
These notes offer guidance on the legal position on referral fees, referral arrangements and fee sharing.

What is a referral fee?

The payment service providers make to third parties in return for recommending their services or sending potential clients to them.

What is fee sharing?

Also known as “fee splitting”, it is an arrangement with a third party who introduces business to you and/or with whom you share your fees.

Background to referral fees

The debate on referral fees in the legal profession remains as heated today as it was in 2004 when the Law Society, under pressure from the Office of Fair Trading, first allowed solicitors to pay so-called referral fees. A report by the Legal Services Board issued in May 2011 identified no regulatory reason for a ban but concluded there should be better disclosure, so that consumers know exactly how much money is changing hands and between whom.

As a Costs Lawyer, may I enter into a referral fee arrangement?

Yes, provided:

- the party you enter into the arrangement with is reputable;
- it is disclosed to your client as soon as reasonably practicable, including the amount of the referral fee paid;
- it does not impinge upon your duties and responsibilities to your client; and
- the arrangement is lawful.

Do referral fee arrangements have to be in writing?

No.

Can I pass on the cost of a referral fee to a client?

No, in line with rules applicable to solicitors a referral fee paid cannot be charged directly to a client. A referral fee is not a disbursement and may not be charged to a client as such. A referral fee paid is not a liability you have incurred on the client's behalf in the course of acting for them, it is your liability incurred by you before the client instructed you.

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