



# **CODE OF PRACTICE**

**Effective 1 January 2020**

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# CODE OF PRACTICE

The Funeral Planning Authority (“the FPA”) is the independent body governing registered pre-paid funeral providers. It aims to ensure that:

- funeral plan providers that are registered with the FPA (“Plan Providers”) maintain high standards of professional conduct; and
- the money that customers pay to a Plan Provider for a funeral plan is safeguarded so that, when the time comes, their funeral will be provided in accordance with that plan.

## **The FPA does this by:**

- setting principles for business that govern operations and practices;
- setting stringent minimum requirements for any provider to become an FPA registered provider and to maintain that status;
- having fit and proper controllers of Plan Providers and plan trustees;
- setting rules and standards within which Plan Providers must operate;
- monitoring the activities and outputs of Plan Providers;
- enforcing rules and guidance where necessary;
- making a Pledge to Customers that, in the unlikely event of a Plan Provider becoming insolvent, the other Plan Providers shall co-operate and examine ways in which the FPA might assist in arranging delivery of the funeral of the customers of the insolvent Plan Provider. It should be noted this Pledge does not extend to providers that are not registered with the FPA.

The FPA’s Rules require the Plan Providers to comply with this Code of Practice and they may be liable to disciplinary action if they fail to do so.

## **1. PRINCIPLES OF BUSINESS**

The Code operates to ensure that Plan Providers act in line with high-level principles for business as follows:

### **1.1. Integrity**

A Plan Provider must conduct its business with integrity.

### **1.2. Skill, care and diligence**

A Plan Provider must conduct its business with due skill, care and diligence.

**1.3. Management and control**

A Plan Provider must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.

**1.4. Financial prudence**

A Plan Provider must maintain adequate financial resources.

**1.5. Market conduct**

A Plan Provider must observe proper standards of market conduct.

**1.6. Customers' interests**

A Plan Provider must pay due regard to the interests of its customers and treat them fairly.

**1.7. Communication with clients**

A Plan Provider must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.

**1.8. Conflicts of interest**

A Plan Provider must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.

**1.9. Customers relationships of trust**

A Plan Provider must take reasonable care to ensure the suitability of its advice and discretionary decisions it makes for any customer who is entitled to rely upon its judgment.

**1.10. Clients' assets**

A Plan Provider must arrange adequate protection for clients' assets when it is responsible for them.

**1.11. Relations with regulators**

A Plan Provider must deal with its regulators in an open and cooperative way, and must disclose to the appropriate regulator appropriately anything relating to the Plan Provider of which that regulator would reasonably expect notice.

## 2. CONDUCT

Plan Providers, including their staff and their agents' representatives:

- 2.1. Must act in a courteous, sensitive, dignified and professional manner and, in particular, must not significantly impair potential customers' freedom of choice by the use of harassment, coercion or undue influence that is likely to cause them to take a different decision to buy funeral plans.
- 2.2. Must not make unsolicited visits, unsolicited telephone calls, undertake unsolicited direct mailing electronically or otherwise, or door to door canvassing. General leaflet drops or media inserts are not specifically precluded by this clause though Plan Providers should consider how these fit in any particular circumstance with the principles for business. In particular, Plan Providers must ensure specific care is taken in respect of residents of nursing homes, residential care homes or similar establishments and any other vulnerable customers; (see section 3 TCF).
- 2.3. Must have appropriate policies, processes and oversight to identify and deal with vulnerable customers (see 3.2) in a manner that does not expose them to the potential or actual detriment.
- 2.4. Must respect the confidential nature of information given to them and only use that information for its proper purpose.
- 2.5. In recommending another business, must disclose any interest they may have in that business.
- 2.6. Must not make misleading comments about the quality or appropriateness of any funeral plan which a customer has already purchased or is thinking of purchasing. As defined by the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) which specifically refers to unfair commercial practices, misleading actions and omissions.
- 2.7. Must maintain comprehensive records of all interactions with customers to the extent allowed by Data Protection Regulations / GDPR.
- 2.8. Must take every reasonable step to ensure that they or their agents do not undertake any activity that risks bringing the sector into disrepute. They must also take reasonable steps to notify the FPA of any such activity that comes to their attention.
- 2.9. From time to time the FPA may issue guidance to support the FPA Rules and/or Code of Practice. Plan Providers are required to follow that guidance or have documented reasons for not doing so formally agreed by their governing body.

### **3. TREATING CUSTOMERS FAIRLY**

- 3.1. Plan Providers must pay due regard to the interests of their customers and treat them fairly by ensuring that:
- Customers feel confident that they are dealing with a Plan Provider where the fair treatment of customers is central to its culture.
  - Products and services marketed and sold are designed to meet the needs of customers.
  - Customers are provided with clear information and are kept appropriately informed before, during and after point of sale.
  - Where customers receive advice, the advice is suitable and takes account of their circumstances.
  - Customers are provided with products and associated services that perform and are of the standard as Plan Providers have led them to expect.
  - Customers do not face unreasonable post-sales barriers imposed by Plan Providers to change a plan, redeem or cancel a plan or make a complaint.
- 3.2. Vulnerable customers are those who, due to their personal circumstances, are especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care. Appendix 1 provides guidance on factors the FPA believes should be considered when assessing whether a customer is or may be vulnerable.
- 3.3. A Plan Provider must have a written policy that sets out how they will identify and treat vulnerable customers.
- 3.4. Plan Providers will take the necessary steps to identify vulnerable customers or customers in vulnerable situations. This will include ensuring all employees, agents or representative operating on the Plan Provider's behalf are trained in the Plan Provider's vulnerable customer policy. The consideration of funeral arrangements can, obviously, often arise at very difficult times. Plan Providers should be sensitive to this and take account of any other factors that might affect decisions to take out a plan or choose a funeral.
- 3.5. Plan Providers will make the necessary effort and time to ensure that vulnerable customers understand all aspects of signing a contract for a funeral plan. Where appropriate, Plan Providers must suggest the involvement of a trusted friend or relative.

- 3.6. Plan Providers are prohibited from generating sales enquires or new orders from the creation, obtaining, distribution, maintenance or use of lists of specific customers that are susceptible to responding to cold calling approaches (sucker lists).
- 3.7. Where a Plan Provider undertakes a home visit for the sale of a funeral plan, the representative must leave immediately if requested to do so or if it becomes apparent that the customer is not interested in the goods or services the business is selling.
- 3.8. Customers must be provided with a written cancellation notice. This notice must inform customers of their right to cancel within 30 days or more of the date the customer received such notice without any cancellation or other fee being applied. This condition applies irrespective of the way the plan was sold.

#### **4. MARKETING AND ADVERTISING**

- 4.1. Plan Providers must ensure that any marketing or advertising which they undertake does not bring the funeral planning industry into disrepute and that their marketing and advertising:
  - is legal, accurate and, as a minimum, complies with all the other requirements of the British Code of Advertising Practice or other relevant Code of Practice and wider requirements of the Unfair Trading Regulations 2008;
  - complies with the Principle set out in 1.7;
  - only contains genuine customer endorsements which have been specifically approved by that customer;
  - only contains third party endorsements or sponsorship which have been specifically approved by that third party; and
  - makes no unsubstantiated claims about funeral plans or services provided by others.
- 4.2. Plan Providers must provide their employees, agents and representatives with training and written guidance on sales practices, which ensures that potential customers are given sufficient information before entering into a contract to make informed decisions about buying a funeral plan.

## 5. INFORMATION

5.1. Plan Providers must provide potential customers with written pre-contractual details of any funeral plan being offered, which clearly sets out the following in writing, irrespective of the preferred medium, electronic or hard copies:

5.1.1 Information about the main characteristics of the service to be provided in the funeral plan.

5.1.2 The type and cost of funerals and other services which can be provided under the funeral plan including what is specifically included by each plan type.

5.1.3 Pricing information showing the total price and a breakdown where appropriate, it must show VAT, administration charges, any instalment charges and any other costed items whether optional or mandatory.

5.1.4 Clear and transparent disclosure on what is not covered by the funeral plan and the potential for the family or estate to pay further amounts at time of need. This specifically relates to exclusions, these must not only be referred to in the footnotes.

5.1.5 If the plan is paid for by instalments, what happens if someone dies before all payments have been made.

5.1.6 If the plan is a fixed monthly payment insurance based plan details of when contributions are paid and when they cease and either:

- the maximum total contributions that could be paid over the plan duration;

or

- customer's age at which contributions paid would equal the current price of the equivalent plan.

Details of any moratorium period should also be stated explicitly.

5.1.7 The customer's right to a full refund if the plan is cancelled within 30 days of its commencement (see Clause 3.8) and any rights to a refund which the customer has if the plan is cancelled by the customer after that time. This should include prominent reference to any cancellation charge that applies, any restrictions on receiving a refund and where no refund is available confirmation of that fact.



- 5.1.8 What happens if the Plan Provider cannot meet its obligations under the plan.
- 5.1.9 Details of the portability of the plan between different funeral directors, before and after death of the planholder.
- 5.1.10 How a customer may complain about the Plan Provider or any plan provided and how such complaints will be handled. This should also include details of the option for the customer to refer a complaint to the FPA if dissatisfied.
- 5.1.11 Provide details of the Plan Provider's name, postal address and contact points.
- 5.1.12 The other terms and conditions which apply to the plan.
- 5.1.13 The fact that the Plan Provider is registered with the FPA.

## **6. CONTRACTS AND DOCUMENTS**

- 6.1. Plan Providers must give every person who buys a funeral plan a written document, electronic or hard copy, which sets out the plan's terms and conditions, the specification of the funeral to be provided and how the funeral plan may be amended or cancelled.
- 6.2. Plan Providers must give every person who buys a funeral plan an electronic or hard copy of the customer's membership card or certificate of entitlement. A Plan Provider must replace a lost card or certificate once free of charge but may charge a reasonable fee for providing any further replacement cards or certificates.
- 6.3. As part of the material provided to the planholder there should be a plan summary and a key features document that sets out the services covered by the plan and those that are excluded. This may form part of other documents but should be accessible to customers both in terms of format and content.
- 6.4. Plan Providers must ensure that every person who buys a funeral plan is given guidance on either how to register a death or the key contacts needed to begin the process of registration.

## **7. PLAN FUNDS**

- 7.1. Plan Providers must comply with the FPA's Rules relating to the security of plan funds. In particular, those Rules require Plan Providers to either:
  - 7.1.1. Pay money received for funeral plans, as soon as practicable, into an account maintained by trustees (the majority of whom must be unconnected with the Plan Provider) who have been approved by the FPA.

- 7.1.2. Have the funds invested by an independent fund manager who is authorised under the Financial Services and Markets Act 2000.
- 7.1.3. Have the trust funds audited annually and reviewed by an actuary.
- 7.1.4. Only use the trust funds for their proper purpose; or
- 7.2. Apply money received for funeral plans, as soon as practicable towards a contract of whole life assurance with an authorised person who has permission to effect and carry out such contracts of insurance.

## **8. COMPLAINTS AND DISPUTES**

- 8.1. The FPA defines a complaint as: Any expression of dissatisfaction raised by a customer or on behalf of a customer whether oral or written, justifiable or not.
- 8.2. A Plan Provider must have a clearly defined and documented Complaints Process.
- 8.3. Plan Providers must allow complaints to be made by any reasonable means.
- 8.4. A Plan Provider must put in place appropriate management controls and take reasonable steps to ensure that in handling of complaints it identifies and remedies any recurring or systemic problems.
- 8.5. A customer who is dissatisfied with the service provided by a Plan Provider should, in the first place, contact that Plan Provider who must acknowledge receipt of the complaint to the customer in writing within 7 working days of receiving a complaint.
- 8.6. A Plan Provider must provide contact details of the FPA to a customer in the final letter to a complainant and in any holding letter if the complaint is not resolved within 8 weeks of the Plan Provider receiving it.
- 8.7. If a Plan Provider cannot resolve a complaint to the customer's satisfaction, the customer should contact the FPA (whose address and telephone number are set out below). The FPA provides an independent conciliation and arbitration service.
- 8.8. Plan Providers are required to co-operate with the customer redress procedures and to participate in the independent conciliation and arbitration service mentioned in paragraph 8.7. Plan Providers are bound by an arbitrator's decision, subject to the right of the Plan Provider or the customer to seek a review of the decision.

- 8.9. If in the course of any conciliation, or following the conclusion of any arbitration, it appears that a Plan Provider has infringed this Code of Practice, the FPA may take disciplinary action against that Plan Provider in accordance with its Rules.
- 8.10. Plan Providers must provide on all price lists and other promotional material an address and email address (or, if this is not practicable, a telephone number) to which communications may be directed.
- 8.11. Plan Providers must have copies of this Code of Practice available to distribute to customers and others free of charge.
- 8.12. Plan Providers must display the logo of the FPA at their place of business and on all price lists and other promotional material.
- 8.13. Plan Providers must co-operate fully with those representing consumers including trading standards officers, Citizens' Advice Bureau or other consumer advisers.

## **9. SUPPLIERS, SELLERS OR PROVIDERS OF SERVICES**

- 9.1. Under the FPA Rules, Plan Providers are responsible for the acts and omissions of any third party they work with in providing funeral plans. Consequently, they should have procedures in place to ensure that any third party is operating in line with this Code of Practice and the FPA Rules. The FPA is aware that the situation could arise where more than one Plan Provider, and potentially providers that are not registered with the Authority, may be working with any third party. This does not absolve the Plan Provider from the requirements set out in this section 9 of the Code of Practice.
- 9.2. As a minimum the FPA would expect a Plan Provider to:
  - carry out due diligence before working with a new third party;
  - have in place a written contract;
  - ensure contractual arrangements require the third party to operate in line with the FPA Rules and Code of Practice;
  - ensure that contractual arrangements between the Plan Provider and the third party would cover the right to control messages and marketing materials, requirements in respect of training, requirements in respect of monitoring including access to the source of all data used in the sales process;

- set remuneration arrangements, which should not result in product bias or customer detriment either through incentivising inappropriate selling processes and sales or undermining the financial position of the Plan Provider in a manner that risks the ability to deliver any new plan or existing plans;
  - restrict the use of sub-agents without specific permission from the Plan Provider (and in any event after appropriate due diligence has been conducted by the Plan Provider); and
  - have appropriate termination rights and processes so the Plan Provider can terminate if the third party breaches.
- 9.3. Plan Providers should have in place a clear, structured and documented on-boarding process for any new third party.
- 9.4. Plan Providers should monitor the third party operation to ensure that the FPA Rules and Code of Practice are being adhered to. Such monitoring should be clearly documented and available for inspection on request by the FPA.
- 9.5. Where a Plan Provider is working with a third party who is working with other funeral plan providers this does not absolve the Plan Provider in respect of their responsibility to ensure the third party is complying with the FPA Rules and Code of Practice.

## **10. DATA PROTECTION ACT 1998 AND GENERAL DATA PROTECTION REGULATIONS 2018**

- 10.1. Plan Providers must ensure that they comply fully with GDPR requirements, this includes but is not limited to, asking for customer consent to hold and use personal data, recording consent, managing consent and withdrawal of consent.
- 10.2. Plan Providers must co-operate fully with the FPA recognising the specific consent given to FPA by customers under data protection regulations to share and discuss customer data for the sole purpose of investigating complaints under clause 8.7.

## **11. PLEDGE TO CUSTOMERS**

All Plan Providers shall co-operate in the delivery of the FPA's "Pledge to Customers" by which, in the event of the insolvency of a Plan Provider, the other Plan Providers will examine ways in which the FPA might assist in arranging delivery of the funeral of the customers of the insolvent Plan Provider. The extent of this co-operation will be at the discretion of the individual Plan Providers.

Anyone who experiences difficulty in obtaining services under a funeral plan because a Plan Provider or funeral director is insolvent or no longer in business should immediately contact the FPA.

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## VULNERABLE CUSTOMERS

Clause 3.2 of the FPA Code of Practice defines a vulnerable customer as:

*Someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care.*

This guidance has been provided by the FPA to assist Plan Providers in developing and operating their policy with regard to vulnerable customers as required under Clause 3.2 of the Code of Practice. In developing this guidance we have used input from other parties and in particular publications on the FCA website ([www.fca.org.uk](http://www.fca.org.uk)).

The FCA analysed the answers customers gave to their Financial Lives Survey 2017 to understand how many display one or more of the indicators below and could be considered as potentially vulnerable.<sup>1</sup>

1. Health – health conditions or illnesses that affect ability to carry out day-to-day tasks. 5% of UK adults say their ability to carry out day-to-day tasks is reduced a lot by health conditions or illness.
2. Resilience – low ability to withstand financial or emotional shocks. 30% of UK adults have been identified as having low financial resilience.
3. Life Events – major life events such as bereavement or relationship breakdown. 19% of consumers say a major life event has happened to them or their partner in the last 12 months.
4. Capability – low knowledge of financial matters or low confidence in managing money. 17% of UK adults have low financial capability.

Given these sort of indicators examples of risk factors for vulnerability that Plan Providers should consider in relation to the funeral plan market include:

- being ‘older old’ for example over 80, although this is not absolute (may be associated with cognitive or dexterity impairment, sensory impairments such as hearing or sight, onset of ill-health, not being comfortable with new technology)
- change in circumstances (e.g. bereavement, divorce)
- severe or long-term illness
- low literacy, numeracy and financial capability skills
- physical disability
- mental health problems
- low income and/or debt
- caring responsibilities (including operating a power of attorney)
- lack of English language skills

<sup>1</sup>For more information please see the Methodological Notes in the Financial Lives Survey Report 2017 – [www.fca.org.uk/publication/research/financial-lives-survey-2017.pdf](http://www.fca.org.uk/publication/research/financial-lives-survey-2017.pdf)