

The Compensation Act 2006

Law Society Practice Statement
20 February 2007

Status of this practice note

Practice notes are issued by the Law Society for the use and benefit of its members. They represent the Law Society's view of good practice in a particular area. They are not intended to be the only standard of good practice that solicitors can follow. You are not required to follow them, but doing so will make it easier to account to oversight bodies for your actions.

Practice notes are not legal advice, nor do they necessarily provide a defence to complaints of misconduct or of inadequate professional service. While care has been taken to ensure that they are accurate, up to date and useful, the Law Society will not accept any legal liability in relation to them.

For queries or comments on this practice note contact the Law Society's Practice Advice Service.

Do you receive claims referrals from a claims referrals company or a claims management company?

If you receive claims referrals from a claims referrals company, or a claims management company, you need to be aware of the new regulatory regime being introduced under the Compensation Act 2006.

From 6 April 2007, persons providing claims management services (this would include those who refer claims as well as those who represent clients) must be authorised under the Act to do so, or be exempted, or have the benefit of a waiver of the obligation to be authorised. Solicitors who provide these services through their law firms are exempt. Claims management/referrals companies which fail to meet these new requirements will not be permitted to trade, and any of those which do trade will be committing an offence. You should check that, where appropriate, any

introducer is authorised or exempt under the new regulatory regime. If you don't, you may be aiding and abetting an offence - and such conduct could involve disciplinary sanctions against you. You can check the status of an introducer by visiting www.claimsregulation.gov.uk/search.aspx.

You should also be sure that you act independently in your client's best interests, particularly if you receive a significant number of referrals from a single source. As with any referral arrangement, you must comply with your regulatory requirements. Visit www.referrals.sra.org.uk to view all the current regulatory requirements in relation to referrals and those which will be brought in when the new Solicitors' Code of Conduct is in force.

Is your website breaching your legal and professional obligations?

The new claims regulator is identifying a significant number of websites which link back to firms of solicitors, but which do not make it clear on the face of the website that they belong to a solicitors' firm that is regulated by the Solicitors Regulation Authority (SRA). Remember that you must comply with the provisions of the [Electronic Commerce \(EC Directive\) Regulations 2002](#), which require you to display certain information on your firm's website, including your professional title, details of your professional body, and a means of accessing your professional rules (for example, a link to www.guide-online.lawsociety.org.uk will take you to the rules currently in force). You will also need to ensure that your website complies with the Solicitors' Publicity Code 2001. The new claims regulator will be reporting any concerns about solicitors' websites to the SRA and, where the site does not belong to a solicitors' firm nor a regulated claims management company, may prosecute under the Compensation Act 2006.

Do you have a separate business which is not run as part of your law firm and which undertakes relevant claims management services?

If you have a practice as a solicitor (or registered European lawyer), you can't do most activities which constitute claims management services through any business except your solicitor's (or REL's) practice. See section 3 of the Solicitors' Separate Business Code 1994. You can undertake activities such as marketing through a separate business, but **not**:

- work which is preparatory to a claim which could proceed to a court, tribunal or inquiry.
- legal advice.
- drafting legal documents.

Any activities which constitute claims management services which you undertake through the separate business will be subject to the new regulatory regime. This means that your separate business will need to be authorised by the claims regulator so that it can lawfully continue trading after 6 April 2007. For more information visit www.claimsregulation.gov.uk