

Personal Injury Advertising Update – 2014

The Legal Services Commission has the responsibility for the monitoring and enforcement of the advertising restrictions contained in the *Personal Injuries Proceedings Act 2002* (PIPA).

As part of that responsibility and in accordance with the Commission's commitment to ensuring a level playing field for all practitioners, it has previously published to the profession a number of regulatory guides dealing with the advertising of personal injury services in various circumstances.

Since the publication of the guides most firms who provide personal injury services have made good efforts to ensure that their print advertising complies.

However, the number of firms successfully complying with the advertising restrictions on their internet websites has not been as good.

Further, new methods of advertising such as through social media and Google ads have come more and more into practice affecting the ability of firms and practitioners to comply with PIPA.

The Commission believes that it is an opportune time to remind practitioners of their obligations generally in respect of personal injury advertising and in respect of internet advertising specifically.

Copies of the PIPA regulatory guides previously put out by the Commission can be accessed from the Commission web site under [Compliance](#).

It is recommended that you take the time to reread the guides and consider whether your existing print, website and other advertising is currently compliant.

Social Media and Google Ads

The Commission also wishes to bring to your attention its views in respect of other less traditional types of advertising that have become to be used more frequently.

It is the Commission's view that if your website has links to social media sites such as YouTube, Facebook, Twitter, Linked In etc then the content of any material on those sites also needs to be PIPA compliant.

Accordingly, if the content on those sites refers to personal injuries, then pursuant to section 66 of PIPA, as those sites do not form part of your own website, the range of material which would be allowable in those formats is limited to your name, contact details and information as to your areas of practice and speciality.

That means that content such as photographs, videos, images, client testimonials, slogans, mottos and self promotional statements are not allowable.

That type of material may be made available to an existing client or a genuine enquirer. However it is the Commission's position that a casual viewer or browser of those internet sites cannot be considered to be a genuine enquirer.

Accordingly, using a search engine to make a generic type search request such as "personal injury lawyers brisbane" does not make that person a client or a genuine enquirer under PIPA. Please refer to the guide previously published by the Commission on that point.

In addition, practitioners are requested to review any separate webpage or advertisement set up by way of an arrangement with Yellow Pages online, Google Ads or other similar body.

The Commission previously published a guide noting the difference between organic links and sponsored links on internet search pages. In the case of sponsored links that guide noted that the PIPA restrictions apply not only to the online advertisement (that is - what is displayed on the search result page) but also to the web pages linked to that advertisement.

The Commission is aware that many firms have failed to ensure that noncompliant material is not accessible through those means.

As those types of advertisements and the pages linked to them generally do not form part of a practitioner's own website the range of material which would be otherwise allowable in that format is, as with social media sites, limited to only your name, contact details and information as to your areas of practice and speciality.

As such all results pages, landing pages and other web pages accessible through such sponsored links must comply with section 66(1) of PIPA.

The same applies to organic links. Whilst the content of what is displayed on the search result page may not be within the control of practitioners, the Commission's view is that any web pages accessible from such links must be PIPA compliant.

As these pages form part of a practitioner's own website the allowable information can, apart from the information allowed under a sponsored link, also include details of the law of negligence, a person's rights in respect of that law and the terms and conditions under which you are prepared to offer your services.

Practitioners are urged to review this form of advertising and take the necessary steps to ensure compliance.

Future Investigations

The Commission will continue to review personal injury advertising and investigate those practitioners who have noncompliant advertising.

The approach previously taken by the Commission was that it would not be inclined to prosecute any noncompliance unless it was of the view that it was flagrant or deliberate and provided of course that appropriate steps had been taken to rectify any defects.

However, as a result of an increasing number of practitioners failing to take appropriate steps to ensure that their websites and online advertising are PIPA compliant, the Commission will, in any subsequent investigations commenced after 31 May 2014, require responses from practitioners detailing what steps have been taken by them since this letter to review their advertising and to achieve compliance.

If appropriate steps cannot be satisfactorily demonstrated then the Commissioner will consider if prosecution is warranted.

If you have any general queries about the Commission's interpretation of the advertising restrictions contained in PIPA please contact Michael Roessler of 07 3406 7728 or michael.roessler@lsc.qld.gov.au.

Version	Notes	Version date
1		April 2014
2	Removed reference to the Commission's website comparer tool and QLS Ethics Centre assistance.	September 2014