



Legal Aid, Sentencing and Punishment of Offenders Act 2012

2012 CHAPTER 10

PART 2

LITIGATION FUNDING AND COSTS

Referral fees

57 Effect of rules against referral fees

- (1) The relevant regulator must ensure that it has appropriate arrangements for monitoring and enforcing the restrictions imposed on regulated persons by section 56.
- (2) A regulator may make rules for the purposes of subsection (1).
- (3) The rules may in particular provide for the relevant regulator to exercise in relation to anything done in breach of that section any powers (subject to subsections (5) and (6)) that the regulator would have in relation to anything done by the regulated person in breach of another restriction.
- (4) Where the relevant regulator is the Financial Services Authority, section 58 applies instead of subsections (1) to (3) (and (7) to (9)).
- (5) A breach of section 56—
 - (a) does not make a person guilty of an offence, and
 - (b) does not give rise to a right of action for breach of statutory duty.
- (6) A breach of section 56 does not make anything void or unenforceable, but a contract to make or pay for a referral or arrangement in breach of that section is unenforceable.
- (7) Subsection (8) applies in a case where—
 - (a) a referral of prescribed legal business has been made by or to a regulated person, or

Status: This is the original version (as it was originally enacted).

- (b) a regulated person has made an arrangement as mentioned in section 56(2)(a), and it appears to the regulator that a payment made to or by the regulated person may be a payment for the referral or for making the arrangement (a “referral fee”).
- (8) Rules under subsection (2) may provide for the payment to be treated as a referral fee unless the regulated person shows that the payment was made—
 - (a) as consideration for the provision of services, or
 - (b) for another reason,and not as a referral fee.
- (9) For the purposes of provision made by virtue of subsection (8) a payment that would otherwise be regarded as consideration for the provision of services of any description may be treated as a referral fee if it exceeds the amount specified in relation to services of that description in regulations made by the Lord Chancellor.