

# Guidance

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### Dealing with claims for mis sold payment protection insurance

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Updated 25 November 2019 (Date first published: 4 January 2012)

#### *Status*

This guidance is to help you understand your obligations and how to comply with them. We will have regard to it when exercising our regulatory functions.

#### *Who is this guidance for?*

All SRA-regulated firms and their employees.

#### *Purpose of this guidance*

The purpose of this guidance is to remind practitioners of their professional duties when accepting and dealing with claims relating to mis-sold payment protection insurance.

#### *General*

In April 2011, the High Court ordered banks to pay back up to £4.5bn in compensation to consumers over the mis-selling of PPI. The Ministry of Justice and the Financial Ombudsman Service provided consumers with detailed information on how to make a claim. The deadline for making any PPI claim passed on 29 August 2019.

We were aware that a number of firms were offering to act for clients in making PPI claims. Therefore we want to remind practitioners before accepting instructions to make claims that they need to make sure that clients and potential clients:

1. were not taken advantage of and did not suffer detriment
2. did not instruct firms as a result of misleading information or publicity
3. had sufficient information to make informed decisions before issuing instructions

4. received independent advice and a proper standard of service.

### *Dealing with PPI claims*

**As with any regulatory issue, your starting point will be the Principles and the Standards and Regulations.**

Generally, when dealing with PPI claims the most relevant Principles [<https://www.sra.org.uk/solicitors/standards-regulations/principles/>] are that you must act:

- in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons (Principle 2)
- with independence (Principle 3)
- with integrity (Principle 5)
- in the best interests of each client (Principle 7).

Some common areas of concern which you should pay particular attention to when dealing with PPI claims are highlighted below.

### *Be clear about charging*

Your publicity relating to charges must be clearly expressed. Paragraph 8.7 of the Code of Conduct for solicitors, RELs and RFLs [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/>] requires you to make sure that your clients receive the best possible information about how their matter will be priced, both up front when you first meet a new client and throughout the course of any retainer.

You will also need to make sure that any publicity relating to your charges is not misleading. For example, where your charges are calculated as a percentage of any "compensation" recovered, make clear whether VAT is included and whether any sums written off by a lender are included in the calculation.

### *Client care*

When dealing with a claim you will need to consider and take account of your client's attributes, needs and circumstances (Paragraph 3.4 of the Code of Conduct for solicitors, RELs and RFLs). For example, whether they are particularly vulnerable because they are in financial difficulty or whether they may have difficulties understanding the information you give them.

Paragraph 8.6 of the Code for solicitors, RELs and RFLs requires you to provide information to your clients in a way they can understand. If a client

does not have strong spoken English, or struggles to understand English, then you may need to discuss options for translating the information into a more suitable language which the client can then clearly understand.

### *Standard of work*

You must make sure that the service provided to your clients is competent and delivered in a timely manner (Paragraph 3.2 of the Code of Conduct for solicitors, RELs and RFLs).

You will need to consider whether the staff dealing with claims are receiving proper training and supervision and are competent to carry out their role (Paragraphs 3.5 and 3.6 of the Code of Conduct for solicitors, RELs and RFLs).

### *Dealing with complaints*

Paragraph 8.3 of the Code of Conduct for solicitors, RELs and RFLs and the SRA Transparency Rules [<https://www.sra.org.uk/solicitors/standards-regulations/transparency-rules/>] require you to inform clients in writing at the outset about their right to complain and how to go about it.

Our transparency rules also require you to publish your complaints process on your firm's website. Again you should be mindful of any language barriers and make sure that you put in place measures to make sure your clients are aware of this information and that they can understand it.

You should also make clients aware of the Financial Ombudsman Service [<https://www.financial-ombudsman.org.uk/>] (FOS), whose website includes standard forms which can be used for complaining both to firms and to FOS.

Further advice on the Principles and the Standards and Regulations can be obtained from the Professional Ethics Helpline [<https://www.sra.org.uk/contactus>] .