

Yes minister

10 November 2006

By [Kerry Underwood](#)

Kerry Underwood received a forceful letter last week, saying he was out of touch with the real work of practice...

Dear Kerry

You have been outspoken in your criticism of the Legal Services Bill and the proposal to open up all aspects of legal work to anyone, subject to there being one qualified lawyer on the books, and that organisation being licensed.

But do any of your arguments stand up to scrutiny? In the large personal injury and conveyancing firms, there are few lawyers – virtually all work is done by ‘paralegals’, that is, entirely unqualified clerks, generally using sterile and inflexible case management systems which you yourself have attacked. These law firms that you are so proud of almost never see their ‘clients’, which are actually paper files purchased from a claims management company or an insurance company, often tied in to buying after-the-event insurance, with money borrowed by the client at extortionate interest rates. Doesn’t sound as though quality comes into the equation there...

As to independence – could you explain to me how this mass purchase of work from suppliers, upon whom the solicitor is totally dependent, squares with Rule 1 of the Solicitors Practice Rules:

A solicitor shall not do anything in the course of practising as a solicitor, or permit another person to do anything on his or her behalf, which compromises or impairs or is likely to compromise or impair any of the following:

- a) the solicitor’s independence or integrity;
- b) a person’s freedom to instruct a solicitor of his or her choice.”

You know that every firm on every insurance company panel is breaking those two rules every time they take a case.

Surely, even you accept that ‘Tesco’ law could not be worse than that. A nationwide network of outlets would allow clients to be seen in person and the power of these big institutions, marketing direct to the public, would wipe out the grubby business of garages selling work to solicitors and ‘credit-hire’ – and all the other dirty little tricks of your trade. Supermarkets will be very careful not to tarnish their reputation by behaving the way law firms do.

On the subject of referral fees, what do you say about the complete failure of the Law Society to take action against any of its members, many very prominent in

the profession, for systematically and illegally paying for work over many years? Claims Direct and The Accident Group could not have happened without solicitors. Your professional rules, standards and ethics are just hot air. Again, surely even you accept that a body such as the Co-op would operate consistently to far higher ethical standards than your fellow-solicitors?

Do you think that the Law Society's abolition of elections for its officers was a clever move?

Might it have been an idea for your profession to openly and warmly embrace complete external, independent regulation instead of resisting it?

Your firm famously has extraordinary levels of client service. But that is the point. They are extraordinary. Why do none of the other 10,000 firms of solicitors follow your lead and publish individual lawyer's service performances on their website? Schools, hospitals and everyone else has got used to league tables – why not lawyers? Why does no one else have the independent complaints procedure to a QC that your firm operates? And before you get carried away with the praise, remember that all that you are doing is standard in other businesses.

Opening hours – no contest. Most law firms are still 9-5 and “leave a message on the answerphone and we might call you back some time”. Have solicitors never heard of call centres? Are evening and weekend opening beyond the sensibilities of your precious profession?

The average solicitor's office – yours too, I suspect – resembles something out of Dickens. Fat paper files covering every surface – paper everywhere – overflowing in-trays and nice new, barely used, computers on every lawyer's expensive desk.

What does the average person in the average law firm actually do? Few know how to solicit, they just buy the work from Sid the Panel-Beater, Dr Death at the local NHS Trust or an insurance company. As soon as a decision is needed, like what the claim is worth, it's off to counsel. Obviously contacting an expert is too much effort, so it's off to a medical agency. And when it comes to delivering a bill – that's done by a costs draftsman. Advocacy –forget it. Taking a risk – forget it – take out ludicrously expensive after-the-event insurance and expect the other side to pay for it. It is pathetic.

Let us face it, trying to hold on to your monopoly is out and out protectionism. You will say, correctly, that your own firm, and many others do not match the description above, in which case why do you resist these changes instead of welcoming in organisations that share your ethos and dedication to the public?

Yours sincerely

A Minister