

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 Legal Expenses Insurance Group (LEIG). LEIG was formed in April 2006 by a number of leading legal expenses insurers. Members represent in excess of seven million motor legal expense policyholders and over 15 million policyholders in general and account for the great majority of the ATE legal expenses insurance market in the UK.

LEIG has seen in draft form the submission by the Claims Standards Council and generally adopts that submission as its own. However, the LEIG would like to add its very specific support to the conclusions on personal injury referral fees as set out below.

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

1. The LEIG supports and welcomes the Legal Services Board conclusion, that there is no compelling case for a ban on referral fees in personal injury work.
2. Referral fees have been criticised as being unnecessary or over generous. It is, however, important to have regard to the fact that virtually every business has a marketing / advertising cost so why should personal injury claims be any different.
3. One cannot dream of asking the Manager of Tesco's to reduce the price of a can of baked beans by the amount of their advertising cost.

4. As such it is likely that any abolition of referral fees would be anti competitive. Referral fees are often passed to retailers as additional commission income, they are a significant revenue stream for liability insurers and there is a need to reward 'middlemen' who advertise for claim, check them and then pass them to those firms with relevant expertise.

5. The suggestion is sometimes made that a ban on referral fees would be in everyone's best interests. This is unrealistic as any ban, even by legislation, would be virtually impossible to police or implement. Ways would be found around any such ban.

6. In addition, claimants could well suffer as there would not be an incentive to advertise and educate claimants that they have a rightful claim for compensation. How many people with genuine claims, that should be compensated, would go unnoticed and uncompensated?

7. There is a view expressed that referral fees reduce the profit available to solicitors and for this reason cases come to court ill-prepared. In our view the quality of preparation is linked to the creation of efficient and streamlined personal injury practices. Streamlining lends itself to templates and standardisation and on occasions the claimant's evidence may not have been sufficiently tailored to their circumstances. Any assertion that the removal of referral fees will lead to an improvement in case preparation is, in our view, ill-founded.

Legal Expenses Insurance Group

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