

29 August 2013
Jenny Pickrell
Legal Services Policy
Ministry of Justice
102 Petty France
London
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By email: jenny.pickrell@justice.gsi.gov.uk

Dear Ms Pickrell

Call for Evidence: Review of the Legal Services Regulatory Framework

The Association of Personal Injury Lawyers (APIL) was formed by claimant lawyers with a view to representing the interests of personal injury victims. The association is dedicated to campaigning for improvements in the law to enable injured people to gain full access to justice, and promote their interests in all relevant political issues. Our members comprise principally of practitioners who specialise in personal injury litigation and whose interests are predominantly on behalf of injured claimants. APIL currently has approximately 4,000 members in the UK and abroad who represent hundreds of thousands of injured people a year.

As our remit only extends to personal injury law including clinical negligence, we offer our comments relating to the regulation of the personal injury sector.

We understand that regulation can be perceived to be a burden by some practitioners. Whilst we leave the detail of regulatory issues to our professional regulators, we are concerned that regulation to protect the public (and specifically in our field the interests of injured people who are represented in litigation by our members or others) should exist and it should be applied consistently. We are concerned to ensure that injured people, when they become clients, are fully protected by the regulatory regime, whoever is dealing with their personal injury claim. We have concerns that “simplifying” regulation could water down the consumer protection which is already in place.

The dangers of deregulation are currently illustrated by the problems facing the will-writing sector. Whilst solicitors who write wills are regulated, there are non-solicitors (will writers) who are not. Levels of competence, service, and expertise may differ between on the one hand the regulated sector and the unregulated. Regulation brings necessary safeguards, checks and processes which are a cost to the business on the regulated sector but do not have to be adhered to by the unregulated. Competition is skewed therefore as unregulated providers will find it cheaper to offer the service as they do not pay the costs of regulation. Will writing has suffered because of a lack of regulation; however it is the consumers that have felt the negative consequences of this the most. All too late the consumer/ client finds out the costs of choosing the unregulated provider. Our members are informed by former clients of unregulated will writing businesses that they offer low costs for the will preparation but then add extras e.g. a cost for each legacy included in the will. Apparently they will then charge an annual fee for storage. When will writers have gone out of business there is no traceability for the client and we are informed that original Wills have been found in skips rather than carefully stored in readiness for the Testator's death. When something goes wrong, solicitors (for example) through regulation have insurance to cover their professional negligence. However this is not a pre-requisite for all will-writers to practise and the victims of their mistakes may go uncompensated as a result. We would not want such a state of affairs to apply to those carrying our personal injury services on behalf of claimants.

In addition we suggest that there should be one regulator for all who are carrying out personal injury services, regardless of their corporate structure, or the "label" worn by the individual representative. This will then ensure a level playing field between traditionally run law firms, and ABSs and Claims Management Companies. We are concerned that if there is no parity of regulation, by the same regulator, then the public will be put at risk; virtually anyone could run a personal injury case, with the attendant risks of under settlement, missed limitation dates and other errors which for solicitors and legal executives, would amount to professional negligence. We believe that regulation is a necessary burden, and should be applied equally, regardless of the structure of the business providing the service.

Further, regardless of regulation, we strongly believe that representation of injured people whether pre litigation or in litigation should only be undertaken by solicitors and

legal executives, either in an ABS or traditional law firm setting. In any event the position should remain that Claims Management Companies should not be permitted to conduct litigation; it is imperative that professional standards applying to represented people should not be relaxed or reduced.

We hope that our comments prove useful to you. If you have any queries, please do not hesitate to get in contact.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alice Warren', with a stylized, cursive script.

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