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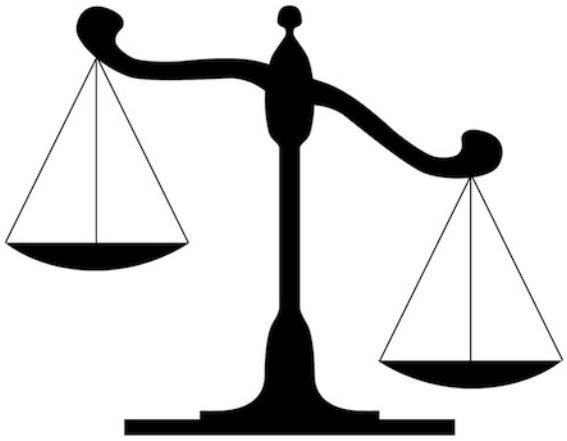
Preston Byrne says legal aid has to go [1]

Written by **Ben Southwood** [2] | Thursday 13 June 2013



Over at the New Statesman, Adam Smith Institute Fellow Preston Byrne argues that the state needs to extricate itself from legal aid, in order to allow pricing to operate more rationally and create a competitive market:

> Remuneration structures for legal aid mean that service providers have traditionally had no incentives to ?compete on price,? competing instead on ?the basis of reputation.? This arrangement, pointed out the final report of the Labour-commissioned Carter Review in 2006, penalises ?the efficient practitioner who manages to dispose of a case efficiently in circumstances where this is the right course of action? as he or she would ?receive less in case fees than the inefficient practitioner who does not succeed in addressing case issues efficiently.? (page 26)
>
> The inefficient practitioner, in certain circumstances, is thus rewarded. This is not to say that reputation should not be a factor in selecting a lawyer ? far from it. Even with classes of goods that are more homogenous in function, such as toasters, an individual product can command a higher price if it is of better quality. In the private sector, a client's selection balances a lawyer's reputation against his or her fee, with the client benefiting from price competition between equally talented providers. No such competition, however, exists, nor can it exist, within the current legal aid structure.
>
> The Labour government attempted to address these issues in 2008 by introducing graduated fee arrangements ? termed differently, price controls. Lawyers found these problematic when they were introduced, (paragraph 11) and continue to find them problematic today (paragraph 389); much of available state-funded work is ?plainly inadequately remunerated,? says the Bar Council, despite the fact that the cost of the system to taxpayers continues to rise.

Read the whole thing. [3]

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