



Changes to the Disclosure of Profits and Advantages Code

The Legal Services Board has this week approved changes to the Disclosure of Profits and Advantages Code that we have made following our review of referral fee arrangements earlier this year.

We concluded that there was no justification for a ban on referral fees because we could find no evidence of consumer detriment arising from them. But we felt that it would be helpful to amend and improve some of the requirements around the operation of referral fees so that consumers are fully informed.

As a result, some of the specific requirements of the Disclosure of Profits and Advantages Code are being replaced with the following principles.

- Where you enter into an arrangement, including any fee sharing agreement, with an introducer, the agreement is in writing.
- You periodically review referral arrangements/fees to ensure they deliver the Outcomes identified at the outset of this Code.
- You inform the Client in writing of the existence of the referral arrangement no later than when accepting instructions, or when introducing a Client to another person.
- You advise the Client that they have a choice of provider.
- You inform the Client of the nature of the arrangement (including any payment made), with whom it is made, and any impact (including any legal costs they are charged).

Compliance Timetable

Licensed Conveyancers now have twelve weeks in which to revise your systems as necessary. The deadline for this is therefore Thursday 31 October.

We will then allow a further twelve weeks (Thursday 24 January) within which

formal enforcement action would not be taken should a firm not yet meet the requirement.

The amendments can be found at page 65-66 of the [CLC Handbook](#) and will be highlighted in yellow for the 12 week lead-in period.

Why are we making these changes?

We believe that the approach that we are taking is:

Proportionate Both the Consumer Panel research and our own investigations have identified little evidence of significant consumer detriment, so we have approached the revisions with caution and have applied only that which we consider necessary/proportionate to the risk. We considered publication of individual referral agreements by individual practices to be unnecessary as the agreement itself is unlikely to assist the individual consumer who will be interested primarily in the effect the referral arrangement will have upon them (and have therefore amended the disclosure provisions to cover this).

In keeping with an outcomes-focused approach to regulation, we concluded that we would not provide a template for arrangements as this would be too prescriptive and would not take into account the breadth of possible arrangement and organisation types.

Targeted The information on referrals obtained through the recent Annual Regulatory Return will enable us to profile providers involved in referrals and to ensure they comply with the new regulatory arrangements when in place and identify any businesses with possible sustainability, or quality, risks owing to their dependence upon referral arrangements.

Transparent The new disclosure provisions should widen the information provided to clients to help inform their purchasing decision (the information should be provided in an arguably timelier manner). The proposals also seek to ensure that any arrangements are documented, enabling us to access and monitor the service level agreement to gauge how the arrangements are consistent with clients' best

interests.

Accountable It remains the responsibility of the CLC-regulated firm to ensure their referral arrangements deliver the positive Outcomes sought by the Code of Conduct.

Consistent Provision of high-level principles is in keeping with the outcomes-focused, principles and risk-based approach which the sector is applying and allows licensees some element of discretion as to how they meet the requirements. Permitting referral arrangements to exist is also likely to be consistent with the general regulatory approach applied in the legal sector, as per the LSB's recommendation.

Thank you

Our thanks again to the many Licensed Conveyancers who took part in our consultation on the matter in the first quarter of the year. You can [read a summary of the consultation responses](#).

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