



A delicate condition

With the news that the Legal Ombudsman has ordered compensation of almost £1m to claimants hit by unexpected costs relating to 'no win, no fee' agreements, what can your firm do to protect itself against potential future complaints? Deborah Blythe and Sarah Towler of Russell-Cooke present their top five tips to ensuring consistently good quality client service.

A recent report from the Legal Ombudsman has shown that there are an increasing number of complaints from clients about conditional fee agreements. In particular, there is a concern that the phrase 'no win, no fee' is potentially misleading, because there have been a number of cases where clients have been asked to contribute towards costs when they were told they would not have to pay. The vast majority of complaints relate to conditional fee agreements in personal injury claims.

As a result of a highly competitive market, there is evidence that some firms may be prioritising the sourcing of a large number of clients, instead of selecting cases carefully – this can lead to a higher than average loss rate, potentially driving lawyers into adopting unethical practices, which in turn can lead their firm in a downward spiral towards financial meltdown. Ensuring that your firm has a sound selection process for entering into conditional fee agreements should also reduce the loss rate.

We set out some simple steps that can be taken to protect against complaints arising out of a conditional fee agreement, and ensure that clients receive a consistently good quality service.

1. It is important that there is clear communication and mutual trust between you and the client. Set out clearly to your client exactly what they will be expected to fund in respect of disbursements, insurance premiums and cover of any shortfall, and in what circumstances they can be expected to have to make such payments.
2. The client needs to be informed as to what information they will be expected to provide in order that you can provide an efficient and cost-effective service for them.
3. The client needs to be aware of how you can be contacted and your preferred method of communication. If they are not able to reach you, you must let them know what arrangements are in place to deal with any queries in your absence.
4. It is important to keep the client up-to-date about what steps are being taken in their case and to ask them to approve key documents.
5. If the claim is running into difficulties, it is important to keep your client informed of the position and engaged in the process by 'problem-solving' with them. The vast majority of clients, even those with disappointing results in litigation, are often satisfied as long as they have been involved in the process and kept updated on developments.

Lawyers working under conditional fee agreements in complex matters are committing their firm to significant financial risk. The key to success is ensuring that client expectations are adequately managed and service standards are maintained, particularly in relation to client care.

Deborah Blythe and Sarah Towler are both partners in the clinical negligence and personal injury team at Russell-Cooke.

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