



MoJ Statement on Direct Financial Links

1. For law firms, claims management companies & insurers

- 1.1 "Organisation" will include a partnership, an LLP, a company, group of companies, unincorporated organisation and an individual/sole proprietor". For the purposes of this document "Law Firm" includes an organisation practising under an Alternative Business Structure (ABS) licence.
- 1.2 Signatories of this declaration should apply an appropriate degree of judgement in relation to "employees" and/or shareholders when ascertaining whether they have declarable links. For example, employees or shareholders who are in a position to influence company policy or who have a direct influence on the workflow of the organisation should be covered, but a proportionate approach to other employees in non-influential junior positions may be considered.
- There is no medical reporting organisation (MRO) which is wholly or partly owned by me or by a partner, senior manager, member, director, officer of the company, employer or employee in my organisation, now or at any time during the past 3 years.
 - There is no MRO in which I, or a partner, senior manager, member, director, officer of the company, employer or employee in my organisation, am a partner, senior manager, member, director, officer of the company, employer or employee, now or at any time during the past 3 years.
 - There is no MRO in which I, or a partner, senior manager, member, director, officer of the company, employer or employee in my organisation, am a shareholder, with a shareholding above 3%, now or at any time during the past 3 years.
 - Where my organisation practises under an ABS licence or is part of a group containing an ABS, there is no MRO which forms part of, or is wholly or partly owned by, the ABS or group.

- There is no medico-legal expert employed by my organisation or under contract of service with my organisation for the provision of medico-legal reports:
 - (i) in soft tissue injury claims within the meaning of paragraph 1.1(16A) of the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents¹; or
 - (ii) in road traffic accident related personal injury claims, valued at not more than £5,000, to which the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents applies.

2. For medical reporting organisations

- 2.1 "Organisation" will include a partnership, an LLP, a company, group of companies, unincorporated organisation and an individual/sole proprietor". For the purposes of this document "Law Firm" includes an organisation practising under an Alternative Business Structure (ABS) licence.
- 2.2 Signatories of this declaration should apply an appropriate degree of judgement in relation to "employees" when ascertaining whether they have declarable links. For example, "employees" in a position to influence company policy or who have a direct influence on the workflow of the organisation should be covered by this declaration. This may include major shareholders (including beneficial owners), directors (including shadow directors) and day-to-day operational management, but a proportionate approach to other employees in non-influential junior positions may be considered.
- 2.3 By signing this statement, you declare that there is no law firm, insurer or personal injury claims management company in which:
- a whole or part owner of my organisation is now a partner, member, senior manager, director, officer of the company, employer or employee, or has been during the past 3 years.
 - I, or a partner, member, senior manager, director, officer of the company, employer or employee of my MRO, am now a partner, member, senior manager, director, officer of the company, employer or employee, or have been during the past 3 years.
 - a shareholder of my organisation, with a shareholding above 3%, is now a partner, member, director, senior manager, officer of the company, employer or employee, or has been during the past 3 years.

¹ <https://www.justice.gov.uk/courts/procedure-rules/civil/protocol/pre-action-protocol-for-low-value-personal-injury-claims-in-road-traffic-accidents-31-july-2013>

2.4 In addition, you declare that your organisation is not part of a group containing an ABS.

3. For experts

3.1 For Medical Experts receiving instructions directly from law firms, insurers or personal injury claims management companies you declare that there is no law firm, insurer or personal injury claims management company in which I have a contract of service or by which I am employed to provide medico-legal reports in support of:

- soft tissue injury claims within the meaning of paragraph 1.1(16A) of the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents; or
- (ii) road traffic accident related personal injury claims, valued at not more than £5,000, to which the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents applies.

4. Information on referral fees/the payment of commissions

4.1 It is apparent that there is an ongoing issue with the use of commissions in the medical reporting sector in relation to guarantees of instructions. It remains the view of MoJ that whilst these are not classified as direct financial links, the circumstances are likely to be covered by the referral fee ban as implemented by Sections 56-60 of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012.

4.2 Section 56 (2) of LASPO is clear that whilst currently Medical Reporting Organisations are not directly covered by the ban in terms of being able to offer such incentives, the provisions as implemented in LASPO prevent regulated persons such as lawyers, insurers or claims management companies from requesting/accepting such an offer in return for the commissioning of a medical report.

4.3 If you have concerns in this area or evidence of malpractice, then in the first instance you should report this to the appropriate regulator(s) for action. The regulators are:

- The Solicitors Regulation Authority – for Lawyers
- The Bar Standards Board – for Barristers
- CILEx Regulation – for Legal Executives
- Financial Conduct Authority – for insurers and CMCs

4.4 The full text of the referral fee ban can be accessed here:

<http://www.legislation.gov.uk/ukpga/2012/10/part/2/crossheading/referral-fees/enacted>

5. Re-signing and misuse of this declaration

- 5.1 Signatories to this declaration should monitor any changes in their organisation's circumstances and update this document as and when necessary. Notwithstanding any amendments made due to changing financial circumstances, data contributors must re-sign and resubmit this declaration when renewing their annual subscription to the MedCo system. Other authorised users should re-sign and resubmit their declaration annually either on the anniversary of their authorisation to use the system or on a specific renewal date to be set by MedCo.
- 5.2 The purpose of this document is to identify direct financial links between those organisations who commission initial medical reports used to support road traffic accident related personal injury claims valued at less than £5,000, and those medical experts and reporting organisations who supply them. It should not be used to arbitrarily deselect organisations' authorised users or data contributors as a means of controlling those with which you wish to do business.
- 5.3 Please note that data relating to this declaration is monitored and any organisation or individual found to be misusing the declaration will likely be in breach of their MedCo user agreement. As such, they will be subject to both investigation and disciplinary action.

MINISTRY OF JUSTICE
FEBRUARY 2021