

A Perspective from Personal Injury Lawyers

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Presentation Outline

- Key considerations for clarity and why?
- Practical business issues for the Law Firm and its Referrers
- Why important?
- Suggested strategies to resolve
- “We are all in this together”

MOJ Policy Rationale

- It is not in the interests of consumers for Law Firms to pay for access to injured claimants
- Encouraging potential claimants to claim is objectionable and promotes excessive litigation which in turn may fuel a “compensation culture”
- This in turn will lead to insurance premium inflation

MOJ Policy Objectives

- To cease payment for access to injured claimants
- To reduce incentive to pursue excessive, unmeritorious claims
- To reduce legal costs in PI claims and therefore reduce insurance premiums

What is a “Referral”?

LASPO Act 2012 s.56 (5)

“ (5) There is a referral of prescribed legal business if:-

- a) A person provides information to another
- b) It is information that a provider of legal services would need to make an offer to the client to provide relevant services and
- c) The person providing the information is not the client”

1 Client contacts work referrer with details of a claim over the telephone



2

Work referrer, following initial vetting, transfers the client's call to the Law Firm Helpline but does not provide any details of the client or the claim



3

Client speaks to the Law Firm Helpline following the "warm transfer" and provides details of the claim



4

Solicitor receives the client's call and details of the claim direct from the client. The work referrer is paid for the successful claims transferred

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Other Considerations

S.56 (8)

“Payment includes any form of consideration whether any benefit is received by the regulated person or by a third party (but does not include the provision of hospitality that is reasonable in the circumstances)”

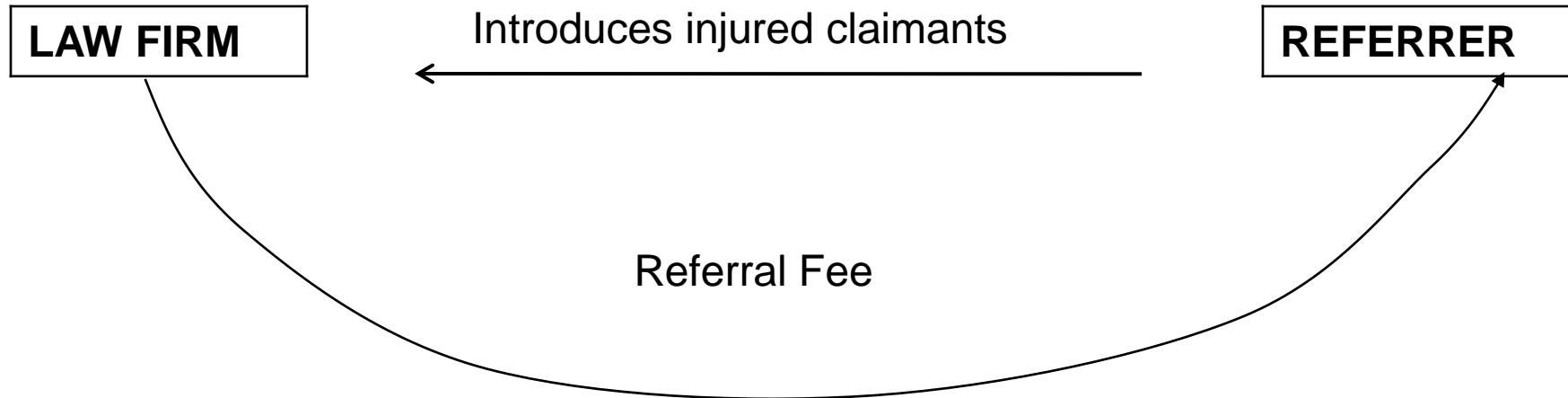
ABS

The only reference to ABS in the entire MOJ Report:

“Furthermore, in future, Alternative Business Structures may see lawyers entering into partnerships with non-lawyers and this may negate the need for referral fees”.

October 2011

Current Referral Market



ABS Model



ABS: Not a Simple Journey

- Careful scrutiny of any application and business plan by the SRA
- Not a quick solution
- Regulatory authorisation of “owners and managers”
- Restrictions on ABS interests in a “Prohibited Separate Business”
- Inception Costs
- Loss of autonomy
- Long term commitment

Practical Business Implications

SRA Analysis of 4 September 2012

“...unless there is extremely full and easy to understand guidance and clarity provided it is difficult to see how any Law Firm can formulate a proper business plan to stay in this sector...”

“...the key outcome should be only to enter into arrangements that comply with the law. The more that is expanded, the more scope there then comes for argument...”

Enough Time to Re-Model?

- Formal Consultation: 28 October 2012 to 18 December 2012
- SRA Forum: 19 November 2012
- Code changes to be approved by SRA Board: 23 January 2013
- Changes to regulatory framework: Mid February 2013
- Final version published: Early March 2013
- Implementation of ban: 1 April 2013

The Referrer and the Consumer

Consultation on the ban on referral fees

33. “...the ban could have an impact on consumers as they may experience difficulties in finding suitable solicitors... the impact on consumers is to be considered further... however it is not envisaged that changes made to our regulatory approach will have an impact on consumers...”

Conclusion

- Without clarity there could be calamity
- Collaboration to promote sound business strategies

Any Questions?
