



# The City of London Law Society

4 College Hill  
London EC4R 2RB  
Tel: 020 7329 2173  
Fax: 020 7329 2190  
[www.citysolicitors.org.uk](http://www.citysolicitors.org.uk)

## **Response to Legal Services Consumer Panel Investigation into Referral Arrangements**

---

The City of London Law Society ("CLLS") represents approximately 13,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 17 specialist committees. This response in respect of the Consumer Panel of the Legal Services Board's enquiry into referral arrangements has been prepared by the CLLS Professional Rules and Regulation Committee.

The Consumer Panel's Terms of Reference on the investigation into referral arrangements describe referral arrangements as often being "characterised by payment in return for referral of business, but fees do not need to be involved." They go on to say that the Panel will be "examining the use of referral arrangements by authorised persons across the whole legal profession".

We do not propose to comment on the current and very lively debate concerning the payment of referral fees in personal injury or other cases or matters for private individuals, as this is not the type of work in which our members are predominantly involved.

It is true to say, however, that our member firms will regularly be referring business to, and receiving referrals of business from, lawyers, other professionals such as accountants and third party providers of services, such as intermediaries. These referrals are commonplace and arise for a multiplicity of reasons, e.g.:

- Conflicts
- The work involved is outside the expertise of the firm concerned (e.g. divorce or other private client work)
- Jurisdictional issues, where work is referred to local lawyers for specialist, local law, advice
- Use of counsel, for advocacy and advice.

Moreover, as part of customary networking and business development activities, partners and lawyers in our member firms may from time to time have loose, informal understandings and/or arrangements with intermediaries such as investment banks, brokers and accountants for the mutual referral of opportunities, which may or may not result in legal work.

Such referrals are not characterised by payment in return for referral of business. Nor are they characterised by other non-monetary arrangements linked to the introduction of clients, such as the provision of free or below-cost services in exchange for the referral of other business.

Rule 9 (Referrals of Business) of the Solicitors' Code of Conduct does in any event regulate referrals of business by our member firms to third parties (other than referrals between lawyers). Specifically, Rule 9.03 of the Solicitors' Code provides that if a solicitor recommends a client use a particular firm, agency or business, this must be done in good faith, judging what is in the client's best interests. That Rule goes on to provide that we may not enter into any agreement or association which would restrict our freedom to recommend any particular firm, agency or business (outside of certain mortgage, insurance and financial services related contracts).

It's our view that such referrals made and received by our member firms are a necessary part of the discharge of our duties to our clients and facilitate the delivery of high quality advice. We take it that such referrals are not the focus of the Panel's investigation. If this assumption is incorrect, we would want to be further involved in the investigation.

For the sake of completeness, we mention the following arrangements. We are aware that Buying Solutions (the Government procurement arm which sets up various framework agreements for the call off of goods and services, including legal services, by local authorities, NHS Trusts and central Government departments) charges monthly "management charges" to firms who receive business under one of these framework agreements. Such management charges are calculated as a percentage of fees received by the firm from clients under such framework agreements. Such charges could be characterised as referral fees. On its website, Buying Solutions explains that it is a "Trading Fund which is run on commercial lines, with responsibility for generating income to cover its costs and make a return to the Treasury." We take it therefore that the management charges assist in defraying the organisation's costs and are not within the scope of the Panel's investigation.

We're aware also that some groups of companies may centralise their procurement of legal services and seek a discount or rebate by reference to fees paid by group companies. Such payments could be a referral fee within Rule 9 of the Solicitors Code, even though they are in effect a payment to the client itself, but again we assume that these types of arrangements are not within the scope of the Panel's investigation.

26 February 2010

© CITY OF LONDON LAW SOCIETY 2010.

All rights reserved. This paper has been prepared as part of a consultation process. Its contents should not be taken as legal advice in relation to a particular situation or transaction.

**THE CITY OF LONDON LAW SOCIETY  
PROFESSIONAL RULES AND REGULATION COMMITTEE**

Individuals and firms represented on this Committee are as follows:

Chris Perrin (Clifford Chance LLP) (Chair)

Raymond Cohen (Linklaters LLP)

Sarah deGay (Slaughter and May)

Alasdair Douglas (Travers Smith LLP)

Antoinette Jucker (Pinsent Masons LLP)

Jonathan Kembery (Freshfields Bruckhaus Deringer LLP)

Heather McCallum (Allen and Overy LLP)

Julia Palca (Olswang)

Mike Pretty (DLA Piper UK LLP)

John Trotter (Lovells)

Clare Wilson (Herbert Smith LLP)