administrative information generated in the firm's day-to-day business and are often handled by support staff in the firm (Rusanow, 2003). Lim & Klobas (2000) noted that small and medium size firms appear to be in an advantageous position in terms of acquiring customers' knowledge because the managers and employees tend to have close and direct contact with customers and other organisations and some may know them socially and personally. Therefore, the relatively high rating of the use of client information (66.4%) may imply that lawyers are in close contact with their clients and monitor client information in order to make informed decisions about necessary action that could lead to client satisfaction.

7.5 Factors that would motivate the adoption of knowledge management in law firms in Botswana

Several changes in the legal environment were identified in chapter two (section 2.4) that provide compelling reasons for law firms to rethink their structures, roles, mission and the manner in which they carry their business. Against this background, law firms in Botswana were investigated in order to establish if they were also experiencing similar changes that are driving law firms around the world, compelling them to adopt knowledge management even though they are still grappling with the concept. Interestingly, even though law firms in Botswana have not formally adopted knowledge management, the analysis of question 8 of the research questionnaire (table 6.3, section 6.5) and the interviews show that lawyers

acknowledged almost all the different items that will motivate knowledge management in law firms.

The following are some responses from the interviewees with regards to the factors that may motivate the adoption of knowledge management: “lawyers do not stay in one firm they are moving from firm to firm;” “lawyers are constantly splitting up in the law firms to start off as sole proprietors or to form partnerships;” “we are under pressure to attract new clientele;” “it will be good to network with other lawyers;” “if only knowledge can be standardised;” “there is a lot of competition out there as to who owns the best knowledge;” “we have to keep up with the changes around us in the international law firms;” “the internet, computers, observation from other lawyers and networking with other lawyers are a challenge to our firm. ”

The responses from the questionnaires indicate that advances in information communication technology (97.9%, table 6.3) were the most important motivating factor. Similarly, several knowledge management researchers have indicated that advances in information communication technology, is a major reason for current interests in knowledge management (Gottschalk, 2000; Susskind, 2003; Rusanow; 2003; Forstenlechner, 2006). Generally, advances in information communication technology have dramatically changed the method used by lawyers for processing knowledge and delivering legal services to clients. Nowadays, the adoption and use of information communication technology is moving beyond the automation of existing practices to innovative concepts and applications such as the internet, internet deal rooms, extranet, document and content management, online depositions, real time chat, portals, groupware, expert systems and knowledge management (Hopkins & Reynolds, 2003; Reach, 2006).

Other motivating factors such as the internet (95.7%, table 6.3), electronic publishing (95.0%) and shift from paper-based to electronic sources (94.3%, table 6.3) have also been triggered by advances in information and communication technology. As the internet technologies become more sophisticated, it is likely going to trigger more changes in the way law is practiced and delivered. The internet provides almost every resource necessary for legal researchers, lawyers and paralegals to locate materials and resources (Esqlawtech, 2002; Staudt, 2003; du Plessis, 2004). With the advent of the internet, knowledge management is becoming a necessity to firms of all sizes because it is a technology that firms can acquire to share valuable information without undue expense. In a 1999 study, Nye predicted that by the year 2025, the internet would change everything about the practice of law. With

regards to electronic publishing, (95.0%, table 6.3) legal publishers are reshaping their markets by using web technologies to provide lawyers with ready access to vast amounts of current as well as retrospective legal information resources (Paliwala et al., 1997; Perton, 1998; Hoover, 1999). The shift from paper-based to electronic sources (94.3%, table 6.3) coincides with the findings that legal practice which has been built around law books and print technology (Armitage, 1997; Berring, 1997; Brenells et al., 1997) is changing, albeit gradually since the first computers came to the law office. The internet is challenging most of the paper and print paradigm that supported the practice of law. Lawyers are now able to carry electronic libraries around with light, easy-to-use portable computers and it is becoming increasingly easy to find specific information that used to take lawyers and paralegals hours to locate.

Other equally important motivating factors identified are: meeting the information and knowledge needs of the lawyer (95.7%), the desire to support and encourage a learning culture (95.0%), the desire to promote professional satisfaction (94.3%) and the desire to promote team work (90%). Law firms in Botswana like law firms elsewhere acknowledge that they are under pressure to meet the information and knowledge needs of the lawyer (95.7%). This is because lawyers' needs are diverse and constantly changing. Leckie et al. (1996) observes that within the universe of potentially relevant information, what is required by a particular lawyer would vary and individual demographics such as age, specialisation, professional development, frequency of need, importance of the issue at hand, and complexity of the problem will influence the needs of the lawyers. As the legal information environment is changing, so are law firms challenged to fully identify and leverage the different information and knowledge needs of junior and senior lawyers.

The desire to promote professional satisfaction (94.3%) coincides with the view that law firms are professional service firms and like other professional service firms, their basic mission is to deliver outstanding client service, provide fulfilling careers and professional satisfaction and achieve financial success and growth (Miaster, 1993:46; Hunter et al., 2002).

Although the responses from the questionnaire suggests that the desire to support and encourage a learning culture is a highly motivating factor, by contrast the responses from the interviews however revealed that law firms do not encourage lawyers to crave and acquire new knowledge because of the feeling that time spent in learning is time they are supposed to bring in more money to the firm. The following are the notable responses from

the interviews: “if I want to learn I will have to create time out of business hours because it is my private affair;” “there is no time at all for any learning in my firm;” “learning in my firm is an individual’s business;” “my boss does not support learning because it will interrupt the business of the firm.” These views correspond with the findings of Matlay’s (2000) qualitative and quantitative longitudinal study of organisational learning in the small business sector of the United Kingdom that learning in small firms was mostly incidental and sporadic through routine tasks. In essence, he found that the frequency of formal learning in these firms increased in direct proportion to their size. The fact that very few lawyers (17.1% as seen in chart 6.1) have additional qualification over the basic bachelor of law degree further reinforces the view that learning is not encouraged in law firms in Botswana. This is a matter of concern because law firms are learning organisations (section 2.3) where professionals are expected to crave for new skills and desire to gain specialised knowledge on particular areas of law and legal procedure. Besides, the law is constantly changing and lawyers need to keep up with these frequent changes and regulations in their practice area by constantly learning.

Interestingly, 90.7% (table 6.3) of lawyers indicated that the desire to promote team work may motivate them to adopt knowledge management even though generally, lawyers have been noted for their individualistic and personal culture that emphasises high level of creativity (Terrett, 1998; Hunter et al., 2002; Rusanow, 2003). It could be that most lawyers together with sole proprietors who are not in a position to work in teams (39.3%, chart 6.3) have started appreciating the importance of team work. It however emerged during the interviews that the team work they had in mind was limited to sharing basic knowledge such as precedents or inquiries about basic issues of the law amongst friends and former classmates. This did not extend to sharing knowledge about clients or some particular knowledge which will affect the lawyers’ competitive edge over the other lawyers. The following are some of the responses from the interviews: “members in my firm do not have the time to engage in team work;” “we work alone in our firm and do consult each other informally only when we are not sure about a particular law;” “knowledge about my clients are personal to me;” “there is no team work in my firm;” “my clients and all my legal issues are personal to me but as colleagues we are cordial to each other;” “we share basic precedents and do inquire about basic issues of the law from one another but do not discuss in detail clients’ issues because it is personal and there is a fear of losing clients.” The views from the interviews that the desire to promote team work is not encouraged in the law firms is supported by the empirical findings from predominantly large law firms

in Australia (Khandelwal & Gottschalk; 2003) and Scotland (Hunter et al.; 2002) where only 32% and 14% of the participants in the Australian and Scottish law firms respectively, agreed that teamwork is fully recognised.

The recognition of competition amongst firms (70.0%, table 6.3), competition with other professional service firms (80.7%) and the use of knowledge management tools and practices by other competitors (88.5%) as motivating the adoption of knowledge management confirms the view that the desire to maintain a competitive edge is a driving motivation behind knowledge management (section 3.13.2). It has been observed that one of the major ways by which small and medium size firms acquire knowledge is by informal scanning of the external environment (Lim & Klobas, 2000; Yewwong & Aspinwall, 2004). It is therefore likely that law firms may be encouraged into adopting knowledge management by the different influences and pressures from the environment. Research reveals that the continuous rise in the number of lawyers and law firms leading to a situation where the supply of lawyers far exceeds the demand for their services has put pressure on law firms to maintain a competitive edge against each other for clients (Susskind, 2003). Also, professional service firms like accountants, financial planners, consultants, trust officers, mediators and a host of other professional service providers are pirating the work traditionally done by law firms such as tax work, employee benefits, management consulting and litigation support (Susskind, 2001). Thus, clients would not bother to seek the services of lawyers when professional service providers are acting as intermediaries and performing the traditional legal services previously done by lawyers at a much cheaper rate. Law firms are therefore under threat from these professional service firms to expand their services.

Lawyers identified the desire to protect the knowledge in the firm (83.6% table 6.3) and the desire to protect the loss of personnel (54.3 %) as major motivating factors in adopting knowledge management. It is also evident from the empirical findings of studies on small and medium size firms that there is need for organisational sustainability and the capturing of individual knowledge due to the fact that these firms are highly susceptible to the loss of employee's knowledge (Lim & Klobas, 2000; Egbu et al., 2005). A Small Business Service (2004) statistics reveals that 36 % of small firms perished three years after registration because the business ceases to be lucrative or because of the death or retirement of the proprietor or due to changes in the personal motivation and aspirations of the owner. An interviewee remarked: "I only know that the firm's knowledge and expertise is gone when a lawyer leaves and I have to handle a file that he/she was handling."

Another remarked: “there is a lot of loss of knowledge in my firm as lawyers come and go.”

The increase in lawyers’ mobility (46.4%) does not appear to be a significant motivating factor to the adoption of knowledge management (table 6.3); yet research reveals that one of the major reasons for the loss of knowledge in the law firms is mobility of labour (Morris & Pinnington, 1998; Hunter et al., 2002; Rusanow, 2003; Sinotte, 2004; Dubin, 2005). Hunter et al. (2002) in their study of knowledge management in predominantly large Scottish law firms revealed that these firms had a major problem retaining experienced staff. Lim & Klobas (2000) & Yewwong & Aspinwall (2004) also reported that small and medium size firms are highly susceptible to the loss of knowledge due to the mobility of employees seeking better compensation packages and higher prestige associated with larger firms. The findings from the interviews therefore confirm the view that mobility of labour may be a motivating factor to knowledge management in law firms in Botswana. The following are some of the responses from the interviews: “as a professional assistant, I am constantly moving from one firm to another in search of greener pastures and when I leave I persuade my clients to come along;” “this is the third law firm I am working in within a period of five years;” “I am looking for bucks and good working conditions;” “I will not stay in the firm and do all the work for the partners with little pay;” “I want to have my own firm where I can also be the boss;” “I suddenly realise that there is a knowledge gap in my firm when a professional assistant leaves and the file he/she is handling has to be handled by another lawyer” Clearly, there is an urgent need to protect the loss of knowledge in the law firms in Botswana due to mobility of lawyers.

It is surprising that not up to half of the participants (41.5%, table 6.3) considered information overload as a motivating factor to knowledge management, yet it is common knowledge that the proliferation of many types of information and communication technology (97.9%), internet (96.4%), electronic publishing (95.0%) and shift from paper-based to electronic source (94.3%) (all the different factors acknowledged by lawyers as motivating the adoption of knowledge management in table 6.3) have seriously raised the risk of information overload. An interviewee remarked: “there is a lot of information and one has to be very vigilant as to what to take and what not to take.” Another opined: “I am more confused with the legal information on my desk today than was five years ago.” One also said: “I prefer to rely only on the print resources because I do not know how to search and use the excessive information available in the electronic resources.” The production and dissemination of information has become so cheap that lawyers are

challenged with the ability to process relevant documents or information in a timely fashion. In an empirical study on information and knowledge management in South African Law firms by du Plessis, & du Toit (2005), 95% of the participants agreed that the major research skills of lawyers is the ability to know where and how to find and keep up with new and relevant information. Parsons (2002) noted that in the “knowledge economy,” the explosion of content and the increasing demands for speed in the provision of legal services has ironically led to information anxiety and attention deficit amongst lawyers. Egbu’s et al., (2005) empirical survey on small and medium size surveying practices shows that, information overload and time were the two main constraints for knowledge creation for the organisations that participated in the pilot study. Consequently, tracking relevant information and knowledge amongst lawyers within the firm may be very time consuming as lawyers spend time in duplicating research that has already been carried out elsewhere, or creating new agreements and documents when models of such agreements already exist; often resulting in frustration.

The fact that globalisation of legal practice was not considered by a significant majority of participants as a motivating factor (only 69.2% agreed, table 6.3) may be due to the fact that law firms in Botswana are small firms (section 5.2, chart 6.3) and their clients and practice base therefore has not grown beyond the local market. Not many of them cooperate with international firms or even participate in international conferences (table 6.14). Generally, advances in information and communication technology and the decline of centralisation has resulted in globalisation of business practices that have broken geographical boundaries, leading to an increase in international collaborative legal practice worldwide compelling firms to differentiate themselves from their competitors and develop business strategies to manage knowledge about their market position, competitors, and key clients (Jackson, 2001:33; Rusanow, 2003). However, unlike most Western firms that are growing beyond their traditional local markets to global markets with large corporate firms having offices or federation of national firms in many countries, law firms in Botswana do not yet face significant pressure from multiple competitors.

On average, only 55.0% (table 6.3) of the participants considered pressure from clients as a factor that may motivate the adoption of knowledge management. Yet, one of the major characteristics of small and medium size firms are that they have close and direct contact with customers and may know them socially and personally (Lim & Klobas, 2000). Besides, the emerging trend in legal practice is that clients are becoming more sophisticated consumers of legal services and are putting constant pressure on the law firms to provide

efficient, proactive, more generic advice and commercially-focused legal services at a lower cost (section 2.4.10). They are eager to access the firm's knowledge base and are seeking their lawyers' services with a new fee structure that is not based on time billing (Bradlow, 1988; Nye, 1999; Kofoed, 2002; Susskind, 2003; Rusanow, 2004; Dubin, 2005). However, it may be assumed that most of the clients in Botswana are mostly local individuals or local organisations who may not understand what knowledge management is all about. Also, it could be that clients are more concerned with the effective delivery of the legal matter rather than the quality of legal services received. The overall conclusion from the above responses is that lawyers in Botswana recognised the need for knowledge management in their firms. The next section identifies the tools and techniques for knowledge management used in these law firms.

7.6 The tools and technologies for knowledge management in law firms in Botswana

The first task was to identify the tools and technologies in law firms. The analysis in table 6.4 identified the following information and communication technology arranged in order of importance as most frequently used in law firms: telephones 100%, computers 100%, personal networked computers (81.4%), email (71.4%) internet (69.3%), case management systems (59.3%) and legal information systems (40.0%). The interviewees confirmed the use of the following information communication technology in the law firms: telephones, personal computers, internet, intranet, law plan and quick books for accounts management systems, telephone management systems and legal information systems. There is an indication that the use of information technology in law firms in Botswana is extending towards improving the efficiency of lawyers and staff and also in facilitating communication amongst lawyers. This indicates that, there is an improvement from a Fombad (2002) study on the adoption and use patterns of information and communication technology in law firms in Botswana which found that information communication technologies in the law firms was limited only to front office operations (telephones, word processing and accounting systems). It also reveals that a reasonable number of lawyers are responding to the changes in the legal environment (Susskind, 2003; Reach, 2006) by moving away from print sources to electronic sources of information for legal research. However, law firms are yet to acquire some of the crucial technologies for knowledge management. Although 81.4% indicated they have networked computers, only 71.4 % had email and 69.3% had the internet. It may be that some firms had network systems that limit the lawyer's access only to emails and not to the internet, or just to the internal communication within the firm,

without an internet or email. Nevertheless, the fact that the gap between those who have network computers, internet and emails is not that wide is indicative that an above average percentage of law firms in Botswana have emails, and are connected to the internet.

It was not surprising that only 20.0% used the intranet because most of the law firms consist of one or two lawyers (table 5.2, and chart 6.3) and may not require an intranet because the intranet technology is used mostly in large firms to facilitate the sharing and communication of information and knowledge within the firm. It is likely that a lawyer who is in a firm alone may not need an intranet because there is no other lawyer to communicate with. Firms with two lawyers may not also consider an intranet as a priority because they are often together in the firm and may communicate often by chatting, face to face discussions or through an internal telephone system. The view that larger firms are likely to use the intranet more is confirmed in a survey by du Plessis & du Toit (2005) on information and knowledge management in South Africa law firms where a majority of the participants (47%) were large firms, against 11% small firms. From du Plessis & du Toit's (2005) findings, 77% indicated that their law firms had intranets and most of the participants indicated that their firms are using information technology applications and knowledge management systems for managing information and knowledge.

Understandably, technologies such as artificial intelligence, enterprise information portals, expert systems, data base tools, Lotus Notes and case maps are not used because they are expensive and even most large law firms that have already adopted knowledge management are yet to acquire these technologies. A multiple regression analysis from a survey of the use of information communication technology for knowledge management in 250 Norwegian law firms by Gottschalk (1999) indicates that the growing use of information communication technology to support knowledge management grows with the firm size. In addition, Gottschalk (1999) posits that the use of information technology to support knowledge management is significantly influenced by the extent to which law firms used information communication technology in general.

The next task after identifying the information technologies used in the law firm in question 9, was to establish the information technologies used for knowledge management in law firms in question 10. The assumption that knowledge management requires computer-based technology pervades the field (Terret, 1998; Gottschalk, 1999; Campbell, 2002; Elder, 2002; Hunter et al., 2002; Kofoed, 2002; Carine, 2003; Khandelwal & Gottschalk, 2003; Staudt, 2003; Opp, 2004; Gottschalk, 2005; Rusanow 2007). The acknowledgement

of information and communication technologies as the major motivating factor in the adoption of knowledge management technologies (97.9%) in (table 6.3) reiterates the importance of information and communication technologies in knowledge management in law firms.

However, only two main ways in which information technologies used for knowledge management were identified (table 6.5). The first is the use of legal information systems for legal research and the second is the use of intranets, internet, extranet, and World Wide Web by the firm to gather knowledge so that it can be used in the firm. It is interesting to note that while 57.1% (table 6.5) acknowledged that legal information systems such as LexisNexis Butterworths, Justastat, Westlaw, and Thomas and Dialog are used to facilitate legal research, only 40% (table 6.4) had indicated that they use legal information systems. It may be that even though lawyers did not have or use these systems, they still appreciated the benefits of legal information systems. The interviews confirmed that the internet and external legal information systems are the major information communication technologies used for knowledge management in the law firms. Interviewees also indicated that file and account management systems are used for knowledge management in the law firms. An interviewee commented that, “my firm is small; therefore affording any other technology other than the email; internet and Lexis Nexis will kill and drain all the firms’ resources.”

The second major use of technology for knowledge management in the law firms from the questionnaire results show that 55.0% use intranets, internet, extranet and World Wide Web to gather knowledge so that it can be used in the firm (table 6.5). The fact that only 55.0% in table 6.5 agreed when in table 6.4, 69.3% had internet is an indication that not all the firms with the internet were using it for the purpose of gathering and sharing knowledge. It thus confirms the view in the preceding paragraphs that most law firms are small firms (chart 6.3) and may not need an intranet or consider it as a means of sharing knowledge because knowledge sharing may take other forms such as face to face communication. Similarly, Egbu et al.’s (2005) study on knowledge management for sustainable competitiveness in small and medium size surveying practices revealed that only 3 out of the 11 pilot organisations were using the intranet for knowledge management and only half of the interviewees claimed to use e-mail for knowledge transfer.

Only two (1.4%) participants acknowledged that their firms use knowledge maps that act as electronic intermediaries connecting knowledge seekers to knowledgeable people, while 26.5% agreed that they use Yellow Pages containing curricula vitae, competency

profiles, and research interest of experts (table 6.5), yet Yellow Pages are an example of knowledge maps. It may be that firms are using Yellow Pages containing curricula vitae, competency profiles, and research interest of experts but are not aware that it is a knowledge management tool, because they are not familiar with knowledge management technologies and concepts. Nonetheless, it is significant that 26.5 % of the participants agreed that they are using Yellow Pages, 28.6% agreed that document and content management systems are used in managing the content of knowledge, 25.7% agreed that lawyers subscribe to intranet news groups or email distribution lists and 20.7% agreed that they use indexing tools to organise and cross-reference material by subject and practice area (table 6.5).

Nonetheless, the fact that law firms are using some technologies for knowledge management confirms the view in the subsequent sections (sections 7.7, 7.8.1, 7.8.2, 7.8.3) that informal knowledge management existed in law firms even though not under the banner of knowledge management. Also, the fact that the percentage scores on the use of technologies for knowledge management (table 6.5) are above the percentage scores on technologies available in the law firms (table 6.4) may suggest that lawyers were excited about the potential uses of some of these information technologies for knowledge management from reading the questionnaire. Besides technologies, there are several formal and informal techniques for knowledge management in the law firms which are worth examining.

7.7 Techniques for knowledge management in law firms in Botswana

The results from the analysis of the techniques of knowledge management in law firms in question 11 of the research questionnaire (table 6.6) and the interviews revealed that although there is no formal structure of knowledge management as such in law firms in Botswana, several techniques of knowledge management are nevertheless carried out in the firms even though lawyers may not be aware that they are performing knowledge management functions. This further confirms the view that every law firm carries out some form of knowledge management even on an *ad hoc* basis (Lambe, 2003; Buckler, 2004),

There is no doubt that precedents (100%), legal research (80.0%) and hiring and training of young lawyers (61.4%) are the most frequently used techniques in law firms. Like in any legal practice, precedents in the form of reasoned judgements or standard forms are indispensable in the day to day operations of any law firm. The following are some notable responses from the interviews with regards to techniques of knowledge management: “Precedents are the foundation of legal practice;” “I often call my former classmate to inquire about a challenging legal issue;” “I have to read the laws on a particular case and

the binding decisions before I decide on any legal issue;” “In my firm each lawyer has a series of files containing the different matters they attend to which they often refer to in subsequent matters;” “legal research on law reports is the way, but my firm cannot afford the law reports and so we rely mostly on the University of Botswana library;” “Our firm always welcomes students on internship and currently we have one;” “I have different files that are alphabetically arranged according to the different legal issues;” “we are compelled by the Legal Practitioners Act to admit students for pupillage. ” The hiring and training of young lawyers is a requirement for all law firms. Sections 18-28 of the Legal Practitioners Act clearly envisages a twelve month professional training period after the law degree.

The findings from the interviews therefore confirm the importance of precedents and legal research as the major techniques for knowledge management in law firms in Botswana, while also highlighting personal information banked by each attorney as another important technique for knowledge. Interviewees indicated that they carry out research at the University of Botswana law library where registered users have access to electronic resources, law reports and judgments on CD ROMS, such as South African Law Reports, and other online law reports and judgments such as the Canadian Supreme Court judgments and the Australian High Court judgments. One of the major tasks of a lawyer is to carry out legal research. It is only after a solid legal research that lawyers can present information in court or provide a client with valuable advice. In du Plessis (2004) study on the use of information and knowledge management in support of legal research in the digital environment in South African law firms, it was evident that the ability for lawyers to conduct fast and efficient research was crucial in the changing legal environment.

Table 6.6 also suggests a relatively high use of certain techniques such as record management (72.1%), weekly learning reports (72.1%), office directory and office newsletters (47.1%), and meeting of lawyers with common interest (46.4%), Yellow Pages (46.4%) and regular-in house seminars (47.1%). This could not possibly accurately reflect what actually obtains in practice because the use of these techniques was not captured in the interviews. Also, most of these techniques require technologies to support them and there is no evidence in the findings in table 6.4 that many law firms have adopted these technologies. For example, Yellow Pages (46.4%) requires technology to support them yet in the findings of the use of information technologies for knowledge management in table 6.4, only 27.7% had Yellow Pages and not a single firm indicated that it had a database knowledge management tool. Furthermore, only 11.4% indicated they use skills and expertise locator even though skill and expert locator was an alternative name for Yellow Pages.

Not many law firms indicated that they are using some of what may be considered as preliminary techniques of knowledge management, such as best practice (39.3%), brief banks (21.1%) and work product repositories (19.3%), discussion of major projects with other lawyers after their completion (21.4%), professional development programmes (26.4%) and presentations (15.7%). Yet, some indicated that they have adopted some of the more sophisticated techniques such as litigation strategy (35%), client relation management (28.6%), conflict checking (12.9%), know-how index (11.4%), know-how systems and info-banks (22.1%), excellent staff knowledge centre (27.9%), client information and matter (11.4%), skills and expertise locator (7.1%), knowledge concierge (1.4%) and internal publications (5.0%). The accuracy of the above responses is in doubt for law firms that are yet to adopt most of the initial techniques of knowledge management. It has been reported that litigation strategy, client relation management, conflict checking, know-how index and info-banks are knowledge management techniques that require careful consideration in law firms (Karen, 2004; Dubin, 2005). In addition, these techniques require technology to support them and from the findings of the use of technologies for knowledge management in table 6.4, the adoption of technologies used for knowledge management in law firms is still at the initial stages. Besides, there was no indication that such techniques are being used in the law firms from the interviews. The feeling is that either the participants did not understand these techniques, were excited about the prospects of these techniques, or may have inadvertently ticked the boxes.

In the same way, it may have been an oversight by the two (1.4%) participants who indicated the availability of techniques such as knowledge concierge. This is because from the explorative interviews, it was seen that there was no knowledge concierge in law firms in Botswana. With regards to an excellent staff knowledge centre, the results of the interview (appendix 3) and personal observation by the researcher when visiting the law firms during the administration of the questionnaires revealed that law firms do not have excellent staff knowledge centres. Most of the libraries in the law firms in Botswana are nothing more than small rooms in the firm with a couple of books, mostly law reports in print, not manned by any staff. The only staffed knowledge centre of particular importance to the lawyers was the University of Botswana Library.

7.8 How knowledge management is manifested in law firms in Botswana

The purpose of questions 12 to 15 of the questionnaire was to establish the existing state of the art of knowledge management in law firms. To put this issue in its proper perspective,

an overview of what lawyers understand by knowledge management was considered, followed by an examination of the knowledge generated in law firms, how this knowledge is transferred, and the knowledge sharing culture, tutoring and mentoring opportunities, and the other factors that may encourage knowledge management in the firm.

7.8.1 Lawyers' definition of knowledge management

The findings on how lawyers approach knowledge management were obtained from the interviews. The overall notable responses were as follows: “knowledge management is how you manage information in your firm such that the knowledge is kept away from lawyers in other firms;” “knowledge management is the use of information and communication technology to manage knowledge;” “knowledge management means utilising the information in the firm;” “knowledge management is the management of the files;” knowledge management is managing the information we have;” “knowledge management is information management;” “knowledge management is about protecting trade secrets;” “knowledge management is a client’s affair;” “I am hearing that term for the first time.” The responses however confirmed that like many lawyers elsewhere, especially in Africa, lawyers in Botswana are still grappling with the meaning and concept of knowledge management. For example, du Plessis & du Toit’s (2005) survey of information and knowledge management in South African law firms concludes, the relatively high percentages of lawyers responding as “being unsure” might indicate a lack of knowledge or awareness with regard to knowledge management systems or could be an indication that these systems are currently not used in South African law firms.

It is however interesting to note that lawyers could at least define knowledge management as information management, file management, and the use of information and communication technology to manage knowledge, because information management is an aspect of knowledge management that is most often associated with explicit knowledge. Besides this, several studies in knowledge management have adopted the information technology approach (section 3.6.1; Earl, 1996, Sveiby, 1996; Carayannis, 1999; Alavi & Leidner, 2001; Gottschalk 2002; Sinotte, 2004). Unfortunately, by focusing mostly on a one dimensional approach to knowledge management, one is inclined to think that knowledge management in law firms begins and ends with building of information systems when this is not so. However, participants in the qualitative findings from a sample of 109 by Alavi & Leidner (1999) and a sample of 256 law firms by Gottschalk (1999) defined and classified knowledge management is into three different perspectives as: information-based perspective, a technology-based perspective and a culture-based perspective.

There are also indications from the preceding section (7.6 and 7.7) and tables (6.5 and 6.6) and in the subsequent sections (7.8.2, 7.8.3, and 7.8.4) and tables (6.7, 6.8 and 6.9) that knowledge management is practiced in law firms in Botswana informally though not under the banner of knowledge management. For example, knowledge management initiatives such as precedents (100%, table 6.6), legal research and development (80.0%, table 6.6), accessing online electronic resources for legal research (57.1%, table 6.5), hiring and training of young lawyers (61.4%, table 6.6) exist in law firms. Also, personal information banked by each attorney, accessing law reports and managing and storing knowledge in files are examples of informal knowledge management techniques presently common to all law firms (appendix 3). Although the findings in table 6.6 indicated several other advanced techniques of knowledge management used in the law firms, the reality is that most of the knowledge management initiatives that exist in law firms are basic and there are indications that lawyers are ignorant about most of the tools and techniques of knowledge management (appendix 3). It may be that lawyers were just ticking the questions, or that they appreciated the prospects and benefits of knowledge management initiatives. An understanding of the way knowledge is generated (created) in law firms provides further insights into knowledge management in Botswana.

7.8.2 How Knowledge is generated in law firms in Botswana

The knowledge creation process is oriented towards acquiring and developing knowledge, or adding value to previous knowledge through innovation (Carine, 2003; Daghfous, 2003). The discussion in this section is based on an examination of the different ways in which knowledge is generated in the law firms in Botswana from the findings in table 6.7 and the results from the interview. The two major ways by which knowledge is created in the firms from the responses in the questionnaire are by attending conferences (85.0%) and attending workshops respectively (80.0%). The fact that attending conferences and attending workshops are two interrelated methods of knowledge creation may be an indication that lawyers appreciate these methods of knowledge creation. Whether lawyers do indeed find time to attend conferences and participate in workshops is not certain. It is difficult to reconcile this with the fact that only 41.4% of lawyers (table 6.6) considered organising in-house seminars as a technique of knowledge management.

Further, the results from the interview (appendix 3) suggest that the only conferences, retreats and workshops that lawyers attend are those organised by the Law Society of Botswana and the Administration of Justice from time to time where members meet and

generate ideas and share ideas; but these conferences are not very regular. For example, the Southern African Development Community (SADC) Lawyers' Forum Conference organised by the Law Society is an annual event. There is also the annual judicial conference organised by the High Court where members of the legal profession meet and exchange ideas. It also emerged from the interviews that only the few lawyers who are members of international associations such as the International Bar Association of Law Societies across the World, and the Senior Lawyers' Association of the United States, take part from time to time in refresher programmes and attend seminars and workshops organised by these associations. Interviewees further put forward their thoughts with regards to knowledge creation as follows: "I know knowledge creation is the essence of a law firm but I am still in the learning curve;" "knowledge creation is a necessity and a challenge in my firm due to time;" "It is very essential to create and generate new knowledge in the law firm but we do not have time to acquire new knowledge;" "we do not have meetings in the firm but we do attend conferences organised by the Law Society;" "I get lots of information from clients;" "the internet is my major source of information and knowledge and I also use the internet for research;" "I create knowledge through informal queries directed at external lawyers whom I know;" "I often learn something when I brainstorm legal issues with other lawyers in my firm or with colleagues in other firms with whom I share a common interest."

The literature from empirical studies reveals that 4 out of 12 (33%) interviewees in Egbu et al. (2005) study on knowledge management for sustainable competitiveness in small and medium surveying practices noted that knowledge creation is a challenge for the individual, as well as the organisation due to lack of resources. It has been noted that the creation of new knowledge in small and medium size enterprises is less advanced than in large companies (McAdam & Reid 2001). It has also been observed that most small firms cannot afford or are unwilling to commit resources to conduct research, acquire knowledge from environmental scanning and can not afford time for trial and error activities since their investments are largely targeted on their core operational processes (Lim & Klobas, 2000; Yewwong & Aspinwall, 2004).

The internet was considered as the third major way of knowledge creation in law firms (81.5% agreed). The internet as a medium of knowledge creation is understandable because 69.3% have internet in their firms (table 6.4), and 55.0% (table 6.5) consider the internet as one of the two major ways by which information communication technologies are used for knowledge management in the law firm. The fact that the percentage of those who considered the internet as a major way of knowledge creation (81.8%) is higher than

those who have internet 69.3% (table 6.4), and also higher than those who use internet for knowledge management 55% (table 6.5) is an indication that law firms appreciate the role of the internet in knowledge generation even though they do not have internet or may not be using it to generate knowledge. This view is confirmed by the fact that 96.4% (table 6.3) recognised the internet as a major motivating factor to knowledge management. There is no doubt that the internet provides access to a lot of resources necessary for legal research. Legal databases such as Westlaw, LexisNexis, Jutastat and Shepard, previously based on propriety software legislation, now have sites on the internet where an attorney can log on from any computer and do research (McCauley, 2005). It is, however, surprising that in spite of the advances in information and communication technologies and the changes in the legal knowledge environment, not all the lawyers in Botswana (63.9%) are connected to the internet. It could be that as small firms they do not have the resources or that they have not yet fully appreciated the importance of the internet.

There is no doubt that law firms generate knowledge by obtaining it from clients, competitors and suppliers (69.3%). This is because it has been observed that small and medium size firms have close and direct contact with customers and may know them socially and personally (Lim & Klobas, 2000). Also, in table 6.2, 66.4% of lawyers considered client information as one of the categories of knowledge in the law firm. In addition, Yewwong, & Aspinwall (2004) observed that it is likely that small and medium size firms who lack the ability and capacity to develop themselves will obtain knowledge by scanning from the external environment.

Surprisingly, accessing legal databases (61.4% agreed), capturing knowledge from research institutions and universities (52.2% agreed), and writing internal reports (30.0% agreed) were rather ranked low as ways of generating knowledge in law firms. One will have expected these methods to be ranked higher as means of knowledge creation particularly because they all involve elements of legal research, and legal research (80.0%, table 6.6) is one of the major techniques of knowledge management in law firms. Another reason why one will have considered legal research to rank as the highest method of knowledge creation in the law firms is because it was confirmed during the interviews that reasoned judgments by judges, subscription to law journals and judgments from the superior courts (all elements of legal research) were important techniques of knowledge creation in the firms (appendix 3). In this regard, Yewwong, & Aspinwall (2004) reported that small and medium size firms tend to have severe limitations when it comes to generating knowledge through research because too often, they do not have a research and development department, dedicated

research personnel, or may be too involved in performing the core business of the firm. It is worth noting that subscription alone to law journals would not generate knowledge. It is only when these journals are actually read and analysed by the lawyers that knowledge is generated.

The creation of knowledge through project teams was not a significant method of knowledge creation in the law firm (41.4% agreed, 55.7% were neutral, table 6.7), yet most lawyers (78.5% agreed, table 6.9) acknowledged that they have a knowledge sharing culture, and that knowledge may be transferred through teamwork (72.9.0%, table 6.8). The reality is that most of the law firms in Botswana are owned by sole proprietors (39.3%, chart 6.3) who do not work in teams because they are alone in their firms. Also, lawyers are not noted for working in teams. For example, Hunter et al. (2002) & Khandelwal & Gottschalk (2003) reported that knowledge is not generally created through project teams. Only 46% of the participants in a survey of Scottish law firms by Hunter et al. (2002) and 13% of the participants in the survey of knowledge management in Australian law firms by Khandelwal & Gottschalk (2003) agreed that there is an expectation that lawyers or their teams will have to take a regular turn to provide a reflection on learning experiences.

Several other findings in this study affirm that lawyers are individualistic and do not have a culture of working in teams. For example, in table 6.6, only 21.4 % acknowledged that there is discussion of major projects with other lawyers after their conclusion, 41.4% acknowledge that lawyers organise in-house seminars and 46.4% acknowledged that lawyers with common interest meet regularly. Also in table 6.5, only 25.7% subscribe to online forums and internet news groups (a forum for discussions and interaction). Nevertheless, the fact that an overwhelming majority (90.7% agreed, table 6.3) acknowledged that the desire to promote teamwork is a motivating factor to knowledge management may be an indication that lawyers appreciate the benefits that may result from team work even though most are not working in teams.

7.8.3 The transfer of knowledge in the law firms

Besides generating knowledge, another aspect of knowledge management is the transfer of knowledge. Knowledge transfer refers to the means and ways of distributing knowledge in a firm in a manner that will ensure that it is easily accessible to those who need it. The possible techniques of knowledge transfer were identified in question 13 of the research questionnaire.

The findings presented in table 6.8 show the different methods of knowledge transfer in law firms in Botswana.

It is worth noting that the most significant way by which knowledge is transferred from the findings in table 6.8 is by teamwork (72.9% agreed), even though creating knowledge through project teams in table 6.7 was one of the least important ways of knowledge creation in law firms (41.4%). One therefore doubts the accuracy of the response because it is difficult to comprehend how lawyers who do not usually work in teams to create knowledge, work in teams to transfer knowledge. Furthermore, from the findings on the techniques of knowledge management in law firms in table 6.6, not up to half of the participants showed the tendency to work in teams; only 21.4% acknowledged that their firms discuss major projects with other lawyers after their completion, 41.4% acknowledged that lawyers organise in-house seminars and 46.4% acknowledged that there are meetings of lawyers with common interest. In a case study of knowledge management in three small firms, Lim & Klobas (2000) reported that, generally knowledge held and obtained by senior managers in the firm are “operationalised” or translated into descriptions of tasks for the employees to execute. They opined that only one out of the three firms in the case study had an opportunity for substantial knowledge transfer among individual members of staff. Similarly, only 14% in Hunter et al. (2002) survey of Scottish law firms and 32% in Khandalwal & Gottschalk (2003) survey of knowledge management in Australian law firms reported that teamwork is fully recognised and rewarded.

From the analysis of the interview (appendix 3), it became clear that the transfer of knowledge by working as a team within the law firm just like the creation of knowledge in the preceding paragraph, is limited to promoting the general interest of the firm or in discussing the general principles of the law provided such knowledge would not result in a loss of the lawyer’s client base or competitiveness. An interviewee expressed his thoughts with regards to knowledge creation in the firm as follows: “there is no time for knowledge transfer in my firm; every one is busy to meet his/her target; but however I may call and inquire or brainstorm on challenging legal issues with a colleague with whom I have a personal relationship.” Another interviewee opined: “there is no formal process of knowledge transfer as such in my firm; I just give strict instructions to my staff on what to do.” Furthermore, an interviewee expressed his thoughts as follows: “I may only call, chat or discuss informally with other colleagues within the firm on issues based on the general principles of law, and not knowledge or information that gives me a competitive edge over my colleagues within and out of the firm.” It was again noted by another interviewee that:

“I often call and informally brainstorm on challenging legal issues with former lecturers at the University of Botswana.” The interviewees’ responses strengthen the view that knowledge management initiatives have existed informally in law firms (sections 7.6, 7.7, 7.8.1, 7.8.2, and 7.8.4 below and tables 6.5, 6.6, 6.7, 6.8 and 6.9).

The discussion of major projects after conclusion was the second rated item (68.6%, table 6.8) again suggesting that law firms transfer knowledge by discussing projects in teams because an individual cannot discuss a project alone. However, as has been noted above, a discussion in project teams is not typical in small and medium size firms (Lim & Klobas, 2000) and in law firms in general (Hunter et al., 2002; Khandelwal & Kottschalk, 2003). Discussions of major projects after their conclusion (section 3.11.6) is a formal process where lawyers come together to brainstorm on a major project after its completion for purposes of recording the key lessons learned after which the information is put into a project summary and made available over the internet (Maiden, 2000; Buckler, 2004; Wesemann, 2006). However, similar to the preceding paragraph, several findings in the study contradict the view that discussions of major project are a major way of knowledge transfer in the law firms. First, the findings on techniques of knowledge management show that only 21.4% (table 6.6) of the firms discuss major projects after conclusion. Second, as observed in the preceding paragraph, the creation of knowledge through project teams was one of the least important ways of knowledge creation in law firms (41.4%, table 6.7). Third, it has been noted that most lawyers are sole proprietors (39.3%, chart 6.3; Section 5.2) and therefore have no team members to discuss projects with. One may therefore infer that law firms do appreciate the benefits of transferring knowledge by discussing major projects in the firm. Results of the interviews (appendix 3) indicates that discussion of projects in law firms in Botswana is at best informal thus confirming the view that knowledge management in law firms is currently practiced informally (section 7.8.1 and 7.8.2). An interviewee opined: “I do not have time for any discussions, but if it is really an urgent issue I may just discuss informally with my colleague by walking into his /her office or by a simple phone call.” Another reported that, “team projects are unheard of in my firm because every lawyer keeps his cards close to his chest.”

The third rated means of knowledge transfer in law firms was informal social networking of lawyers (65.7%, table 6.8). Although in table 6.6 only 46.4% considered the meeting of lawyers with common interest as an important technique of knowledge management, the results of the “other” category and the interviews (appendix 3) confirms that informal exchanges of knowledge through chatting by the hallways, at the board rooms, telephone

chats, face to face discussions and brainstorming were the main methods of knowledge transfer in the law firm. This strengthens the view that lawyers are practicing informal knowledge management initiatives (section 7.8.1 and 7.8.2). However, as already observed in the preceding paragraphs, lawyers exchange knowledge only amongst those whom they know such as colleagues in the same firm, friends and former classmates in other firms; and such knowledge is often based on the interest to be gained from either side. Informal social networking is similar to what is referred to in the literature (section 3.11.2) as conversation by water coolers. Conversations have long been recognised as an important form of knowledge transfer in a new economy. Through conversations, knowledge workers discover what they know, share knowledge with colleagues and in the process create new knowledge for the organisation (Webber, 1993). A more formalised type social networking is communities of practice (section 3.11.1). Communities of practice are informal group of people from all levels and functions in the organisation who share a common area of expertise and/or search for solutions to common problems (Brown & Duguid, 1991; Stewart, 1997; Smith, 2001; Wenger, 2003). However, large law firms in Botswana are yet to reach that level where they would appreciate the need to invest their time and the necessary collaborative information technology for communities of practice.

It was not surprising that most participants did not consider the intranet as a means of knowledge transfer (31.8%, table 6.8) because, as already observed, only 20.0% (table 6.4) of the lawyers indicated that they had the intranet. Although the intranet is a cutting edge communicative and collaborative technology that supports the transfer of knowledge amongst members, most law firms may not consider it necessary at the moment. This may be because as already observed (section 7.6) law firms in Botswana are predominantly one (39.3%, chart 6.3) and two lawyer firms (35.0% chart 6.3). In a one lawyer firm there is no other lawyer to share information with, while in the two lawyer firm, there are other simpler and cheaper ways to transfer knowledge such as telephones, mobile phones and informal face to face meetings. This corresponds with Egbu et al. (2005) empirical findings that tacit knowledge is mostly transferred in small and medium size firms through chatting, phone calls, face to face discussions, brainstorming and mentoring schemes.

Lawyers did not consider organising formal meetings as an important method of knowledge transfer (26.4%, table 6.8) and also in table 6.6 only 21.4% considered organising in-house seminars as techniques of knowledge management. This response is not surprising because one does not expect formal meetings in a firm where there is only one lawyer, and also lawyers in a two lawyer firm may not need formal meetings because discussions

may take place at any time and on a day to day basis. Lawyers also acknowledged from the findings of the “other” category questions and the interviews that they do not organise formal meetings because they do not have the time. In fact, one participant commented: “there is no time for formal meetings; actually in principle, we are supposed to meet every Tuesday in the boardroom for debriefing; but these meetings do not take place because the lawyers do not have the time.” Another commented: “we do not have formal meetings and every one is very busy and involved with his /her matter; I may make a phone call to my colleague for inquiries about a general principle of law provided he/she is not busy at that moment to attend to me.” It does appear that lawyers in Botswana do not fully appreciate the fact that such meetings provide ample opportunity for them to interact, discuss and learn about key issues or new developments relevant to practice in areas that would in turn improve productivity.

From the survey, links with professional associations (25.0%, table 6.8,) was the least rated method of knowledge transfer. The fact that most of the responses were neutral (48.6%) is indicative that not many lawyers are members of professional associations besides the Law Society and therefore do not appreciate the benefits of belonging to professional associations. This view was confirmed from the “other” category and the results of the interviews (appendix 3), where very few lawyers indicated that they are members of professional associations such as the International Bar Association of Law Societies, Senior Lawyers’ Association of the United States and the Network of Lawyers and Accountants in Texas; and very few appreciated the important role of professional associations in the creation and transfer of knowledge in their firms. Professional associations are examples of knowledge networks that provide avenues for sharing and exchange of knowledge and enable firms to be more creative reactive and innovative (Alavi & Leidner; 2001; Carine, 2003). In this regard, the empirical survey by Egbu et al. (2005) confirms that getting the appropriate knowledge in small and medium size enterprises is best done through informal networks yet; these firms lack the time or resources to identify and use important external sources.

7.8.4 The knowledge sharing culture in the law firms in Botswana

A knowledge sharing culture is crucial for knowledge management to flourish. The discussions on the knowledge sharing culture of the law firm would enable us to appreciate the state of the art of knowledge management in law firms. The findings from analysing question 14 of the research questionnaire relating to the culture of knowledge sharing were presented in table 6.9.

Most participants (78.5%) agreed that their firms had a knowledge sharing culture (table 6.9). Although this response is similar to the responses in table 6.8 where team work (72.9%) was ranked as the highest attribute of knowledge transfer in the firms, several contrasting findings emerged from the same table on the different attributes of knowledge sharing that did not portray law firms as having a knowledge sharing culture. For example, a firm cannot have a knowledge sharing culture and yet only 30.7% agreed while 42.1% were neutral (table 6.9) about the firm conducting events and providing time in which ideas and experiences could be shared. The 42.1% who were neutral could be those who are apprehensive about law firms providing time off their tight schedule for knowledge sharing. Also, as already noted above (section 7.6, 7.8.2 and 7.8.3) most law firms are sole proprietors (chart 6.3) who are working alone and therefore do not need to share knowledge. It should also be noted that regular meetings are supposed to be opportunities for knowledge sharing in a firm with a knowledge sharing culture, yet only 37.2% agreed, and 42.9% were neutral while 20% disagreed (table 6.9) that their firms provide opportunities for regular meetings. The 42.9% neutral response could be that participants were unsure about their firms providing opportunities for regular meetings because such initiatives are not common to the law firms. This is confirmed by the fact that in table 6.8 only 26.4 % felt organising formal meetings was a method of knowledge transfer. One would expect firms with a knowledge sharing culture to provide opportunities for formal and informal networking, yet only 30% (table 6.9) indicated that their firms provide opportunities for formal and informal networking while 52.1% were neutral, and 17.9% disagreed.

The results of the interviews, the “other” category questions, and the findings in the preceding sections (sections 7.8.2 and 7.8.3) further confirmed the view that knowledge sharing amongst lawyers is an exception rather than the norm. The following are some of the responses from the interviews and the “other” category: “my firm does not have the tradition of sharing knowledge, I work alone and may consult a colleague informally by phone or chat with him /her at tea time to inquire on a principle of law;” “I believe I am known and respected by my colleagues and clients because of the knowledge I have and so I am reluctant to share with my colleagues anything that may make my position in the firm vulnerable;” “the only knowledge we share together are precedents and knowledge on the general principles of law;” “we are all busy, the only time members in my firm may have the time to share knowledge is when chatting informally;” “we all want to be seen as the best, therefore I am reluctant in sharing my knowledge because it is like making what was unique to me common to all;” “I am alone in my firm and do not share my

knowledge with anyone and I prefer it this way; however from time to time I may consult my formal classmates from other firms to talk about legal issues of common interest. ” The above responses reveal that lawyers do manifest a knowledge sharing culture only insofar as discussions on the general principles of the law are concerned or where there is something to be gained, such as exchanging precedents, or knowledge of the law. One may therefore attribute the positive response by the participants to the question on knowledge sharing culture to the fact that, as in previous observations lawyers may well recognise and appreciate the benefits of knowledge sharing even though they are cautious about the knowledge sharing culture.

Several reviewed literature on knowledge management acknowledge the importance of cultivating trust and organisational culture as pre-conditions for effective transfer and sharing of knowledge (Dixon, 2000; Godvinarajan & Gupta, 2001; Nonaka et al., 2002; Daghfous, 2003). Apparently, small firms are expected to have a unified and fluid culture with fewer interest groups and a corporate mindset that emphasises the company as a single entity making it easier to share knowledge in these firms (Ghobadian & Gallear, 1997). However, the reality is that small firms like large firms still face the challenge of knowledge hoarding. In a survey by Egbu et al. (2005) on knowledge management for sustainable competitiveness in small and medium firms surveying practices, 50 % of those interviewed agreed that knowledge sharing in small firms is a challenge to knowledge management. They highlighted trust, time, lack of communication skills and rapid change in information and communication technologies as some of the main concerns for knowledge sharing. Also, only 34% of the participants in Hunter et al.’s (2002) survey of knowledge management in Scottish law firms and 21% of the participants in Khandelwal & Gottschalk’s (2003) survey of knowledge management agreed that sharing knowledge systematically is part of the firm's culture. An interviewee in Forstenlechner (2006) empirical study on knowledge management and law firm performance reported that, “the main barrier to knowledge management in the law firm is culture, not technology. Technology is a necessary, readily available, but not remotely sufficient, tool. If the firm’s culture is not collaborative, collegial, and sharing by nature, pursuing knowledge management will be an exercise in frustration.” Also, an Australian leading law firm in knowledge management recognises culture as a major impediment to knowledge management (Rusanow 2007).

There was a clear indication that colleagues from different areas had time to chat informally with other colleagues (85.7% agreed), which was also reflected in the large response that colleagues from different areas or offices assist one another on a needs basis (85.0%

agreed). This confirms the existence of informal knowledge management initiatives in law firms (sections 7.6, 7.7, 7.8.1, 7.8.2 and 7.8.3 and tables 6.5, 6.6, 6.7 and 6.8). Interviewees noted that they do chat with each other in the following different ways: “conversations at tea time;” “at the boardrooms;” “telephone chats;” “face to face discussions”; and “consultation and discussions with other lawyers.” These different methods of chatting are referred to in the knowledge management literature as “conversation by the water coolers” (Webber, 1993; Nonaka & Takeuchi, 1995).

Participants acknowledged that the firm's layout and organisational design is conducive for discussing with colleagues (74.3% agreed). This confirms the finding from the knowledge management literature that in order to reduce formal communication and bureaucracy modern offices are layouts should be design in such a way that the offices of professionals and executives are close to each other (Soliman & Spooner, 2000; Disterer, 2003; section 4.8.5). Such a layout foster *ad hoc* informal and face-to-face communication between lawyers and ensures easy accessibility to law firms by employees and clients.

7.8.5 Tutoring and mentoring opportunities in the firm

The tutoring and mentoring opportunities in the law firms throw more light on how knowledge is manifested in law firms in Botswana. The responses to the batch of questions designed to understand the state of tutoring and mentoring in law firms in question 15 of the research questionnaire are presented in table 6.10. Although the overall results reveal that law firms provide tutoring and mentoring opportunities, the percentage on each item with regards to participants agreement to the provision of tutoring and mentoring opportunities did not exceed 67.2% and responses from a considerable number of participants was neutral.

First, 60 % agreed, and 25% were neutral (table 6.10) that firms encourage employees to continue their education. The findings from the interview revealed that lawyers were not very confident of the tutoring and mentoring opportunities in the firms or that there were any formal tutoring and mentoring programmes in the law firms. The following are notable responses form the interviewees: “my firm does not provide opportunities for further education because of the feeling that time taken to make money for the firm is being wasted on studies when the bachelor’s degree in law is all the lawyer needs.” Another remarked: “we are not encouraged to further our education, if you want to study you have to find the time because business has to be done and you are expected to meet your targets.” Another opined: “the bachelor’s degree is good enough for a lawyer, if you

want to continue with your studies, you must look for the time out of business hours.” Furthermore, an interviewee commented: “I am faced with the choice of closing down my firm and furthering my education.” It is clear from the results of these interviews that those who study do so at their own time, mostly after working hours while lawyers in the one (39.3%, chart 6.3) and two lawyer firms (35.0%, chart 6.3) are reluctant in furthering their education because it may imply closing down the firm. This therefore may explain why a majority of the lawyers 83% (chart 6.1) had just a bachelor’s degree, the minimum requirement for legal practice stipulated in Section 4 of the Legal Practitioners Act, 1996. The fact that a lawyer may still be an excellent and successful lawyer with just the first degree makes most lawyers to consider post graduate studies as a luxury unless it is a specialised area that is needed in the firm.

With regards encouraging partners to train associates, 67.2% agreed 10.8% disagree and 22.1% were neutral, while with regards to hiring and training of young lawyers 64.3% agreed, 26.0% were neutral and 9.3% disagreed. The participants who indicated a neutral response to these questions are most likely those who did not show any interest in training professional assistants or in hiring and training young lawyers. The following are some of the responses from the interviews and the “other” category questions in this regard: “my firm takes pride in tutoring and mentoring; currently we have two pupils in the firm;” “when I came to this firm, I had a rough time because I was expected to be a lawyer on the first day, so most of my experience and understanding of legal practice has happened by learning informally from colleagues and older school mates;” “we do engage professional assistants and students on internship but there is no time to provide formal tutoring and mentoring as such; we do expect them to learn fast on the job;” “there is no formal tutoring and mentoring programme in my firm;” “there is no spoon feeding here, I learned the very hard way;” “we do engage students on internship but the reality is that time taken off for tutoring and mentoring is waste of valuable time that could have been spent making profit for the firm.” These findings reveal that while some firms pride in mentoring pupils, accepting students to do internship and shadowing attorneys, there are many other firms who are not interested in mentoring. It is likely that such firms do accept pupils only to formally comply with Sections 18-28 of the Legal Practitioners Act that envisages a twelve months professional training period after the law degree. Generally, tutoring and mentoring systems assist new employees by allowing senior employees share their expertise, knowledge, wisdom, specific insights, practice and skill with junior colleagues within a short space of time; provide opportunities for continuous education and thus preserve individual skills

and knowledge from being outdated and counter-productive (Sveiby, 1995). By delegating tasks to junior employees through tutoring and mentoring, senior employees will be able to perform challenging tasks within the firm thus resulting in better decision-making.

A majority of the participants were neutral (63.6%) with regards to the provision of professional development programmes in law firms (see table 6.10). The neutral response could be because, as already observed in the preceding paragraphs (table 6.6, 26.4%, and the interviews), most lawyers do not bother much about professional development or in furthering their education. This view was confirmed in Matlay's (2000) longitudinal case study of organisational learning in the small business sector of the United Kingdom. He revealed that acquiring, transferring and using learning-based new information did not feature high on the agenda of most of the small businesses; and that learning in these firms is incidental and occurs sporadically throughout routine tasks. Learning and professional development systems are the tools that assist knowledge workers to learn and use knowledge. Knowledge management programmes for professional development provides lawyers with opportunities for on-going intellectual stimulation thus avoiding the boredom and frustration that may result in a lawyer deciding to leave a firm because he/she is tired of repeating the same type of work every day (Buckler, 2004; Leibowitz, 2004).

7.8.6 Factors critical to the success of knowledge management in law firms in Botswana

The discussion on the state of the art of knowledge management in law firms in Botswana cannot be complete without considering whether the law firms operate under conditions that are favourable for knowledge management. The responses from question 16 presented in tables 6.11 determine whether there were sufficient factors to facilitate knowledge management in law firms in Botswana. The responses were mainly negative or neutral. Only one item recorded a positive response of 52.8%. The findings from the interviews indicates that lawyer were not quite sure of an operating environment for knowledge management. An interviewee stated that, "I think I like knowledge management and the potential it can offer from your explanations but I am not quite sure of how my firm can encourage knowledge management when we are all under pressure to meet targets." Another commented that, "if knowledge management is recognised as one of the targets it will encourage lawyers to devote time on it." It was further said that, "if my firm invests in information communication technology it may promote knowledge management." The following were other notable responses from the interviewees: "we need time for

knowledge management;” “partnership should take up knowledge management as an important issue;” “knowledge management sounds good but only if the partners may tell us what to do about knowledge management.”

Most participants did not agree that promotion in the law firm is based on the ability to share knowledge (5.7% agreed, 52.9% were neutral, and 41.4% disagreed; table 6.11). It may be that participants do not know that sharing knowledge is one of the ways they may be recognised in the firm. It may also confirm the views in the preceding sections (sections 7.8.2, 7.8.3, 7.8.4 and appendix 3) that knowledge sharing culture is contrary to the norms of the law firm. Another reason may be that lawyers are used to the traditional methods of rewards in the law firm whereby a lawyer is recognised due to his/her effective delivery of legal services rather than in sharing knowledge. For example, 72% of the participants in Khandelwal & Gottschalk (2003) survey on knowledge management in Australian law firms agreed that promotion in the law firm was based on the ability on how well he/she does his or her work. It could also be that since most law firms were one-lawyer firms they did not need to share knowledge in the first place.

Also, very few lawyers (table 6.11) acknowledged that there is special recognition of staff for the time spent in knowledge creation, sharing and distribution (30.7% agreed, fifty six 40 0% are neutral and 29.3% disagreed). This therefore confirms the findings earlier observed (sections 7.8.2, 7.8.3, 7.8.4 appendix 3) that law firms are individualistic and do not have a culture of knowledge sharing claimed in table 6.9 (78.5%). In Forstenlechner (2006) case study on the impact of knowledge management in law firms’ performance, 59% agreed that peer recognition and respect are a motivation for knowledge sharing. In the same light, the literature reveals that rewards such as promotions, incentives, and special recognition are important extrinsic motivation for encouraging the knowledge creation and sharing amongst lawyers (Platt, 1998; Kofoed, 2002; Leibowitz, 2002). It may be that lawyers in Botswana are not aware that they may be given special recognition for creating and sharing knowledge, or be promoted or recognised for sharing and creating knowledge in the firms because it is not regarded as one of the ways of generating incomes in the firm.

It is interesting that lawyers acknowledged that there is monetary and non-monetary rewards for sharing knowledge (52.8% agreed) when they did not consider promotion (which often comes with a monetary reward) as a reward for knowledge sharing and creation in the firm (52.9% were neutral, and 41.4% disagreed; table 6.11) and very few (40.0% are neutral and 29.3% disagreed) also acknowledged that there was special recognition (a non

monetary reward) for knowledge sharing and creation. In contrast, Disterer (2005) had a 70% positive response rate on “lack of incentives” as a barrier for knowledge management. Also, Gottschalk (2005) recommends that non monetary rewards for sharing knowledge such as feedback, either personally or publicly will make lawyers feel more valued, and will send out signals that knowledge sharing is a core corporate value.

Most participants acknowledge that there is mutual respect, trust, care and concern amongst individuals (78.5% agreed, table 6.11). This contradicts the findings on the knowledge sharing culture of the law firm in section 7.8.4 where lack of trust featured as one of the major barriers to knowledge sharing. Also, it has been noted that although small firms are expected to have a unified and fluid culture with a corporate mindset that emphasises a single entity cultivating trust amongst team memberships the most important and most difficult task is in building effective teams to share knowledge amongst members (Ghobadian & Gallear, 1997; Godvinarajan & Gupta, 2001). In a survey by Egbu et al. (2005) on knowledge management for sustainable competitiveness in small and medium size firm surveying practices, 50 % of those interviewed highlighted trust, time, lack of communication skills and rapid change in information and communication technology as some of the main concerns for knowledge sharing.

7.9 Perceived benefits of knowledge management for law firms in Botswana

Having established the state of the art of knowledge management in the preceding sections, it is crucial to establish whether lawyers in Botswana perceive any benefits from knowledge management. The different items on perceived benefits of knowledge management listed in question 17 of the research questionnaire were presented in table 6.12. The overall observations from the questionnaire and the interviews and “other” category are that although lawyers have not formalised knowledge management, they recognised and appreciated the potential benefits of knowledge management to law firms. Similarly, in du Plessis & du Toit (2005) empirical survey of information and knowledge management in South African law firms, special notice was taken of lawyers' positive attitude towards the potential applications of information and knowledge management systems even though they appeared to be unsure of how these systems operate. Participants in du Plessis & du Toit (2005) study appreciated the importance of knowledge management systems in performing the following: awareness of current knowledge (97%); ability to distribute, share, capture and apply knowledge (94%); ability to work independent of time and location (93%); ability to collect information created by colleagues (92%); ability to learn new information

technology skills (90%); ability to reduce the dependence on an individual's knowledge (89%); ability to be part of the development of new knowledge (89%); ability to distribute information to colleagues (85%); and to partake in discussions within a community of practice (66%).

The following are notable responses from the interview in this study with regards to the perceived benefits of knowledge management in law firms in Botswana: “it is encouraging to know that I can almost always get what I need within the time frame available for it, because currently I spend a lot of time sought of re-inventing the wheel;” “it seems to be the trend and an essential function in today’s law firm environment;” “as a fairly young legal practitioner it is heartening to know that with knowledge management in place there will be some where to inquire information about what you do not know because it is presently difficult working without any prior experience and with no one willing to assist you;” “I appreciate its potential to improve the overall efficiency of the firm;” “the thought that it will make my work easy;” “it will improve the quality of clients;” “it will provide the ability to network with other lawyers within and out of the country.”

The participants in the questionnaire all agreed (100%) that a good knowledge management attitude would improve knowledge sharing in the firm, and also improve the sharing and transfer of knowledge with partners and strategic alliances (90.0%). This is similar to the positive response in table 6.9 where most lawyers (78.5%) indicated that they have a knowledge sharing culture even though other findings suggests the contrary. The above responses indicate that law firms in Botswana recognise the importance of sharing knowledge even though their knowledge sharing culture is presently limited only to the sharing of basic knowledge of the firm or matters of general interest to both parties. The literature reveals that knowledge management promotes a culture of knowledge sharing that extends beyond the access to knowledge in the hallways, at the water cooler and at lunch time, to communication, collaboration, trust and teamwork (Lambe, 2003; Forstenlechner, 2006; Rusanow, 2007).

Lawyers acknowledged the fact that knowledge management would prevent duplication in research (91.4% agreed). However, in the responses to the factors that would motivate firms to adopt knowledge management in table 6.3, information overload (one of the main causes of duplication in research) was amongst the least rated items that was considered as motivating knowledge management in law firms (46.0 % agreed). It could be that lawyers are not aware that duplication of research is one of the effects of information overload.

Or, it may as well be that information overload is not the major cause of duplication of legal research in law firms. In du Plessis & du Toit (2005) study, it was observed that being a competent legal researcher in the changing digital environment entails knowing how to find competent information (95%), where to find this information (95%) and how to manage this information (95%). Knowledge management initiatives such as precedent documents, repositories of prior work product and project methodologies will enhance the lawyers' competence by reducing the time that he/she would take to draft documents and conduct research, thus preventing duplication.

The participants were agreed that knowledge management would protect the firms' loss of knowledge (92.9%), improve the retention rate of lawyers (75.0%) and integrate knowledge within the firm (92.1%). Although the loss of key personnel (54.3%) and an increase in lawyers' mobility (46.4%) were amongst the least rated items that would motivate the adoption of knowledge management in the firm (table 6.3), a different finding emerged from the interviews and the "other" category. It emerged that one of the reasons why law firms in Botswana remain small is because law firms keep splitting up as lawyers keep moving from firm to firm in search of bigger incomes. The literature also shows that mobility of labour, staff turnover, and employees' retirements are the major causes of loss of intellectual assets and institutional memory (Ndlela & du Toit, 2001; Mason & Pauleen, 2003). Knowledge management will capture the organisation's individual knowledge or team capabilities and transform it into organisational knowledge, documented processes and knowledge base, thus reducing the risk of knowledge deterioration that may arise when people leave the organisation. Knowledge management initiatives enable firms to attract and retain talented lawyers as well as their clients.

Although many lawyers acknowledged that knowledge management would improve the lawyers' relationship with their clients (85.0%), only 66.4% (table 6.2) were frequently using clients' information while 55.0% (table 6.3) considered client information as a motivating factor for knowledge management. It therefore seems that lawyers recognise the benefits of improving their relationship with their client. It is evident that small and medium size firms have the advantage of direct client contact (Lim & Klobas, 2000).

The participants acknowledged that knowledge management would improve the lawyer's efficiency, productivity (95.0%) and also flexibility (87.1%). It is likely that improvement in efficiency and productively will enhance a lawyer's flexibility thus resulting in professional satisfaction. These findings confirm the literature on the topic which shows that knowledge

management would expose lawyers with special experience and expertise to work on projects in their area such that they attain professional excellence, equip themselves with advanced skills and provide exceptional services to clients (Chester, 2002; Rodriguez, 2002; Rusanow, 2003; Rusanow, 2007; Wesemann, 2006).

Most of the participants agreed that knowledge management would enhance economic profitability (90.0%). Knowledge management results in the fast delivery of high quality services resulting in satisfied clients and as a result more business is generated (Kofoed, 2002; Wesemann, 2006; Rusanow, 2007). Participants (97.3%, table 6.12) also acknowledged that knowledge management will provide law firms with competitive edge over their rivals, and competition amongst firms in table 6.3 was seen by 70% as a motivating factor for the adoption of knowledge management. Because of the small population of the country it is certain that there is intense competition amongst the law firms. Therefore, law firms in Botswana like law firms elsewhere (Gottschalk, 2002; Kay, 2002; Curve Consulting, 2003; Rusanow, 2003; Rusanow, 2007) are challenged to build up market trends and develop business strategies directed at meeting the needs of both existing and desired clients and other lawyers.

7.10 Factors inhibiting knowledge management in the law firms

It was crucial to identify the factors that inhibit knowledge management in law firms in order to suggest a meaningful strategy for knowledge management. The findings on the several items in question 18 of the research questionnaire were presented in table 6.13. The major obstacles to knowledge management are inadequate technological infrastructure and limited financial resources. It may be that because many lawyers have not formally adopted knowledge management, they were not able to fully appreciate many of the other factors that may inhibit knowledge management.

It is no surprise that technological infrastructure was considered as a major obstacle to knowledge management in law firms (67.2% agreed, 27.9% were neutral and only seven 5.0% disagreed) because the findings on table 6.4 revealed that law firms are still at the initial stages in the adoption of information and communication technologies for knowledge management. The information and communication technologies mostly used in law firms in this study (table 6.4) are telephones (100%), computers (100%), personal networked computers (81.4%), email (71.4%), internet (69.3%) and case management systems (59.3%). Generally, resistance to technology has been observed as one of the major barrier to the use of knowledge management practices in law firms (Dubin, 2005). It is also likely that the

little use of information technology for knowledge management in law firms may be due to the size of the firms. It is evident from studies in small and medium size enterprises that these firms do not undertake adequate planning for their use and operation of information communication technology and have not fully exploited the potential benefits of information technology for knowledge management (Bergeron & Raymond, 1992; Ghobadian & Gallear, 1997; Lim & Klobas, 2000; Sparrow, 2001; Egbu & Botterill, 2002; Yewwong, & Aspinwall, 2004; Egbu et al., 2005). Egbu et al. (2005) empirical findings revealed that information communication technology used for knowledge management in the 11 small pilot organisations were mainly phones, emails, faxes, intranet and internet. He posits that without management support, leadership and a committed effort to make tacit knowledge explicit, information communication technology use for effective knowledge management will remain less fully exploited in small and medium size construction firms in the next five years. The reality is that information technology can be used as a strategic weapon by small firms to maintain their competitiveness and attain a favorable position within the sector of activity. The fact that advances in information communication technology was considered as the most important factor that may motivate knowledge management in law firms (97.9%, table 6.3) in this study may be an indication that lawyers do recognise the importance of technology in knowledge management notwithstanding that technology is a major obstacle to knowledge management in law firms.

Limited financial resources were rated as the second barrier to knowledge management in law firms (55.0% agreed, 40.0% were neutral and 5.0% disagreed). Law firms in Botswana are small firms (chart 6.3) and may therefore lack the necessary financial resources required to invest in knowledge management. Empirical findings on knowledge management in small and medium size firms have revealed that small firms face unique challenges with knowledge management such as resource scarcity in terms of finance, time, capital, labour, equipment and physical commodities and therefore consider the cost of investing in information technologies as too high (Lim & Klobas, 2000; Egbu et al., 2005). The following responses from the interviews were noted: “information technologies are too expensive;” “we lack the funds to invest in information technology, not to talk of knowledge management;” “my firm lacks the money to afford such a luxury;” “we are a small firm, I think knowledge management is for the big firms that have money.” In general terms, it can be very expensive to purchase and implement some of the typical law firm technologies for knowledge management such as automated document management systems, document, content and practice management systems, advanced technologies

like intranets and portals and other knowledge sharing initiatives. Therefore, in order for knowledge management strategy to be effectively and gainfully implemented, law firms often have to grapple with many cost-related issues. However, the fact that a majority of the responses were neutral may reflect the fact that lawyers do not appreciate the full financial implications of knowledge management.

It is important to note that lawyers recognised the size of the firm as an inhibiting factor to knowledge management (46.5% agreed, 22.9% disagreed, 26.4% were neutral and 4.3% did not respond). Also, from the different findings in the study (section 7.6, 7.8.2.7.8.3, and 7.8.4), it is apparent that the size of the firm is one of the reasons why law firms have not adopted knowledge management. It was observed in the section 5.2 and in chart 6.3 that law firms in Botswana are small firms. Studies have also shown that small firms do not usually consider knowledge management as a priority and that the size of a firm has something to do with the willingness of the firm to devote personnel and money to new technologies (Curve Consultant Survey Report, 2001; Campbell, 2002; Nathanson & Levison, 2002). McAdam & Reid (2001) suggests that while knowledge management understanding and implementation was developing in large organisations, small and medium size firms suffered from certain drawbacks and have more mechanistic views and less systematic approaches for embodying and sharing knowledge. Sparrow (2001) noted that the size, distinct characteristics, ideals and experiences of small firms all combine to present several unique challenges for knowledge management. Egbu et al. (2005) concludes that managing knowledge assets in small and medium size firms is an integrated and complex social process which has culture, people, finance, technology and organisational structures at its core. Although most of the firms that have adopted knowledge management initiatives are large firms, small firms still have the potential to benefit from the flexibility of knowledge management. It has been observed that managing the knowledge assets and intangibles in small firms is vital because it provides a way for them to leverage most, if not all of the benefits of knowledge management (Lim & Klobas, 2000; Yewwong & Aspinwall, 2004). For example, in small firms, people communicate with others easily and pass along information easily by the hallway.

Most participants did not view knowledge as a source of power (53.5% disagreed, and 23.6% were neutral) whereas several findings in the study (7.8.2, 7.8.3, 7.8.4 as well as the results from the “other” category, and the interview indicates that the knowledge is power culture applies to lawyers in Botswana since they are individualistic. The following responses were obtained from the interviews: “we work alone and keep our matters to

ourselves;” “I only consult a colleague when I am not sure of a general principle of law;” “my legal matters are personal to me;” “I am concerned that I may be outsmarted by my colleague so I prefer to keep my cards close to my chest;” “I am only ready to share my knowledge when I know that my colleague has some knowledge to share with me, but even then I will not share every thing;” “I am respected because of the knowledge I have and I want to stay competitive;” “I am reluctant to share my knowledge because there are colleagues who think they know it all and every thing you say they will want to ridicule and prove that you do not know anything.” It was therefore clear that lawyers do manifest a team spirit or knowledge sharing culture only insofar as discussions on the general principles of the law are concerned or where there is some interest to be gained. Lawyers believe that monopoly of particular information will lead to personal indispensability, job security, influence, and professional respect within the firm. As already observed in the preceding sections, it has also been reported in the literature that the knowledge is power culture is a major barrier to knowledge management in law firms (Handy, 1985; Terret, 1998:68; Hunter et al., 2002; Maiden, 2002; Carine, 2003:3; Rusanow, 2003; Rusanow 2007). Forstenlechner (2006) observed that culture rather than technology is a major impediment to knowledge management in law firms. A major cultural shift is needed for law firms in Botswana to move from the concept of “individual knowledge is power” to “collective knowledge is competitive advantage” where the benefit of sharing information and knowledge is seen as real.

Participants appeared indifferent to the perception that knowledge management is an additional workload (42.9% were neutral, 36.5% agreed and 18.5% disagreed) and to the fact that knowledge management was putting pressure on billable hours (40.0% were neutral, 35.0 % agreed, 20.7% disagreed and 4.3 did not respond), yet the findings of the “other” category and the interviews confirmed the view that knowledge management is considered as an additional work load. The responses from the interviews were as follows: “due to the work pressure and the pressure of meeting targets knowledge management no matter how good it is should be shelved at this moment in time;” “we are always under the pressure to finish and bill clients on a particular matter and attend to the next matter within the shortest period of time so there is no time for knowledge management;” “we make business and cash when we meet our targets therefore concepts like knowledge management that will not yield us immediate profit is not our priority for now;” “knowledge management does not directly generate profit in the firm; therefore time spent on knowledge management is time wasted;” “I have no intention to invest in non-billable hours and the time spent on knowledge management is time taken off from billing clients.”

The concept of meeting targets emerges from the time billing method of revenue generation, which is one of the different methods of compensation noted in section 6.10 (department-based reward, earning bonuses, and remuneration based on the amount of revenue generated to the firm) that puts lawyers under pressure to generate income. The time-based billing method and the partner-compensation method where partners are compensated based on revenue generated, and revenue is generated based on hours billed, have been identified as probably the greatest barrier to knowledge management in law firms (Terret, 1998; Kofoed, 2002; Rusanow, 2003; Forstenlechner, 2006; Rusanow, 2007). Kofoed (2002) observed that one of the biggest law firms in Scandinavia is now trying to move away from the time billing model by introducing a system where lawyers are assessed not only on their ability but their willingness to participate in knowledge management activities and other kinds of work that do not result in a bill being sent to a client.

Most of participants did not consider the inability of the firm's leadership to implement knowledge management as a barrier to knowledge management initiatives in the firms. The fact that 53.6% participants were neutral could be that most of the firms are small firms (section 5.2, chart 6.3) and one may therefore not be talking of leadership because a single lawyer mans the firm. It may also be that lawyers in firms with more than one lawyer were being cautious to say anything about management or did not understand the implication of the role of leadership in knowledge management because they are still grappling with the concept. However, contradictory findings emerged from the "other" category and interviews where lawyers acknowledged the lack of initiative and the negative perception of the value of knowledge management on the part of management and managing partners as a major barrier to knowledge management. Interviewees commented that managing partners or leadership do not take any initiatives on knowledge management nor do they seem to appreciate the benefit of knowledge management. An interviewee reported that, "management had not assigned anyone to take care of knowledge management." Another interviewee opined: "management does not know about knowledge management and so we do not want to rock the boat." An interviewee also noted, "If the management is not providing a leading example then there is nothing we can do." Generally, lack of leadership commitment has been observed as a major obstacle to knowledge management (McDermott & O'Dell, 2001:78; Ndlela & du Toit, 2001; Mason & Pauleen, 2003). Knowledge management like any other management programme in an organisation requires leadership commitment to create an environment within which people are able to share knowledge and are allowed to assimilate, as well as practise the knowledge gained.

To this effect, 33% of those interviewed in Egbu et al. (2005) study on knowledge management in small construction companies acknowledged that leadership commitment is vital.

7.11 Institutions and agents for knowledge management

This section discusses the findings of question 19 and 20 on the agents and institutions responsible for facilitating knowledge management in the law firms in Botswana presented in table 6.14 and the major findings from the “other” category as well as the interviews with some agents of knowledge management in the law firm. The different agents and institutions that emerged from the study are: legal secretaries, the Law Society, the courts, the law librarians, legal consultants, legal academics at the law faculty, professional assistants, professional book shops, Land Tribunal and other quasi judicial bodies like labour arbitrator, International firms affiliated with local firms, and law publishers like Juta and LexisNexis.

The legal secretaries (76.4 % agreed, table 6.14) are considered the most important agents of knowledge management in law firms. This is because as Apistola & Oskamp 2001 noted, they work closely with lawyers in the firm and have the basic knowledge required for the day to day running of the firm. He/she usually makes the first contact with clients and advises them accordingly. They are responsible for providing all the necessary administrative support in the firm. Documents and materials required in the day to day operation of the firm are stored by the secretary either in the filing cabinet or on the computer. They organise and cross-reference files by subject and practice area, making it easy for lawyers to locate legal files.

The Law Society (table 6.14) is also another important agent of knowledge management in law firms (68.8 % agreed). This is understandable because the Law Society is responsible for regulating the affairs of law firms, who in turn look up to the Law Society to initiate and educate members on the benefits of knowledge management initiatives. The Law Society was created on 2 August 1996 under the Legal Practitioners Act, 1996 to regulate the activities of Law firms in Botswana. Membership of the Law Society is compulsory for practitioners who hold practicing certificates; those in the Attorney General’s Chambers and those employed by the Government or statutory corporations (Section 56 of the Legal Practitioners Act). Before 1996, lawyers in Botswana were almost a law unto themselves and there was no supervisory professional body to oversee the conduct of lawyers in their professional work (Quansah, 2001).

The Law Society provides a platform to lawyers for sharing experiences and concerns and links members to other international professional and regional bodies. It also organises retreats and conferences where lawyers meet and share ideas. An example of such conferences is the Southern African Development Community Lawyers' forum. There is also the Young Lawyers' Forum association organised by the Law Society consisting of lawyers who have practiced for seven years and below, who meet and exchange ideas. It has recently undertaken to establish a law forum over the internet. The Law Society also provides opportunities for professional development by running mini studies on different aspects of the law. An example is a six weeks commercial law part-time study programme organised in 2007.

The different courts in the country are considered as agents for knowledge management in the law firms (66.8% agreed). A lawyers' profession is such that he/she is required to shuttle between the law firm and the courts for litigation. Besides, the courts are important institutions for knowledge creation; for example, judges generate knowledge for lawyers that are compiled in law reports and used by lawyers as precedents. Also, the High Court organises annual judicial conferences that provide a forum for knowledge sharing. The Industrial Courts also assists in knowledge transfer by photocopying, scanning, and posting judgments to subscribed lawyers.

The legal academics are essential in knowledge management in the law firms (65.0% agreed). One may say the legal academics at the department of law at the University of Botswana "made most of the lawyers" because most of the practicing lawyers are former students at the University of Botswana Law department. Legal academics transfer knowledge to lawyers by providing a five year training programme to law students during which they acquire the knowledge of the law (declarative knowledge). At the end of the five years, students graduate with a law degree (LL.B). Legal academics also generate knowledge in the law firm through research and publications made available to lawyers as resource materials that may be used in legal research. The department of law at the University of Botswana is currently running a University of Botswana Law Journal and lawyers are encouraged to create and share knowledge by contributing articles and subscribing to the journal. Legal academics also assist attorneys to carry out research in challenging matters where lawyers do not have the expertise, and then present it to lawyers in the form of legal opinions.

It was not surprising that many participants did not appreciate the role of the law librarian

in the creation of knowledge (only 37.2% agreed and 45.7% were neutral). This is because most law firms do not have law librarians (appendix 3) and therefore may not appreciate the role of a law librarian in knowledge management. A law librarian is very important in the law firm as an information professional because he/she has a good understanding of legal knowledge and is professionally trained to assist legal researchers in various legal settings. An information professional without legal knowledge would have difficulties identifying and managing legal knowledge. Most law firms have just a small room in their organisation for a library with a collection of law reports in print, a few in electronic form and are managed by the lawyers themselves. The only law librarian in the country is at the University of Botswana law library. Most lawyers benefited from the services provided by the law librarian during their studies in the University of Botswana law school, and still continue to benefit informally from these services as legal practitioners. However, since most lawyers are not registered members of the University of Botswana Library they cannot benefit from the services offered by the law librarian.

Legal consultants facilitate knowledge creation in law firms. They assist lawyers to carry out research in challenging matters where lawyers do not have the expertise and then present it to lawyers in the form of a legal opinion. They also play a major role in facilitating the tutoring and mentoring of young graduates in cases where lawyers are very busy or not interested in training junior attorneys as observed in section 6.8.5 above. In this regard, they also assist young lawyers with drafting court documents and agreements. One legal consultant reported “I take students during the long vacation and expose them to legal practice.”

Professional assistants are trained lawyers who are employed in the firm on a fixed salary and earn an additional commission when a particular target is met. Partners rely very much on professional assistants to conduct legal research thus creating knowledge in the firm. One interviewee remarked: “we do all the donkey work in the firm.” A second one said: “I can say I bring in all the money to the firm but get just a percentage of it as my salary.” A third noted: “you are better off as a partner because you are really under no pressure to meet the targets.” The fourth interviewee said that, “I know some firms that collapsed because the professional assistants left.” It could thus be inferred that professional assistants also have ambitions to be partners in order to share in the profits of the firm and other benefits that go with it. As a result, once they acquire enough capital to start off on their own, they usually leave the firm to start a partnership and by so doing they move on carrying away a lot of experience and knowledge from the previous firm.

7.12 Conclusion

In this chapter the findings from the questionnaire and semi-structured interviews were analysed and discussed. First, the results obtained from the personal profile of the respondents were analysed and discussed followed by an analysis and discussion of the organisational characteristics of the law firm and the different research questions. The findings revealed that a majority of the participants had only a bachelor's degree and that most law firms in Botswana are mainly small firms with the number of lawyers ranging from one to nine. Most of the law firms in Botswana were yet to fully understand the concept of knowledge management. They did not have knowledge management programmes and very few were planning to introduce one.

The most prevalent tacit knowledge in law firms was the skill and expertise of lawyers and staff, procedural knowledge and knowledge learned from past experience and project. Examples of explicit knowledge identified in the law firms are standard documents, legislation and case law, knowledge of the law and court decisions. Client information, financial information and marketing information are examples of knowledge of the business of law identified in the law firms.

With regard to the knowledge management processes, attending conferences, workshops and the internet were the main methods of knowledge creation. Knowledge is transferred in the law firms through teamwork, discussion of major projects after conclusion and by informal social networks. Although most of the participants accepted that they had a knowledge sharing culture, knowledge in the law firms in Botswana appear to be an exception rather than a norm. For example, tutoring and mentoring opportunities that normally provide opportunities for knowledge sharing are either informal or not available.

Law firms did not consider any of the factors identified as critical to the success of knowledge management in law firms. For example, participants did not feel that promotion in the law firms was based on the individual's ability to share knowledge. Also, there was no special recognition to staff for time spent in sharing knowledge.

It is significant that although lawyers are yet to fully grasp the concept of knowledge management, they all unanimously acknowledged several perceived benefits of knowledge management. They all agreed that a good knowledge management attitude will improve knowledge sharing while 95% agreed that it will improve lawyers efficiency and productivity.

Inadequate technological infrastructure, limited financial resources and the size of the firm were the major obstacles to knowledge management in law firms. Although the findings from the questionnaire revealed that lawyers did not view knowledge as a source of power, there were all indications from the interviews that lawyers are individualistic and that the knowledge is power culture is typical to law firms in Botswana.

Several agents and institutions for knowledge management emerged from the study. The legal secretaries were the most important agents for knowledge management in the firms, followed by the Law Society and the legal academics respectively. It is worth noting that although law librarians are expected to play an important role in knowledge management, many participants in the study did not appreciate the role of a law librarian. This is probably because none of the law firms had a law librarian.

In the light of the analysis in chapter six and discussions of the findings in this chapter, several features pertinent to small law firms in Botswana emerged. The next chapter presents guidelines for knowledge management implementation in law firms in Botswana.

CHAPTER EIGHT

GUIDELINES FOR KNOWLEDGE MANAGEMENT IMPLEMENTATION IN LAW FIRMS IN BOTSWANA

8.1 Introduction

This chapter draws from the literature in chapters 2, 3 and 4, and the analysis and findings of the results of the empirical study in chapters 6 and 7 to provide guidelines for knowledge management in law firms in Botswana, a developing country where little or no previous study on knowledge management in law firms has been carried out. Guided by elements from the studies, frameworks and models of Western industrialised countries which are already becoming knowledge economies, these guidelines presents the opportunity to verify the applicability and contextual relevance of Western studies and models to a diverse socio-cultural environment in Africa (Edwards & Mahling, 1997; Campbell, 2002, Kofoed, 2002; Khandelwal & Gottschalk, 2003; Rusanow, 2003; Rusanow, 2007).

Previous empirical studies carried out in knowledge management in law firms have focused on large law firms and have adopted different perspectives such as, information system or business perspective (Gottschalk, 1999; Khandelwal & Gottschalk, 2003); applying knowledge management in law firm alliances (Carine, 2003); information and knowledge management in support of legal research in a digital environment (du Plessis, 2004); a survey of information and knowledge management in South African law firms (du Plessis & du Toit, 2005) and knowledge management on law firm performance (Forstenlechner, 2006). The guidelines proposed in this chapter draws from the multiple definitions and perspectives of knowledge management (information technology, personal, social, organisational and business perspective); several frameworks (organisational learning and learning organisation, process framework and knowledge markets); models (the intellectual capital, Edvinsson (1997); Nonaka & Takeuchi's (1995) SECI; and Leavitt model (1965) of classic analysis of industrial organisations) and literature on small and medium size firms (section 4.7.6) to complement and contribute to the body of knowledge management research and theory.

These guidelines suggest how lawyers should pull their organisational variables, techniques and supportive institutions into optimum use with the support of information and communication technologies in a way that would leverage the knowledge process and resources of the firm giving it a competitive edge over other firms in the changing legal environment.

In formulating these guidelines account has been taken of the fact that Botswana is a sparsely populated country¹⁸ and that the law firms are generally small.¹⁹ These firms fall under the definition of small and medium size enterprises (Small Business Service United Kingdom, 2004). Within these small firms a distinction has been made between sole proprietors and partnerships²⁰ on the one hand, and firms with 3 to 9 lawyers on the other hand.

In presenting the guidelines for knowledge management in law firms, this chapter is addressing the following research questions contained in the last sub problem of the study:

- ▶ What are the guidelines for successful knowledge management in law firms in Botswana?
- ▶ How can knowledge management be effectively implemented in law firms in Botswana?

8.2 Presentation of guidelines for knowledge management in law firms in Botswana

It is clear from the findings (table 6.3; appendix 3) that law firms in Botswana like most law firms elsewhere (section 2.4) are overwhelmed by changes in the legal environment. These firms have been practicing knowledge management informally even though they are mostly unaware of the concept of knowledge management. Examples of informal knowledge management practices in law firm in Botswana are precedents (100%, table 6.6), legal research and development (80.0%, table 6.6), personal information banked by each attorney (appendix 3), hiring and training of young lawyers (61.4%, table 6.6), information management (section 6.8.1), attending conferences (85.0%, table 6.7), accessing knowledge from the internet (81.5%, table 6.7), brainstorming, consultation with legal academics and informal consultation and discussion with other lawyers (appendix 3). These law firms are apprehensive about the concept of knowledge management most probably due to a limited understanding of its nature and full implication; yet they are excited about the potentials and benefits of knowledge management (table 6.12).

18 Botswana is made up of 1,893,526 people who live in twenty three districts. The most populated district is Gaborone, the capital city, with 220,558 people while the least populated is Kweneng with 484 people. (Retrieved 20th May 2008 from <http://www.population.wn.com/country/Botswana>)

19 From the analysis of the results in chapter 6, it was observed that the number of lawyers per firm ranged from one to nine; and there is one only one firm in Botswana with nine lawyers. A majority of the law firms are sole proprietors and the average number of lawyer per firm is two (see organisational characteristics of the firm chart 6.3 and section 6.3).

20 Sole proprietors are one-lawyer firms while partnerships in the context of these guidelines are considered as firms with two lawyers.

The guidelines proposed in this chapter serves to sensitise lawyers in Botswana on how to employ more targeted effort in implementing knowledge management in their firms so that they may enhance their practices for competitive advantage in the changing legal environment.

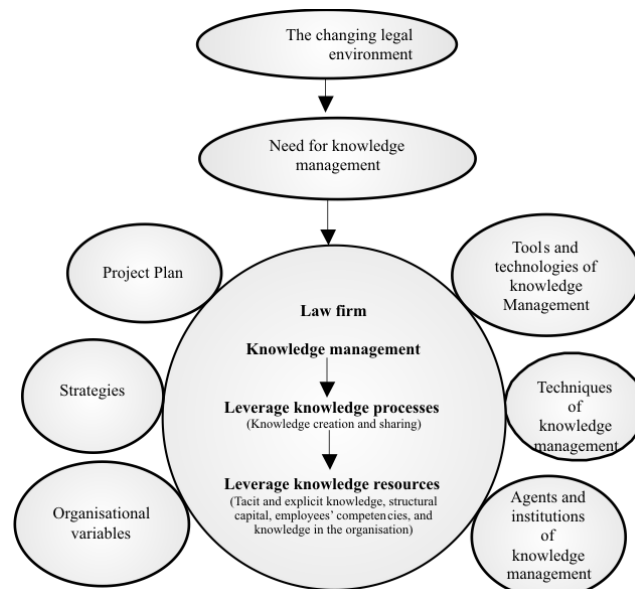


Figure 8.1 Guidelines for knowledge management in law firms in Botswana

Figure 8.1 presents different interdependent and interrelated steps in ensuring the effective implementation and leveraging of knowledge management in law firms. The diagram indicates that in the changing legal environment the need for knowledge management is imperative for all law firms. However, proper implementation of knowledge management in law firms requires the consideration of the following: a good project plan, determining the firm's knowledge strategy, identifying and addressing the possible organisational barriers to knowledge management, getting the appropriate tools and technologies, determining the possible knowledge management techniques and working with the appropriate agents and institutions of knowledge management. If all these interrelated and interdependent steps are put into place, the knowledge management process and knowledge management resources in a law firm will ultimately be leveraged such that the firm gains competitive advantage over other firms. The guidelines presented in figure 8.1 are elaborated upon in the subsequent sub sections.

8.2.1 The need for formal knowledge management in law firms in Botswana

Although law firms in Botswana are unconsciously practicing knowledge management (tables table 6.1, 6.6, 6.7, 6.8, 6.9, 6.10, appendix 3), they do not fully appreciate nor consider it as a priority. Only a few indicated that they had a knowledge management policy (table 6.1). Arguably, like other small and medium size firms (Sparrow, 2000; Lim & Klobas, 2000; Egbu et al, 2005) law firms in Botswana lack the resources in terms of time, finances, technology, human resources and red tape procedures in place to actually adopt a formal, comprehensive and prescriptive knowledge management system and programme. In addition, the processes and procedures in small firms are generally informal (Yewwong & Aspinwall, 2004). Nevertheless, considering that law firms in Botswana are experiencing different degrees of uncertainty in the delivery of legal services in the changing legal environment, it is crucial for the different law firms to systematically adopt knowledge management initiatives tailored to their size, resources and needs. Knowledge management should be prioritised and implemented in different phases reflecting the specific needs of the law firm. Therefore, the knowledge management approach in a one (sole proprietors, referred to in this study as the “owners” because they are owners of these firms) and two (partnership referred to as “partners” because they are partners in these firms) lawyer firm will be different from that in the 3 to 9 lawyer firm due to their differences in size, resources, staffing and knowledge management needs.

Quite clearly an all out approach to knowledge management is not feasible in small and medium size enterprises due to their size, ideals, value and limited resources (Lim & Klobas, 2000; Sparrow, 2000; Egbu et al., 2005). Nevertheless, law firms in Botswana like other small and medium size firms, need to consider certain basic fundamental principles when implementing knowledge management. At the outset, it is crucial for all the different law firms to undertake a needs assessment of knowledge management to critically analyse the knowledge needs of the firms and the legal practitioner in the particular law firm. This will then reflect the different type of knowledge management initiatives, tools and supporting architecture that could be adopted for use by the lawyer and the firm. No two lawyers have the same knowledge management needs because lawyers’ needs are diverse, constantly changing, and are often reflected by the needs of a particular client and the kind of legal tasks undertaken. For example, in implementing a knowledge management system in a law firm, a receptionist would need a data base system to search for specific knowledge or techniques that will enable him/her to perform general tasks or assign the client to the right division, while a lawyer will need legal knowledge management tools

specialised in the legal domain to perform complex legal task. After these firms are certain about their needs for knowledge management, it will be crucial to establish a project plan for knowledge management.

8.2.2 The Project Plan

First, every law firm needs to have clear and articulated business objectives, a vision of where it is, where it wants to go and the resources that are needed to reach there. Law firms should implement one thing at a time at a rate which is commensurate with their level of resources and their capacity. It is necessary to start off with a relatively small, cheap, and manageable pilot programme that would lay the foundation for knowledge management (section 4.10.4). Small scale projects directed to support a specific initiative or legal task or directed towards the entire law firm are essential. Knowledge management is a long term continuing initiative and any attempt to deploy a firm-wide knowledge management initiative that incorporates all element of legal practice may be very expensive and overwhelming to the lawyers.

Second, law firms in Botswana like their counterparts in other small and medium size firms (Lim & Klobas, 2000; Yewwong & Aspinwall, 2004) should be able to determine a balance between the needs and costs of knowledge management. Typical cost-related issues in knowledge management are the cost of investment in information communication technologies, acquisition of knowledge from external sources, creating, sharing and using of knowledge, hiring a knowledge management team, redesigning the firm and educating members in the law firm amongst others. A majority of the law firms felt that limited financial resources inhibit knowledge management (table 6.12). The reality is however that knowledge management is no longer an unaffordable luxury for small firms. With the advent of the internet, knowledge management has indeed surpassed the high cost-paradigm and firms of all sizes can now use it to acquire and share valuable information without undue expense. Knowledge management should be considered more as a key business driver rather than as a resource-intensive additional initiative. Although initial investments in knowledge management seem very high, a well designed knowledge management initiative can become the main source of future investment and profit to the law firm. The fact that lawyers identified several factors that could motivate them to adopt knowledge management (table 6.3) and did also acknowledge the perceived benefits of knowledge management (table 6.9) is suggestive that they are excited about the benefits of knowledge management and therefore will appreciate the importance of investing in



knowledge management. With this understanding, law firms may be ready to dedicate some resources for its implementation and be prepared to deal with the different cost-related issues.

Third, there is a need to appoint the right staff to the position of knowledge manager to head the knowledge management programme in the law firm. Due to their size and limited financial resources most law firms in Botswana like other small and medium size enterprises (Lim & Klobas, 2000; Egbu et al., 2005), are unable to hire full time consultants, dedicated information professionals and staff who may initiate knowledge management (table 6.14). There are presently no law librarians and human resource specialists in the law firms in Botswana (table 6.14). Therefore, the 3 to 9 lawyer firm may consider appointing one of the lawyers, preferably the most educated, sociable and experienced as knowledge manager to head the knowledge management programme in the law firm. He/she may be provided with an additional allowance so that he/she will be able to take some time off billable hours, possibly a day off each week to invest in the knowledge management initiatives of the firm without any pressure of meeting targets. His/her legal experience and solid academic background provides an added advantage to the law firm because his/her intellectual curiosity and profound understanding of the different knowledge management needs and initiatives in the law firm would help drive the process. These firms may consider hiring the services of an information technology consultant and an information professional on a part time bases to work as a team with the knowledge manager. The knowledge manager should also solicit the services of other agents and institutions (see table 6.14) responsible for knowledge management in the law firm.

In a 1 and 2 lawyer firm, the appointment to multiple new roles and positions is less practical because the only highly educated and experienced expert professional are the owners in a 1 lawyer firm and the partners in the two lawyer firm. Therefore, the responsibility for knowledge management in the 1 and 2 lawyer firms falls on the owners and partners respectively. Understandably, owners and partners oversee all the decision making processes in every aspect of their business and may be constrained by time to take care of knowledge management issues. However, it is advisable that the owners and partners should not only focus on the core business but should initiate knowledge management in the firm. They may devote half a day off legal practice each week on knowledge management issues. The owners and partners should work with the support staff in the firm and like in the 3 to 9 lawyer firm; consult with other agents or institutions that may assist the firm in knowledge management (table 6.14). Also, due to their limited

resources, these firms may consider entering into strategic alliances with other firms. Strategic alliances are special arrangements between two or more independent firms to cooperate on certain business activities, foster sharing of resources and knowledge as well as risks between the partnering firms (Chung et al., 2006). It has been noted that due to the limited resources strategic alliances in knowledge intensive small and medium size firms may increase their overall competitiveness and provide firms access to external resources and market opportunities (Lim & Klobas, 2000; Chung et al., 2006).

Fourth, an understanding of the different types of knowledge that have to be managed in the law firms is crucial for the development of any effective guidelines for knowledge management. This is because each type of knowledge that a firm creates or seeks to capture has a corresponding knowledge management initiative. The different types of knowledge identified in law firms in Botswana are tacit knowledge, explicit knowledge and knowledge of the business of law (table 6.2). These different types of knowledge should be pulled together in ways that will be beneficial to lawyers. The owners and partners in the 1 and 2 lawyer firms and the knowledge manager in the 3 to 9 lawyer firms should carry out a knowledge audit to identify the existing knowledge gaps that will reflect the business value of the firm. An observable strength in a 1 and 2 lawyer firm is that due to their limited knowledge assets, the process of organising and storing knowledge may be easier.

8.2.3 Determine the firm's knowledge management strategy

There should be a direct relationship between a firm's knowledge management strategy and the ability to achieve its business objectives. Codification and personalisation are essentially the two types of knowledge management strategies often used (section 4.10.3). Codification focuses on explicit knowledge and centres on the storage of explicit knowledge while personalisation tends to focus on tacit knowledge and addresses the storage of knowledge in human minds shared through personal contacts.

The codification strategy will help the 1 and 2 lawyers firms to manage and organise their knowledge, improves efficiency and reduces the tendency of repetitive work currently prevalent in these firms. In the 3 to 9 lawyer firm, codification will extract and codify knowledge that is independent from the lawyers and store it in electronic databases that may be searched, retrieved and used by other lawyers.

In line with other small and medium size firms (Lim & Klobas, 2000; Yewwong & Aspinwall, 2004; Egbu et al., 2005), personalisation will prevent the loss of knowledge in



law firms in Botswana (table 3, 54.3%). An interviewee remarked that, “the importance of a lawyer’s knowledge is often realised, perhaps too late, when the lawyer is about to leave the law firm as he/she takes with him/her the knowledge and experience gained over the years.” In the 1 and 2 lawyer firms, the owners and partners are faced with the challenge of ensuring that knowledge remains in the law firm after their death or retirement. Also, lawyers in the 3 to 9 lawyer firm are highly susceptible to the loss of knowledge either due to death or retirement of employees or employees seeking better compensation packages elsewhere. Personalisation strategy will facilitate the sharing of knowledge amongst lawyers in a 3 to 9 lawyer firm by linking them with one another. It will also keep track of the knowledge and expertise of a lawyer and his/ her accomplishments making it easy for a firm to identify at the right time a lawyer whose experience and expertise are tailored towards the particular needs of a client.

The codification and personalisation process of knowledge in law firms in Botswana is still at the initial stages. Similar to other small and medium size firms (Lim & Klobas; 2000; Egbu et al., 2005) knowledge is not properly stored in retrievable formats due to the informal working systems and procedures and the lack of appropriate information communication technology tools. Understandably, due to their size, only few law firms can afford the portal technology, Yellow Pages or “expert locators” containing the curriculum vitae competency files, bulletin boards, wireless devices, intranets, extranets and web sites to facilitate codification process (tables 6.4, 6.5, 6.6). Law firms in Botswana may therefore consider adopting other informal techniques of knowledge capture common in small and medium size firms such as formal meetings, where meetings are minuted and circulated; writing reports after attending external seminars and production and exhibitions of biannual newsletters (Lim & Klobas, 2000; Sparrow, 2001; Yewwong & Aspinwall, 2004; Egbu et al., 2005).

The findings from the interview revealed that tacit knowledge is difficult to codify and is currently shared, captured and transferred in law firms mainly through informal face-to-face meetings, on the corridor conversation, brainstorming and mentoring schemes. Law firms with 3 to 9 lawyers should consider adopting cheaper and effective ways of sharing knowledge typical in small and medium size firms such as job rotation, apprenticeships, discussion forums, project teams, sharing sessions and work presentations (Lim & Klobas, 2000; Sparrow, 2001; Yewwong & Aspinwall, 2004; Egbu et al., 2005). Mentoring and shadowing, and coaching are other effective ways of sharing tacit knowledge in small and medium size firms (Egbu & Botterill, 2002). A firm’s newsletter including upcoming community events, recent successes and failures, and newly published best practices and

lessons learned would be an option for knowledge transfer in small law firms.

8.2.4 Organisational variables for knowledge management in law firms in Botswana

Before implementing knowledge management in the law firm it is crucial for the different organisational variables of the law firm to be identified so that any inherent organisational barriers may be addressed. Leavitt's model (1965) of classic analysis of industrial organisations (see 3.8.3 and 4.7.2.3) elaborated upon by Galbraith (1997) was adopted and further adjusted to provide an integrated approach to understanding the organisational variables crucial for knowledge management in law firms in Botswana. Leavitt (1965) considers organisations to be complex systems in which four significant variables (task, structure, technology and humans) interact to effect changes in the organisation. Galbraith (1997) expanded on these organisational variables by including variables such as reward systems and information and decision processes. In considering the organisational variables for law firms in Botswana, this study draws on the above variables together with variables such as culture, leadership commitment and learning organisation. These different variables are presented in figure 8.2 below and discussed in subsequent paragraphs.

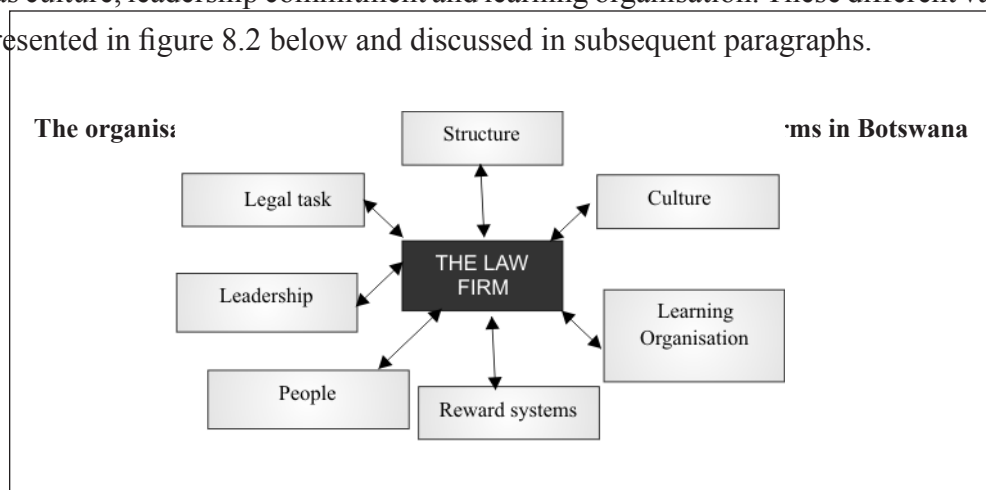


Figure 8.2 Organisational variables for knowledge management in law firms in Botswana

A task is the production of goods and services within an organisation (Leavitt, 1965). In order to ensure effective implementation of knowledge management in law firms in Botswana, the different tasks in the law firm need to be identified because each task is supported by a different type of knowledge management initiative, tool and supporting architecture. The major legal tasks performed in law firms Botswana are legal advice,



advocacy, corporate practice, litigation, conveyancing and legal research. The overall objective of a legal task is to provide services to the clients by adapting the law to the needs of a specific case and the case to the results wished for. It is worth noting that one of the major challenges to knowledge management in small firms is that these firms tend to have mainly generalists performing a variety of tasks (Yusof & Aspinwall, 2004) who may be termed, according to the old adage as “Jack of all trade and a master of none.” In spite of the increasing drive to shift from the general practitioners mode of practice to the specialised divisions and tasks triggered by the changing legal environment (section 2.4.8; Susskind, 2001), there is hardly any specialisation in law firms in Botswana. Every lawyer is expected to perform the different legal tasks in the firm while the support staff performs the multiple support tasks. Therefore, the initial knowledge management initiatives in a law firm may be directed mainly towards leveraging the different legal tasks of the lawyers and support staff.

Organisational variables such as structure, culture, techniques, knowledge sources and technology are crucial in performing legal tasks. Structure is the system of communication, work flow, authority, positions and employees within the organisation (Leavitt, 1965:1144). In order for knowledge management to flourish, the structure should be designed flexibly in ways that formal and administrative procedures do not prevent cross-functional communication, cooperation and sharing of knowledge and new ideas. It has been suggested that a flexible and non hierarchical structure is an essential factor for knowledge management (Gold et al., 2001). Small and medium size firms are known to have the advantage of a simple, informal and flatter organisational structure that gives them distinct advantages over the agile and bureaucratic structure of larger firms when it comes to implementing knowledge management (YewWong & Aspinwall 2004; Egbu et al., 2005). It is therefore crucial to consider the employees and positions in the law firm that are essential in transmitting knowledge in an optimal manner.

Egbu et al. (2005) note that small and medium size enterprises have efficient and informal communication networks and shorter and direct communication lines that allows for a faster discourse on knowledge management issues within the organisation. For example, the line of communication flow is just between the owners, legal secretary and receptionist in a sole proprietorship and between the partners, legal secretary and receptionist in a partnership. This makes it easier for the owners and partners to declare the need to implement knowledge management in their firm and to disseminate their plans in a timelier manner due to little or no consultation. The employees in most of the 3 to 9 lawyer firms consist of the managing

partner, lawyers (partners and professional assistants); professional staff (legal secretaries and other legal assistants) and clerical support staff (secretaries, information system staff, marketing staff, and accountants). Although these firms are relatively bigger in comparison to the 1 and 2 lawyer firms, it is still easier to get all the employees together to initiate and implement change because members know each other. The shorter communication lines in small law firms in Botswana put them at an advantage over their larger counterparts in implementing knowledge management. Furthermore, although the decision-making process in the 3 to 9 lawyer firms, involves consultations between the managing partners and the committee of partners, the decision-making chain is still shorter as compared to larger firms because there are not many layers of management decision making and lawyers still enjoy a certain degree of professional autonomy.

The people in the law firm and other people-related issues are also critical variables for successful knowledge management because knowledge management is essentially about people, relationships and communities. Lim & Klobas (2000) & Egbu et al. (2005) note that in order for small and medium size firms to manage their knowledge effectively, they need to manage their people effectively. The fact that small firms comprise fewer employees than their larger counterparts certainly gives them a distinct advantage since it is easier to get all the employees together to initiate and implement a change (Yew Wong & Aspinwall 2004). This advantage is apt in the 1 and 2 lawyer firms where the owner's and partners' personality, skills, responsibilities, attitudes, behaviour and personal motivation, have a decisive influence on knowledge management. It is therefore crucial for sole proprietors and partnerships to consider the interest of the support staff in the firm. It is also worthy to note that sole proprietors and partnerships may also engage in other people-related activities such as sharing knowledge with lawyers from other firms, sharing knowledge within the firm in the case of a partnership, subscription to email distribution list, members of professional development associations, hiring and training of young lawyers and entering into strategic alliances. In the 3 to 9 lawyer firm, it is crucial for the knowledge manager to ensure that the personal interest and activities of the different people in the law firm are aligned to the paradigms of the firm; and that they cooperate and share knowledge with each other. They should ensure that their employees have sufficient scope for personal development and career advancement. Employees should not be afraid of making mistakes, but should be encouraged to share the lessons learnt in order to curb repetitions of the same mistakes.

A culture of knowledge sharing is an important people-related issue that needs to be



considered in law firms. Generally, a unified and fluid culture with corporate mindset that emphasises the company as a single entity rather than a department is expected to be more salient in smaller firms (Matlay, 2000; Egbu & Botterill, 2002; Yewwong, & Aspinwall, 2004). However, the findings reveal that the culture of knowledge sharing runs counter to the values of law firms in Botswana. It was shown that lawyers manifest a team spirit only in the discussions of the general principles of the law, and in most cases tend to hoard knowledge because they consider that it gives them a competitive edge over their rivals (sections 7.7.3 and 7.7.4). However, the fact that an overwhelming majority of lawyers acknowledged the potential benefit of sharing knowledge (table 6.9), the benefits of working in teams (table 6.8) and the mutual care and concern amongst individuals (table 6.11), may be an indication that lawyers are positive about the benefits of knowledge sharing. Therefore, an open and non-secretive, corporate organisational culture (section 3.15.1) where lawyers are stimulated to cooperate with each other should be encouraged in the 3 to 9 lawyer firms in Botswana. Trust amongst lawyers is an important incentive in sharing knowledge. The Law Society will have to educate and instil the spirit of knowledge sharing and the notion of “increasing returns of knowledge” amongst lawyers. The concept of “knowledge is power” has to be tactfully tempered by the notion that shared knowledge stays with the giver, enriches the receiver, and results in competitive advantage to the firm.

In the 1 and 2 lawyer firms where power and knowledge are held closely by the owners and partners, there is often the tendency for knowledge sharing to be limited to areas defined by the owners/partners. Therefore, the owners and partners being the main engine for change in these firms should recognise the importance and potential of knowledge management. They should consider entering into strategic alliances with other firms of their size or larger firms. It has been observed that strategic alliances with other knowledge intensive firms can provide small firms and solo consultants with the muscle and capability to handle complex assignments (Chung et al., 2006).

Reward systems are an essential organisational variable for knowledge to be considered by law firms in Botswana. The findings revealed that lawyers have no intention to invest in non-billable hours and therefore consider the time spent in any internal efficiency other than billing clients as a waste of billable time. Also, the different methods of rewarding lawyers in law firms in Botswana such as department-based billing, earning bonuses and the revenue-based compensation methods (appendix 3) are a major challenge to knowledge management because lawyers are rewarded in the firm based on the time he/she spends in deploying knowledge to the services of clients rather than in managing the knowledge of



the firm. Furthermore, in table 6.11 it was observed that promotion in the law firms is not based on the ability to share knowledge, and that there is no special recognition of staff for time spent in creating, sharing and distributing knowledge. It is therefore important for the 3 to 9 lawyer firms to implement rewards systems where lawyers are rewarded not only on their work which results in billing clients, but also their willingness to participate in knowledge management activities and other kinds of work that do not result in billing clients. A reward system will serve as motivation both to the lawyer and to other lawyers to consider devoting time for knowledge management.

Arguably, due to their size and limited resources, the 3 to 9 lawyer firms in Botswana may ill afford financial rewards for knowledge management. However, it has been observed that non-financial incentives such as recognising employees' contributions, empowering employees, and giving freedom to apply ideas may outweigh the importance of other tangible offerings in small and medium size firms (Ghobadian & Galleary, 1997; Lim & Klobas, 2000; Egbu & Botterill, 2002, Egbu et al., 2005). The 3 to 9 lawyer firms may also consider promoting lawyers to partnership for sharing knowledge or those who sacrifice just as little as 1/10 of their time in knowledge management. Law firms may also consider introducing fixed contracts as opposed to hourly rate contracts. In a 1 and 2 lawyer, firm where the benefits from knowledge management at the end of the day rest with the sole proprietor or the partnership, they may consider rewarding the legal secretaries or other support staff.

Leadership is another crucial variable that law firms in Botswana need to consider when implementing knowledge management. In Egbu et al. (2005) qualitative findings, 33% of those interviewed acknowledged that leadership commitment is vital in small and medium size enterprises. The managing partner is responsible for knowledge management in the 3 to 9 lawyer firm while the owners and partners are responsible for knowledge management in the 1 and 2 lawyer firms. The owners and partners together with the managing partners should recognise, appreciate and integrate the concept of knowledge management into their core business operations. They should explain the meaning and purpose of knowledge management initiatives to other lawyers and members in the firm so that firm members can understand the specific and collective goal of knowledge management. Other lawyers in the firm are likely to pay attention to knowledge management if the managing partner positively communicates its importance to all the staff. Therefore, the managing partner should work together with the knowledge manager to sensitise the firm on the benefits of knowledge management. He/she should be willing to commit the firm's budget towards



supporting knowledge management activities, recognise and appreciate lawyers' efforts and achievement in the area of knowledge management, and be committed to, and address any inherent barriers to knowledge management. The managing partners in the 3 to 9 lawyer firm also has the advantage of time over the owners and partners in the 1 and 2 lawyer firms in that his/her roles and responsibilities may be distributed to other lawyers in the firms while more time is devoted to knowledge management. He/she should be responsible for appointing the appropriate lawyer to the position of a knowledge manager.

The personality of the owners and partners in the 1 and 2 lawyer firm has an important role in the accomplishment of knowledge management. Empirical findings have revealed that owners and managers in small and medium size firms who are dictatorial, hoard knowledge from employees, control every aspect of their business and punish mistakes may well impede the building of a knowledge friendly environment (Matlay, 2000; Egbu & Botterill, 2002; Yewwong & Aspinwall, 2004). It is also likely that besides, being deeply involved in the every day operations of the firm, the sole proprietors and partnerships may lack the skills, competence and understanding required for implementing knowledge management. Bearing in mind that no one else can initiate knowledge management in these firms, the owners and partners in the 1 and 2 lawyer firms need to be innovative and proactive towards knowledge management or else the firms risk being left behind in the fast changing legal environment. They should be aware that time invested in knowledge management is not wasted but instead would enhance the economic performance of the firm, result in the delivery of fast and high quality services, satisfy more clients, and generate more business, in ways that cannot be attained only from billing clients.

Finally, a learning organisation is an important organisational variable that all firms in Botswana need to consider for knowledge management to flourish. Law firms are generally referred to as learned organisations (section 4.7.1.1). The law itself is dynamic and constantly changing, implying that lawyers should crave for new skills and greater expertise throughout their career. The need for specialisation is becoming more imperative as legal practice is increasingly shifting from the general practitioners' model to the development of specialised divisions within different areas of the law (section 2.4.8). Lawyers need to develop skills and expertise in emerging areas of legal practice such as intellectual property, information technology, conflict resolution, banking, and international trade.

Unfortunately, law firms in Botswana are yet to fully establish themselves as learning organisations. Presently only 17% (chart 6.1) of the lawyers have a master's degree.



Most lawyers are not encouraged to further their education; others consider it as a waste of valuable billing time and others do not think an additional qualification will make a difference to their legal practice (section 7.7.5, appendix 3). Also, some lawyers view tutoring and mentoring as just a formality and therefore do not really invest any time in assisting young lawyers (section 7.7.5). Most lawyers do not provide or engage in professional development programmes (63.6%, table 6.10; 26.4%, table 6.6.). It may be argued that due to the lack of resources most law firms in Botswana like other small and medium size firms (Matlay, 2000) tend to rely more on informal incidental and reactive learning rather than formal learning programmes. Nevertheless, it is important for the 3 to 9 lawyers firms to consider some practical and achievable ways of individual, collective and organisational learning. One way may be to pair experienced lawyers to work with younger and inexperienced lawyers so that the new lawyer may share in the knowledge that the more experienced lawyers have acquired during years of practice. Incidental and informal learning should be encouraged. Lawyers should be encouraged to further their studies particularly in those fields that would improve their practicing skills or expand their areas of specialisation.

Bearing in mind the challenge of using business hours for study, the implications for individual and collective development may be difficult in law firms where lawyers particularly the owner and partners in the 1 and 2 lawyer firms are too busy with the core business operations. However, lawyers as well as owners and partners may consider other less demanding options such as getting affiliated to professional associations and enrolling in distant learning, correspondence or part time studies. These firms may also consider entering into strategic alliances with other firms. It has been reported that private learning, inter-organisational learning, and communal learning processes in a small knowledge intensive consulting firm has been facilitated by strategic alliances (Chung et al., 2006).

On the whole, the Law Society needs to sensitise lawyers in Botswana to develop an interest in continuous learning and professional development because one of the foundations of knowledge management is the power of learning (see sections 3.16.18 and 4.6.6). The Law Society should organise computer-based training programmes, web-based learning, acquire web-based tools, multimedia applications and presentation support systems in order to ensure an effective learning environment amongst lawyers. Lawyers are encouraged to contribute articles in journals and undertake research through published (print or electronic) resources to learn about recent legal developments.

8.2.5 Tools and technologies for knowledge management

A proper information and communication infrastructure will support the capturing and sharing of knowledge, promote collaboration and provide easy access to knowledge within the firm. Empirical findings on studies in small and medium size enterprises reveal that these firms have not fully exploited the potential benefits of information communication technology for knowledge management (Lim & Klobas, 2000; Egbu et al., 2005). Egbu et al., (2005) reported that the information communication technology provisions for knowledge management in the 11 pilot surveying practices were mainly phones, emails, faxes, intranet and internet. It was also evident from the findings in this study (tables 6.4 and 6.5) that law firms in Botswana are still at the initial stages of the adoption and use of information communication technologies for knowledge management. The information technologies identified in table 6.4 as commonly used in the law firms are limited to telephones (100%), computers (100%) network personal computers (81.4%), emails (71.4%), internet (69.3%), document and record management (16.4%) and legal information systems (40.0%). Very few law firms are using the intranet (20%, table 6.4) to share knowledge. Inadequate technological infrastructure was acknowledged as a major barrier to knowledge management in law firms in Botswana (67.2%, table 6.12).

It has been argued that information communication technology can be used as a strategic weapon by small firms to maintain their competitiveness and attain a favourable position within their sector of activity (Bergeron & Raymond; 1992; Egbu & Botterill, 2002; Yewwong & Aspinwall, 2004). Therefore, considering the importance of information communication technology for knowledge management in small firms, law firms in Botswana should consider investing in small, simple, inexpensive systems tailored towards their needs and integrated as part of their job. Law firms should adopt and integrate user-friendly computer software programmes for knowledge management in their day-to-day practice.

Typical technologies that will enhance the organisation of knowledge and internal efficiencies in both the 1 and 2 lawyer firms and the 3 to 9 lawyer firms are emails, internet, model documents, precedents databases, external legal information systems such as Juta and Butterworth, practice, case and content management systems, and automated document assembly. The 3 to 9 lawyer firms may consider adopting other technologies geared at facilitating communication between staff, such as intranet, extranet, video and text based video conferencing, chat lines, electronic bulletin boards, knowledge cafes and internal legal

information systems. These firms will have to rely on the services of part-time consultants and information professionals for success in championing a technological adoption, and the trial and error process during technology implementation. Law firms should welcome any opportunity to volunteer as “tolerant” testers for new software devices. All lawyers are challenged to be computer literate, acquire skills in knowledge management, electronic information retrieval, electronic communication and electronic publishing. These skills may be acquired by a programme of self-education, reading, attending computer courses for lawyers, and consulting with colleagues who have already mastered these skills. The part-time consultants and information professionals should play a great role in sensitising lawyers on the importance and use of information communication technologies for knowledge management.

Examples of cutting edge technological infrastructure for law firms were identified in chapters 3 and 4 (see sections 3.9 and 4.4). Figure 8.3 below presents suggested tools and technologies for knowledge management in law firms in Botswana.

| Suggested tools and technologies for knowledge management in law firms in Botswana | |
|--|---|
| <p>Preliminary technologies (telephones, fax, scanning software and personal networked computers, word processing tools, spreadsheets, voice dictation software, email and fax server software) Groupware (email, calendaring, Lotus Notes, video and text-based conferencing, electronic bulletin boards, chat lines, and knowledge cafes)</p> <p>Collaborative and communicative technologies (internet/intranet, extranet, World Wide Web, and enterprise information portals)</p> <p>Learning and professional development systems</p> | <p>Knowledge databases and software tools (knowledge repository, model documents and precedent data bases, Collaborative hypermedia, Practice, Case and Content management systems, and automated document assembly such as word processing and accounting packages)</p> <p>Corporate knowledge maps and directories of explicit and tacit knowledge (Yellow Pages)</p> <p>Intelligent Tools (expert systems case based reasoning)</p> <p>Knowledge support systems (legal information systems)</p> |

Figure 8.3 Suggested tools and technologies for knowledge management in law firms in Botswana

Network computers, word processing tools, spreadsheets, voice dictation software, email, fax server software and scanning software should be used to support the process of capturing tacit knowledge and converting it into digital format so that it can be stored, indexed and shared within the law firms. The communicative and collaborative technologies (bulletin boards, discussion groups, Lotus Notes, internet, intranet, extranet and web based portals) will enable lawyers to collaborate virtually together without any barrier to geographical



location, accelerate the capture and transfer of tacit knowledge, support knowledge access and facilitate team work and individual contact with one another. Knowledge databases and software tools such as a knowledge repository of structured explicit knowledge will capture knowledge for later and broader access by others within the same firm, serve as a storage and retrieval system, serve as central inventory of employees' skills, competencies and experience (Yellow Pages) and provide online questions and answers that link clients with questions to a subject matter specialist in the firm. A corporate knowledge map is the main way of representing the knowledge base and it will enable lawyers in large firms to find relevant information in the server quickly. A typical knowledge map is a directory of tacit knowledge such as "Yellow Pages" (containing curriculum vitae, competency profiles, and research interest and will act as pointer to lawyers knowledgeable in a particular area of the law, documents, collections and data bases where knowledge is stored that can be consulted). For now, intelligent tools that are used to anticipate user needs, cull new knowledge from existing knowledge bases and codify and store structured explicit knowledge may not be a priority for the law firms due to its cost. However, learning and professional development systems are crucial in assisting lawyers to learn and use knowledge.

8.2.6 Techniques of knowledge management in law firms in Botswana

In considering the technological infrastructure, it is also important for law firms to identify the different techniques that they intend to adopt, because except for techniques that do not require the use of information communication technology, other techniques for knowledge management are supported by a corresponding technology. The current techniques of knowledge management in law firms in Botswana are limited to precedents (100%), legal research (80%), hiring and training of young lawyers (61.4%), record management (69.3%) conversation by water coolers, face-to-face communication and brief banks (appendix 3, table 6.6). While law firms in the country are unlikely to require techniques of the of size and complexity provided by large firms, it is apparent that they still need techniques for recording and documentation of events to ensure that knowledge and experiences gained are not lost through employee turnover or the passage of time.

For a start, and depending on the knowledge management needs of the firm, a knowledge repository such as the work product repository may be an excellent knowledge management initiative for the law firms. Empirical findings on knowledge management in small and medium size firms have revealed that the greatest need for knowledge management in these firms is the need to build maintain and use effective and cost-efficient knowledge



repositories (Lim & Klobas, 2000; Yewwong & Aspinwall, 2004; Egbu, et al.). Knowledge repositories are a good start for these law firms because they can be built on technologies that these firms already have in place such as emails (71.4%, table 6.4) and document management systems (16.4%, table 6.4). A work product repository for example, is an electronic repository designed to collect good samples of a firm's work product (contracts, memos, briefs, drafting, and standard documents) as well as information about it and how it should be used (Chester, 2002; Staudt, 2003). These systems assist the firm's lawyers in the creation of new works, new documents, in legal research and analysis and in building presentations for clients. It also assists lawyers to find and contact other lawyers who have performed similar work in the past. Work product repository is very beneficial to lawyers because it will help them produce new work more quickly thus minimising the delays and inefficiencies that result from "reinventing the wheel." It facilitates the productivity of new lawyers and in case of the 3 to 9 lawyer firms, helps lawyers make their expertise visible within the firm so that other lawyers may find them and work with them.

Quite clearly, due to the informal procedures and operations, law firms in Botswana have less resources and capacity to maintain a knowledge repository to the same depth and breadth as large firms. They are unlikely able to afford dedicated employees to manage the knowledge repository as employees will be busy performing other core business. It is therefore advisable that these law firms adopt a simple, easy to use, quick to learn, and cost-efficient knowledge repository that is integrated into the firm's daily operations and tailored to the needs of the firm. Those who add knowledge to the repository should be those who create it while those who retrieve it should be those who need to use it. It is likely that the 1 and 2 lawyer firm may tend to ignore the need to organise and store knowledge in a repository due to their small size compounded with their limited financial resources. However, the fact that knowledge in these firms is kept mostly in the heads of the owners, partners and the employees, makes these firms very vulnerable to the loss of knowledge due to death or retirement of the owners and partners. Therefore, a knowledge repository will improve the firm's capability to codify, store, share and retrieve knowledge. A good start may be to go for a simple, manual, print-based, electronic document repository, or physical records management system integrated with the firm's existing office communication systems that will serve the firm's need.

Law firms may also consider other informal techniques of knowledge management that have been adopted by other small and medium size firms. Yewwong & Aspinwall

(2004) observed that informal environmental scanning whereby small firms depend on the experiences of other firms to serve as benchmarks against which they measured their performance is a crucial technique for knowledge management. It is noted that the personal relationships in small and medium size firms have traditionally been major contributors to the success of these firms (Egbu et al., 2005). Therefore, the 3 to 9 lawyer firms should utilise existing personal bonds and face-to-face contact with one another to build on their knowledge, seek others' opinions about knowledge they acquired, and test its application to problems within the firm.

Other techniques such as communities of practice (section 3.11.1), project experiences, knowledge networks, online forums like intranet news groups or email distribution list, and the development of the organisational memory (section 3.11.5), are suitable for the 3 to 9 lawyer firms. As time goes on, they may also consider adopting litigation strategy, client relation management, conflict checking, share fairs (events that combine knowledge providers like research and development (R&D) teams with knowledge users), effective marketing in the form of articles, knowledge centres, information sharing policies, regular in-house seminars, presentations and weekly learning reports.

Figure 8.4 below shows the present techniques of knowledge management in the law firms in Botswana and the suggested state of the art techniques for knowledge management in law firms.

| Existing and suggested techniques of knowledge management in law firms in Botswana | |
|--|--|
| <p>Present techniques of knowledge management in law firms in Botswana</p> <ul style="list-style-type: none"> Precedents Brief banks Legal research Tutoring and mentoring Conversations by water coolers Brief Banks Personal information banked by lawyers | <p>Suggested state of the art techniques for knowledge management</p> <ul style="list-style-type: none"> Work product repositories, Communities of practice Online forums like Intranet news groups or email distribution list Developing the organisational memory Knowledge networks Professional development programmes Skills and expertise locator (Yellow Pages) Litigation strategy Conflict checking Client relation management After action review Knowledge centres and knowledge concierge Information sharing policies Regular in-house seminars and presentations Weekly learning report |

Figure 8.4 Existing and suggested techniques for knowledge management in law firms in Botswana

8.2.7 Agents and institutions for knowledge management in law firms

The research findings (table 6.14, and appendix 3) identified several agents and institutions that can foster knowledge management in law firms. The key agents are the Law Society, legal secretaries, law librarians, legal academics at the University of Botswana and the courts. In order to ensure effective implementation of knowledge management in law firms in Botswana, law firms, should work closely with these key agents and institutions and other agents for knowledge management presented in figure 8.5 below.

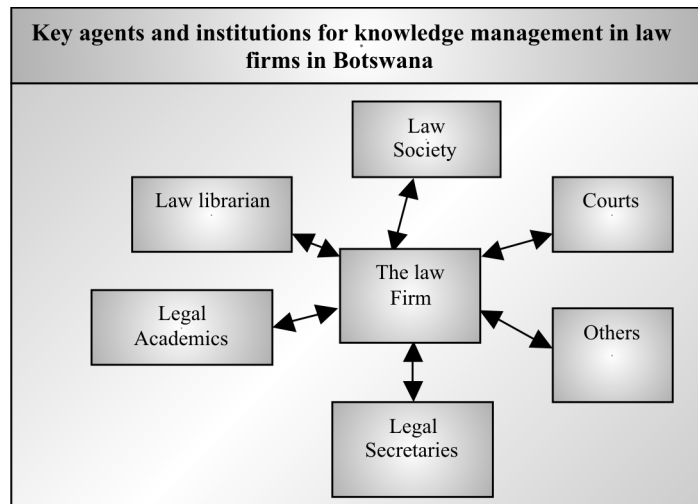


Figure 8.5 Major institutions and agents for knowledge management in law firms in Botswana

Lawyers acknowledged the fact that the Law Society of Botswana is a crucial agent in knowledge management (68.6 % agreed, table 6.14). Considering that it is the regulatory body of law firms in Botswana, it stands to reason that it can be the principal institution for facilitating knowledge management in law firms. It can undertake in several ways to sensitise and educate lawyers about the nature, importance and significance of knowledge management in law firms. One way may be by organising conferences and workshops on knowledge management during which lawyers will be sensitised about the benefits of knowledge management. The Law Society can lead by example; it should consider institutionalising knowledge management and substantially mobilise sole proprietors and partnerships to formalise knowledge management. It can also work together with law firms towards the development of a common network resource centre for lawyers that would be



headed by a knowledge manager who would then constitute a knowledge management team. The Law Society and the law firms may work together with the legal academics and the law department at the University of Botswana to facilitate the implementation of knowledge management in the law firms by ensuring that the concept of knowledge management is introduced to students at law school.

Lawyers acknowledged that legal academics are important agents in facilitating knowledge management in the law firms (65.0% agreed, table 6.14). They are responsible for transferring knowledge to lawyers through a five year training programme at the law school during which they acquire the knowledge of the law (declarative knowledge). The legal academics need to redesign the curriculum of the law schools by infusing aspects of knowledge management into some law courses such as the course on introduction to law or the course on legal research methods. Lecturers may be outsourced from the department of information science in the university to offer lectures on knowledge management to law students. The law department may set up mock courtrooms wired with the latest infrastructure so that law students can experiment with cutting-edge tools. The law department should liaise with the information science department and the law librarian at the University of Botswana to organise seminars and workshops that would sensitise the law students on knowledge management.

The legal secretaries are expected to play an important role in knowledge management in the law firms because lawyers rated them highly as agents of knowledge management in the firms (76.4% agreed, table 6.14). This is probably because all lawyers currently engage the services of a legal secretary who assists them in the day to day running of their activities. Their knowledge about the firm, client and other legal issues pertaining to the lawyer to whom they are responsible, and their experience in organising and cross-referencing files by subject and practice area makes them indispensable agents in the knowledge management in the firm. In the 3 to 9 lawyer firms, the legal secretaries should work together with the knowledge manager to facilitate the management of the internal efficiencies of the firm and knowledge about the clients, while in the 1 and 2 lawyer firms he/she works together with the sole proprietor and the partnership.

Another important agent for knowledge management in the law firms should be the law librarian (the legal information professional). Law librarians are preferable to other information professionals because of their legal knowledge and expertise in retrieving, organising and managing legal information and knowledge for lawyers. They stand in a



better position to work closely with the staff in the law firms at all levels and by so doing provide insights into their knowledge needs. However, not many participants recognised the role of the law librarian (37.2% agreed, table 6.14). This is probably because there is no firm with an established library in the country and therefore law firms in Botswana may not appreciate the services of the law librarian because of the feeling they can make do with the legal secretaries. Bearing in mind that lawyers do not seem to appreciate the role of a law librarian, it is necessary to explain some of the different roles that such an individual can play in the firm.

If there is a law librarian in the law firm he/she can champion knowledge management in the law firm and create awareness within the firm about the importance of knowledge management and the benefits of knowledge sharing. He/she can constitute an active member of the knowledge management project team. The law librarian can be responsible for identifying, codifying, organising, packaging, publishing, designing, managing and representing the firm's explicit knowledge in ways that may be accessed and re-used by lawyers as well as foster a climate where tacit knowledge can be identified, captured, shared and re-used in the firms. The law librarian can also archive, purge and manage the life cycle of the knowledge repositories ensuring that the content of the knowledge management system is well indexed and represents the firms' specific subject matter. He/she will facilitate the development of communities of different practice areas and the use of collaborative tools such as virtual meetings (web-conferencing) and knowledge networks. The law librarian will also take part in developing an expertise skill directory such as an online electronic "Yellow Pages". Above all, the law librarian will be responsible for articulating and analysing the knowledge needs of the lawyers while engaging in strategic planning to ensure that the goals of the firm are aligned with the knowledge strategy of the firm. It is therefore imperative for at least the 3 to 9 lawyer firms to consider engaging the part time services of a law librarian. The 1 and 2 lawyer firms may for a start consider becoming registered members at the University of Botswana library which will automatically enable them to benefit from the services of the law librarian.

An information technology specialist is also an important agent of knowledge management. He/she will be able to advise the knowledge manager, the sole proprietor or the partnership with regards to the appropriate technology and software to buy and also in setting up a knowledge management system. Considering that hiring the services of full time information technology expert in law firms may be very costly, law firms particularly the small ones, should consider informal consultations with an information technology consultant.

It is crucial for all law firms to work together with other branches of the legal fraternity such as the magistrates and judges in implementing knowledge management in their firms. Participants and interviewees acknowledged that the courts play a crucial role in generating knowledge in the law firms by way of reasoned judgements that lawyers use as precedents (68.6%, table 6.14; appendix 3). The High Court's annual judicial conference also provides an excellent opportunity for knowledge sharing. It is therefore important that the Chief Justice of Botswana, who is head of the judiciary, devises ways of sensitising judges and magistrates on their role in facilitating knowledge management in the law firms. One way may be to devote some time during the annual judicial conferences for judges and magistrates to discuss their role in facilitating knowledge management in law firms.

The other agents of knowledge management include professional associations and those that emerged from the "other" category and the interviews (appendix 3) such as legal consultants, professional book shops, land tribunal and other quasi judicial bodies like labour arbitrator, International firms affiliated with local firms, publishers like Juta and Butterworth and professional assistants. It was shown (table 6.14) that not many lawyers are members of professional associations (47.1% agreed). It is therefore important for lawyers to consider joining professional associations other than the Law Society because they play a great role in the creation and sharing of knowledge. Although hiring the services of legal consultants can be costly, legal consultants facilitate knowledge creation in law firms. They assist lawyers to carry out research in complex matters where lawyers do not have the expertise and then present it to lawyers in the form of legal opinions. Law firms may therefore consider hiring their services from time to time and knowledge management systems would facilitate the process of contacting experts to make an inquiry. Managing partners rely very much on professional assistance to conduct legal research thus creating knowledge in the firm.

8.2.8 Leveraging of knowledge processes and knowledge resources

Given the appropriate strategy, tools, techniques, organisational variables and supportive institutions, the end result of knowledge management in law firms in Botswana will be the leveraging of the knowledge management processes and resources in ways that the firm would gain competitive edge over the other firms (figure 8.1) that are not conscious of knowledge management. It is therefore crucial for the law firms to be aware of the various knowledge management processes and the knowledge resources that the knowledge management initiative intends to leverage.

8.2.8.1 Leveraging of knowledge management processes

A typical knowledge management process in the law firm should consist of knowledge creation (capture), codification (storage and organisation), transfer (sharing) and utilisation (retrieval). A description of the different knowledge management processes is provided in sections 3.7 and 4.7.1.4.

Law firms should place emphasis on leveraging the knowledge creation and sharing processes because the knowledge codification and utilisation processes have always been part of the information management activities of law firms and are related to managing explicit knowledge. The knowledge creation and sharing processes are related to tacit knowledge and are more difficult to manage because it centres on the knowledge and experiences of the lawyer. Drawing from Nonaka & Takeuchi (1995) model of dynamic organisational knowledge creation modified and adopted by Nonaka et al (2002) (3.8.2 and 4.7.2.2) as “SECI knowledge asset and ba model” while focussing on the SECI, the different ways by which knowledge may be created and transferred in the law firms in Botswana are identified and presented in figure 8.6 below.

| | |
|---|--|
| <p>Socialisation Examples: Tutoring and mentoring, observation, meetings and social interaction</p> | <p>Externalisation: Examples: Producing firm work products such as drafting, brief banks, and precedents</p> |
| <p>Internalisation Examples: Reading and analysing legal reports, advice rendered in writing and arguing cases in courts</p> | <p>Combination Examples: Accessing print and documented knowledge in the firm, writing articles and research papers</p> |

Figure 8.6 *The different ways knowledge may be transferred in law firms Botswana*

In this study, the four different ways of creating and promoting the sharing of knowledge (socialisation, externalisation, combination, and internalisation) resulting from the interaction between tacit and explicit knowledge (section 3.8.2, section 4.6.2.2,) considered as the SECI model are applied within the context of the law firms.



During socialisation a lawyer's tacit knowledge is transmitted and acquired through the sharing of experiences. In spite of the expectations of a unified and fluid culture in small and medium size firms (Ghobadian & Gallear, 1997), knowledge sharing remains a challenge to knowledge management in small and medium size enterprises due to lack of trust (Lim & Klobas, 2000; Egbu et al., 2005). It was also evident from the findings in the study that lawyers did not have a knowledge sharing culture (sections 7.8.3 and 7.8.4). Although it may be argued that the sole proprietor does not need to share knowledge because he/she is alone, benchmarking with other local and international firms is an important method of knowledge transfer in these firms. Besides the informal methods of knowledge transfer already existing in law firms such as tutoring and mentoring, chatting by the hallways, face-to-face communication and telephone chats, (section 7.8.3) there are other methods of transmission of tacit knowledge in the law firms. Tacit knowledge may also be transmitted in the 3 to 9 lawyer firms by observation, brainstorming and mentoring schemes, informal face-to-face meetings, consultation and discussion with other lawyers, team meetings where ideas are shared, discussion of major projects after conclusion, social networking of lawyers, and affiliation with other professional firms.

Externalisation is a process of knowledge creation whereby the lawyers' tacit knowledge is converted to explicit knowledge in the firm. In small and medium size enterprises, the attempts made to transform tacit knowledge into explicit knowledge have, in the main, been unsuccessful (Egbu et al., 2005). Therefore, in order to thrive law firms should seek ways of maintaining and retaining old and new knowledge. Examples of externalisation in the law firm are a lawyer's knowledge and experience reflected in completed contractual and transaction documents such as standard forms contracts; and drafting documents and submitting written reports after attending to a legal task.

Combination is the process where lawyers create explicit knowledge by bringing together explicit knowledge from several sources. For example, bringing together all the documented knowledge compiled in the firm either in print or electronic form. Legal research and writing of articles provides opportunities for lawyers to create knowledge through the process of combination. The 1 and 2 lawyer firms may engage in strategic alliances or conduct informal environmental scanning from other firms.

Internalisation is the process of internalising explicit knowledge and it is closely linked to learning by doing. For example, a lawyer is able to argue cases in court and provide legal advice to clients only after internalising explicit knowledge.

Lawyers should be willing to rock the boat and be willing to venture into trial and error activities.

Therefore, knowledge sharing takes place during the process of socialisation, the creation of new knowledge takes place during the process of externalisation and combination, while the process of internalisation internalises the experiences gained through the other modes of knowledge creation. The choice of a knowledge process most often depends on the knowledge resource that the law firm seeks to improve.

8.2.8.2 Leveraging of knowledge resources

The leveraging of the knowledge management processes will result in leveraging the knowledge resources of the law firms (figure 8.1). Drawing from the intellectual capital model²¹ (Edvinsson, 1997, see section 3.8.1), the knowledge resources in both large and small law firms may be categorised as human capital and structural capital. The human capital in the law firm is equated to the firm's tacit knowledge base. It includes the knowledge and skills of the lawyers and employees in the law firm. The structural capital is equated to the firm's explicit knowledge and knowledge of the business of law. Structural capital is knowledge that remains in law firm when the employees and staff go home at night together with all other knowledge embedded in the processes, culture, print resources, electronic assets, information about the firm's operations, hourly billing rates for lawyers, clients' names and matters, staff payroll data and client invoice data. The following knowledge management researchers in small and medium size firms: Lim & Klobas (2000); Sparrow (2001); Yewwong & Aspinwall (2004) and Egbu et al. (2005) have identified resource constraints in terms of finance, time, capital, labour, equipment and physical commodities as one of the most important challenges of knowledge management in these firms. Egbu & Botterill (2002) also observed that due to lack of resources small firms are often weak in terms of financing, planning, training and the use and exploitation of advanced information technology. In the same way, this study has identified the lack of resources in terms of firm size, finance, time, people and information communication technology as the major barriers to major knowledge management in law firms. However, managing the knowledge assets and intangibles in small firms is vital because it provides a way for them to leverage

21 Intellectual capital is similar to knowledge management in that the practical management objective of intellectual capital is to convert human capital (individual and group learning) to structural capital (organisational knowledge or what is left when people go home, such as documented processes and knowledge base) thereby reducing the risk of losing valuable knowledge when people leave the organisation.



most, if not all of the benefits of knowledge management (Lim & Klobas, 2000; Yewwong & Aspinwall, 2004). Therefore, knowledge management in law firms in Botswana will leverage the tangible and intangible resources in these firms in ways that will enable them to benefit from knowledge management even more than larger law firms.

8.3 Conclusion

This chapter presented and discussed the guidelines for knowledge management in predominantly small law firms in Botswana in the light of the changing legal information environment. It is seen that, given an appropriate project plan, organisational variables, strategies, technologies, techniques, supportive institutions and agents of knowledge management, law firms will leverage the knowledge processes and resources for competitive advantage in relation to other firms in order to stay competitive.

While it appears that the principles of knowledge management could be transferred from large to small and medium size firms, the reality is that small firms are more than “little large businesses” and have certain distinct characteristics and features that distinguish them from their larger counterparts. Therefore, an all out approach to knowledge management is not feasible in small law firms in Botswana. The application of the principles of knowledge management in law firms in Botswana warrants the consideration of unique features typical of small law firms and a host of other complex factors, including finance, size, structure, resources and ideals. Each law firm is challenged to adopt a systematic approach to knowledge management tailored to its needs and resources. Above all, law firms in Botswana need to develop their understanding of knowledge management as a key business driver rather than as a resource-intensive additional initiative.