

SCHEDULE

Regulation 2

CODE OF CONDUCT DRAWN UP BY THE INSURANCE BROKERS REGISTRATION COUNCIL PURSUANT TO SECTION 10 OF THE INSURANCE BROKERS (REGISTRATION) ACT 1977

Words and expressions used in this Code of Conduct shall have the meaning ascribed to them by the Insurance Brokers (Registration) Act 1977 (“the Act”) except that:

“insurance broker” means practising insurance broker, registered insurance broker or enrolled body corporate;

“insurance broking business” and references to businesses carried on by an insurance broker shall mean all aspects of the business conducted by a practising insurance broker or enrolled body corporate and includes, for example, investment business as defined by the Financial Services Act 1986, Schedule 1(1);

“insurer” means a person or body of persons carrying on insurance business;

“advertisement” shall have the meaning ascribed to it by Section 207(2) of the Financial Services Act 1986 and “advertising” shall be construed accordingly;

“appointed representative” shall have the meaning ascribed to it by Section 44 of the Financial Services Act 1986;

“relevant investment business” shall have the meaning ascribed to it by the Insurance Brokers Registration Council (Conduct of Investment Business) Rules 1988(2).

1. The Act provides for the registration of insurance brokers and for the regulation of their professional standards. The objective of the Code of Conduct is to establish a recognised standard of professional conduct to which all insurance brokers should, in the interests of the public and in the performance of their duties, conform and in doing so they should bear in mind this objective and the underlying spirit of this Code.

The Code is not exhaustive or all embracing and while it shall serve as a guide to insurance brokers and other persons concerned with their conduct nevertheless the mention or the lack of mention in it of a particular act or omission shall not be taken as conclusive of any question of professional conduct.

Apart from this Code insurance brokers authorised by the Council to advise or effect transactions on relevant investment business are also required to comply with any rules made by the Council for the conduct of investment business under the Financial Services Act 1986.

Claims against insurance brokers for compensation arising from acts or omissions amounting to negligence are matters for determination by the Courts. Nevertheless, acts of gross negligence or repeated acts of negligence may amount to unprofessional conduct and notwithstanding that the matter may be the subject of legal proceedings, the Council may still investigate the conduct of the insurance broker.

2. In the opinion of the Council, the fundamental principles governing the professional conduct of insurance brokers are shown below in paragraphs A to H. Any act or omission done or made by insurance brokers in breach of these fundamental principles may, in the opinion of the Council, constitute unprofessional conduct.

(A) Insurance brokers shall at all times conduct business with utmost good faith and integrity.

(B) Insurance brokers shall do everything possible to satisfy the requirements of clients and shall, subject to Principle C, place the interests of clients before all other considerations.

(1) c.60.
(2) S.I.1988/950.

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Subject to these requirements and interests, insurance brokers shall have proper regard for others.

- (C) Insurance brokers shall not directly or indirectly do anything in the course of practising as insurance brokers which compromises or impairs, or is likely to compromise or impair, the good repute of insurance brokers or the insurance broking profession.
- (D) Statements made by or on behalf of insurance brokers when advertising shall not be misleading or extravagant.
- (E) Insurance brokers shall conduct their relationship with the Council, their professional body, with propriety.
- (F) Insurance brokers shall organise and control the internal affairs of their insurance broking business in a responsible manner, and where staff are employed ensure that they are competent, suitable, and under adequate day-to-day supervision by a registered insurance broker.
- (G) Insurance brokers should be familiar with, and in carrying on business should be mindful of guidance as to proper professional conduct contained in any Practice Notes issued or endorsed by the Council.
- (H) Insurance brokers who are authorised by the Council to conduct relevant investment business shall comply with any statements of principle issued under Section 47A of the Financial Services Act 1986.**(3)**

The following are some specific examples of the application of these principles:

(1) In the conduct of business and in the choice of an insurer or investment, insurance brokers shall provide advice objectively and independently in the best interests of the client.

(2) Insurance brokers shall not act in any way which is contrary to law or a principle of professional conduct.

(3) If insurance brokers have reason to believe that the disclosure of material facts by the client or the notification of the facts of a claim by a client is not true, fair and complete, they should request the client to make the necessary true, fair and complete disclosure. In the absence of such disclosure, insurance brokers should consider whether they should decline to continue acting for the client.

(4) If insurance brokers are placed in the position where their interests or the interests of a third party to whom the insurance broker owes a duty conflict with the interests of the client, they should withdraw from the matter unless after full disclosure all relevant parties agree in writing that they should continue.

(5) Insurance brokers shall only use or permit the use of the description “insurance broker” in connection with a business provided that business is carried on in accordance with the requirements of the Rules made by the Council under sections 11 and 12 of the Act.

(6) Insurance brokers shall ensure that their employees are made aware of and adhere to this Code.

(7) Insurance brokers shall, upon request, disclose to any client who is an individual and who is, or is contemplating becoming, the holder of a policy of insurance the amount of commission paid by the insurer under any relevant policy of insurance. In respect of investment business as defined by the Financial Services Act 1986, insurance brokers shall observe the disclosure requirements under the Rules made pursuant to that Act by their regulatory body for that purpose.

(8) Before effecting a contract for insurance or investment, insurance brokers shall disclose and identify in writing any amount, or if the amount is not known the basis on which it will be calculated, they propose to charge to the client and which will be in addition to the insurance contract or investment for any service or work relating to that contract of insurance or investment or their placement.

(3) Section 47A was inserted by the Companies Act 1989, s.192.

(9) Insurance brokers shall disclose to a client in writing any payment which they receive or will receive in addition to commission as a result of effecting a contract of insurance or investment or as a result of securing on behalf of that client any service additional to the arrangement of a contract of insurance or investment.

(10) Insurance brokers may not become an appointed representative of any authorised person, including an insurer, under Section 44 of the Financial Services Act 1986 if by doing so and carrying on business as such they would be unable to comply with any of the provisions of the Code.

(11) Insurance brokers shall explain to the client the differences in, and the relative costs of, the principal types of insurance, relevant investment business, or if appropriate, any other investments, which in the opinion of the insurance broker, would suit the client's needs. In doing so, insurance brokers may take into consideration the knowledge held by the client when deciding to what extent it is in the client's interest to have the terms and conditions of the policy or investment explained to him.

(12) In order to satisfy the requirements of their clients, insurance brokers shall take care not to limit unduly the number of insurers they are able to use.

(13) If insurance brokers recommend to a client, or are requested by such a client, to place his insurances with an insurer who is not authorised or permitted to carry on or provide insurance of the relevant class in the UK, great care must be taken to ensure that at the time of the recommendation or the request, the client appreciates the possible risks involved and such should be put in writing to the client if the insurance broker reasonably believes it would be appropriate having regard to the client's experience of insurance. In such a case either definitive instructions should be obtained from the client in writing, or confirmation of such instruction should be given to the client in writing.

(14) Insurance brokers shall not withhold from the client any written evidence or documentation relating to the contract of insurance or investment without adequate and justifiable reasons being disclosed in writing and without delay to the client. If an insurance broker withholds documents from the client by way of lien he shall provide advice to the client in writing of this at the time that the documents are withheld.

(15) When inviting renewal of insurance policies for individuals, insurance brokers shall forward to the client promptly the original of all available insurers' renewal invitations which are accepted as being accurate and complete.

(16) If a premium for a policy is being paid by instalments, insurance brokers shall ensure that evidence of cover and the basis of payments is given to the client at the commencement of the risk, or on any renewal.

(17) Insurance brokers shall inform a client of the name of all insurers with whom a contract of insurance is placed. This information, or any changes thereafter, shall be advised to the client at the earliest opportunity.

(18) Insurance brokers shall have a proper regard for the wishes of a policyholder or client who seeks to terminate their appointment as insurance brokers.

(19) Any information acquired by insurance brokers from their client shall not be used or disclosed except in the normal course of negotiating, maintaining, or renewing a contract of insurance, or in handling a claim for that client unless the consent of the client has been obtained or the information is required by a court of competent jurisdiction.

(20) In the completion of the proposal form, claim form, or any other material document, insurance brokers shall make it clear that all answers or statements are the client's own responsibility. The client should always be asked to check the details and told that the inclusion of incorrect information may result, inter alia, in a claim being repudiated. On request, a client shall be supplied with a copy of the proposal form or other relevant document at the time of completion.

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(21) When giving a quotation for a policy of insurance, insurance brokers shall take due care to ensure its accuracy and their ability to place at the quoted price: if any premium is reduced by a commission rebate that amount should be disclosed.

(22) When a claim arises on an insurance policy effected by an insurance broker he shall on request give reasonable assistance to the client in pursuing that claim.

(23) Advertisements made by or on behalf of insurance brokers shall comply with the applicable parts of the British Code of Advertising Practice published by the Advertising Standards Authority and for this purpose the British Code of Advertising Practice shall be deemed to form part of this Code of Conduct.

(24) Advertisements made by or on behalf of insurance brokers shall distinguish between contractual benefits, that is those that the contract of insurance is bound to provide, and non-contractual benefits, that is the amount of benefit which it might provide. Where such advertisements include a forecast of non-contractual benefits, insurance brokers shall restrict the forecast to that provided by the insurer concerned.

(25) Advertisements made by or on behalf of insurance brokers shall not be restricted to the policies of one insurer except where the reasons for such restriction are fully explained in the advertisement, the insurer named therein, and the prior approval of that insurer obtained.

(26) When advertising their services directly or indirectly either in person (eg by canvassing) or in writing insurance brokers shall disclose their identity, occupation and purpose before seeking information or before giving advice.

(27) Registered insurance brokers who commence to carry on business either as a sole proprietor or in partnership with others shall submit forthwith the appropriate documentation of their change in status as required by the Rules made pursuant to Section 8 of the Act to the Council in order that the Registrar may amend their entry to that of practising insurance brokers.

(28) Insurance brokers who wish to relinquish membership of the profession must submit to the Registrar a statutory declaration as required by the Rules made pursuant to Section 8 of the Act and any other necessary documentation required by the Council in order that their names may be removed from the Register/List in good order.

(29) Insurance brokers shall ensure that they reply promptly or procure a prompt reply to all correspondence.

(30) Registered insurance brokers who are directors of an enrolled body corporate shall ensure that the company complies with all the requirements under the Act and its subordinate legislation, including the Rules, and, if applicable, the Financial Services Act 1986 and similarly its subordinate legislation.

(31) Insurance brokers shall display in any office where they are carrying on business and to which the public have access a notice to the effect that a copy of the Code of Conduct is available upon request and that if a member of the public wishes to make a complaint or requires the assistance of the Council in resolving a dispute, he may write to the Insurance Brokers Registration Council at its offices at 15 St Helen's Place, London EC3A 6DS.

(32) Where the interests of clients would be significantly affected by the death or incapacity of an insurance broker arrangements must be made to protect the interests of clients in that event.

(33) If acting as an agent for another insurance broker or insurance intermediary, insurance brokers shall disclose this in writing to their clients.

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Sealed on the 23rd day of September 1994

Attested by:

Peter Milne
Member of Council

E. J. Rees
Registrar