

# **Legal Services Board consultation: Referral fees, referral arrangements and fee sharing**

*Discussion document on the regulatory treatment of referral fees, referral arrangements and fee sharing*

**Response on behalf of The Credit Hire Organisation (“The CHO”) which is the trade body that represents businesses engaged in the provision of post accident vehicle rental and claims management.**

## **CHAPTER 5**

### **CONCLUSIONS – PERSONAL INJURY AND CONVEYANCING**

1. Do you agree with our analysis of the operation of referral fees and arrangements?
2. Do you have additional evidence about the operation of referral fees and arrangements that should be considered by the LSB?

#### **Response**

This response is exclusively on issues relating to personal injury. The CHO supports and welcomes the Legal Services Board conclusion, that there is no compelling case for a ban on referral fees in personal injury work.

The association considers:

- the level of referral fees paid today is linked to the services provided by introducers as well as to issues such as economies of scale, bargaining power and the cost of obtaining cases using other means;
- there is no evidence that referral fees are causing consumer detriment through a reduction in the quality of services;

- referral fees have aided access to justice; consumer evidence has supported the link between marketing and making additional claims which would not otherwise have arisen. However, the number of claims has not increased significantly.
- members of the public are either uninformed about their legal rights and worry about fees and charges so are often too nervous to approach solicitors direct. Even today over 60% of potentially compensatable accident victims do not proceed with a claim or seek legal advice.
- there is no evidence that increases in referral fees had led to an increase in the price of legal services;
- for a wide variety of reasons, solicitors have not been good at marketing their services direct. If they were now to do so it would involve employing additional expertise and significant extra costs eg direct advertising. For many solicitors, outsourcing to a claims management company provides the most cost-effective solution. Referral fees in these arrangements include acquisition costs, vetting, marketing fees and introduction fees.
- Referral fees help control the quality of the advice and assistance provided by the firm to which the case is referred, and thus protect the public. A CMC as a quantity referrer of business must assess the firm for quality and audit its performance.
- Nothing forces a solicitor to pay referral fees, it is a marketing choice. If there is a more cost-effective method of acquiring customers the solicitor is free to take it.
- Consumers have little or no knowledge of legal services and how good or bad a legal firm is. This is not a repeat purchase. The idea that 'free choice' of representation uninfluenced by referral processes would provide a better service is an illusion. In fact the referrer has a great deal of interest in how the customers are treated and the quality of service provided as a poor

experience would make acquisition harder and also the referrer has reputational risk. This means referrers often audit legal firms and set down onerous Service Level Agreements. All of which raises standards of service to the end user.

In summary, a ban would:

- 1) Be virtually impossible to implement and police.
- 2) It would be legislation against market forces and indeed the whole principle of outsourcing work.
- 3) Reduce the accountability of Legal Firms and protection for the consumer
- 4) Transfer even more power to liability insurers who themselves are actively involved in claim capture and the use of referral fees; paying and receiving very significant sums.

The Credit Hire Organisation

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