

Law firms and access to justice: Why the 1% should pay 1%

By Tony Williams

28th February 2018

In a letter to major companies in January, BlackRock chief executive Larry Fink said: “To prosper over time, every company must not only deliver financial performance but also show how it makes a positive contribution to society.

“Companies must benefit all their stakeholders, including shareholders, employees, customers and the communities in which they operate.”

Such a statement from a fund controlling \$6.3tr of assets under management marks a key change in attitude concerning the role of business in society. It is a change that law firms have to respond to if they are to continue to thrive.

English law has been the great export success story of the last 30 years. Major firms have contributed to and benefitted from English law’s reputation, and English law is the predominant choice of law for cross border transactions and disputes. As has been widely reported, the criminal and civil justice system have been poleaxed by the major reduction in the availability of legal aid.

Law firms: Give 1 per cent of your profits to help access to justice

All of us as solicitors have an obligation to uphold the rule of law and the proper administration of justice (SRA Principle 1). What happens in criminal justice and at the lower level of the civil courts may seem divorced from the litigation conducted by the major law firms but it will, in time, have an impact on the reputation and respect afforded to English law and the English judicial system. Accordingly, we all have much to lose from the current challenges in our criminal and civil courts.

Although an additional tax on law firms, as proposed by Michael Gove, to fund the justice system may be as intellectually justifiable as asking Harley Street consultants to pay a levy to fund the NHS, we do need to appreciate that governments of whichever persuasion are unlikely to be prepared to devote considerable extra resources to the administration of justice. Most members of the public would not believe the real earnings of solicitors and barristers undertaking criminal and lower level civil work but presume that all lawyers are ‘fat cats’.

We do need to accept that we both have an interest in and obligation to preserve the rule of law and administration of justice in the UK. Major law firms have significantly upped their game in relation to corporate social responsibility and now have many partners and staff actively engaged in a range of pro bono initiatives. This is to be welcomed and encouraged. However, it is unlikely that any firm has turned away client work in order to undertake pro bono activities so the opportunity cost to the firm in terms of revenue lost by such initiatives is probably minimal. If serious about upholding the rule of law and the proper administration of justice firms need to do more.

I suggest that the major firms should, in addition to their current pro bono activities, commit to giving 1 per cent of their profits in cash to good causes with a special focus on access to justice. They should decide how that money is spent but if sufficient firms do so, not only will they help to protect and enhance the administration of justice in the UK but also, they will defend the status and standing of English law internationally and show that they are living by the new corporate standards. This is a case where doing the right thing is also good business.

I appreciate that in a competitive and increasingly money focused legal market this may seem challenging. But law firm leaders need to meet this challenge head on. At Jomati Consultants, for a decade, 5 per cent of our fee income has been paid each year to our charity, The Jomati Foundation, to fund student bursaries and primarily legal education and access to justice organisations.

It is unrealistic for law firms to commit such an amount, primarily because they have fundamentally different business models, but as lawyers we have a duty and responsibility to protect the system in which we operate. In a new era of corporate responsibility, it's time for the major law firms to step up to the plate.

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