

# Referral Arrangements Research

Report prepared by Vanilla Research

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## 1. Executive Summary

### The context of choosing a solicitor

*"It seems to be the first question an estate agents asks...have you got a solicitor!"*

Across the research it was apparent that the issue for consumers is not finding a solicitor, but finding a good one. The view was that there is plenty of choice for consumers, but it is still difficult to know in advance which is the right one for you. For this reason great store was placed in personal recommendations, partly for the convenience but also for the implicit assurance of a basic level of quality.

For these reasons – emphasis on personal recommendations and a perception that it is difficult to differentiate the wheat from the chaff – consumers as a whole seemed to place little value in solicitors' marketing activities. A minority chose law firms through, for instance, the Yellow Pages, but this seemed to be used more as a listing service than an advertising medium. The exceptions to this were Personal Injury claimants, who the research showed to be distinct from legal services consumers in general on many counts. For them, marketing activities by claims management companies and law firms were often seen to be of value, either in terms of persuading claimants they could pursue a claim, or helping them find a firm with the appropriate expertise (the key factor for PI claimants, above price).

Yet despite there being many firms to choose from, and despite an overall feeling that lawyers charges are too high, only a minority of consumers were seen to encourage a competitive market place by shopping around for quotes. The reasons were fivefold – many being on no-win no-fee bases and so not caring; many seeing wills or conveyancing as a standard service and assuming prices would be fairly similar; greater store being placed on convenience or a recommendation; issues such as divorce or child custody issues being felt to be too sensitive for price to drive the decision; or a general lack of knowledge on 'how to buy' legal services which leads to a lack of confidence in approaching professionals for what is a very infrequent purchase.

### Initial Perceptions of Referral Arrangements in legal services

*"We're all kind of sceptical about estate agents and lawyers because we don't understand it. So it seems a bit sordid if they keep recommending each other and you don't know what's going on."*

Our research included numerous cases where it was very likely that referral payments were made (e.g. an estate agent recommendation for conveyancing or an insurance company recommendation for personal injury claim); yet in spite of this only a handful of consumers recalled being informed of a referral payment in their case. As a result awareness that they are a commonplace occurrence was minimal, though few were 'surprised' that they take place.

However, while referral arrangements are mostly seen as perfectly acceptable across the economy as a whole (they are felt to offer consumers convenience and

an assurance of quality), in a legal context there is deep discomfort around them. Although some of their concerns are driven by more emotional reasons than rational (e.g. the sense that lawyers should just be 'above' such things), more practical concerns are apparent, mainly an objection to the lack of transparency and indignation that such payments are probably added onto the bill, an item that consumers neither know about nor have asked for.

Personal injury claimants were seen to be much more relaxed about referral arrangements. Though some shared the concerns of other consumers, the majority were unfussed about them, and were of the view that as they were on a no-win no-fee basis they were unworried about any impact on price (the prime concern of most consumers).

On the other hand, the research showed little evidence to support a hypothesis that referrals adversely impact consumer satisfaction – we heard stories where consumers had been referred by third parties with great results, and where they had followed personal recommendations with poor results, and vice versa. A possible exception to this was again personal injury claimants. A number of them were relatively dissatisfied with the customer service they had received from solicitors they were referred to, but it is important to note that in most cases they happily put up with this, since the key factor for them was settlement of the claim with a lump sum payment. If this was achieved – which it usually was – their view of the service was a much more minor issue than it often was for say conveyancing.

### **A consumer evaluation of Referral Arrangements**

*“I don't know if they really tried very hard on my behalf. I started to think they weren't my advocate.”*

*“On the other hand would it make it work better - because obviously the estate agent benefits from having an efficient solicitor to get the deal through as soon as possible and vice versa.”*

When presented with a number of arguments for and against referral arrangements, and asked to consider them to a greater extent than they ever would normally (especially since few if any had ever thought about them in a legal context), some arguments held more traction than others. Objections were driven more by worries over the charges that consumers pay, and whether a referrer would actually recommend the most suitable lawyer for them, rather than any potential conflicts of interest. Similarly, though many felt freedom of choice was important in principle, there was only limited evidence that consumers felt disadvantaged by this – some felt they benefited from referrals and others felt perfectly able to decline a referral if required. There were stories of Estate Agents unduly pressurising consumers, but just as many stories of consumers easily resisting this.

Arguments around referral arrangements providing access to justice were more complex. There were some personal injury claimants who felt marketing by claims management companies or solicitors had persuaded them to pursue their case, but

in most of the more serious cases (broken bones, head injuries, extended breaks from work) the claimant would have initiated a claim regardless of their insurance company suggesting it. There was also a strong undercurrent of criticism of a developing compensation culture and 'ambulance chasers', even from personal injury claimants themselves, though it should be noted that this criticism was of the sector as a whole rather than an explicit reference to referral arrangements.

**The efficacy of current regulations – transparency is key (Rule 9)**

*"I was going to say I was uncomfortable (with RAs) but it changes the dynamics of it if you're told, because that just makes all the difference in the world doesn't it?"*

With low awareness of referral arrangements, concerns over the impact on consumers in terms of charges and lack of transparency, and only modest agreement with the argument that referral arrangements are a legitimate form of business generation, on the whole consumers felt uncomfortable with their existence. This fundamentally changed though when the contents of Rule 9 were presented. In particular the obligation for solicitors and introducers to inform clients of the existence of an arrangement, and the nature and size of any fees, made the majority of consumers switch from their position of criticism to one of acceptance. The promised transparency addressed consumers' concerns around charges (they can see what they are paying for), suitability (they would now know it is a fee-driven referral rather than a quality-driven recommendation) and freedom of choice (they might not change their decision, but it is now a more informed one).

The pivotal issue lies in the difference between what is promised and what is delivered – consumers mainly find the current situation unacceptable since they are not being given transparency. Moving to a situation of acceptance would require a fundamental shift in the extent to which the current regulations are actively enforced.

## 2. Research Context and Approach

### The Context

The Consumer Panel is an independent arm of the Legal Services Board (LSB) created to provide high quality, evidenced-based advice to the LSB and others on the consumer interest in the regulation of legal services. The LSB has been set up to reform and modernise the legal services market place in the interests of consumers, enhancing quality, ensuring value for money and improving access to justice across England and Wales. The LSB will achieve this pursuing its regulatory objectives and providing regulatory oversight for the eight approved frontline regulators<sup>1</sup>.

For the purposes of this project, the Consumer Panel has defined referral arrangements as “any arrangements under which business is received from or referred to a third party”. In the legal sector, the third party can include another lawyer or a non legal business. Referral arrangements often include the payment of a fee, but fees need not be involved. Regulatory data suggests that most referrals occur in conveyancing (where estate agents introduce clients for a typical fee of £100-£250) and personal injury cases (where the introducers are typically claims management companies and insurers, where fees are thought to be £250-£900, averaging around £600). Some lawyers also receive income through referrals, for example a solicitor introducing a client to a surveyor. This research mainly focuses on referrals between lawyers and non-lawyers.

Referral arrangements, especially when fees are involved, are a controversial issue. For some, there is an inherent conflict of interest when solicitors depend on introducers for business but at the same time have a duty to act in the best interests of their client. Opponents of referrals also argue they may compromise the quality of work if lawyers seek to recoup payments for referrals by saving costs elsewhere. Supporters of referral fees argue that such arrangements are common across the economy and are a more cost-effective means than advertising of obtaining work. Further, the Service Level Agreements imposed by introducers safeguard quality. Claims management companies in particular argue that referral fees can improve access to justice, as without their marketing activities the public may otherwise be unaware of their right to bring valid claims for personal injury.

Whilst representatives of lawyers have voiced their views on the subject, there is little information available about what consumers know and think. What research there exists is non-conclusive – with sizeable proportions relaxed about the issue, concerned about the issue, and neutral about the issue.

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<sup>1</sup> The Law Society, General Council of the Bar, Council for Licensed Conveyancers, The Institute of Legal Executives, The Chartered Institute of Patent Attorneys, The Institute of Trade Mark Attorneys, Association of Law Costs Draftsmen, Master of the Faculties.

The Panel has an open mind on the issues. This research aims to identify the benefits and risks to consumers and, if necessary, identify appropriate remedies.

## **Aims and Objectives**

The primary aim of the research was to explore, with potential and recent users of legal services that commonly involve referrals, what the advantages and disadvantages are for consumers. Another key aim was to assess the impact of the marketing activities of claims management companies on those seeking access to justice and whether this affects some groups of consumers more than others.

Past quantitative research suggests that consumers will instinctively distrust referrals, seeing any fees involved as ‘dirty money’ rather than as a marketing cost. There is some suggestion that referrals offer potential benefits to consumers in terms of convenience and making people aware of their possible need for legal advice. However, there may also be potential risks in terms of reduced quality of advice and lack of choice if the consumer has no option over which law firm to use. An important challenge for the research was therefore to get behind consumers gut reaction to referrals in order to expose their underlying preferences.

In particular the research looked to explore the following issues:

- Consumer awareness and understanding about referral arrangements in the wider economy, and in legal services in particular;
- What consumers see as the benefits and risks of referrals, including if the exchange of money makes any difference. As part of this, explore if consumers appreciate that the cost of referrals may impact on the price they pay for legal services and, if not, what difference this would make to their propensity to shop around;
- The impact of referrals on the quality of service that consumers receive;
- The value that consumers place on the marketing activity undertaken by claims management companies, and the impact this activity has on access to justice for different groups of consumers. In this context, we explored the role of legal services price comparison websites;
- Whether consumers feel free to shop around for advice or feel constrained to use the recommended provider, and the extent to which consumers consider they should be entitled to have complete freedom of choice of lawyer;
- If consumers see any difference between lawyer-to-lawyer referral arrangements compared to those involving lawyers and non lawyers;
- What regulatory measures consumers think would best help to protect their interests.

## Our Approach

In total ten group discussions and ten in-depth interviews were carried out. The groups were held with people who had personal experience of using legal services within the past two years or who were likely to use them in the next 12 months. Experiences included using legal services for preparing wills, divorce proceedings, personal injury claims and conveyancing. The latter is usually the most common reason for consumers to use lawyers, although the dramatic downturn in the housing market over the past two years meant this was less prominent in the groups than we might have expected in previous years.

Groups were structured to include a range of age and socio-economic groups (SEG), as well as covering a mix of urban and rural locations. Groups were held between 2 and 10 February 2010. Each group was mixed gender, and lasted around 1 ¾ hours.

Location	SEG	Age
London	C2DEs	55+
	ABC1s	35-54
Cardiff	ABC1s	55+
	C2DEs	18-34
Upton-on-Severn, Worcestershire	C2DEs	35-54
	ABC1s	18-34
Birmingham	C2DEs	55+
	ABC1s	35-54
Stafford, Staffordshire	ABC1s	18-34
	C2DEs	35-54

In addition, some 'top-up' in-depth telephone interviews were carried out with individuals who had recent experience of personal injury claims and using lawyers as part of that process. Ten interviews were carried out, which when added to the 15 personal injury claimants included in the group discussions meant a total of 25 personal injury claimants were included in the research (around a third of the total).

## Main Findings

### 3. The context of choosing a law firm

#### Finding a law firm is easy, finding a good one more difficult

The consumers in our groups included as broad a mix as possible, across age, socio-economic group, levels of education and location in terms of urban and rural areas. Across the piece though the majority felt finding a lawyer was relatively easy. As shown by earlier research published by the Ministry of Justice (“Baseline survey to assess the impact of legal services reform”, Ministry of Justice Research Series 3/10, March 2010), the preferred route is via a personal recommendation. This reflected discussions around wider services such as building work or painting and decorating – a personal recommendation is felt to assure a basic level of quality that can’t be deduced from, for instance, ads in the Yellow Pages.

Personal recommendation obviously wasn’t the only way of finding a law firm, and there were also regular mentions of using a lawyer they had used previously as well as a number of people who were referred to one by an estate agent or mortgage advisor.

*"It seems to be the first question an estate agents asks...have you got a solicitor!"  
35-54, ABC1, Birmingham*

In more rural areas or smaller towns there were also situations where an individual went to the solicitors ‘on the high street’ – the obvious, convenient local choice.

Lastly, and more often than not these cases involved personal injury claims, some chose to search online for a law firm with relevant expertise.

All these were seen as acceptable ways of finding a lawyer, and there was no detriment initially associated with choosing to use one suggested by a referrer, such as an estate agent or an insurance company.

The lack of confidence came in terms of knowing whether a certain solicitor was any good or not, rather than finding one in the first place.

*"That's why I've put it off, I mean there's plenty of 'em!" 35-54, C2DE, Stafford*

*"There's massive choice, it's just knowing who's who." 55+, C2DE, London*

Although most experiences were positive, and satisfaction was arguably more consistent than for other services such as building work or double glazing, the belief was that there was no real way of knowing in advance whether a law firm was good or not. Personal recommendations help, but outside of these there always seemed to be an element of uncertainty as to whether a choice was the right one.

Some individuals shopped around in advance of making a decision, but this was certainly a minority, and was done with an eye to finding someone they were

comfortable with (PI claims) as often as it was finding the cheapest (wills or conveyancing).

In essence there is felt to be wide choice of solicitors, but consumers are seen to be doing little to encourage an active competitive market.

### **Consumers do not demand price competitiveness**

Interestingly, given the substantial nature of most fees compared to day-to-day expenditures and the relatively low levels of market knowledge, few consumers were seen to shop around for competitive quotes. Where they did it was usually in the case of wills or conveyancing, which many considered to be almost like commodities, and where they expected all firms would provide fairly similar services (and so a decision could safely be made on the basis of price). It was also the ABC1 SEG that was more likely to actively shop around on price.

The reasons behind the arguably low levels of price comparisons (and at this point it was worth noting that no-one in the groups had used a price-comparison site for legal services), were five-fold:

- Personal injury claimants on a no-win no-fee basis, who did not care about costs since they would be passed on to the other party;

*"I didn't feel bad at all - it wasn't going to come out of my claim." 55+, C2DE, London*

- Consumers who believed wills or conveyancing were fairly standard services and therefore assumed prices would be similar wherever they went;
- Consumers who prioritised a personal recommendation of quality or the convenience of a referral above price considerations;
- Consumers of services such as divorce or child custody issues, where other issues such as trusting the lawyer and being confident of their expertise were felt to be more important;
- A lack of familiarity with what is in effect an infrequent purchase often leads to a lack of confidence in 'how to buy' legal services, and so many consumers were not confident enough to approach a number of different professionals.

### **Charges are high, but largely *felt* to be transparent**

Incongruously, there was a strong sense across the groups that lawyers charge too much, despite consumers' relatively low levels of looking around for competitive quotes.

*"It's a licence to print money." 35-54, C2DE, Stafford*

Without necessarily feeling that *their* lawyer charged more than others, the belief was that the sector in general charges excessive fees. For some this fed into a

general sense of antipathy towards the profession, which coloured attitudes in general (towards charges, service and referral arrangements).

However, regardless of their level, the common view was that charges were usually transparent, in that everything was laid out and broken down at the end (even if it is not always confirmed at the outset what the final bill will be).

*"Well mine was completely itemised, better than BT to be honest." 35-54, C2DE, Upton-on-Severn*

This itself sometimes helped fuel perceptions around charges (the fact that there was a charge for every letter sent, every phone call made), but there were few if any complaints around a lack of transparency – although later findings around awareness of referral arrangements suggest they are not as transparent as consumers think they are.

### **Marketing activities are only really valued by Personal Injury claimants**

It was apparent that for most of the consumers in the research they found their way to a solicitor without needing to rely on or benefit from any legal firm's marketing activity – whether it was through a personal recommendation, asking for or being suggested one by an estate agent, or another route, most 'advertising' passed them by. Even the minority who looked up firms in the Yellow Pages implied they used it as much as a listing service than for the marketing messages.

Personal Injury claimants had different perspectives. A number behaved similarly to the wider consumer group, were intent on initiating a case, asked around for recommendations and proactively approached their chosen solicitors. Many though did make some use of marketing activities, either in terms of persuading them to initiate cases or in terms of helping them choose a suitable firm.

Examples included:

- A young woman who had spoken to a number of solicitor firms directly but hadn't found any she was comfortable with, then responded to a TV advert for a Claims Management Company and felt they walked her through the process very soothingly.
- A young woman who had suffered pains as a result of a car accident and who was approached directly by her insurance company asking if she was interested in making a claim – without their approach she may not have considered initiating a claim herself.
- A middle-aged man who suffered whiplash injuries in a car accident, heard an advert on the radio for a solicitors specialising in Personal Injury claims, and as he was not aware of any other specialist firms in the North East went to them directly.

Interestingly consumers did not seem to differentiate between advertising from personal injury lawyers and claims management companies – they talked about responding to an advert in the paper or on radio and it was only further probing that revealed which one it was. Consumers seemed interested in an advert pointing them in the direction of someone who would help, and no-one sensed that one option was preferable – or indeed meaningfully different - to the other.

It was also apparent for some personal injury claimants that online searches in this case are less than helpful since there are in a way too many firms to choose from. For them a more targeted approach through a radio or newspaper ad, or a suggestion from a referrer can be of value.

*“Because we were asked (by the insurance company) ‘do you want someone to contact you?’ and we said yes, we sort of accepted we were having someone imposed on us, and when we heard the name (of the solicitor), we went ‘oh yeah, we’ve heard of them on TV or the internet or something’, so I knew the name as a personal injury company. Your solicitor that deals with your house purchase, they wouldn’t deal in personal injury claims, it’s not what they do, so you’d expect to have to go to a different lawyer for this.” 18-34, ABC1, Personal injury depth*

*“I had a little look around but it’s difficult to tell through the internet who to trust and who not to, whereas for me the RAC is a trusted brand.” 18-34, ABC1, Personal injury depth*

In terms of awareness of the existence of Personal Injury claims, there was a sense from the interviews that most consumers now know they are often an option, and so those with what might be considered the most serious injuries (for instance broken bones, hospital stays, head injuries) were mostly already intent on making a claim, and any marketing activities just helped them choose a firm. The marketing may have helped their choice of firm, but was not necessary to bring them into the justice system.

In comparison, those for whom marketing activities could be considered to have helped provide them with access to the justice system (i.e. where they hadn’t intended to or weren’t sure about whether to make a claim in the first place) often had seemingly less severe injuries (i.e. in terms of being described as ‘pain’ rather than ‘injuries’, not involving time off work etc).

## 4. Initial reactions to Referral Arrangements

### **‘Finders Fees’ are well-known across society generally**

*"There's not a single trade or profession where it doesn't happen." 55+, C2DE, London*

When we first described ‘referral payments’ we were usually met by blank faces. With further description though most people recognised them, describing them more commonly as finders’ fees, commission, or a cut.

*"Builders call it ‘a drink’ ". 35-54, C2DE, Upton-on-Severn*

They were seen in a wide variety of instances, from gardeners, to car sales, through kitchen fitters and insurance brokers. Far from being the domain of ‘blue collar’ businesses as has been suggested, we saw the common link as *small* businesses – from accountants as well as builders. In fact a number of people in the groups experienced them directly in their jobs, for example as wedding planners or interior architects. In addition, many consumers benefited from them directly, for instance with Sky’s Recommend a Friend programme (business-to-consumer payments being the exception to the ‘small business’ pattern).

*"I recommended a friend to Petplan and I got £20 of their vouchers this morning." 55+, ABC1, Bridgend*

### **And they are generally seen as acceptable**

With RAs seen to be so commonplace, they were generally seen as a fact of life, especially by younger consumers (under 35). Consumers may not actively like them, but see little harm in them since they don’t see themselves as directly footing the bill.

Consumers saw a number of advantages, and while they acknowledge potential drawbacks, this list was usually shorter and took longer to draw out.

Advantages:

- The convenience of not having to search yourself;
- Smoother relations and better communications e.g. in the example of a builder using an electrician they know and regularly work with;
- The implicit trust that the referral will be to a quality business;
- The reassurance, especially in smaller towns, that the referrer’s reputation is on the line.

Disadvantages:

- Being lazy and failing to ‘shop around’ may mean you miss out on finding a better firm;
- It may mean you end up with an uncompetitive cost (though not necessarily because of the referral payment).

Importantly, they were under little illusion that a referral payment was for any meaningful service. They did not see it as a payment for active searching or filtering of potential suppliers, instead it was described as a 'goodwill gesture', an incentive to bring in further business, or simply a thank you.

A minority did object to them on principle, and described them in terms of bribes or backhanders, but these were isolated views.

The advantages of convenience and implied trust came to the fore with the Personal Injury claimants. In most cases the one characteristic they valued most in potential solicitors was experience – experience in PI claims or even in a particular form of PI claim. In this context many saw real value in having a relevant firm come to them (either through an advert or via a referral), thus saving them the hassle of trying to find an appropriate firm.

*"It was quite convenient that they called when they did (while respondent was recovering in a hospital bed.....)." 35-54, ABC1, PI depth*

The value of trust was also very apparent for Personal Injury claimants – many of whom went via referrals from their insurance company or similar (such as the legal advice side of their cycling club).

*"The RAC to me is a trusted brand." 18-34, ABC1, PI depth*

### **Awareness of Referral Arrangements for lawyers is minimal**

In comparison to the economy in general, very few of those we spoke to were aware that referral arrangements often exist in legal services. A handful of Personal Injury claimants were aware that a payment had been passed on in their case, but even among these consumers awareness was still the exception.

Although we did not know the detailed charges for any of the cases mentioned in the groups, it was very likely that referral arrangements featured in many of them. As well as the obvious Personal Injury cases involving a referral through an insurance company or Claims Management company, we had a number of people using a lawyer they were recommended by their estate agent. We can therefore say quite confidently that we covered a number of cases where payments would have been made without the client being meaningfully made aware of it.

Although with many of the no-win no-fee cases the client had no interest in charges since they were not paying them – and therefore may well have been informed only to ignore the information, in the other cases clients just assumed that if they had been told it must have been buried in the small print.

*"Is it in writing so small that you're not actually aware of it?!" 18-34, ABC1, Stafford*

## **There is largely surprise and indignation that they exist in legal services**

When told it was fairly common practice for lawyers to make referral arrangements, the most common reaction was surprise, and a sense that it shouldn't really feature in legal services.

*"We're all kind of sceptical about estate agents and lawyers because we don't understand it. So it seems a bit sordid if they keep recommending each other and you don't know what's going on." 18-34, ABC1, Stafford*

There were a significant minority though who just see it as a fact of life, and if they are happy with a lawyer and happy with their charges, they don't mind where the money goes after they've paid it. This minority were largely younger and often male.

*"The guy who fitted my kitchen bought me a couple of pints as my friend also used him - it's the same thing." 18-34, ABC1, Bridgend*

This more tolerant viewpoint was also more apparent among the Personal Injury claimants we spoke to. Very few were aware payments had been made in their cases, but they were still much more accepting of them in principle.

*"Fine with me, they have to make a living." 35-54, ABC1, PI depth*

The objections of the minority were a function of a number of factors:

- Lawyers are ethical professionals and should be 'above it';
- It was felt if a lawyer is good enough they should not need to pay for business;
- An exchange of money sullies what is an important relationship;
- A relationship with a lawyer often means a vulnerable situation (e.g. divorce of child custody issues) and RAs aren't seen to sit easily with these;
- A number of people just don't like estate agents;
- And perhaps most commonly, resentment that they might have to pay for it through higher charges.

*"You see I don't find a problem with paying finder's fees, it's the people who service the finder's fees. I mean I was just thinking of Burke and Hare for some strange reason, you know, those doctors in the seventeenth century wanting bodies and they're paying this person and they're going around and killing them - that's their finder's fee. So that's the low end of it." 35-54, C2DE, Upton-on-Severn*

*"I think the divorce issue is a really big one because it's so contentious in every way. It's a fight and someone's refereeing, and so any extra costs on a divorce are such a bad idea." 35-54, C2DE, Stafford*

In the wider economy people trust a builder to refer them to a good electrician (their reputation is on the line) – but they don't necessarily trust an estate agent. Similarly,

in the wider world they would not expect to pay the referral fee through higher costs, whereas when suggested it in legal contexts they presumed they would end up footing the bill. In reality, the available evidence suggests that most law firms treat the referral fee as an overhead, which like other business costs, is reflected in prices spread across their client base; only a small minority of firms claim to add the payment directly to the client's bill.

It was also apparent that for a small number of consumers (often older, 55+), referral arrangements (and in particular, payments) were a concept they just couldn't get their heads around.

*“But why have we got to pay the referral fee? I don't get it.” 55+ ABC1, Bridgend*

For these few they could not see the reason why payments would ever be passed onto consumers, either directly or indirectly, and so there was an underlying rejection of the concept, in many ways regardless of the validity of arguments put for or against them.

### **Spontaneous objections to RAs are often more emotional than rational**

Many of the objections outlined in the previous section could be seen as more emotional reactions (e.g. the sense that lawyers should be above it, or that the passing of payments sullies the relationship) rather than perceptions of practical consumer detriment. Comments often centred on a sense of indignation rather than the feeling that as consumers the service they received would suffer.

We did hear stories of practical problems, for instance estate agents getting 'shirty' with clients when they chose to use their own solicitor rather than the estate agent's preferred choice, or estate agents refusing to entertain an enquiry unless their chosen lawyer was engaged, but they were isolated cases.

Importantly we saw no pattern of evidence to support a hypothesis that referrals adversely impact on the service consumers receive – instead we saw examples on either side of the argument:

- An individual who had bought a house using a solicitor their father had recommended, and who felt the process had been a disaster;
- An individual who had used the estate agent's choice of lawyer and who experienced the smoothest, quickest transaction they could remember;
- An individual who had experienced terrible distress when using a law firm they were steered to by a claims management company;
- But also a personal injury claimant who had spoken directly to a number of lawyers, each of whom she was uncomfortable with, and who finally approached a claims management company who then held her hand through the process and made her feel comfortable throughout.

The one exception to this (objections being emotional rather than rational) is the prime concern that clients would directly foot the bill, by having it added to their charges (either explicitly or implicitly). The prevailing view was that if the client hasn't actually *asked* for a recommendation, and if the client isn't given any *choice* over paying the charge (since they aren't being made aware of it), then this is unacceptable.

### **As observers though, there would seem to be some minor issues with vulnerability**

It is difficult in the course of a relatively short telephone interview of 45 minutes to ascertain whether there are real instances of consumer detriment, especially where the consumer themselves does not highlight it as a key concern. However, in the course of carrying out the Personal Injury depths it became apparent that there were some cases where claimants had made choices relatively soon after an accident, as a result had gone with a 'referred' solicitors, and with hindsight felt that they might have researched the decision a little more if given time.

*"I think my case (referred through her insurance company) probably involved backhanders... I know some people who've had a bad experience with that - I prefer word of mouth. If it happened now I'd go by word of mouth, but at the time I was very vulnerable, traumatised physically so I just went with it." 35-54, ABC1, PI depth*

### **Any impact on behaviour is difficult to predict**

With awareness of RAs minimal, any discussion around how they might affect consumer behaviour was hypothetical. A minority felt that they would on principle use another law firm if they knew in advance a fee was being paid. But on the other hand a minority also said it wouldn't bother them – if they were happy with the firm and the charges they would still use them.

Most though (with the exception of the majority of Personal Injury claimants) felt that they would be indignant and would 'shop around' to try to 'avoid' the charge. They were primarily indignant at the thought that the fee is just being 'added onto their bill'. However, if shopping around showed the original quote to be competitive then they may well stick to that decision (which is mainly made on the basis of recommendation, past experience or convenience).

*"I'm probably not happy but if wherever I go I'm going to pay £600 for conveyancing then at that point I don't really care who I pay and what they pay onwards." 35-54, C2DE, Upton-on-Severn*

These reactions though were all premised on their being made aware of a referral payment being made – the fact that most are currently unaware partly lies behind the currently relatively low level of shopping around to get competitive quotes.

As was often the case in the research, personal injury claimants were an exception. As most were on a no-win no-fee basis, they felt they would not pay any higher charges as a result of a referral payment (with costs passed onto the other party), and so few, if any, felt they would act any differently if they knew a payment had been made.

That referrers might recommend an ‘in-house’ lawyer was actually seen in most cases to be a positive (it might go more smoothly, especially with conveyancing) – arguments around any possible conflict of interest had to be repeated to get any traction.

*"In my experience with the estate agent, all the information was passed to the in-house solicitor the same day, within three hours he's ringing us up and it was all sorted (presumably the respondent meant 'associated' rather than in-house)." 35-54, C2DE, Upton-on-Severn*

### **Personal injury claimants are much more ambivalent**

With most of the Personal Injury claimants we spoke to proceeding on a no-win no-fee basis, the majority were much less ‘fussed’ about RAs - since they won’t end up paying them. For many (though not all) the main aim of the exercise was to obtain a lump sum payment, and as long as the process delivered this they were relatively happy.

*"I wouldn't give a monkey's (about any RA) because that's the insurance company that's going to sort it out." 35-54, ABC1, Birmingham*

*"I'm comfortable with this, although I'd prefer it if the money came off your estate agent's fees." 35-54, ABC1, PI depth*

Interestingly though, as a group the Personal Injury claimants were arguably less satisfied with the service they received than the wider group of legal services consumers.

*"Being with the Claims Management company was a bit like being on a conveyor belt". 35-54, ABC1, PI depth*

The apparent contrast between arguably receiving poorer service (though this of course wasn’t always the case), yet being much less concerned about referral arrangements, was due to their not paying for the service in the first place (through no-win no-fee arrangements). To a much greater extent than consumers as a whole they appeared willing to accept slightly lower levels of service in the hope that they would achieve a lump sum payment at the end.

*"If you want great service a Personal Injury lawyer is not where you want to be." 18-34, ABC1, PI depth*

## 5. Considered reactions to Referral Arrangements

### Concerns are mainly based on price and suitability – less so conflicts of interest or access to justice

In the course of the groups we ran consumers through a number of arguments for and against referral arrangements (detailed text is contained in the Discussion Guide appended to this report). Although a number of issues were presented – independence, quality, freedom of choice, price and access to justice – only some of them connected with consumers in any meaningful way, and the arguments were largely used to support existing opinions rather than sway them either way.

In fact, the arguments that hit home most clearly were a function of one of the main underlying concerns of consumers – that they are clearly *not being told* about referral arrangements. As a result arguments around price and freedom of choice clearly struck a chord, as to a lesser extent did the issue of suitability or quality, but there was much less attention paid to issues around access to justice or conflicts of interest.

Price: was a prime concern to a majority of people, and the strongest argument against RAs. The belief was that they would probably be added directly to the bill – rather than shared across clients as an overhead – and thus the consumer ends up paying for something they haven't asked for or know about.

Freedom of choice: less of a concern than price, but still a concern to some, was the belief that steering customers to a law firm hampered their freedom of choice. While some in the groups disagreed and said they would quite happily walk away and use their own preferred choice (and have done in the past), others did give examples of estate agents who pressured them to use their recommendations.

*"I have bought several properties and in some circumstances the estate agent will only allow you to go further if you use their in-house solicitor." 35-54, ABC1, Birmingham*

However, it was apparent that many agreed with this argument against RAs 'on principle', without suggesting any detriment in practice. A handful did feel pressured by estate agents, but just as many described how they happily withstood pressure and made their own choice anyway. Others saw referrals as helpful and willingly went with the recommendation.

In effect the majority believed consumers should have freedom of choice, without actually suggesting many had been 'constrained' to use the recommendation in the past.

**Independence:** in terms of the arguments presented, consumers in the groups picked apart the issue into a number of different strands. There were concerns that the recommendation might be driven by size of fees rather than suitability, but not that the lawyer might not act in the client's best interests. In fact on a number of occasions people struggled to imagine a scenario where the estate agent's interests could be different to the client's (they obviously exist, but people did not easily see them as a possible cause for concern).

*“On the other hand would it make it work better - because obviously the estate agent benefits from having an efficient solicitor to get the deal through as soon as possible and vice versa.” 55+ ABC1 Bridgend*

That was not to say though that consumers picked up on the positive argument around independence – the ‘strong code of ethics’ was not much of a safety blanket for them when worried about ‘backroom deals’.

An exception to this pattern were many of the Personal Injury claimants, a higher proportion of whom saw worries about independence as an argument against referral arrangements. This was fuelled for some by disappointment at the size of their settlement (they post-hoc rationalised that maybe the solicitors had settled for an amount that wasn't in their best interests), and for others by dissatisfaction with the quality of the solicitors they were steered towards.

*“I don't know if they really tried very hard on my behalf. I started to think they weren't my advocate.” 35-54, ABC1, PI depth*

**Quality:** as with freedom of choice consumers could see both sides of this argument, though on balance there were more who worried that you might end up with poor quality legal work (either because they're cutting corners or because they were not high quality in the first place). The view that referrers have their reputation to protect was seen to have more validity for ‘word-of-mouth’ businesses such as builders than for estate agents, where recommendations are possibly less common (and therefore there is maybe less ‘reputation’ to protect).

**Access to Justice:** on the whole consumers did not identify with either side of this argument as much as they did the others. It should be noted that there is a significant minority who object to ‘ambulance chasers’ and the increasing prominence of personal injury claims, but these sentiments are in a sense independent of referral arrangements – their objections are around the

phenomenon as a whole rather than the role referral arrangements play in it. These objections were just as apparent among Personal Injury claimants we spoke to, with more talking in terms of looking for ‘payments’ than ‘justice’.

*“It’s not being done to improve Health & Safety, it’s being done to get money.” 35-54, C2DE, PI Depth*

Overall then the arguments served mainly to entrench existing views – predominantly seeing referral arrangements as unacceptable in their current context – rather than changing views one way or another (with the exception of Personal Injury claimants, many of whom were perfectly comfortable with them).

### **Referral Arrangements as marketing costs is a stronger argument**

We presented consumers with the possible defence of referral payments as a cost-effective form of marketing, something that might actually save consumers money in the long run. The argument was far from intuitive though, and for the most part people *eventually agreed with the logic* rather than *immediately saw a clear justification*.

As through all the research a minority of consumers clearly saw referral arrangements as an acceptable part of commercial life, and spontaneously saw them as a way of attracting business.

*“In solicitors’ defence, it’s a very hard service to market.” 35-54, ABC1, Birmingham*

To some extent the slowness in seeing the argument was a function of the earlier mentioned view that solicitors should occupy a higher ground, and should be above the sometimes ugly reality of the commercial world. More than once someone commented that if a solicitors were any good, business would come to them. For this minority ‘buying in business’ is simply felt to be inappropriate.

*“Why can’t they just refer them for their good, honest work?” 35-54, C2DE, Stafford*

A majority did in due course see a logic in the argument, and acknowledged that if it were more cost-effective than other forms of marketing (a claim they obviously had to take on trust) then it became more acceptable in their eyes. They knew law firms advertised (and that was how some had found the firm they used previously), and so when seen as an equivalent to marketing costs some of their existing resistance ebbed away. There remained though a base level of indignation at their having to pay the cost themselves – whereas advertising costs are normally spread across all customers, the belief was still that referral payments would be likely to be passed onto the customer in full, whether they knew it or not, and thus regardless of the actual level, it was a more *personal* cost than marketing.

This was further underlined by the comparison with plumbers or electricians – even if they paid a builder for a recommendation, the belief was that this would not be passed onto the customer directly and in full.

*“I used to run a riding school and people would often recommend friends to me. I would say to the person ‘Thank you very much for recommending them to come to me’ and I’d perhaps give them an hour’s free riding, but I didn’t charge the people that came to me extra.” 55+, ABC1, Bridgend*

Referral payments in the wider economy are not seen as a cost to an individual customer, in legal services they are. Thus the argument of referral arrangements as a cost effective way of getting business is seen as partly persuasive, but not compellingly so.

### **Referral arrangements are similar but different to Google sponsored links**

With most consumers eventually seeing how referral arrangements are in some ways akin to marketing costs, they reached a similar conclusion when comparing them to sponsored links on websites – they are similar but different.

While acknowledging that referral arrangements are a way of generating business, as is the case with sponsored links (which are usually driven by fee payment rather than a recommendation of quality), most consumers saw some important differences:

- Advertising ‘is what Google does’ – consumers are under no illusion that Google personally filters companies for quality and refines the suggestions based on the consumer’s circumstances, they know they are not ‘recommendations’.
- There is no sales pressure online - being presented with search results puts no pressure on the consumer, either to choose there and then or to go with one firm over another.

*“Google isn’t going to get shirty with you if you don’t use the one they want.” 35-54, C2DE, Upton-on-Severn*

- Sponsored links widen your choices rather than narrow them down - as is often the case with referrers (and in fact one way of lessening concerns around referral payments was for referrers to offer a choice of recommended firms rather than just one).
- Online you can see what you are getting – in most consumers’ experiences sponsored links are used in the context of buying products, which can be viewed online with accompanying clear price comparisons. In a legal context consumers are less likely to shop around for price comparisons, are more unsure about comparing solicitors, and so any choice made as a result of a

less-than-transparent referral arrangement is felt to be less informed than choosing between products online.

As a result the argument that referral arrangements should be seen as just as acceptable as sponsored links online was not one that the majority of consumers agreed with (though it should be noted that as with other elements of the research, there was a minority of younger, often male respondents who immediately saw them as equivalent and therefore saw referral arrangements as perfectly acceptable).

This sense fed through into discussions around price comparison websites for law firms. None of the people we spoke to were aware of them let alone used them. Few objected to them in principle, feeling their characteristics (no pressure, a more obvious business model, and often a widening of choices rather than a narrowing of one) outweighed any concerns. However, fewer could imagine themselves using them, and even among those cases they felt they might use them to help put existing quotes in context rather than provide an actual law firm they might use.

## 6. Regulatory Protection

### **The promise of transparency is a ‘game-changer’**

In reviewing the current elements of ‘Rule 9’<sup>2</sup> (the summary can be seen in the appended Discussion Guide), views turned around substantially on the promise of transparency. Rule 9 states that clients must be told in advance of commission that a referral arrangement is in place, the nature of that arrangement and the size of any fee.

For consumers this allays many of their concerns in one go:

- The sense of skulduggery is addressed since the arrangement is now in the open;
- Any indignation at having to pay an ‘unnecessary fee’ is largely resolved since the client is now free to look elsewhere and see if they can get more competitive ‘fee-free’ services from another firm;
- Freedom of choice is improved since now consumers know the basis of the referral (i.e. it’s not necessarily done for their good), and so say they will be more likely to make their own choice of solicitor – and in many cases it may be to go with the referral, but at least it is now an informed choice;
- Suitability or quality of law firm (a concern for a minority) is also partly addressed since now the consumer knows it is a referral and not necessarily a recommendation, the waters are no longer muddied.

*“I think the thing of the unknown is scarier than actually seeing it in black and white and stuff. So I think if it’s just common knowledge that this was the case then you wouldn’t be so scared about choosing a solicitor or estate agents or anything really.”*  
18-34, ABC1, Upton-on-Severn

*“I think we’re more likely to pay when we know what we get, instead of being in this secret society.”* 35-54, C2DE, Stafford

*“I was going to say I was uncomfortable (with RAs) but it changes the dynamics of it if you’re told, because that just makes all the difference in the world doesn’t it?”* 35-54, C2DE, Upton-on-Severn

At this point in the discussions, the clear majority of consumers suggest that the regulations are adequate, and that if they are enforced then on the whole they are relatively comfortable with the existence of referral arrangements. A minority though (mainly older) are still uncomfortable with them, and feel that they are unacceptable from a consumer’s point of view.

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<sup>2</sup> Rule 9: Referrals of Business, the Solicitors Regulation Authority;  
<http://www.sra.org.uk/solicitors/code-of-conduct/rule9.page>

Some questions did arise from the current regulations though, such as why they are unacceptable in legal aid cases – the question being if they're not appropriate in this context why are they appropriate in another – but they were isolated comments.

There were only really two improvements suggested:

- That the consumer always be informed of the existence of a referral arrangement by the introducer, before they speak to the solicitor, on the basis that otherwise the arrangement might be mentioned once discussions are already underway and time already invested, making it more difficult to question it or walk away. This is already the aim of Rule 9, although since many introducers fall outside of the scope of the Solicitors Regulation Authority it is often difficult to enforce in practice.
- That it be made clear to the consumer if they were paying any referral payment directly i.e. the extent to which the fee is being 'added' onto their bill.

The overwhelming caveat though, and one which suggests the status quo isn't felt to offer adequate protection, is that consumers are clearly not being told about referral arrangements in practice. This crucial point underpins whether, on the whole, consumers feel referral arrangements are acceptable or not. To simplify an often complex discussion, if Rule 9 is comprehensively enforced consumers are largely comfortable with them, if it's not, they are largely uncomfortable with them.

## Appendix

### Discussion Guide - Final

#### Introduction – 5 mins

- Introduce subject and explain client is the Legal Services Consumer Panel.
- Explain client presence (in London), confidentiality, tape recording etc
- Ask respondents to introduce themselves to the group – first name, bit of info on their household, their favourite ever film.

#### Use of major consumer services – 20 mins

Explain we are going to start by talking about their experiences of using ‘major’ consumer services, by this we mean services (rather than products) they have bought for serious amounts of money i.e. £250 plus. Examples are builders or decorators, accountants (if they’re self employed), major car repair work etc. We can include mention of legal services here, but would be good to include others as well.

- Using examples, how satisfied or dissatisfied were they with the service?
  - Reasons for satisfaction/dissatisfaction
  - Probe on *value for money* rather than *price*
- How did they find the builder/decorator etc? Yellow pages, recommendation etc
- How did they decide who to use?
  - Probe on role of quotes – did they get more than 1, go with middle one etc
- How transparent did you find the fees you were charged?
  - How clear was it what you were paying for, how the price was made up?
  
- Now complete the story (if not covered already) for law firms:
  - Satisfaction levels
  - How did they find them (especially important for PI respondents)
  - How did they decide who to use
  - Transparency of charges

## Role of referral payments – 20 mins

- How aware are people of the existence of referral payments generally across the economy?
  - A referral payment is made to someone who recommends a customer to a third party whose services the customer might want or need. What sort of examples can they think of where they exist?
    - Give two examples if necessary e.g. a builder who is building an extension for you may recommend an electrician and be paid by the electrician for providing the recommendation. An estate agent selling you a house may be paid a fee by a conveyancer who the estate agent recommends to you.
    - Prompt on: Travel agents, insurers, price comparison websites, Google sponsored links?
    - TRY AND STEER CONVERSATION AWAY FROM LAWYERS AT THIS STAGE
  - What do they feel referral payments are for?
  - What services do they feel referral payments are paying for?
  - How do they feel as consumers about such referral payments?
  - What do they think are the benefits and drawbacks?
  
  - How do they feel about lawyers paying referral payments, for instance in the case of a solicitors firm paying an estate agent who refers customers to them?
  
  - Does this surprise/concern them?
  
  - Do they think is it different to Google getting a fee for sponsored links? If so why?
  - Who was aware that such fees are paid/paid by their solicitor?
  - How do they think this will impact the behaviour of the estate agent?
  - Would consumers be concerned if estate agents referred them to an in-house solicitor? Do they think there is a difference between a referral to a different company and a referral to a different department? Why? What effect do you think it has on us as consumers?
- TIE BACK TO EARLIER CONVERSATIONS AROUND TRANSPARENCY – HOW DO PAYMENTS SIT WITHIN THE OVERALL VIEW ON CHARGES
- If anyone was aware of a referral fee, what did they do to check the amount was reasonable?

- For those who were not aware, if they had known a fee was paid how would it have affected their behaviour, if at all?

FOR PERSONAL INJURY CLAIMANTS:

- Explore role of claims management companies, and the fact that many charge solicitors fees for referring cases to them. How do consumers feel about that?
- How did your solicitor get paid? Was there a no win/no fee arrangement? How does this affect your view of referral payments?
- How do they think this will impact the behaviour of the claims management company?
- Would consumers be concerned if claims management companies referred them to an in-house solicitor? Do they think there is a difference between a referral to a different company and a referral to a different department? Why?

**Pros and Cons of Referral Fees – 25 mins**

INITIAL ROLE PLAY – SPLIT INTO TWO GROUPS OF CONSUMERS. GIVE A FEW MINUTES TO PREPARE ARGUMENTS FOR WHY REFERRAL FEES ARE NECESSARY (GROUP 1) AND HOW THEY FEEL ABOUT THEM (GROUP 2). GET ONE SIDE TO PRESENT BACK TO THE OTHER, THEN VICE VERSA, AND THEN ENCOURAGE SOME TO AND FRO.

WE WILL GIVE EACH SIDE PROMPTS OF THE 5 FOR/AGAINST ARGUMENTS AND ASK THEM TO CHOOSE WHAT THEY THINK ARE THE (UP TO) 3 STRONGEST ARGUMENTS. THIS SHOULD HELP MAKE THE TASK EASIER, BUT PREVENT THEM JUST PARROTING BACK ALL 5 ARGUMENTS.

- Independence; quality; freedom of choice, price and access to justice (with brief explanations for each)

Independence – For referral fees	Lawyers have strong set of ethical rules that ensure they should always act independently. Problems come from the type of fee rather than where it comes from (e.g. a flat fee encourages work to be done quickly)
Independence – Against referral fees	Referrers (e.g. estate agents) might direct consumers to the law firm that pays the highest referral fee rather than the most suitable firm. In turn law firms might not act in the best interest of the client for fear of offending an estate agent that provides them with a lot of business.
Quality – For	Referrers (e.g. estate agents) will only refer clients to high quality law firms, to protect their own reputations. There is evidence that satisfaction with law firms is generally high.
Quality – Against	Lawyers will look to cut corners elsewhere to compensate for having to pay a referral fee
Freedom of choice – For	Consumers aren't bothered about this restriction, and referrers benefit from being able to choose law firms whose quality of work protects their reputation.
Freedom of choice - Against	Denying consumers the right to choose their own lawyer dampens competition, and infringes their human rights
Price – For	Lawyers have to attract business somehow, and referral fees are a cost effective way of doing this
Price - Against	Referral fees add extra costs to the system that consumers end up paying for
Access to justice – For	The Law is complex and many consumers don't realise they would benefit from legal advice. Introducers raise consumer awareness of their rights, and can hand-hold them through the process of making complaints.
Access to justice - Against	Consumers can always find their way to a lawyer if they want, and claims management companies have fuelled a compensation culture where law suits are launched for the most frivolous of reasons.

- Assuming there are some who are resistant to the idea, explore discussion around the view that they might be at least more acceptable in some cases than others. On this basis, in which of the following examples might referral payments be more acceptable and which less acceptable: FLIPCHART ON SCALE AND PROBE WHY
  - Simple conveyancing/house purchase where the solicitor pays the estate agent for any referrals
  - Personal injury claim where the person responds to an advert, and the claims management firm charges the end lawyer a fee
  - Where an insurance company refers a customer to a law firm e.g. after a car accident, and the law firm pays them a fee
  - A law firm pays a legal services price comparison website a fee for business that comes to it from the website
  - Where a bank refers a customer to a lawyer to draw up a will for a few hundred pounds, and the lawyer pays them a fee for the recommendation
  - Where a solicitor pays an annual subscription to a Claims Management Company in return for a set number of potential customers who have experienced a personal injury.
  - Any other examples at either end of the scale?
  
- In discussions around acceptability, probe on the size of the fee – how does this impact acceptability? What would they do if they felt the level was unacceptable?

### **Marketing of legal services – 25 mins**

TIE BACK TO EARLIER CONVERSATION ABOUT HOW THEY FOUND THEIR LAWYER OR SOLICITOR, HOW MUCH CHOICE THEY HAD

- How easy did they/do they find it to choose a law firm or solicitor?
  - How do they go about finding a law firm or solicitor?
  - Did they feel that there was enough choice?
  - Did they talk to different firms/compare prices/compare services before choosing?
  - How in control did they feel as consumers – an informed choice or simply directed to use one firm?

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- To what extent did they make an active informed choice i.e. a choice between more than one company, taking into account both price and quality of service
  - If law firms competed on price, would consumers actually take advantage of this and ring round for a range of prices, or would you make choices for other reasons?
  - Why did they make the choice the way they did? Convenience? Because they were happy with the options they had? Because they didn't understand the options available?
- 
- Has anyone used a price comparison website for law firms? CHECK CONTENT
  - How do they feel about them in principle – could they see themselves using one? If not why not?
  - If yes, how would they use them – use them to choose one, or shop around between many?
  - Touch again on the issue of acceptability of price comparison websites charging referral fees
  - If unacceptable, how else should the sites be paid?
  - In what ways, if any, is a price comparison website different to a personal referral (e.g. an estate agent)?
  - How aware are they of solicitor firms marketing to customers – examples?
  - Many law firms argue that by paying referral fees to e.g. estate agents or price comparison websites they can have minimal marketing costs, and therefore it is a cost-effective form of marketing and making their services known to a wider range of customers
  - To what extent do they agree or disagree with this argument?

SPLIT INTO TWO TEAMS AND GET EACH TO IMAGINE THEY ARE THE PEOPLE'S LAW FIRM – A LAW FIRM THAT IS OWNED BY THE PUBLIC AND ACTS IN THE PUBLIC'S INTERESTS. BUT THEY STILL NEED TO BE SUCCESSFUL AND GROW. THEY NEED TO DRAW UP A MARKETING PLAN – HOW WILL THEY MARKET THEIR SERVICES? YOUR MARKETING BUDGET IS NOT MASSIVE – SO RULE OUT THINGS LIKE TV ADVERTS. WE WILL BE PARTICULARLY INTERESTED TO SEE IF YOU INCLUDE ANY FORM OF REFERRAL PAYMENTS.

## **REGULATORY PRINCIPLES – 5 mins**

### OUTLINE CURRENT REGULATIONS – A SUMMARY OF RULE 9

- Agreement between solicitor and referrer must be in writing
- Solicitor must state to client they will act independently of the referrer and client can question this at any time
- Solicitor must inform the client in writing before being awarded the work that they are paying a referral fee and the nature/amount of this fee
- Referral fees are not allowed in any criminal cases (ie cases around breaking the law), or any legal aid cases where some of the work is publicly funded
  
- What are your reactions to the regulations as they stand?
  - To what extent do you think they protect the consumer?
- If you were in charge of drawing up the regulations, what would you put in place?
  - PROBE DEPENDING ON CURRENT CONTENT
  - What would be your priorities?

## **WRAP UP – 5 mins**

- Overall, thinking about both sides of the arguments that we've talked about (referral payments are an effective form of marketing and improve access to legal services vs. there is a conflict of interest when a lawyer is working for a customer but winning business through an estate agent), do people support or oppose referral fees, or are they acceptable in some cases but not in others?
- Explain outline of research (10 groups like these) and that report is feeding into the Legal Services Consumer Panel, who put forward the consumers case when changes to the law are being considered (as they are here).
  
- THANK AND CLOSE