



[www.lsuc.on.ca/advertising-fee-arrangements](http://www.lsuc.on.ca/advertising-fee-arrangements)

## Call for feedback: Advertising and fee arrangements

The Law Society's Advertising and Fee Issues Working Group would like to hear from lawyers, paralegals and other stakeholders about potential regulatory responses to issues relating to advertising, referral fees, and contingency and other fee arrangements, as summarized below.

The working group is considering whether by-law, rule amendments or other actions may help ensure advertising and fee practices continue to be accurate, transparent and in the public interest.

### Advertising and Fees

#### Advertising and fees in real estate law:

- How could pricing in real estate law be made consistent so that consumers may more easily compare services? Should the Law Society take further action regarding "all in" pricing in real estate transactions?
- How can the Law Society eliminate reported issues with respect to "fees" and related practices with respect to title insurance and other services where law firms receive compensation or other benefits related to the purchase of services.

#### Contingent fees:

- How can contingent fee structures, including the total costs associated with contingent fees be made more transparent to consumers at the outset?
- Should lawyers and paralegals typically operating on contingency fee arrangements be required to disclose their standard arrangements, including their usual contingent rates and arrangements with respect to disbursements on their websites?
- How is the *Solicitors Act* operating in practice?

#### Personal injury advertising:

- Referral / brokerage services:
  - Where a significant portion of the revenue generated by advertising is from referral fees, should the advertiser be required to advertise on that basis, making it perfectly clear that the advertiser may not itself provide the legal services and in such a case may refer clients to others for a fee?
  - In the alternative, should advertising for the purpose of obtaining work to be referred to others in exchange for a referral fee simply be banned?
- Advertising second opinion services:
  - Do current requirements balance consumer rights with maintaining professionalism around providing second opinions?
  - If not, should the provider of the second opinion who advertises or markets "second opinion" services be prohibited from taking on the cases where a second opinion is given?

#### Identification of type of license:

- Should all licensees be required to identify the type of license they have in their advertising and marketing materials (e.g. lawyer or paralegal)?



[www.lsuc.on.ca/advertising-fee-arrangements](http://www.lsuc.on.ca/advertising-fee-arrangements)

### Use of awards:

- Should the Law Society ban the use of awards and honours, limit the nature of awards and honours that may be included in advertising and marketing, or require full disclosure of the nature of an award or honour, such as on a licensee website, including any fees paid or other arrangements which may have affected the making of the award?

### Referral Fees

#### Should the Law Society:

- Ban up-front flat referral fees on contingent fee matters?
- Limit the referral fees that may be charged as a percentage of the ultimate fee in contingent fee and other matters?
- Require referees to fully disclose their standard referral fee arrangements?
- Require the client, the referrer and the referee to enter into a standard form agreement at the time that the referral is made, fully disclosing the nature of the referral and the referral fee?
- Require licensees to record referral fees paid or received in their financial records in a manner to be maintained and accessible to the Law Society on request?

The Working Group is looking at current advertising and fee arrangements in a range of settings including real estate, personal injury, criminal law and paralegal practices. It is also interested in the professions' views in other areas, such as employment and family law.

More information about the issues being considered is available in the working group's [June 2016 report to Convocation](#).

Feedback\* may be submitted online, by email or regular mail by September 30, 2016 to:

### Request for Feedback on Advertising and Fee Arrangements

The Law Society of Upper Canada  
Osgoode Hall, 130 Queen Street West  
Toronto, ON, M5H 2N6  
[jstrawcz@lsuc.on.ca](mailto:jstrawcz@lsuc.on.ca)

*\*Feedback may be reproduced, and/or made publicly available by the Law Society.*