

Giving trusted advice

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The reciprocal approach to law firms passing clients on to financial advisers has potential problems for both the client and law firm. James Goward of Thesis Asset Management and Craig Knight of Seymours Consulting take a look at alternative approaches that can eliminate these risks.

Ever wondered why solicitors attract financial advisers like bees to a honey pot? There are a number of potential reasons, but amongst them should be included envy. To be more exact, envy of the trusted adviser status that a solicitor so often holds with their client.

It is perhaps therefore a little ironic that when a client looks to his or her solicitor to provide help with financial advice, regulation can feel so constraining that the only option considered is to make an introduction to the financial advisers who covet the strength of the relationship the solicitor has with the client.

It is this combination of trusted adviser status, clients who need advice and a perceived inability for a solicitor to play both an active and worthwhile role in the provision of financial advice that results in solicitors being so high on the agenda in the sales and marketing plans of the

financial services industry. But does it have to be this way? And more importantly, should it be this way given the need to protect the clients' best interests and the opportunities and risks afforded to solicitors by the Legal Services Act 2007?

The reciprocation model

In our experience, most firms currently rely on the 'laws of reciprocation' – you scratch my back and I will scratch yours.

However, there is rarely any measurement of the value of business that flows between the solicitor and the financial adviser. So how do firms honestly say they have a reciprocation model that works?

In addition to often having no measures of value, a reciprocal referral model carries both risks and missed opportunities. These extend to both the client and the law firm.

In terms of risks, for the client it relates to the quality of the advice and service



received and whether the price represents value for money. For the solicitor it relates to the potential brand and reputation damage as the introducer and the potential loss of trusted adviser status as a result.

These risks are commonly caused by a number of factors:

- Minimal initial and ongoing due diligence in respect of the quality of financial adviser with selection often restricted to brand/reputation, interpersonal skills and simply carrying the IFA 'badge';
- Insufficient knowledge to differentiate between financial advisers in terms of advice style provided e.g. IFA vs. Discretionary Fund Manager (DFM), or quality, e.g. investment process;
- Little control or no involvement in the

advice process post the initial introduction.

The missed opportunities for the law firm relate to being able to enhance brand and reputation by extending the client proposition and taking an appropriate share of the value chain. A change in mindset is necessary with the law firm valuing its role as trusted adviser and the advocacy that it has over its client base.

These opportunities can be realised by:

- Improving solicitors' skills and knowledge in relation to financial services and their involvement in the ongoing advice process;
- Developing joint legal and financial services propositions e.g. IHT planning solutions;
- Establishing a joint venture or in

house financial services proposition.

The basic options

So, if a law firm is concerned by these risks and/or wants to take advantage of the opportunities, what are the options available to it?

- Do nothing;
- Take action to protect the client and the solicitor's brand;
- Take action to protect the client and the solicitor's brand and in addition improve the standard reciprocation financial services proposition;
- Take action to protect the client and the solicitor's brand and improve the client proposition by developing a joint venture financial services proposition. ▶▶

solicitors and financial advice

Solution	Motivation	Model
One	Reduce risks	Appoint an IFA/DFM panel on behalf of clients, undertaking both initial and ongoing due diligence and governance to ensure the quality and value of advice provided. The costs of the due diligence and governance to be charged to panel members.
Two	Increase opportunity	As one above, but also develop a joint business development and referrer education programme to improve the number and quality of introductions made and therefore make a positive impact on the solicitors overall proposition.
Three	Provide share of value chain	As two above, but establish the proposition on a joint venture basis with DFM and IFA providers, with the solicitors taking an appropriate share of the value chain. The share of the value chain (revenue) should reflect the work undertaken by a special purpose vehicle established by the solicitors to support the client proposition.

Regulatory issues

But before everybody gets too excited, we must acknowledge the admirable aims of the SRA in respect of solicitors involvement in financial services and it is worth bearing mind some of the key points:

- The solicitor is always acting in the best interests of the client;
- Any client referral results in independent investment advice;
- Solicitors must not make a “secret profit” from their role in facilitating financial advice.

There are also requirements where solicitors wish to be actively involved in the financial services proposition and rewarded accordingly. These include:

- No constraints being applied in respect of who receives referrals (other than being “independent”);
- Disclosure of any income received by the law firm or its partners;

- Ownership structure and disclosure of any interest in any financial services subsidiary company;
- A clear demonstration that the role of any subsidiary is an integral part of the proposition and to the benefit of the client.

When we are talking financial services advice, we must also take into account the FSA’s own regulations. Solicitors can be governed by the FSA in potentially three different ways:

- Introducer – provided for via SRA regulatory status and with no separate FSA regulation required;
- Appointed Introducer Representative (AIR) or Appointed Representative (AR);
- Direct FSA regulation.

It is unlikely that many firms would choose the third option. Indeed of those firms who developed an in-house solution in the past, there remain less than 50 law firms in the UK that have maintained this option.

Law firms have usually taken option

one by default and this is perfectly suitable for firms going down a reciprocation route. However, for firms motivated to take a share of the value chain in future, then our current thinking dictates that option two applied correctly can achieve this objective.

Much of the focus of Thesis and Seymours over the past nine months has been in developing a solution which satisfies the SRA, reduces the risk to the law firm, acknowledges existing referral relationships and can be genuinely said to enhance the client experience.

What to do now?

Where a law firm has decided that it is sensible to formalise the referral of clients for financial services advice, we believe that a firm should be presented with a range of options to achieve this depending on its motivation. We also believe that each solution should serve as a staging post from first to last allowing firms to start simply and build to a joint venture basis over time as necessary should a culture change among fee earners be needed during the early years.

The solutions we present to firms can be summarised by the following table. Leading Counsel’s approval has been obtained to support the most advanced of these models (solution three).

There is genuine interest from law firms in formalising the referral of clients for financial advice and it is in the law firm’s interest and to its benefit to maintain control over their client base to help ensure that the position of trusted adviser is retained.

For sure, the SRA quite rightly places a number of hoops to jump through but as we have found, there are solutions which can work to everybody’s benefit and, importantly, protect the client and the law firm from the risks of simply basing the due diligence of external advisers on whether the lunch was a good one or not! 