

Re: Regulatory Treatment of Referral Fees, Referral Arrangements and Fee Sharing

I have read with interest your discussion document on the regulatory treatment of referral fees, referral arrangements and fee sharing. As the proprietor of a conveyancing practice, I felt I should write to you to advise of situations which arose when such arrangements are allowed to exist between legal practices and estate agents.

Over the last few months, the behaviour I have become aware of illustrates the greed of estate agents, unethical behaviour on their part and regrettably and apparent possible unethical behaviour on the part of legal practitioners. My observations lead me to believe that I cannot possibly consider these referral arrangements to be in the client's best interest, they are not protected and if anything, misrepresentations are being also made to them.

It seems agents are anxious to ensure that members of the public are referred to their panel solicitors, to enable them to secure their referral arrangements to the extent that slanderous comments are made to the public about their existing lawyers in what can only be described as an aggressive way for the agents to secure the referral to their panels.

Within the last month alone, I have come across two situations where existing clients of my practice have been allured into using panel solicitors, who have not represented them before with promises made by the estate agent that if they went to the preferred firm, it would be much quicker (and I have subsequently been advised by these old clients who contacted me that this has not proved to be the case). Additionally, on these occasions, it transpired that the agents had referred exactly the same firms of solicitors to act for the seller and the purchaser which is a breach of your Rule 6. On one occasion, the seller's solicitors were then changed but on the second occasion, when an old client of mine contacted the firm which she had been persuaded in to using, it transpired that that firm were also acting for the seller and when she enquired of that practice whether or not they could really act for her because they had never represented her before, she was told that yes they could. That practice only had one office and they had never represented the purchaser before (she was a former client of mine) and I believe this is a clear illustration of how the whole profession risks being bought into disrepute and encouraged to breach what are serious rules of conduct.

Additionally, it appears that some selling agents believe that they are entitled to more information concerning client's financial and other matters than they are actually entitled to which could constitute breach of client confidentiality.

I have been contacted within the last 3 months, on two occasions by the senior partner of a medium sized practice within Norwich who has informed me that one agent, who has a panel, has managed to secure the same firm to act for the seller, purchaser and other parties in the chain when the persons who were being referred to them, were certainly not existing clients but clients of this other practice. On that occasion, I recommend he contact the Council for Licensed Conveyancers directly.

I have also recently experienced clients telling me that when they were offering to purchase a property through another national agency although, they had already made mortgage arrangements because they had an existing mortgage which they wanted to port over, they were told by a young man within the agency that they "had to see", "must see" that firm's mortgage advisor. There was no apparent regard given to the fact that the clients already had their mortgage arrangements in place and there were bullying tactics exercised to my clients in an attempt by the agents to secure yet further referral fees. Fortunately, my clients are sophisticated enough to not accept this but that does not apply to all members of the public and clearly their interests are not being protected.

Referral arrangements have also enabled agents to feel that they can ring up and be excessively rude to other practitioners because they are used to getting their own way with their own panel solicitors. As a recipient of such behaviour, this is unacceptable and unprofessional. As professional people, it is important that agents and solicitors behave in a professional way towards each other. Regrettably, the

professionalism has been lost through these unhealthy arrangements and they have done nothing more than to pull our profession into disrepute and lower the regard that members of the public have for our profession. They perceive us no differently from estate agents.

With regard to lower charges being able to be offered to the public as a result of this referral arrangement, as a practitioner, am not certain that is the case. Agents are securing as much as £100 plus VAT per referral and with the market being very competitive, the solicitors who are having the work referred to them are either having to enhance their fees. Alternatively, if those firms are having to quote, to be more competitive, when referral fees which are being paid to the agents, that leaves the legal practitioners with having to do the work for, possibly less. On that basis, for a transaction to become cost effective, that can only lead to a poorer quality of service resulting in no return calls, the transaction being dealt with by unqualified people, by a team of people and being passed around, possibly with people who job share thereby reducing the continuity and thread of the transaction and a greater risk of negligence.

I fail to see how when legal work is transacted this way, it could be beneficial to members of the public and I feel it is certainly detrimental to the profession and how the profession is regarded by members of the public. Clients who have come to my practice recently have either themselves experienced or have known people who have experienced internet/bucket shop style conveyancing and have found this quite intolerable because they don't actually get to see anybody, there is no personal contact and they can never seem to get through to the same person. When people are moving house, this is clearly a very stressful time for them and I fail to see how this sort of service can give members of the public confidence about the legal profession and it potentially puts the profession in a very poor light.

Another situation which some clients of mine have experienced is that when they have placed the property on the market, they have been badgered by selling agents to sign up early for conveyancing services, mortgage services etc. When the time comes and the agents secure a purchaser, it is not until that time that clients actually appreciate what they have signed up to. I have had clients who have then subsequently refused to use the agent's panel solicitors as having enquired as to the level of legal fees, they were much higher than the fees charged in the current climate. I have also been informed by clients who have used these sort of companies previously that when they actually had the bill, bills received for figures for costs in excess of £1,200 where they thought they were originally paying between £500 and £600. At this point I would refer you to the enclosed bill. I was instructed by clients in connection with their purchase. They have given me permission to produce the enclosed sale bill to you. I would refer you to the extract and inflated charges within that such as £80 telegraphic transfer fee, lender's legal fee, the charge for dealing with the redemption of the mortgage which appears to be an additional charge plus a start fee! There is also a charge made for retaining the file which we are obliged to do for the required period of time.

In effect this client did not pay £599 plus VAT for the sale which would be a normal fee for but £599 and £150 plus £60 plus archive and extremely highly enhanced telegraphic transfer fees. So the minimum of £509 plus VAT on that!

Additionally my client informs me that having paid a lot for a service which was unsatisfactory the seller agents did not indicate VAT was payable on their bill so they had to apportion sales commission figures to include that. Our client was presented with a scale of fees for legal services and he thought he was only paying £599 plus VAT.

Considering the above regrettably, I fail to see how referral arrangements are in anybody's interest, they are detrimental to the legal profession, they often lead to poor service and increases the potential for negligence. I cannot see how access to justice is enhanced in this way as referred to in your discussion document. There are yellow pages, advertising in parish magazines, local newspapers, internet facilities and other ways that members of the public can source members of the profession to represent them. It is also probably more beneficial for them to speak to people in various offices

when they ring for quotations so that they can get a feel for the type of service that they are going to be offered and to ensure that it actually suits their requirements. Members of the public should not be under estimated in their ability to source the type of legal work that they require, particularly through modern day media. Additionally, they will often have friends, work colleagues, family members who have needed to engage legal practitioners for professional services and there can be nothing better than a genuine recommendation to a practitioner who has provided an excellent service resulting in a happy client.

It appears that our profession is starting to be answerable to unregulated non-professional people and I think that the committee needs to seriously consider the aforesaid and its impact on our profession.

Yours sincerely

RENATA STEGGLES

42 Unthank Road Norwich Norfolk NR2 2RB