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CONSUMER PANEL CALLS FOR ACTION TO TACKLE PROBLEMS AROUND REFERRAL FEES IN LEGAL SERVICES

Following a review of referral fees paid by lawyers, the Legal Services Consumer Panel is calling for greater disclosure of such fees, and much improved regulation of them. Provided its “Reveal” and “Regulate” recommendations are implemented, the Consumer Panel is content that such fees can be retained within the legal services market.

Many lawyers obtain work via an introducer whom they then pay. 3 in 10 consumers are referred to their conveyancer by an estate agent, while half of accident victims find their lawyer via a claims management company, insurer or trade union.

The Consumer Panel report exposes the large sums of money that change hands between lawyers and introducers. Estate agents can command fees up to £300. Claims management companies typically receive referral fees of £800 from a lawyer in respect of a client injured in a traffic accident. Adding the costs of medical experts, car hire companies and others, the total commission can reach a staggering £1,500.

The Legal Services Consumer Panel calls for action to tackle a number of problems:

- Closed bids and auctions mean that work is referred to lawyers paying the highest referral fees, not the best quality lawyers.
- Pressure selling tactics by estate agents and insurers to accept recommended lawyers.
- High levels of non compliance by conveyancers and estate agents with transparency rules – a key consumer protection safeguard.
- Competition concerns raised by the trend for introducers to refer work to a small number of large law firms.

Despite such practices, the evidence suggests that referral fees do not increase the prices that consumers pay for legal services or reduce the quality of work. Conveyancing prices are on average nearly £150 cheaper among firms paying referral fees compared to those that do not - £543 compared to £687. Satisfaction rates with lawyers are high at 90%, regardless of whether referral fees are involved. The Consumer Panel did not find any evidence of lawyers providing biased advice in order not to lose work from introducers.

In personal injury, the marketing and hand-holding role of claims management companies and not-for-profit bodies has helped more people to achieve redress, without fuelling a “compensation culture”. Insurers settle over 90% of road traffic accident claims, suggesting that excessive or fraudulent claims are rare.

The Legal Services Consumer Panel concludes that referral fees have a place in the market, but calls for action to address problems that harm consumers. The report makes twelve recommendations, including action to:

- Replace the current hotchpotch of rules with a consistent set of regulatory arrangements for lawyers and introducers.
- Improved transparency requirements, including consideration of consumers having to give their written consent to being referred for a fee.
- Mystery shopping and enforcement action to tackle breaches of transparency rules.

Dr Dianne Hayter, Chair of the Legal Services Consumer Panel, said:

“Consumers are surprised, even shocked, that lawyers pay referral fees, but they are willing to tolerate this so long as such transactions are conducted in the open. Greater transparency, combined with tough action against rule-breakers, is needed to ensure that referral fees work in the interests of consumers.”

“Referral fees have their problems, but they can increase access to justice, while not raising prices or reducing the quality of advice. So long as the issues identified in the Panel’s report are successfully tackled, referral fees have their place in the legal services market.”

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For more information, contact Steve Brooker, Consumer Panel Manager, on 020 7271 0077. The full report is available on our website: www.legalservicesconsumerpanel.org.uk

Notes to editors

1. The Legal Services Consumer Panel was established under the Legal Services Act 2007 to provide independent advice to the Legal Services Board about the interests of consumers of legal services in England and Wales. We investigate issues that affect consumers and use this information to influence decisions about the regulation of legal services. The Panel started work in November 2009 and this is our first major policy report.
2. The Legal Services Act (‘The Act’) provides for the creation of the Legal Services Board as the oversight regulator for legal services in England and Wales. The new regulatory regime enacted by the Act became fully active on 1 January 2010.
3. The definition of a referral arrangement used in the report is “any arrangement under which business is received from, or referred to, a third party”.