Lateral hiring is not simple

Business case and breach of confidentiality are at odds

➢ Poor due diligence by law firms and search consultancies is claimed to be the reason for the high failure rate of lateral hires (14 October). Dan Watts criticises law firms for their reluctance to call clients to establish the strength of their loyalty to a candidate. Presumably he expects clients to be asked whether they would wish to continue instructing a particular individual if he were to move to a specific law firm.

Every week we see tensions between the desire of a law firm to verify the business case put forward by a potential senior lateral hire on the one hand, and the duties of confidentiality and good faith owed by that candidate to his existing firm, whether a traditional partnership or an LLP, on the other. The fact is that a candidate who reveals the names of his clients and amounts billed to them would almost certainly be in breach of duties he owes to his existing firm. Moreover the hiring firm may have found, for example, that a candidate’s following exposes itself to the risk of a claim for inducing breach.

There are ways of dealing with this issue but the answer is not as simple as Mr Watts suggests.

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No exception for sharia law

➢ I see the Gazette is wading into the choppy waters of religion and the law (Book Review: Islam, Sharia and Alternative Dispute Resolution, 21 October).

The reviewer, Mr Thomson, says ‘English law and sharia law are two distinct jurisdictions’. Yes, ‘distinct’ is certainly one way of putting it. The distinction between English law and sharia law is hardly trivial: even in the context of alternative dispute resolution, rather than a penal code, the difference can mean eye-watering consequences for domestic abuse of women, for gender equality generally and for the rights of children. Worryingly, although Mr Thomson recognises these two jurisdictions are ‘distinct’, he doesn’t tell us which one ought to take precedence or indeed which one he prefers.

He goes on to talk of the two jurisdictions ‘enjoying a mutually positive interaction and reasonable accommodation’.

I beg to differ. There is nothing positive about a legal system such as sharia, which routinely and explicitly treats human beings who happen to be female as second-class citizens, and which does not give paramount importance to the interests of children in family law matters. Accommodation here is merely a polite word for appeasement.

One definition of a country is a set of people all subject to the same obligations and all enjoying the same rights. Accommodating sharia law makes a mockery of that noble principle. It sacrifices the priceless ideals of legal equality on the high altar of ‘cultural sensitivity’, effectively sanctioning lower-grade legal status for those people who are considered different. This is the very antithesis of a good legal system.

English law should not — it must not — accommodate sharia law. Equality before the law has served humans very well and I see no reason why it should not serve human beings who happen to be female as second-class citizens, and who does not give paramount importance to the interests of children in family law matters. Accommodation here is merely a polite word for appeasement.

I would ask your readers to go back to basics. No, in fact I would beg them. I would ask your readers this: would you accept any arrangement, however small, that chipped away at equality before the law? If your answer is no, and I hope it is, then ask yourself this: why make an exception for sharia law?

Charlie Klendjian
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Keeping control

➢ The Law Society should find better things to do than try to persuade the International Bar Association to adopt alternative business structures (news, 14 October). The Americans, to their credit, show every sign of sticking to their guns and maintaining a legal profession run by lawyers, a phrase that once upon a time would have been tautological. No longer, I fear.

If law firms are going to be run with properly trained personnel inculcated with appropriate professional ethics — and the public need and desire the protection of both the training and the ethics — they need to be owned and run by lawyers.

The Law Society should have adopted the admirable US approach. Remember how Tony Blair thought it would be a good idea to overturn the practice of centuries and have non-lawyer lord chancellors. Then look at the problems the profession has had with the current incumbent, who has shown time after time that he knows and cares nought about the practice of criminal law.

Lawyers need to retain control of the legal profession.

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QC? Why not?

➢ I wish to apply for a position on the QC selection panel. I welcome the Law Society’s open-mindedness in advertising this not just to solicitors, but to a new category of legal service providers. Like many of these new providers, I believe the open market should allow me to provide advice on anything I can get someone to pay me money for, without the tiresome need to have trained, qualified or have any knowledge as all. I am able to set up a website which, like so many others created by other new providers, looks very like that of official bodies.

I am confident that most consumers will not notice the difference between fuddy-duddy old solicitors, to whom I can say client care is an alien concept, and the bright new world of these ‘providers’, who will provide ‘free advice’ until signing up innocent consumers to a series of expensive fix-priced services, selling

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