



**Submission to the Legal Services Regulatory Authority regarding
the making and issuing of regulations in relation to the advertising of legal services**

The Alliance for Insurance Reform applauds the consultative process being entered into by the Legal Services Regulatory Authority (LSRA) regarding the making and issuing of regulations in relation to the advertising of legal services and welcomes the opportunity to provide feedback in this regard from our members who represent insurance policyholders from the community, charity, sports, cultural and SME sectors (see Appendix 1).

The Alliance notes that “the advertising regulations to be issued by the Authority are not allowed to restrict the advertising of legal services unless the restriction is necessary for the protection of the independence, dignity and integrity of the legal profession, or where an overriding reason exists relating to the public interest and where the restriction is non-discriminatory and proportionate”.

Our submission focuses on regulation necessary in the public interest in the area of personal injury claims and in the context of “Ireland’s present system of personal injury compensation (which) permits, not merely the bringing of claims in the hope of large payments for small injuries, but also the resorting to fraud, the exaggeration of minor injuries, and collusion in putting forward fraudulent claims” as outlined by the Personal Injuries Commission.¹

Naturally we are acutely aware of the consequences of this system, in terms of jobs lost, businesses closed, increased costs, reduction in international competitiveness, the loss of services, a decline in volunteerism, fear and stress among policyholders, the infantilisation of adults, the restrictions placed on childhood experiences and the criminalisation of genuine claimants.

Additionally, we are mindful of the fact that even if these issues are resolved, regulations will remain essential to prevent them from occurring again.

Equally we are mindful of the right of anyone injured due the negligence of others to be compensated appropriately; the right of claimants to access to legal representation in personal injury cases and the need for regulations to be non-discriminatory and proportionate.

Within these parameters, we seek the following regulations to “Restrict the publication by or on behalf of a legal practitioner of any advertisement which in the opinion of the Authority expressly or impliedly solicits, encourages or offers any inducement to any person or group or class of persons to make claims for personal injuries or seek legal services in connection with such claims” per the LSRA Invitation for Submissions.

Reference 1: SECOND AND FINAL REPORT OF THE Personal Injuries Commission July 2018 P.6

<https://dbei.gov.ie/en/Publications/Publication-files/Second-and-Final-Report-of-the-Personal-Injuries-Commission.pdf>

For the purposes of this submission, the Alliance shall assume that all of the regulations and definitions contained in S.I. No. 229 of 2019 (SOLICITORS ADVERTISING REGULATIONS 2019)² will remain in place.

In addition to these, we would request the following regulations, which we believe to be legitimate and proportionate:

- An advertisement published or caused to be published by a legal practitioner including a personal injuries element shall not include more than:
 - (i) the name, address (including any electronic address) telephone number, facsimile number, place or places of business of the solicitor and any reference to the location of information provided by the solicitor that is accessible electronically;
 - (ii) particulars of the academic and professional qualifications and legal experience of the solicitor;
 - (iii) factual information on the legal services provided by the solicitor and on any areas of law to which those services relate;
 - (iv) particulars of any charge or fee payable to the solicitor for the provision of any specified legal service; and
 - (v) Information relating to the solicitor's practice concerning any one or more of the following:
 - a. hours of business;
 - b. closure for annual holidays;
 - c. appointment of a new partner or associate or assistant or consultant;
 - d. staff promotions, appointments and retirements;
 - e. qualifications of solicitors and other members of staff;
 - f. job descriptions of members of staff;
 - g. membership of, or affiliation to, named associations or organisations (national or international);
 - h. references to entries in, and accreditations by, named generally recognised legal directories (national or international);
 - i. details of premises, including the opening of new premises;
 - j. merger with, or acquisition of, another solicitor's practice;
 - k. authorship of publications or details of public appearances where relevant to the legal services provided by the solicitor;
 - l. the identity of the solicitor by means of a photograph; or

m. other existing clients or transactions in relation to which the solicitor has provided legal services, with the clients' express permission.

- Prohibit the creation of expectations with regard to outcomes in personal injury cases
- Prohibit any suggestion as to the amount of money that can be gained by taking a personal injury case beyond a simple link to the Book of Quantum or upcoming Personal Injuries Guidelines.
- Prohibit any attempt to 'guide' or 'coach' in any way, potential clients, particularly with regard to the development or enhancement of potential claims. The following is an example of what we have in mind in this regulation, e.g. under the heading of 'Private investigators': <https://www.tipperarylive.ie/news/clonmel/488641/tipperary-s-lynch-solicitors-guide-to-taking-a-personal-injury-case.html>
- Prohibit the offering of advice outside their direct area of expertise. The following is an example of what we have in mind in this regulation, e.g. *"In the majority of cases it can take – at a very minimum – 12 months for symptoms to fully settle down and in a lot of cases the symptoms may take a lot longer, or worse, have permanent effects"*: <https://www.tipperarylive.ie/news/clonmel/488641/tipperary-s-lynch-solicitors-guide-to-taking-a-personal-injury-case.html>
- Prohibit the use of emotive or dramatic language or imagery
- Prohibit personal injury claims harvesting websites (encouraging visitors to the site to enter their details into an online claim assessment or suggesting they would telephone a freephone number if they have any query, deemed to be encouraging a potential client to contact the solicitor with a view to making such claims), whether these websites are operated by lawyers or quasi-legal entities such as claims management companies (claims harvesters).
- Prohibit a solicitor's advertisement from stating that they could secure a higher award for a client than that offered by PIAB; or otherwise undermining PIAB.
- Prohibit advertising indicating a willingness to make home visits, or visits to clients or potential clients in hospital, doctors' clinics or other venues where a client or potential client might be vulnerable.

Add website titles to definition of advertising because of how they are presented in Google search e.g. 'no win no fee'. See Appendix 2 for example.

Finally, we would request that the LSRA regulations apply to all legal and quasi-legal practitioners including claims management companies (claims harvesters).

Appendix 1



The Alliance brings together 33 civic and business organisations from across Ireland, representing over 37,000 members, 665,000 employees, 493,000 volunteers and 374,000 students in highlighting the negative impact of persistently high premiums and calling for real reforms that will quickly reduce liability and motor insurance premiums to affordable levels and keep them that way. Our members include:

- AOIFE Ireland (Association of Irish Festival Events)
- Car Rental Council of Ireland
- Childminding Ireland
- Coach Tourism & Transport Council of Ireland
- Convenience Stores and Newsagents Association
- Cork Business Association
- Federation of Irish Sport
- Galway Chamber
- Galway City Business Association
- Galway Public Participation Network (PPN)
- Ireland Active
- Ireland's Association for Adventure Tourism
- Irish Concrete Federation
- Irish Hotels Federation
- Irish Road Haulage Association
- Irish Showman's Guild
- Irish Street Arts, Circus and Spectacle Network
- Irish Travel Agents Association
- ISME
- Licensed Vintners Association
- Motorsport Ireland
- Nursing Homes Ireland
- Play Activity and Leisure Ireland
- Quick Service Food Alliance
- Restaurants Association of Ireland
- Retail Excellence
- RGDATA
- Sligo PPN
- Society of the Irish Motor Industry
- Sport Ireland
- Union of Students in Ireland
- Vintners Federation of Ireland
- The Wheel (Ireland's national association for community, voluntary and charitable organisations)

Appendix 2

Google search for 'no foal no fee', 30th October 2019.

What does **no foal no fee** mean? - Personal Injury Solicitors ...

<https://www.personalinjurysolicitorsdublin.info> › no-win-no-fee › what-do... ▼

Aug 30, 2019 - Many Personal injury solicitors take on Personal injury cases on a "no foal, no fee, otherwise known as no win, no fee" basis. This means that ...

Personal Injury Solicitors Dublin | **No Win No Fee** Explained

<https://www.injured.ie> ▼

Get It Right First Time With Injured.ie | Lalloo Personal Injury Solicitors | **No Win No Fee** Explained | Call 01 6641800 | We are specialist personal injury solicitors ...

No Win No Fee Defined | Synnott Lawline Solicitors | Legal Fees

<https://www.synnottlawline.ie> › no-win-no-fee-defined ▼

No Win No Fee Defined - If you don't succeed in personal injury claim you ... no fee basis, and indeed many solicitors' firms operate on a **no foal, no fee** basis.

Why **no foal no fee** Works in Personal Injuries cases | Hogan ...

<https://hdm.ie> › why-no-foal-no-fee-works-in-personal-injuries-cases ▼

Aug 1, 2019 - An article examining the benefits of **no foal no fee** arrangements for personal injuries claims by Hogan Dowling McNamara Solicitors Limerick.