

To all approved regulators



**LEGAL SERVICES
BOARD**

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Dear colleagues

Referral fees

It is now clear that sections 56 to 60 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO 2012) relating to referral fees are planned to come into force in April 2013. We are now writing to set out the impact of this and its interrelation with the LSB guidance (http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/20110531_guidance_referral_fees_final.pdf) on the regulation of referral fees.

S57 of LASPO 2012 states that "*The relevant regulator must ensure that it has appropriate arrangements for monitoring and enforcing the restrictions imposed on regulated persons by section 56.*" With regard to 'rules against referral fees' in personal injury matters, it will be important to ensure that such rules do not go beyond the obligations in LASPO. That legislation bans referral fees, but does not prohibit, for example, new alternative business structures that effectively do away with the need for referral. A liberal approach that supports the regulatory objectives of the Legal Services Act 2007, while properly delivering the legislative intent of LASPO, will therefore be crucial in making sure that both pieces of legislation are implemented effectively.

Sections 56 to 60 LASPO 2012 also place obligations on regulators beyond the legal services sector. We expect that all legal regulators will need to consider the extent to which they must work collaboratively with Financial Services Authority and Claims Management Regulator to ensure that the better regulation principles set out in S3 of the LSA 2007 are properly reflected in their LASPO implementation arrangements.

You will be aware that our guidance on referral fees applies across all segments of the legal market whereas the new legislation applies more narrowly to personal injury. We are therefore expecting regulators to continue to review their regulatory approach to referral fees, with due regard to our guidance, with particular reference to s162(5) and (6) of the LSA 2007. In particular,

regulators will need to justify any ban on the payment or receipt of referral fees that remains in place with clear supporting evidence (In respect of personal injury, Regulators will, of course, wish to rely on the justification provided by the provisions of sections 56 to 60 of LASPO 2012) and to take proper account of the rest of the guidance, notably the requirements on transparency for both individual consumers and the wider public.

Yours

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