



Not that special

Kerry Underwood says specialisation among solicitors is killing the profession

SPECIALISATION IS DESTROYING THE profession of solicitor. It is clearly harmful for solicitors' firms and solicitors, but if, as I believe, it also fails clients, the one possible justification disappears.

I have less problem with barristers – who are referral-based and generally do not deal direct with the public – specialising, but the great ones never do. George Carman QC conducted his first libel case when in his fifties – he did plenty of other work, much of it criminal.

Top judges cannot specialise. If you are a law lord, you hear everything. Lord Phillips, unquestionably the best judge of my time, is shortly to become the Lord Chief Justice, and thus head of the criminal system, but will retain many of his civil responsibilities.

Early false start

So why do we get not only young solicitors, but trainees wishing to specialise? The Law Society Finals course, or whatever it is now called, is being "specialised" so that you come out of law school as a "legal aid lawyer" or a "City lawyer", that is, virtually unemployable outside a very narrow base of firms. Maybe there should be a combined "legal aid/City" course so that solicitors can escape the rat race of the City for the satisfaction of legal aid work or the poverty of legal-aid for the riches of the City (or have I got that the wrong way round?).

Ok, I have had my rant. Why is specialisation so harmful? From an individual's point of view, the answer is fairly obvious. Any work, in time, becomes at best routine and unchallenging and at worst boring. After my 500th shoplifting case, I knew I'd had enough of minor crime. The great joy of being an all-rounder is that you never know what the day will bring. In a career as a solicitor you can have a dozen jobs and never move office. Working life remains interesting, challenging and full of endless possibilities, and if one area of work dries up, you just build on your other areas. Every 20 years an area of legal work ceases to be worthwhile. It was straightforward divorce in the late 1960s, which moved straight from being High Court trials to a paper exercise, conveyanc-

ing in the late 1980s and now it is the turn of personal injury.

New areas open up all the time – pensions and education, for example. Even mainstream areas, such as employment and immigration barely existed when I started work. As one door closes, another opens... unless you are a specialist.

Lack of flexibility

From the firm's point of view, specialisation by individuals creates a lack of flexibility and is very damaging to small firms. Such a firm may have 50 employment cases, 30 personal injury cases and 20 general civil litigation cases. Traditionally one solicitor would have dealt with all of those cases (as they still do in my firm). Now the pressure is to have a specialist in each field, but the firm cannot afford three solicitors, so it sheds its employment work and has one personal injury lawyer doing that and the civil work. The civil drifts away because the personal injury lawyer is not really interested in it. S/he ultimately gets what s/he wants – a caseload comprised entirely of personal injury. Unfortunately, the world changes and unless the firm pays legal expenses insurers/claims management companies or whatever a ludicrous referral fee (bribe) to get the work, there is no personal injury work. The solicitor is made redundant and, having no other skill, is unattractive in a dying market and the firm has lost its perfectly sustainable mixed litigation work and many of its clients.

Firms specialising is a kind of deferred suicide. Sooner or later something will happen that is not good. "Don't put all of your eggs in one basket," ought to be every firm's motto. Just as everyone else tries to diversify, solicitors specialise! Divorce, conveyancing, personal injury... need I go on? The real irony is that specialist firms always earn less. Mass conveyancers, for example. Personal injury firms' business sense is so funny that it hurts. They cannot earn less because of fixed fees. This is a new challenge. How can I wreck this profitable, easy work? Oh, I know I will pay claims handlers/legal expenses insurers most of my fixed costs so that we can still lose money. And although

once this was illegal, the good old Law Society has now legalised referral fees so solicitors are free to bankrupt themselves and the profession.

Of course it isn't funny at all. Firms have boxed themselves into the specialist corner and will pay anything for work rather than say: "No thanks, I have plenty of other things to do and plenty of other clients to see." They go out of business, solicitors are made redundant and clients get a third-rate on-the-cheap service. Look at legal aid.

Client crisis

Clients are ill served by specialisation. Problems do not come in neat boxes. The rounded solicitor may not be able nor want to do absolutely everything, but will know enough about all common areas to speak intelligently to clients and to cross-sell the firm's services. Like it or not, virtually every client expects every solicitor to know something about conveyancing, wills, probate etc. Legal aid may be the most extreme form of specialisation, in that the work-type is specialised and so is the client type. Enough said. Yes, there are many decent solicitors, mainly of an older generation, carrying on out of a sense of duty, but any suggestion that the general quality of legal-aid firms compares favourably with the true private sector is laughable.

Every lawyer knows of firms that have legal aid contracts because they would never get work in the open market, and no one else wants them.

The less well-off in this country are singularly ill served by both legal aid and specialisation.

My firm does specialise. It specialises in clients and looking after them. We generalists do not come cheap, but you get what you pay for. McDonald's are specialists. I find The Ivy and Aubergine are rather generalist. Where would you rather eat?

● Do you agree?

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