

Personal injury: The quality of legal services in the personal injury sector

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Introduction

There is a perception among some stakeholders (eg members of the public, insurers, defendant law firms and the NHS Litigation Authority) based on their experiences that:

- the personal injury (PI) sector has resulted in the growth of a compensation culture
- there has been an increase in fraudulent and frivolous PI claims
- the PI sector fails to safeguard and promote the interests of vulnerable clients.

Concerns tend to relate to:

- the competence of solicitors
- solicitor behaviours
- structural changes to firms in this market.

These perceptions undermine the reputation of the legal profession and relate directly to a solicitor's core role of upholding the law and supporting the administration of justice. In addition, they raise issues about solicitor competence and integrity.

A survey by ICF Consulting Services (Survey) showed that most respondents thought the PI market is working well. But we continue to receive many reports from the public and others about serious concerns in PI cases.

This PI project is one of the ways in which we are increasing our understanding of this part of the legal sector and working to improve the experience for the users of legal services. We want to make sure we have a thorough understanding of:

- how firms are operating in the PI market
- whether the concerns expressed are prevalent and supported by evidence



- whether people are negatively affected by the practices and behaviours of solicitors within the PI sector.

Summary of findings

We looked at 14 areas of the PI market where concerns have been raised. We visited 40 law firms. Firms generally showed they had systems and processes in place to make sure a proper service is provided to clients. Although there are good and poor practices in all these areas, some areas raised more concern than others.

There was little evidence of any significant concerns in the following eight areas:

- operation of Alternative Business Structures (ABSs)
- case selection and triage
- litigation process
- medical evidence
- defendant delay & costs
- settlement
- fixed fees
- merger, acquisition or file purchase.

In the remaining six areas, although we did not find widespread issues, we did find some causes for concern due to the practices of a small number of firms.

These areas and concerns included:

- breached The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) and one firm was referred into our internal disciplinary processes for possible breaches of LASPO)
- training, skills, knowledge and experience (several firms have never provided training in a number of areas, notably the Rehabilitation Code and 13 percent of firms did not keep staff training records)
- costs explanation (some firms are failing to consider an appropriate success fee for each individual case while others are providing insufficient costs information for cases that fall out of the claims portal)
- acting on instructions (we found two files where confidential information was shared with a third party without client consent as well as other files where there was no evidence that instructions were confirmed at key stages of the litigation process)
- fraudulent & frivolous claims (some firms do not obtain evidence of identity at the outset).