

Commodity broken



Kerry Underwood says that lawyers should give up low value remortgaging and personal injury work

LAST WEEK I VISITED A CLIENT IN HER HOME

in the village where I live. With assistant solicitor and trainee in tow we discussed wills, inheritance tax planning, conveyancing and a boundary matter. Three sons and various in-laws were present and several new files were opened the next morning.

Filled with home-made cake and tea I waddled out late evening in a scene straight out of *Midsomer Murders* and felt like a real solicitor again.

Client non-contact

Cut to an unqualified clerk with a massive personal injury case load, operating a case management system, who has never seen nor will ever see a single client. No client ever crosses the firm's threshold. The clients are paid for by the firm and are pieces of paper to be sold to the highest bidder. It is more akin to the slave trade for everyone involved than to a law firm.

This is not another article about the perils of specialisation or referral fees but rather about their close and unpleasant relative – commoditisation. An ugly word for an ugly concept.

It is now time to accept that certain areas of work, principally remortgage work and low-value personal injury claims need no longer be the preserve of lawyers. In other words, abolish the monopoly and allow anyone to do such work for gain, subject to compulsory professional indemnity insurance.

The reality is that in many firms of so-called solicitors virtually all of such work is done by entirely unqualified staff using computerised case management systems where

the client never sees anyone and where there is no legal input at all and where the client has been sold to the firm by a mortgage company or a legal expenses insurer or whatever.

Let us stop pretending that that has anything to do with the practise of law – a noble calling where the primary duty should always be to protect one's client, often against the very financial institutions from which that client has been purchased.

Let us stop charging lawyer's fees for such work and let us open up to anyone and everyone all remortgage work and personal injury work where the claim is worth less than £15,000. Abolish recoverable costs for such work, thus unifying the small claims and fast tracks.

If such work is then done by the same unqualified clerks in claims management companies or the offices of legal expenses insurers or banks and building societies, then so what?

What independence?

The idea that a firm of solicitors which gets its work from such sources has any degree of independence is laughable. If the client is being sold to a tame case management system controlled clerk who they neither meet nor would want to meet, then what is lost?

Nothing, and plenty would be gained. Solicitors would be free to do such work, but they would have to compete in the open market and would not have a liability insurer picking up the tab. Fees would fall. Insurance premiums would fall and clients may actually get a better service. It could barely be worse.

In addition, real lawyers seeing real people and having real clients would be valued and could properly charge proper fees. As a profession, we simply should not do cheap and nasty.

Time to let go

Such a system already operates in the vastly more complicated, demanding and emotionally charged field of employment, except there is no upper limit and anyone can charge a fee. This has not led to a lowering of standards compared with personal injury work. True, as an employment tribunal chairman, I had poor non-qualified advocates appearing before me, but I saw poor solicitor representatives too, and there were some excellent advocates, notably from the CAB, who had no connection with the law.

The personal injury tail wags the legal dog with endless debates about conditional fees, after-the-event insurance, small claims limits, etc. Apart from lawyers who cares? Low value personal injury work is not important. It is not difficult. It is over-priced.

Other areas, such as employment, family, education, housing and pensions are far more important and should receive far greater attention than personal injury work.

Commoditised work is dragging this great profession into the gutter.

It is time to let go.

● Do you agree?

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