

New page

thelegal problempage

IF YOU HAVE A LEGAL ISSUE THAT YOU NEED AN ANSWER TO, WHY NOT EMAIL THEPROBLEMPAGE@OPP.ORG.UK AND WE'LL PUT YOUR QUESTION TO OUR PANEL OF EXPERTS

Can I ask specialists for a referral fee?

It's common for brokers to refer clients to specialist advisers. Is it reasonable to ask for a referral fee?



Q: Is it my right to ask a currency specialist or lawyer for a referral fee and how much is this likely to be?

A: It's now common practice for intermediaries to earn additional income by referring clients to other service providers such as FX companies and lawyers, and for some intermediaries this has become a valuable income stream.

When we were launching Goldsmith Williams Overseas, we conducted extensive market research targeted at the mortgage broker and IFA market. One of the questions we asked was, "Would you expect to receive a referral payment for the clients you refer to a law firm?" Around 80% of the professionals we asked answered yes.

By establishing partnerships with currency exchange companies and lawyers, intermediaries can earn additional income and, at the same time, ensure clients have access to the necessary knowledge, expertise and quality service when considering such a major transaction.

It is the responsibility of the referring company to source the best products and service providers for their clients. You must remember, however, that from the client's point of view, you were responsible for the referral in the first instance. If the client receives a poor service, you can guar-

antee that at some point they will complain to you – so don't choose a service provider simply because they pay attractive fees.

Any lawyer paying referral fees will pay a fixed amount. I will pay £200 per successful transaction. Typically FX companies will pay 15%-20% and finance companies approximately 0.25-0.30% of the loan value. These are approximates and may vary from company to company.

Nia Jones, General Manager, Goldsmith Williams Overseas Ltd
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It is common practice to earn additional income from currency specialists such as HiFX



Q: How do I ensure I am paid commission from a developer on time?

A: Give yourself the best chance of avoiding any misunderstandings as to the timing and level of commission by signing an agency agreement.

The timing of commission payments tends to vary between agents being paid in full on payment of the buyer's first major deposit, or being split between the deposit and any instalments made between then and completion.

When advising buyers, we like to see a proportion of agents' commission deferred until completion. This tends to give you more motivation to stick with buyers if there are problems with them and their developer before completion. However, having some commission deferred will be a greater administrative burden for you. It may

affect cashflow and, if you only pay your sales consultants on receipt of funds from the developer, it may also affect staff morale! So when you agree to be paid will very much depend on your business model and bargaining power with the developer you are negotiating with.

If late payment is a concern, there might be an answer. One way to ensure prompt payment of commissions once they are due is to have a contract in place with the developer, agreeing that regulated solicitors acting for your buyer can deduct your commission 'at source' when paying the buyer's deposit to the developer.

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Q: A client wants her reservation fee back on a Bulgarian property as she has to pay for her mother's funeral. Should I return it?

A: The answer to this should be in the reservation agreement the client has signed with you. Usually these agreements state that once a certain period has expired (such as 30 days) from the date of payment, the reservation deposit is non-refundable. If you have failed to establish this, it will be difficult to show the deposit is non-refundable and you should consider returning it.

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If you would like to ask our experts a legal question, or add anything to those answers printed here or in a past issue of OPP, please email: theproblempage@opp.org.uk We will endeavour to answer as many questions as we can. However, personal replies may not be possible.