

First Annual Report to the Office of Fair Trading by the Institute of Professional Willwriters about its Code of Practice.

The IPW gained Stage One approval of its Code of Practice from the Office of Fair Trading under its Consumer Codes Approval Scheme on 23rd April 2008.

As part of the process towards obtaining Stage Two approval, the IPW committed to producing an annual report within 3 months of the anniversary of approval, containing the following information:

1) Compliance checks – details of the results of the compliance monitoring.

During the first year of the Code, the IPW concentrated its efforts and resources on supporting its members as they honed their practices to become compliant with the Code of Practice. At the end of the first year 62% of firms who are members of the IPW had been confirmed by the IPW to be compliant and had signed the necessary declaration committing to work in compliance with the Code of Practice.

The slow take up has been disappointing, but predictable. The fact is that most providers of Willwriting services are not members of the IPW. While not objecting to the Code of Practice or its content in principle IPW members do not feel that there is sufficient commercial benefit to be gained from becoming compliant – only additional costs – which are not being endured by their competitors. The continuing state of the economy has not helped either – with many members citing that they have better things to spend their dwindling fee income on. We had hoped that by now, the IPW would not be the only organisation in the sector with Stage One Approval. The lack of progress of other organisations in the sector towards Stage One approval has been disappointing, but predictable.

Compliance monitoring during the first year has been limited to monitoring responses made by clients through consumer feedback forms sent by clients directly to the IPW, either via a paper questionnaire sent to the IPW via a freepost facility or through an online facility on the IPW website.

577 responses were returned which resulted in the following:

- 97% of clients were provided with pre contractual information
- 96% of clients were provided with clear written information on pricing before they committed to the transaction
- 96% of clients were asked for proof of their identity
- 99% of documents were completed within the agreed timescale
- 98% of clients had the signing of their documents supervised by a member or else were offered the opportunity to have their documents checked that they appeared to have been signed correctly
- 90% of clients did not pay in advance of their documents being completed – or if they did, the fees were paid to a member who was part of a prepayment protection scheme
- 2 out of 577 clients said that they did not understand their documents
- 83 % of clients rated the service as excellent, 15% rated very good, 2% rated as good.
- Nobody rated the service as poor or very poor.
- 100% of clients would recommend the service

2) A report from the Chairman of the Compliance Board detailing the issues of non compliance that the Board has dealt with and the sanctions imposed where issues of non compliance have been upheld

The Chairman of the Compliance Board, Mr Jonathan Price confirms that he has dealt with no issues of non compliance in the period to which this report relates.

3) Any changes to the Code which have been considered – and those which have been implemented and details of why any changes considered have not been implemented.

During the first year of the Code, the following changes were considered and all were implemented:

- i) Amendments to take into consideration the introduction of the 'Cancellation of Contracts made in Consumers Home, Place of Work etc' legislation. The changes made to the Code were to include the requirement of a cancellation slip to be added to consumer contracts and for notice of consumer cancellation rights detailed in consumer contracts to be placed in a box.
- ii) There were some instances where timescales were referred to in days and some instances where timescales were referred to in 'working days'. It was decided to make all timescale measurements the same and since the above legislation requires a seven day cancellation period, it was decided to change all timescales referred to by working days to days. In doing this the actual timescales were not changed, just the unit of measurement – e.g. a timescale of 5 working days became a timescale of 7 days.
- iii) The requirement for consumers to 'opt in' to give their permission for their client files to be released to the IPW for compliance monitoring. In practice many of our members found that their clients were not reading the contracts which contained the 'opt in', preferring to sign them without reading them. As a result, few consumers were giving permission for their files to be released for compliance monitoring. Accordingly, many members were becoming concerned that should they be selected for compliance monitoring they would have few, if any, client files to show to compliance visitors – which could reflect poorly on their performance. After consultation with the OFT this requirement was changed from an 'opt in' to an 'opt out'.
- iv) An additional prepayment protection solution was also incorporated towards the end of the year – that of holding prepayments in a client account. We now have five different options for members – yet prepayment protection has probably been the biggest headache and, along with apathy, has been the biggest single barrier to full compliance with the Code of Practice amongst members. Although prepayments are taken by a minority of members (less than 20%), those that do so hold their right, and perceived need to do so, very dearly. Many of those members take payments by credit card and fund one pre payment protection scheme (afforded by s75 of the Consumer Credit Act 1974) through credit card handling fees. They resent having to involve themselves in further expense with another prepayment protection scheme. We take this opportunity to urge the OFT to re think its stance that the protection afforded by s75 Consumer Credit Act 1974 to consumers who pay for goods and service greater than £100.01 by credit card is insufficient.

In preparation of the compilation of this report, the IPW contacted all of the consumer groups who were contacted by the OFT during application stage asking them to consider the content of our Code of Practice in the light of their experiences of issues within the sector. Sadly none of them responded with any comments.

4) A report detailing the outcome of complaints that have been dealt with by the Conciliation Service and/or the Independent Arbitration Scheme with information on whether the outcome was in favour of the consumer or the IPW Member and what remedies were recommended and which were implemented.

During the first year of Stage One approval, the IPW Conciliation Service dealt with two complaints.

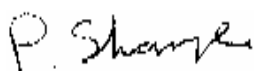
- i) The first was from a beneficiary of a Will in which an IPW member had administered the estate. The complainant felt that the charges (almost 10% of what was an uncomplicated estate) had been excessive. On consulting a solicitor the complainant had been advised that under the terms of the Will, which had been drafted by the same IPW member, the clause allowing him to charge for his services was faulty and meant that he had no power or authority to charge the estate for his services. The Conciliation Service agreed that the clause in the Will resulted in the IPW member being unable to charge for his services and suggested that he redraft, at no cost to clients, existing Wills which had the same faulty clause. The Conciliation Service also asked that the beneficiary receive a full refund of the fees which the member had deducted from the estate. The IPW member promptly resigned, thus thwarting further efforts for the complainant to obtain redress through the IPW. We do not know whether the complainant pursued other avenues, and if she did, whether she got satisfactory redress.
- ii) The second was regards a member who had lost a Will that he held on behalf of a client. The member acknowledged their error, accepting that the documents had been logged into the firm but had been mis-filed. As a search of their archive would take some time, they had offered to re draft the lost documents at no cost to the client. The complainant had rejected this offer, having already had new documents prepared elsewhere because of a 'loss of confidence' in the member and was claiming financial compensation for stress and inconvenience that the episode had caused. The Conciliation service felt that the offer from the member to re draft documents at no cost to the client had not been unreasonable but suggested that the member should make an offer to the complainant in recognition of the stress and inconvenience caused. In the event the member agreed to offer a full refund of all fees originally paid by the complainant – an offer which the complainant accepted.

The Independent Arbitration Scheme (The Estate Planning Arbitration Scheme, EPAS) confirms that they have not dealt with any complaints in the period to which this report relates.

5) Outcomes and results of any agreed performance indicators.

No performance indicators have been agreed during the first year of the Code of Practice.

Signed



Paul Sharpe
Chairman
10th July 2009.