

Building and Maintaining a Precedents Library

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Precedents and Research Content

- Two facets to my presentation:
 - Building and maintaining a precedents collection
 - Effective storage and retrieval of research content

Reasons for establishing a precedents bank

- Knowledge management: reusing existing knowledge
- Better client service
- Better quality content
- Better training for younger lawyers

Challenges

- Devoting the necessary time
- Ensuring the substance covers all necessary topics
- Gaining consensus as to substance
- Ensuring “horizontal” consistency
- Lawyer ego

Threshold issues

- What are your goals?
- Support and buy-in
- Project management principles

Four essential elements of developing a precedent initiative

- people: setting strategic approach and ensuring accountability
- process: workflows and tasks
- technology: creating an assembly line of automation and workflow tools
- content: reusable, interchangeable contract building blocks

A successful initiative is not possible without equal attention to all four of these elements.

Two other crucial elements

- Create and mandate the use of a style guide
 - Ken Adams, [A Manual of Style for Contract Drafting](#)
 - Contract Standards [Style Guide](#)
- Appoint a general editor

Starting out

- Start with a small, widely used document (e.g., NDA)
- Conduct your first review with table of contents
- Set realistic goals
- Apply “80/20 Rule”
- Consult the actual users

Create “standard English” precedents

- Write for your reader
- Create a clear, logical structure to your document
 - Unified contract structure for all contracts
- Use short, declarative sentences
- Be ruthless in eliminating superfluous language
- Use only one substantive issue per clause
- Use clear, descriptive clause captions
- Create “horizontal consistency”
- Create lots of white space
- Create a “base document” for all your standard clauses

Maintain your library

- Make your collection accessible
- Use a hyperlinked index
- Identify an “owner” of each agreement
- Leverage recent experience:
 - Encourage feedback; make commenting easy; review suggested changes promptly
- Acknowledge contributions
- Flag the date the last updated
- Diarize your review
- Communicate your updates

Effective management of research content

Type of content envisaged: research memos + court documents (case law, etc.)

- File format can affect retrievability: imaged PDFs rather than scanned PDFs not searchable

Effective storage of research content

- Proper tagging of content
- Effective taxonomy together with making content available via multiple access points

Two ways to find content: searching and browsing

Searching for content

- Enterprise search
 - But many law firms and in-house departments do not have enterprise search
- Even with enterprise search, but even more so without it, searching for content can be hit-and-miss
- But there is a way to improve the search experience: proper tagging of content

Browsing for content

- Nested folder structure
 - Standard for computer files, so users familiar with the approach
- Problem with standard organization of files: particular file lives in one and only one location: “unique taxonomic locations”
- There is a way to improve the browsing experience: effective taxonomy plus content that is accessible via multiple locations: “multivalent taxonomic locations” (i.e., hyperlinked index)

Search vs. Browse

Effective search: Proper tagging of content

- Single, controlled list of tags
- Creation of synonym ring

Effective browsing: Effective taxonomy

- Develop single standard taxonomy for classifying content
 - No more than 10 (ideally only seven) categories per taxonomic level
 - No “General” category at any level
- Publish taxonomy on intranet (or other accessible platform): hyperlinked index

Editorial control

- Appoint a “general editor” with sole responsibility for curating the tag list and synonym ring
- Standardize the process for tagging and taxonomizing content
- Develop a statement of principles that guides how tags are applied and updated

Where to start

- Beta test: start with one small area (e.g., municipal law; constructive dismissal)
 - Make small mistakes first
- Slowly widen scope (e.g., commercial leases; employment severance), then more (e.g., real estate; labour & employment)
- Document lessons learned from mistakes made and principles applied to resolve issues

Thank you

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