



Institute of
Professional
Willwriters

PROFESSIONAL • ETHICAL • COMPETENT



Approved code



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Scottish
Professional
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Code of practice

Code of practice

1.0 General Provisions

1.1 This Consumer Code of Practice (the 'Code') will help members of the public to choose a professional, competent and ethical organisation to help them make a will, administer the affairs of someone after their death or provide specified related legal services. The Institute of Professional Willwriters (the 'Sponsor') manages this Code and all of its members (the 'Members') must comply with it and there are sanctions for non compliance. Consumers are members of the public (but not businesses) who use the services of Members and are referred to as 'Clients' throughout this document.

1.2 For any matter relating to this Code, please contact:

Institute of Professional Willwriters

Trinity Point, New Road, Halesowen, B63 3HY

Telephone: 0345 257 2570 Facsimile: 08456 442043

Email: office@ipw.org.uk Website: www.ipw.org.uk

The Institute of Scottish Professional Willwriters

Forth House, 28 Rutland Square, Edinburgh EH1 2BW

Telephone 0345 257 2670 Facsimile: 0845 644 2043

Email: office@ispw.org.uk Website: www.ispw.org.uk

1.3 This Code covers the provision and advice relating to the following documents:

1.3.1 Wills or other testamentary instruments,

1.3.2 powers of attorney

1.3.3 advance directives/advance decisions/living wills

1.3.4 an agreement not intended to be executed as a deed

1.3.5 advice (but not drafting) of documents executed as a deed

1.4 This Code also covers the administration of estates of people who have died, and the storage of the documents referred to in 1.3 above.

1.5 Members may only use the services of other Members in their business to give legal advice to Clients on matters covered by this Code or to approve any documents covered by this Code. Members must provide relevant and

effective training to ensure that any other person or organisation assisting them in other aspects of the provision of services covered by this Code are aware of the provisions of this Code, the Members responsibilities under it and their legal obligations.

- 1.6 Anyone wishing to become a Member shall submit either a satisfactory Standard Criminal Records Bureau Disclosure (where available) for vulnerable adults dated less than 12 months prior to membership, or the information and consent necessary to obtain one, to the Sponsor prior to commencement of Membership and then by every fifth anniversary thereafter.
- 1.7 Members shall provide the Sponsor with proof that they hold Public Liability Insurance of at least £2million and Professional Indemnity Insurance of at least £2million that covers the areas of business in which they operate that are covered by this Code.
- 1.8 Members shall display copies of this Code and the related Client Guide at their business premises and shall promptly provide one copy of each (in written or audio format) free of charge upon request.
- 1.9 Members shall comply with relevant consumer protection legislation, including:
 - 1.9.1 Consumer Credit Act 1974 as amended (where applicable) and shall hold a Consumer Credit Licence if services are provided under the Act
 - 1.9.2 Consumer Protection from Unfair Trading Regulations 2008
 - 1.9.3 Business Names Act

2.0 Members are required to keep their expertise up-to-date

- 2.1 Members who only undertake work covered by this Code for other Members and whose job may involve giving advice or taking instructions from Clients are referred to as 'Associates'. Associates shall provide evidence acceptable to the Sponsor that they have attended approved training for no less than four hours in their first and subsequent years or eight hours within the previous two years. For all other Members these requirements shall be twelve hours in the previous year or twenty four hours within the previous two years.
- 2.2 Associates shall provide evidence acceptable to the Sponsor that they have completed periods of relevant private study for a minimum of two hours in the

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previous year. For all other Members these requirements shall be eight hours in the previous year.

- 2.3 Providing the conditions specified in 2.1 & 2.2 above have been met and once the Member has made a signed declaration that he undertakes to observe the provisions of this Code, the Sponsor will issue a certificate of professional development annually and valid for one year to each Member confirming all approved training completed. An updated certificate of professional development shall be issued by the Sponsor as and when required.
- 2.4 Records of all approved training attended by Members shall be held by the Sponsor for a minimum period of 6 years and shall be available for immediate inspection at any time during normal business hours by prior arrangement.
- 2.5 Members may only provide products or services covered by this Code for which they hold a valid certificate of professional development.
- 2.6 A Member shall not deliberately undertake work which is beyond his competence. In the event that a Member subsequently identifies that work is beyond his competence, he shall immediately withdraw from the transaction and the terms of clause 6.1.5 of this Code shall apply.

3.0 Members must have the highest standards in business promotion

- 3.1 Members shall assist Clients in making informed and balanced decisions. Members shall never intimidate, harass or otherwise pressure Clients.
- 3.2 Members shall not refuse the provision of products or services on the grounds of a Client's sex, race, colour, ethnic origin, religion, belief, age, disability, sexual orientation or transgender status.
- 3.3 Members shall comply with the legal requirements of the Telephone Preference Service (TPS), Mailing Preference Service (MPS) and Fax Preference Service (FPS).
- 3.4 Members shall not knowingly contact anyone named in any document produced by them or another Member unless:
 - 3.4.1 Such contact is required for the Member to fulfil their contractual obligations to the Client, or
 - 3.4.2 the Client has been advised of their intention in writing and the Client has agreed (ideally in writing), or
 - 3.4.3 the Client has died and executors and/or beneficiaries are being notified, or

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- 3.4.4 the contact is being made on behalf of the Sponsor as part of its regulatory role, and
 - 3.4.5 the provisions of clause 3.3 are complied with.
 - 3.5 All advertising shall comply with statutory requirements and any relevant code of advertising including, but not limited to:
 - 3.5.1 British Codes of Advertising and Sales Promotion,
 - 3.5.2 the Independent Television Commission (ITC) code,
 - 3.5.3 the Radio Authority Code,
 - 3.5.4 Phonepay Plus
 - 3.5.5 the Advertising Standards Authority,
 - 3.5.6 and any other relevant code of advertising or statutory requirements such as the Consumer Protection from Unfair Trading Regulations 2008
 - 3.6 All business stationery and where appropriate, all advertising and marketing (including telephone sales calls) by or on behalf of the Member should include the membership logo of the Sponsor (or a statement to the effect that they are a member of the Sponsor) and a statement that the Member complies with this Code.
 - 3.7 Where VAT or other taxes are applicable, any prices quoted in advertising must include such taxes or specify the amount of tax, or clearly indicate that they are subject to tax at the prevailing rate.
 - 3.8 Where Members advertise products, services or solutions to problems, accompanying prices should be the full amount the Client might reasonably expect to pay them for providing the product, service or solution.
 - 3.9 A copy of all advertising material must be supplied promptly to the Sponsor upon request.

4.0 Members must take special care with vulnerable Clients

- 4.1 Clients may be vulnerable for a number of reasons. These include those who are elderly, infirm, with a disability or a learning difficulty, someone purchasing a product or service at a time of illness or distress or someone who struggles to gain a sufficient understanding of the product or service offered to make an informed decision.
- 4.2 Members shall take the necessary effort and time to ensure that vulnerable Clients understand any product or service they propose to provide. Members

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shall be particularly careful not to take advantage of vulnerable Clients by inducing them to make an inappropriate decision.

5.0 Members must help Clients to make informed choices of their own volition.

- 5.1 Members shall take reasonable steps to establish to their complete satisfaction that the Client is acting freely, without coercion or undue influence and with sufficient understanding of the product or service to make an informed decision. If a Client cancels a product or service, the Member must make reasonable efforts appropriate to the circumstances to satisfy themselves that any cancellation is the Client's free choice and without coercion.
- 5.2 Members shall provide clients with information about the duties and responsibilities of anyone involved in a document being prepared by them, such as executors, trustees, guardians, attorneys and witnesses to enable them to make an informed choice about the options available for such appointments.
- 5.3 Unless agreed with the Client, when preparing a Will, Members must determine the financial position of the Client, including any Inheritance Tax liabilities on death, his obligations to family and dependants and his wishes regarding distribution of his estate.
- 5.4 Members must not assist Clients in undertaking any activity for which the Client does not have the necessary capacity. Members must have regard to the principles of the Mental Capacity Act 2005 when assessing whether a Client has capacity to make any relevant decision.
- 5.5 Members shall explain any documents that they have provided to that Client's satisfaction. Clients may decline any documents not explained to their satisfaction. In this event they shall be entitled to a refund of any fee paid for the document and for any other advice or documents that would have no value without the declined document. Clients may be required to return all copies and originals of such documents including any previous versions and/or agree to enter into a binding agreement with the Member not to execute any reproduced document based on that declined.
- 5.6 A Member shall not make the appointment of himself (or his firm or anyone else connected to him) as an executor, trustee or an attorney a condition of accepting instructions. Before appointing himself (or his firm or anyone else connected to him) as an executor, trustee or an attorney a Member shall provide the client

with a written indication of the current fees to complete those duties.

- 5.7 Members must take instructions from a Client face-to-face, unless it is to make updates or amendments to an existing document. In cases where face to face instructions are declined by the Client they must be advised in writing of the limitations of the proposed method of communication and of their rights under the Distance Selling Regulations 2000.
- 5.8 Members must not take Will instructions from a Client which give the Member (or a relative or partner of the Member) a disproportionate benefit or give the Member (or a relative or partner of the Member) any benefit and where a person who has a right to expect provision to be made for them under the Inheritance (Provision for Family and Dependents) Act 1975 is excluded or inadequately provided for.

6.0 Clear rights for Clients when a contract is cancelled

- 6.1 Before the Client has any liability to the Member, the Client must be provided with the following information:
 - 6.1.1 Details of the maximum period in which the Client has the right to cancel all or part of the transaction without any fees becoming payable for any parts cancelled. This must not be less than 7 days after the Letters of Engagement have been signed, or 7 days after instructions are first taken from the Client, whichever is later.
 - 6.1.2 Details of fees that will become payable or how they will be calculated, if a Client cancels all or part of a transaction after the maximum period.
 - 6.1.3 Details of how and where a Client can give notice of any cancellation.
 - 6.1.4 A statement that cancellations will be acknowledged in writing within 14 days of the date of receipt of notice of cancellation along with any refund due.
 - 6.1.5 Confirmation that if the Member cancels some or all of a transaction for any reason, the Client will receive immediate notice in writing along with a refund of any fees due for the cancelled part of the transaction and for any other advice or documents that would have no value without the cancelled part of the transaction. In such circumstances, the Client may, within 7 days of receiving such written notice from the Member, cancel the whole transaction and receive a full refund of any fees paid.
- 6.2 In order to proceed more quickly, a Client can request that any or all of the

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work requested can start before the end of the maximum cancellation period. In doing so the Member should obtain separately from the Client a written acknowledgement of the fact that although he can still cancel before the end of the maximum cancellation period once work has commenced, he may have to pay for any work that was carried out on his behalf before he cancelled in accordance with the reasonable requirements of the agreement.

6.3 Members shall not harass clients who exercise their cancellation rights.

7.0 Letters of Engagement must be agreed with the Client and explain the service

offered and the Client's rights. Fees must be clear with no hidden costs.

7.1 Letters of Engagement must be provided to all Clients in writing and agreed by them before the Client has any liability to the Member and before any fees are collected by the Member.

7.2 The Client shall be provided with a copy of the agreed Letters of Engagement.

7.3 Letters of Engagement must include all of the following:

7.3.1 The name(s) (or job title(s)) and telephone number(s) of person(s) with whom any issues should be raised.

7.3.2 The trading name, address for correspondence and, if any payments are required in advance, the geographic trading address of the Member's business if different.

7.3.3 Details of:

7.3.3.1 the right of the Client to cancel the contract as detailed in Clause 6.1 which must be set out in a separate box headed 'Notice of the Right to Cancel'.

7.3.3.2 A detachable form which contains the trading name and address of the Member and a statement that can be signed by the Client and returned to the trading address to cancel the agreement

7.3.4 Full details of all fees or how fees will be calculated (or reference to a separate fees list which must always be provided to the Client). This must include:

7.3.4.1 The fees for all services provided by the Member detailing all taxes. This must include fees for updating documents and for any ongoing Client support service offered.

7.3.4.2 Details of reduced fees or discounts offered for bundled products or services, if any.

7.3.4.3 Details of when fees for any products or services (including delivery

costs) become payable.

7.3.4.4 The latest date on which the published fees are valid.

7.3.4.5 How payment can be made to the Member.

7.3.4.6 The circumstances in which fees may be increased.

7.3.5 A statement that the Client is under no obligation to take and pay for any additional products or services. Clients' may be required to sign a disclaimer if they choose not to purchase products or services recommended by a Member.

7.3.6 Details of the circumstances and procedure when a transaction is cancelled by either Client or Member.

7.3.7 Details of the free supervised attestation (signing and witnessing by, or on behalf of, the Client) service provided by the Member and the details and costs of (if any) of any alternative attestation options.

7.3.8 A statement confirming the amount of Professional Indemnity Insurance cover to cover claims for negligence on the part of the Member or anyone acting on his behalf and the amount of Public Liability Insurance to cover claims for damage and the consequences of damage caused by the Member or anyone acting on his behalf.

7.3.9 A statement confirming how long client files will be retained by the Member, which must not be for less than 6 years after the death of the Client.

7.3.10 The timescales within which the Client can expect completion of any work instructed. In the case of all work other than the administration of estates (see clause 13), unless agreed by the Client, documentation shall be ready for attestation by the Client not more than 14 days after the Client has provided all the information required to complete the documentation. If a Member intends to send draft documentation for approval by the Client, the timescales for dispatching the draft documentation shall not be more than 7 days after the Client has provided all the information required to complete the draft documentation and the completed documentation shall be ready for attestation by the Client not more than 7 days after he has approved the draft documentation.

7.3.11 Confirmation that if the Client has provided all the information required to complete the transaction and the timescales agreed with the Client are not met, the Client can cancel the contract and obtain a full refund of any fees

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paid or credit of those due, or renegotiate the contract.

- 7.3.12 Confirmation that if the Member does not correct any error or omission made by the Member without charge within 21 days of written notice by the Client, the Client may have any correction done elsewhere and that any resultant reasonable cost incurred will be borne by the Member.
- 7.3.13 Confirmation that customer service and support is provided to Clients free of charge by telephone on a telephone line that is not a premium rate number on any matter relating to their transaction for a minimum period of 28 days following the date when documents are available for attestation.
- 7.3.14 The scope, conditions, limiting terms, timescales of any ongoing customer service programme (including updates to documents).
- 7.3.15 Details of the existence of the Members 'In House' complaints procedure (see paragraph 15) and how it can be accessed.
- 7.3.16 Details of the existence of the Conciliation Service provided by the Sponsor and how it can be accessed and details of the existence of the Estate Planning Arbitration Service (EPAS) and how it can be accessed (see paragraphs 16 and 17).
- 7.3.17 A statement that the Client can seek other forms of redress instead of, or as well as, those provided under this Code.
- 7.3.18 A statement that it is mandatory that the Member complies with this Code and how free copies of this Code can be obtained.
- 7.3.19 A statement that the Member is a member of the Sponsor together with contact details of the Sponsor to whom instances of non-compliance with this Code should be addressed.
- 7.3.20 Statement for the Client to withhold consent for their details to be passed to the Sponsor to enable it to monitor compliance with this Code and to test levels of Client satisfaction with the Member's service, and/or
- 7.3.21 Statement for the Client to give consent for any information about him to be passed to third parties who offer services that may be a benefit to the Client such as financial planning.
- 7.3.22 The website address of a client satisfaction survey that can be completed by the Client to help the Member to improve their business and a statement that paper versions of the survey are available from the Sponsor and from the Member free of charge.

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- 7.4 Letters of Engagement must comply with the Unfair Terms in Consumer Contracts Regulations 1999.
 - 7.5 Where applicable, Letters of Engagement must comply with the Consumer Protection (Distance Selling) Regulations 2000 and The Cancellation of Contracts made in a Consumers Home or Place of Work etc. Regulations 2008.
 - 7.6 Letters of Engagement must be submitted to the Sponsor on request.

8.0 Avoiding fraud by impersonation and Money Laundering

- 8.1 A Member shall comply with the requirements of the Money Laundering Regulations 2007.
- 8.2 A Member shall obtain evidence of the full name, residential address and date of birth of every Client and keep records that they have seen such evidence. Such evidence may be provided by a third party provided that the evidence is dated not more than 3 months prior to the date that the Letters of Engagement are signed.
- 8.3 Under no circumstances shall a Member knowingly take instructions from a third party.

9.0 Protecting Client's money if they pay in advance

- 9.1 The provisions of this section shall not apply to payments made for periodic payments for the storage of documents where the interval between payments is one year or less.
- 9.2 Members who accept any payment made in advance shall be required to take part in a prepayment protection scheme to the satisfaction of the Sponsor.
- 9.3 In making any refunds from payments made in advance the Member must not deduct any charges or fees that are not referred to in the Letters of Engagement and/or fees list.
- 9.4 When a Client cancels a contract, Members shall not delay making any refunds until any documents have been returned by the consumer.

10.0 Making Clients aware of the risk of incorrectly signed and witnessed documents and trying to avoid this happening

- 10.1 Clients should be encouraged to have signing and witnessing by, or on behalf of, the client (attestation) of their documents supervised and such a service must

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always be offered at no extra cost to Clients who are arranging documents that are not updates to existing documents. Members may choose to provide this service at their business premises.

10.2 Clients may require the Member to provide an attestation service at the location where instructions were taken. In this event a charge may be made. Supervision must be by the Member themselves or by a competent person acting on their behalf. Unless otherwise agreed, the Client is responsible for finding suitable witnesses.

10.3 When supervised attestation is declined, Clients must be:

10.3.1 Advised in writing of the importance of correctly attesting such documents and the consequences of incorrect attestation.

10.3.2 Provided with written instructions on the correct attestation procedure

10.3.3 Provided with a service by post to check that the documents appear to have been attested correctly. There shall be no charge for this service.

11.0 Making sure Clients are aware when Members are limiting their own risks

When a Member prepares a document which appoints an executor and/or trustee who can charge for their services and the document also contains a clause which limits the liability of that executor and/or trustee then the member shall confirm to the Client, in writing, the consequences of the a clause.

12.0 Ensuring long-term protection and management of documents stored for Clients

12.1 Members who hold documents on behalf of Clients and/or collect payments for the storage of such documents shall keep the Sponsor advised in writing of the location of such documents.

12.2 The location of such documents shall either be in a fire resistant and water resistant facility with suitable security on the premises of the Member or in a location with suitable security away from the Member's premises.

12.3 Members shall keep the Sponsor notified of arrangements for access to stored documents in the event of the death, prolonged illness, incapacity or absence of the Member or cessation of the members business.

12.4 Members shall provide evidence to the Sponsor of sufficient insurance to cover the replacement value of all documents held on behalf of Clients.

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- 12.5 Members shall provide for the return of all documents held on behalf of Clients on written request of Authorised Persons (or their appointee) to an address of their choosing. In the case of a power of attorney 'Authorised Persons' means: The Client (provided that the Member believes he has capacity) or his attorneys acting under the terms of the document. In the case of all other documents 'Authorised Persons' means the Client or his attorney acting under the terms of the power of attorney or, providing the application is accompanied by the client's death certificate, all of his personal representatives who have not renounced or reserved power or in each case their attorneys. Members shall satisfy themselves of the identity of any Authorised Person who is not the Client before releasing any documents to them.
- 12.6 Any fees charged for complying with the provisions of clause 12.5 shall not exceed one year's fee for storing the documents or the actual cost incurred by the Member, whichever is greater. Where a charge is made, the Member shall also provide for the free collection, of all documents held on behalf of a Client from the Member's business premises on written request from the Authorised Persons.
- 12.7 Before returning any documents held in storage Members shall be entitled to recover any fees in arrears and any cost of delivery.

13.0 Setting high standards for administering the estate of someone who has died

13.1 Client money shall be held either:

13.1.1 In accordance with the Solicitors Accounts Rules 1998 or

13.1.2 in an interest bearing 'client account' in the name of the administrators of the estate.

13.1.2.1 Any interest paid on client money shall be treated as income of the estate or as income of the beneficiaries and in any event shall be passed on to the beneficiaries of the estate unless separate arrangements have been agreed with all of the deceased's personal representatives or if there are no personal representatives independent of the Member, all of the residuary beneficiaries capable of giving consent. This requirement shall not apply to estates where the interest arising on client money is less than £25.

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13.1.2.2 Money must not be transferred from one client account to another.

13.2 Unless agreed with all of the deceased's personal representatives or if there are no personal representatives independent of the Member, all of the residuary beneficiaries capable of giving agreement, a Member shall not deduct his fees from money held on behalf of an estate until he has received approval of estate accounts showing all transactions from the personal representatives or if there are no personal representatives independent of the Member, all of the residuary beneficiaries capable of giving consent.

13.3 If a Member is appointed as an executor of a Will he shall renounce his appointment if requested to do so in writing by all of his co executors or by all of the residuary beneficiaries capable of doing so.

13.4 In the event of there not being any residuary beneficiaries capable of giving approval under clause 13.2 then a Member shall be allowed to deduct his fees from money held on behalf of the estate without the requirements of clause 13.2 but his fees shall be fair and reasonable in accordance with section 3 of the Solicitors' (Non Contentious Business) Remuneration Order 1994.

13.5 Members must;

13.5.1 obtain satisfactory evidence of the executors or administrators whom he is working on behalf of;

13.5.2 obtain satisfactory evidence of the identity of the deceased and proof of his death;

13.5.3 make reasonable enquiries to ensure that no Will has been written, or that the Last Will (and any codicils) are identified;

13.5.4 make reasonable enquiries to obtain details of the assets and liabilities of the estate;

13.5.5 make reasonable enquiries to obtain details of anyone who may have a claim against the estate, including placing statutory notices as necessary.

13.6 Before accepting estate administration work a Member shall give the executor(s) or the residuary beneficiaries or the administrator(s) an estimate in writing of the timescale for completing the work – and shall notify them in writing within 7 days of becoming aware of any increase in this timescale and the reasons for it.

13.7 Where a timescale is extended by more than twice the length of the initial estimate or is extended more than once, the executors or the administrator(s)

will have the right to cancel the transaction. Members shall be entitled to payment of fees and disbursements for work completed prior to cancellation.

This provision shall not apply to delays caused by:

- 13.7.1 the failure of property forming part of the estate to sell or;
- 13.7.2 by legal action taken in relation to the estate or;
- 13.7.3 matters that were not apparent at the time the estimate was given.

14.0 Introduction of other Products or Services must be for the Client's benefit

- 14.1 When a Member introduces products or services outside of the scope of this Code, whether by himself or through a third party, he shall advise the Client that the provision of such services are not covered by this Code and how the delivery of such services are regulated, if at all. When introducing other products and services the Member must hold the best interests of the Client as paramount and any benefit they may derive from the introduction as ancillary.
- 14.2 When a Member receives a commission or other benefit (either directly or indirectly) from a third party in consequence of business transacted or referral of other services he shall promptly declare the level of such commission or benefit received to the Client on receipt of their written request.

15.0 Clear channels for Clients for resolution if things go wrong

- 15.1 Although advisable, Clients do not have to pursue matters of dissatisfaction through the procedures laid out in clauses 15, 16 and 17 of this Code and may pursue other options, such as independent arbitration or court action, at any time if they wish.
- 15.2 Clients and Members are encouraged to resolve any matters of dissatisfaction informally.
- 15.3 A complaint is any expression of Client dissatisfaction which the Member is unable to resolve.
- 15.4 Members shall maintain and conduct a complaints procedure which shall be in writing and issued to all employees, agents, subcontractors and franchisees. It will be available on request to all Clients and will be sent to anyone making a complaint. The written complaints procedure will cover the Member's internal systems including the name of a person responsible for handling complaints

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(or their job title) and explain how the matter can be referred by the Client or Member to the Conciliation Service or the Estate Planning Arbitration Service (EPAS). It will be available for prompt inspection by the Sponsor during normal business hours.

- 15.5 All complaints, including those made orally, shall be recorded and be available for prompt inspection by the Sponsor during normal working hours. Information recorded shall include name of complainant, their contact details and a summary of the complaint.
- 15.6 Written complaints shall be acknowledged in writing within 5 days of their receipt by the Member (except when the Member is on holiday or ill when they shall be acknowledged within 19 days) together with a written commitment to send a formal, written, response within a further 28 days.
- 15.7 The Member shall communicate with a representative appointed by the complainant in writing.
- 15.8 The Member shall make available to the Sponsor, promptly, a full record of the details of all the complaints made in the preceding 3 years upon request.

16.0 A conciliation service is available if things cannot be easily resolved

- 16.1 Clients who have been unable to obtain satisfactory redress to their complaint through the Member's own internal procedure may refer it to the Conciliation Service provided by the Sponsor.
- 16.2 The Client shall be allowed to access the Conciliation Service free of charge.
- 16.3 The Conciliation Service shall be made up of three persons nominated by the Sponsor and the Sponsor shall appoint a Chairman.
- 16.4 The Chairman of the Conciliation Service shall agree to communicate with a representative appointed by the complainant in writing.
- 16.5 In order to investigate the complaint the complainant must give the Chairman of the Conciliation Service Board authority to access his file from the Member.
- 16.6 The Member shall respond to and comply with any request from the Chairman of the Conciliation Service within 28 days. Failure to do so may result in the Chairman of the Conciliation Service making an award in favour of the complainant.
- 16.7 The Conciliation Service shall provide an initial adjudication within 28 days of receipt of all documentation that it requires from the Member and

the complainant.

16.8 The Conciliation Service shall advise both the Member and the complainant when each stage of the Complaints Process has been completed.

16.9 Where the initial decision is an award in favour of the complainant:

16.9.1 The Conciliation Service shall advise the Member in writing, giving him 21 days in which to provide new or further evidence.

16.9.2 After 21 days, if no further evidence is provided or within 28 days if there is, the Conciliation Service shall advise the complainant of its adjudication and the level of award (or the revised adjudication and revised award).

16.9.3 The complainant shall then have 21 days in which to provide new or further evidence if he is not satisfied with the level of the award (or revised award).

16.9.4 If the Conciliation Service revise their award in the light of any new evidence they shall notify the Member and complainant in writing.

16.10 Where an adjudication is not made in favour of the complainant,

16.10.1 The Conciliation Service shall advise the complainant in writing giving him 21 days in which to provide new or further evidence.

16.10.2 If the Conciliation Service revise their adjudication in the light of any new evidence they shall notify the Member and complainant in writing.

16.10.3 After 21 days, if no further evidence is provided, the Conciliation Service shall write to the Member and the complainant advising that the case is closed.

16.11 The maximum award shall not be more than the fees paid by the complainant to the Member or reasonably paid by the complainant in order to rectify a situation created by the Member.

16.12 The Conciliation Service may also sanction the Member. Such sanctions will depend upon the severity of the complaint and will be one or more of the following:

16.12.1 Removal of one or more endorsements from the Member's Certificate of Professional Development until further training is completed to the satisfaction of the Sponsor and costs.

16.12.2 An informal warning and costs.

16.12.3 A formal warning and costs.

16.12.4 Expulsion from membership of the Sponsor and costs.

16.13 Costs shall be limited to the actual cost of dealing with the specific complaint

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to which they relate.

- 16.14 The Conciliation Service may take the Member's complaints history into account in determining any sanction.
- 16.15 Members undertake to comply promptly with any award and sanction made by the Conciliation Service.
- 16.16 The details of all complaints made to the Conciliation Service and their outcome shall be recorded by the Sponsor and be in the public domain.

17.0 Estate Planning Arbitration Scheme (EPAS)

- 17.1 Clients who have been unable to obtain satisfactory redress to their complaint through the Member's internal complaints procedure or the Conciliation Service or elect not to pursue the complaint through the Conciliation Service may refer their complaint to the Estate Planning Arbitration Scheme (EPAS).
- 17.2 Any award or sanction made by the EPAS does not affect a member's statutory rights.
- 17.3 The EPAS can be contacted by writing to:
IDRS Limited, 24 Angel Gate, City Road, London. EC1V 2PT
- 17.4 Full details of the EPAS can be obtained from the Sponsor (or from their website) as detailed in clause 1.2.
- 17.5 An application form to refer the complaint to the EPAS is available free of charge from the Sponsor.
- 17.6 The details of all complaints made to the Arbitration Service and their outcome shall be recorded by the Sponsor and be in the public domain.

18.0 Clear channels for other parties for resolution if things go wrong

- 18.1 Members are required to have Professional Indemnity insurance of at least £2million to cover acts of negligence arising from the advice and/or drafting of documents covered by this Code of Practice.
- 18.2 Beneficiaries, disappointed beneficiaries, attorneys or personal representatives who wish to make an allegation of negligence against a Member should do so to his business address and in writing.
- 18.3 Members who receive any communication alleging or inferring negligence or wrongdoing should immediately acknowledge receipt of such correspondence and then pass the matter to their Insurers for action.

19.0 We check to ensure that our Members' clients are happy

19.1 At the end of the transaction, Members undertake to advise all of their Clients in writing of the website address where they can submit an on line satisfaction survey to the Sponsor and the address of the Sponsor where the Client can obtain a paper version of the survey and shall promptly make available such paper surveys to their Client on their request. The results of the Client surveys shall be in the public domain.

20.0 We respect your confidentiality

Officers and employees of the Sponsor are required to respect the confidentiality of any information belonging to a Member that comes into their possession during the provision of the Sponsor's responsibilities.

21.0 What we do if a Member fails to comply with this Code

21.1 All instances of non-compliance with this Code by a Member must be promptly brought to the attention of the Sponsor.

21.2 The Sponsor shall promptly bring to the attention of the Member any issue of non-compliance and confirm it in writing.

21.3 If that Member does not respond in writing within 21 days to, or disputes, any matter of non-compliance, the matter shall be referred to the Chairman of the Compliance Board.

21.4 All instances of non-compliance with this Code by the Sponsor shall be referred to the Chairman of the Compliance Board whose email address is compliance@ipw.org.uk and other contact details are given in clause 1.2.

21.5 The Chairman of the Compliance Board shall be able to co-opt up to two other persons, one of whom may be a representative of the Sponsor (but not a member of its Council) and one of whom must be a lay person. At no time shall the chairman of the Compliance Board be a representative of the Sponsor.

21.6 The Chairman of the Compliance Board shall notify the Member within 14 days that it has received notice from the Sponsor of a possible case of non-compliance and shall give the Member 28 days in which to respond to the allegation of non-compliance.

21.7 When the Compliance Board uphold a case of non-compliance the Compliance

Code of practice

Board may sanction the Member. Such sanctions will depend upon the severity of the case of non-compliance and will be one of the following:

- 21.7.1 An informal warning and costs.
- 21.7.2 A formal warning and costs.
- 21.7.3 Expulsion from membership of the Sponsor and costs.
- 21.7.4 Costs shall be limited to the actual cost of dealing with the specific noncompliance to which they relate.
- 21.8 The Compliance Board may take the Member's compliance history into account in determining any sanction.
- 21.9 Members undertake to comply promptly with any award and sanction made by the Compliance Board. This does not affect the Member's statutory rights.
- 21.10 When a case of non-compliance is not upheld by the Compliance Board then the costs of the Compliance Board shall be met by the Sponsor.
- 21.11 Where the issue of non-compliance has been brought by a Client, the Sponsor shall advise the complainant within 14 days of the decision of the Compliance Board.
- 21.12 The Sponsor shall keep a record of all instances of non-compliance and the processes of rectification and such records shall be in the public domain.

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