

Countrywide Conveyancing Services
Response to LSB discussion document on **Referral fees, referral arrangements and fee sharing**.
19.10.10

Countrywide Conveyancing Services submitted a comprehensive contribution to the original consultation by the Consumer Body of the LSB and we broadly now agree with their recommendations to reveal, regulate and therefore retain. Our views have been clearly stated and we do not therefore wish to respond in detail to the present discussion paper except in one particular which concerns the proposed disclosure of referral agreements.

We agree with Recommendation one:

Improving transparency and disclosure for consumers. The legal provider should disclose to their client the key facts about referral fees:

1. *Whom the referral is paid to and for what services &*
2. *The value of the referral fee in pounds. &*
3. *The consumers right to shop around for an alternative legal services provider ".*

We also agree with point 2 of recommendation 2

"Recommendation Two

Improving transparency and disclosure in the market

1. *Approved regulators should collect and publish all agreements between introducers and lawyers*
2. *All agreements for referral agreements should be in writing."*

We do however have a concern with the first recommendation. Whilst for compliance reasons we are happy to make the terms and conditions of any referral agreement we enter into available to the regulator, we would be unwilling to make the commercial details of any such arrangement available for general "scrutiny by the market". We do not believe that this will allow "...consumers themselves to ensure that agreements are structured with consumer's interests at their heart." We firmly believe that the consumer is only interested in the end price that they are being asked to pay for conveyancing services and it seems clear from the research undertaken by the LSB and others, that this price is not inflated by the presence of a referral fee arrangement – indeed the research would suggest the opposite.

We do not believe that the opportunity to inspect many separate referral fee agreements in different formats and with complexities reflecting different arrangements with individual suppliers will facilitate an informed choice for the consumer. What we believe is more important to the consumer is that they are free to choose a lawyer, they have the ability to "shop around" for a fee and service that suits them and that consumer bodies are confident that referral fees do not inflate the cost of legal services. However while we see no consumer advantage to this recommendation, we are quite certain that individual rival firms will simply use this hitherto confidential information for their own commercial advantage. This seems to us to be at odds with the LSB's objective that service providers should be free to respond to commercial pressures, confident that regulation will only restrict them where it is consistent with the regulatory objectives and better regulation principles. If the LSB do proceed with this recommendation we also consider it likely that firms will revert back to practices common when referral fees were banned by the Law Society and circumvent the rules in ways which might well be legitimate but will defeat the objective of fairness and transparency. We also consider that this will further hamper commercial freedom as there may be confidentiality agreements and NDA's in place between lawyers and suppliers which prevent the commercial detail being made public in any event.