

All change

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Kerry Underwood reviews the changes in the legal world that have taken place during his time as a solicitor

This weekend I turn 50. I started work in a solicitor's office 32 years ago. So it's time to reflect personally, but also time to reflect on the changes in the practice of law over that period.

Judiciary

I have no doubt that the judiciary is far superior now compared with 1974. Judges at all levels are better trained, politer, quicker and drawn from a more diverse background in terms of class, race and gender. Given the enormous number of decisions made and judgments given, it is very rare indeed that an obviously stupid statement is made. All of this has been achieved without sacrificing one of the main functions of the judiciary – to act as a check on ever more powerful governments with ever less concern for individual liberty. Completely free from corruption and spin, the judiciary is one of the great success stories.

Legal profession

There have been many improvements here too, with a much more diverse profession in terms of gender and race, but perhaps less so in terms of class. However, there are serious warning signs. While many coming into the profession are extremely talented, many are not. Poor education, low pass-marks and short training contracts mean that the quality of those coming into the profession is mixed.

The involvement of members of my generation in cheap conveyancing, claims management companies and dodgy insurance deals has hardly set a good example. Clementi now casts a shadow over all of us. This name will take its place beside that of Beeching. Perhaps the legal profession deserves what happened to the railways.

On the positive side the rise and rise of legal executives is very welcome and standards of service are incomparably better than 32 years ago, ironically partly inspired by claims management companies.

Law Society

Rarely has a fall been so dramatic. In 1974 it was respected and feared, its president automatically receiving a knighthood. It controlled legal aid and professional indemnity insurance. Rules were rigidly and fairly enforced.

Now it is a shambling wreck, deprived of its powers and enforcing its rules sporadically and largely against the weak. Shamefully, it stood by during the Claims Direct and Accident Group fiascos and abdicated the enforcement of its rules to the courts. In the great age of democracy as juntas and communism fell, and as that greatest of all lawyers, Nelson Mandela, became president of a democratic South Africa, the Law Society's reaction was to abolish elections! No-one took it seriously after that.

One of the very few beneficial effects of Clementi is the end of the Law Society. Good riddance.

I make it absolutely clear that I am talking about the council. The officials have worked hard, against terrible odds, and continue to do so. Lions led by donkeys indeed.

Legislation

The office of parliamentary draftsman used to be highly respected and very highly paid. Now, whatever the political merit of the legislation, the drafting is truly awful. Don't get me started on the Employment Act 2002 (Dispute Resolution) Regulations 2004. I defy anyone to understand them, and these are meant to be understood by lay people bringing their own tribunal claims. The drivel finding its way into Acts of Parliament and statutory instruments defies belief.

Legal system

In 1974 most people qualified for legal aid. Now civil legal aid has been all but abolished. On the other hand, we now have conditional fees and, increasingly, out and out contingency fees. Advertising used to be so strictly controlled that when I stood for Parliament and in local elections I had to use some such phrase as "Kerry is connected with the law", which made it sound as though I was on probation. Now my own firm advertises on prime-time TV. Cases used to be settled by a chat with the insurance rep – now we have pre-action protocols. We used to weigh files. After a brief flirtation with hourly rates, we now have fixed costs. We had manual typewriters and carbon paper. Now it is email and case management systems.

Some good changes – some bad. Make up your own mind.

As for me? The kid from the council house will be in our South African office as you read this – so I am certainly not complaining. And yes, I am going to do my best to be around for another 50 years. Another 32 years in the law? I am not so sure about that...

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