



Rule breaches - a note of warning to authorised businesses

Taking up-front fees

We are aware that many businesses take 'up-front' fees. But some businesses taking up front fees may be failing to provide prospective clients with compulsory, pre-contract information as required by the [Conduct of Authorised Person Rules 2007](#).

Whilst a business can take a payment or fee from a client before providing the service you must first comply with the rules relating to providing information to clients.

You **must not** take any payment before this pre-contract information is provided. We would not expect you to start any service you charge for before you provide the required information.

Taking up-front fees would also be a breach of Rule 1(a) that requires businesses to "Act fairly and reasonably in dealings with all clients".

Rule 10 of the client specific rules require that you must do some checks into possible alternative mechanisms for pursuing a claim, and Rule 11 requires you to provide certain information in writing (electronic versions are sufficient) **before** a contract is agreed.

The information that must be provided is listed in detail in Rule 11, this includes:

- Information to help the client decide about the risks of claiming, in particular the possible risk of losing money and in the case of potential legal action, appearing in court
- Information about the service you provide
- Information about the procedures you will follow
- Contract documents and how to cancel the contract
- Any charges you make and any other costs the client may have to pay
- 14 day cooling off period
- Any referral fee received by the business
- Documents you will need
- Any relationship you might have with a solicitor
- How the client can complain about you
- The "regulatory statement"
- Explicit information about the client's right to seek further advice and to shop around

Cold calling consumers by telephone

We are aware that some businesses have been cold calling consumers and then referring their claims to a solicitor. The Solicitors Regulation Authority (SRA) have made it clear that their rules on referral arrangements means that solicitors must not

have a financial arrangement with an introducer in respect of claims which has been obtained (either by that introducer or through an intermediary) by way of unsolicited face-to-face or telephone “cold calling”.

This means that an introducer **must not** cold call any potential client if a claim might require legal action and therefore be referred to a solicitor or a solicitor is likely to be asked to review a claim. This does not only apply to personal injury claims, but to any other claims that are referred to solicitors, including claims about enforceability of consumer credit agreements.

You will be in breach of your conditions of authorisation if you do not fully comply with the Conduct of Authorised Persons Rules 2007.

Warning

Failure to comply with this warning is likely to lead to enforcement action being taken against the business concerned and could ultimately put the businesses authorisation at risk. The MoJ’s Monitoring and Compliance Unit has launched a fresh compliance exercise to tackle such breaches.

NOTES

Claims management regulation

The Ministry for Justice (MoJ) is the Claims Management Regulator in England and Wales. The Ministry of Justice checks a wide range of information about businesses before authorising them; monitors the services the business provides; will take action against businesses that breach the rules, which could include suspension or cancellation of authorisation.

It is a condition of authorisation that authorised businesses comply with all rules including the:

- Conduct of Authorised Persons Rules 2007
- Complaints Handling Rules 2006
- Clients Accounts Rules 2006

In addition all authorised businesses must comply with the relevant laws, regulations and Directives that apply to their business. We expect all businesses to be fully aware of the relevant requirements.

Solicitors Regulation Authority

The Solicitors Regulation Authority (SRA) has issued specific guidance to solicitors warning them about taking referrals from authorised businesses which may have been obtained by cold calling clients. The guidance can be found at <http://www.sra.org.uk/solicitors/code-of-conduct/guidance/2636.article>

Contact

Claims Management Regulation Monitoring and Compliance Unit
57 – 60 High Street
Burton–upon–Trent
Staffordshire
DE14 1JS
Telephone: 0845 450 6858 / 01283 233309
Fax: 0845 450 6866 / 01283 233335
Email: info@claimsregulation.gov.uk
www.claimsregulation.gov.uk