

LEGAL SERVICES CONSUMER PANEL INVESTIGATION INTO REFERRAL ARRANGEMENTS

TERMS OF REFERENCE

Investigation Scope

The Consumer Panel is defining referral arrangements as any arrangement under which business is received from, or referred to, a third party. In the legal services sector, the third party may be another lawyer, but it may also involve introducers such as claims management companies, insurance companies and estate agents. Referral arrangements are often characterised by payment in return for referral of business, but fees do not need to be involved.

The Consumer Panel will be examining the use of referral arrangements by authorised persons across the whole legal profession, although we will prioritise areas that have the greatest consumer impact. In considering different types of referral arrangements, the Panel will be looking at both the payment and the receipt of referral fees by lawyers under a number of different models, as well as non-monetary arrangements that are linked to the introduction of clients, such as the provision of free or below-cost services in exchange for the referral of other business.

Keys Areas of Investigation

The Panel is specifically seeking views and evidence from stakeholders on the following topics:

- a) Demonstrable positive and negative outcomes for consumers due to referral arrangements, such as the impact on access to justice, consumer choice of lawyer, quality of legal advice and independence of legal advice.
- b) Feasibility and effectiveness of possible consumer safeguards, such as consumer education, disclosure, consent, standardised referral agreements or a cap on referral fees.
- c) The role of referral arrangements in driving or inhibiting competition in the legal services market.
- d) Degree to which referral fee size reflects equivalent marketing/other costs.
- e) Feasibility and effectiveness of alternatives to referral fees as a means of obtaining work, such as direct advertising by law firms, the establishment of legal firm marketing alliances, non-paid referral networks and/or quality assurance schemes.

- f) Risks and benefits for different stakeholders of a reintroduced ban on referral fees, including consumers, the legal profession, and non-legal stakeholders, such as claims management companies.
- g) Relevant parallels with referral and commission arrangements used in other sectors in relation to customer introduction.

We would also appreciate information on any other areas that we have not included, but which you consider would be relevant to our investigation.

How to provide input

The deadline for evidence is **5pm, Friday 26 February 2010**.

If you are providing a written submission, we would prefer to receive this electronically (in Microsoft Word format), but hard copy responses by post or fax are also welcome. Submissions or other comments should be sent to:

Email: contact@legalservicesconsumerpanel.org.uk

Post: Legal Services Consumer Panel
7th Floor, Victoria House,
Southampton Row
London WC1B 4AD

Fax: 020 7271 0051