

Legal Eagles Soaring From Their Eyries

I've been practising law for nearly 40 years and have watched the local lawyer numbers grow from about 70 (mainly white males) when I came back to Nelson in 1990, to 216 diverse souls in 2022. But they're involved in transactional work, largely, rather than court cases. The number of senior criminal lawyers (still mainly white males) has gone way down while the work has grown and become more complex, as in life, I suppose. This local experience seems to be consistent with national trends. The President of the Law Society was recently quoted as saying there was only one senior criminal lawyer under 65 in Dunedin. Trials are routinely held up here in Nelson while lawyers try to manage fixture conflicts and where the workload pressure is potentially injurious to health. Family lawyers are also in short supply in Nelson as they are everywhere.

I got to thinking why that was? And how similar trends are present in other professions like medicine, dentistry, veterinary, valuations, you name it. Why do we train so many graduates and yet experience shortages? Hospitals keep and train some of the junior doctors but generally the other young professionals look for jobs in the private sector. Government jobs are increasingly hard to come by, after all, and anyway the job ads stress that budding employers want experience. But it's a Catch-22 to get that experience when you're young, have a student debt and you're itching to travel. So graduates wait tables and pour drinks, which is only sustainable for so long.

So, what to do? As we've learned with the inaction over apprentices for many years, there needs to be a period of sustained practical work included within professional qualifications (like articulated clerks in the UK). This involves a private-public partnership, to use the fashionable term, where graduates, in whatever field, are supported to work in areas of need while they train. Paid education should have a bonding requirement so that rural service or work with the disadvantaged and needy can pay off that bond or reduce student debt. We should aim to keep young graduates here, or with something to come back to, so that they don't go for the big bucks overseas or fall in love over there, and the taxpayer investment is lost.

Instead, we rely on private firms here to be altruistic and to hire while their competitors run lean operations from home or by car and by cell phone with no staff at all. And then the government pays for inefficient practices to paper over shortages by parachuting overseas or metropolitan doctors in to places like Gisborne (I met one there) or routinely paying Nelson lawyers to take cases in Blenheim. It's thought better to pay for travel, hotels and all the rest (leaving aside issues of continuity of care or lack of familiarity with local conditions) rather than to foster the young to take their places in the ranks of their profession. Efficiency experts stress technology, like TV links, but the human touch is needed also, in my experience. Particularly, when clients are mis-trusting and have been referred from digital pillar to post for other services.

This kind of short-sightedness has been seen in the legal aid sector, at least, over the last 25 years and we are paying the price for it now. Juniors were not generally funded for trials until recently when the then President of the Court of Appeal provided support. Rates don't encourage taking on staff. There's a public defence service but it's a numbers game and offices exist only in some places. They're over-worked. The 2009 Bazley Report, which helped to start the service off, recommended the first place for one, owing to perceived dysfunction issues there, was Palmerston North but there is still not one in existence. We've been told that Nelson is too small for one.

The immediate remedy in the legal aid sector, to my mind, is to loosen accreditation requirements so graduates don't have to wait 18 months and go on expensive out of town courses to be useful and categorised for work. They will always need years of experience to work on really serious cases but there is more room for junior lawyers to be employed. Senior practitioners need to remind themselves of professional responsibilities to employ, bring up and train staff, for the continuity of the profession. That's why we have our privileges and our relative status, such that it is. Our position is not some benefit scheme to make us comfortable. The universities need to stress how law is applied practically and the practice pathways. Currently, they give out the message that there's an over-supply of lawyers and I don't see that, at all. Career fairs can't be confined to the commercial law firms modelled on the TV series, Suits. The government needs to do its bit too and ditch the penny wise, pound foolish approach of the last quarter century. It should, put simply, employ directly or get in behind private firms to have energetic graduates fill the many gaps in service and ensure better access to justice.

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