

Is the Bar capable of collaboration?

Collaboration is king for the claims industry and finally, it's reached the Bar. Yet for it to work, open-mindedness and transparency are essential, as Stephen Ward explains.



Collaboration between service providers and affiliated industries can drive cost efficiencies and service certainties for legal practices. The ABS model is often crafted from collaborations to offer consistency and transparency (as well as shared profits) between all parties and a more sustainable provision to take to

the end user. Yet there is very little formal and innovative collaboration offered by the Bar. This is often due to regulation but, honestly, I think the dearth of collaboration is due to a lack of vision by chambers alongside a few cultural barriers to boot.

While many chambers struggle to find their feet in the new claims world, we have been working hard with practitioners to understand what they want, above all else, from chambers. It's less 'fixed fees' and more 'reliability, consistency and capacity' – expertise and price are simply given factors.

We're often an interesting prospect for solicitors thanks to our national coverage but we like to reinforce our offering in some cases – however this means finding the right kind of chambers to partner with. We need to work with chambers that enjoy strong leadership and a mentality for effective delegated decision-making. Despite the fact that clients are *asking* for a different kind of support, the Bar is not generally set up to cater for it. Traditional structures often don't cater for widespread and formal collaboration between sets.

So what's changed? We have found an open-minded partner to work with and a client that embraces our model for advocacy delivery that truly meets their needs, not just meanders around them. The BGL Group has taken a progressive step forwards with us and Parklane Plowden chambers in the form of a two-year contract to provide nationwide coverage of our barrister services for Minster Law's Fast and Multi-Track claims departments.

I'm hugely impressed with the approach taken by BGL group and it's the first time we've encountered such a professional and in-depth approach to modernise the relationship between a firm of solicitors and barristers. BGL Group took a proactive and responsible approach to the collaboration, resulting in a detailed but practical service level agreement, setting out clear and workable guidelines for all parties.

A little understanding, honesty and collaboration have long benefited the claims industry and now the Bar can claim and progress some of that success.

Stephen Ward is Managing Director of Clerksroom and Clerksroom Direct.

Occupational Disease Claims - A golden goose or a dead duck?

The significant investment in the legal sector in respect of occupational disease claims, particularly noise induced hearing loss, was thought by many to be the "golden goose" that would replace losses from the introduction of fixed fees in personal injury work. For many, that investment is yet to pay off and the operational and financial issues involved in dealing with these claims is now impacting on profit and even business viability.

This year, Citadel Law has advised on unprecedented instructions for operational analysis and WIP valuations – revisiting WIP valuations in M&A deals. The viability of running these claims is being questioned and we are advising firms in run off, turn around and sale of their caseloads.

WIP valuations have been inaccurate, cash flow forecasts have failed to materialise, claims have poor prospects of succeeding and many are now considering cutting their losses and exiting the sector.

So what is going wrong?

Our findings demonstrate that the fundamental issues key to running these claims are lacking – the basic 'know-how' of competently risk assessing:

- Date of knowledge and limitation
- Breach, causation and value.

Robust cash flow forecasting is non-existent and ailing disease caseloads requires expert resource to reduce business risk. They are costly to investigate and represent a professional indemnity risk for those without expertise. The result is a sector overwhelmed with claims that have not been run proficiently which may be future professional negligence claims.

Financial and human capital

The financial and human capital required to make occupational disease claims profitable cannot be underestimated. A reliable work source, expert fee earners, robust risk assessment and a workflow are fundamentals that often lacking. Robust financial and operational management information must provide clear visibility to the value and risk of the work.

Overleveraged and overwhelmed?

Unfortunately, the effect is a sector overleveraged and overwhelmed, with the following characteristics:

- Restricted cash flow
- Nervous funders
- Litigation funding growth as banks won't extend facilities
- Under settlements
- Professional negligence.

The big financial challenge

With hefty cash flow and capital requirements, we are seeing WIP and capital lock up causing significant strain, with questions as to whether this work is cost effective and whether investments are safe. As to which are the law firms and investors who will emerge as winners and those that will find themselves having backed a "dead duck"? Only time will tell...

Lesley Graves is a solicitor and Managing Director of personal injury consulting law firm Citadel Law.