



Guernsey Financial  
Services Commission

**INSURANCE MANAGERS AND INSURANCE INTERMEDIARIES  
(BAILIWICK OF GUERNSEY) LAW, 2002**

**FEEDBACK ON THE CONSULTATION PAPER ON THE CODE OF  
CONDUCT FOR AUTHORISED INSURANCE REPRESENTATIVES**

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This feedback paper reports on input received by the Guernsey Financial Services Commission on the Consultation Paper issued on 6 December 2016 and consequent related changes.

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## **Background**

During December 2016 and January 2017 the Commission consulted on proposals to amend the Code of Conduct for Authorised Insurance Representatives (“the Code”).

In making these proposals the Commission sought to address its conclusion from the thematic review into the sale of general insurance add-on policies that improvements to sales practices were required and to enhance the Code’s effectiveness given current trading methodologies and rapidly changing and developing customer behaviour.

The Commission’s [Report on the Thematic Review of the Sales of General Insurance Add-on Products](#) can be found on the Commission’s website.

During the consultation period the Commission held two drop-in sessions for insurance intermediary licensees to discuss aspects of the consultation proposals to assist licensees in formulating a response. Four licensees attended these sessions. In addition, subsequent to the closure of the consultation period, the Commission met with two further licensees to clarify queries arising from their consultation responses. The Commission is grateful to these licensees, and the respondents, for their assistance in helping to refine the Code from an industry perspective.

## **Feedback received and consequent changes**

The Commission received ten responses to this consultation; these were broadly supportive of the proposed revision. The Commission considered all responses, and, where appropriate the Code has been amended to add clarity to the Code and its application. None of these amendments are material or fundamental.

A summary of substantive comments, with reference to the relevant section of the draft Code, along with the Commission’s response follows:

- **3.11.** Two respondents commented that allowing a customer to opt to switch authorised insurance representative within the firm may result in a conflict of interest that the licensee would not be comfortable with.

This is a consideration for the firm, not the authorised insurance representative, therefore the Commission has removed this requirement.

- **8.1.4.** This section requires an authorised insurance representative to disclose to the customer the classes of insurance and products upon which he is authorised to provide advice or arrange, and the range, scope and any limitations in the insurers and/or products upon which he is able to provide advice.

One respondent commented that it may be impractical to comply with the first part of this section where authorisation spans a number of classes and products. The respondent also commented that the licensee had a responsibility to ensure

an authorised insurance representative only provided advice on products for which they held the appropriate authorisation.

Having considered the practicalities and the responsibilities of the firm, the Commission has removed the first part of this requirement. However, the second part remains in that the authorised insurance representative should still disclose the range, scope and any limitations in the insurers and/or products upon which he is able to provide advice and/or arrange.

- **8.1.12.** One respondent sought clarification on how an insurance policy which forms an integral part of another product which, in itself, is not a policy of insurance, should be treated.

The Commission has added a guidance note to this section confirming the requirement for the features, benefits and limitations of such a policy to be explained.

- **8.1.13.** One respondent commented that this section may provide an authorised insurance representative with the ability to override a licensee's policies and procedures. The respondent stated that the licensee's policies and procedures should set down the timescales and service standards that an authorised insurance representative should comply with.

The Commission has reflected the responsibility for the authorised insurance representative to comply with their licensee's policies and procedures through this requirement being inserted in section 3.5.

- **8.4.2.** Three respondents commented that displaying the prior year premium may mislead or cause confusion for the customer where there had been mid-term adjustments that could result in an unfair comparison. One further respondent commented that they had no concern with this disclosure for personal lines, but felt that commercial policies could be subject to large fluctuations during the policy term leading to potentially large changes in premium during the period.

The Commission has concluded that prior year premium should be included on personal lines renewal documents as this may prompt the customer to query a significant change. With regard to commercial customers, the Commission considers that small business owners may also benefit from the disclosure of prior year premium in the same way that a personal lines customer would. However larger firms with more sophisticated buyers of insurance and more complex insurance structures would be expected to have a greater knowledge and understanding of their insurance programme and gain little benefit from this disclosure.

The Commission has amended the Code to incorporate the above. The requirement in 8.4.5. for the authorised insurance representative to take into account customer knowledge when deciding what to explain to a customer has

been moved to immediately follow section 8.4.2 and expanded. Where a customer who is not a layman for insurance purposes has agreed to non-disclosure of prior year premium, this need not be disclosed upon renewal.

- **9.1.6.** One respondent commented that the disclosure of commission for long term pure protection products could be detrimental to the customer, and provided examples of such cases. The respondent suggested that commission disclosure should be on the same basis as general insurance, namely on request from the customer. This comment was also raised during the workshops held with insurance intermediary licensees.

Having reflected further on this representation, the Commission considers that mandatory disclosure puts local brokers at a disadvantage to online purchase from UK providers where commission is not required to be disclosed and has deleted this requirement.

An explanatory note has been added to end of the Code in relation to the introduction of the transitional requirement for an existing customer to positively select an add-on policy upon first renewal following the introduction of the Code and in relation to the disclosure of prior year premium.

The Commission is grateful to all respondents for taking the time to consider and comment on the proposals.

### **Next Steps**

[The final version of the Code](#) can be found on the Commission's website.

For ease of reference, a marked up version of the draft Code that was released in the consultation, showing amendments arising from the consultation, is provided in the Annex to this document.

The Code will come into effect on 1 April 2017.

## **ANNEX**

# **THE CODE OF CONDUCT FOR AUTHORISED INSURANCE REPRESENTATIVES**

This document was the subject of the consultation released on 6 December 2016 and has been marked up to show the amendments made as a result.



Guernsey Financial  
Services Commission

# CODE OF CONDUCT FOR AUTHORISED INSURANCE REPRESENTATIVES

~~For ease of reference, the proposed Code has been marked to show new inclusions and amendments to sections carried over from the current Code in red text.~~

~~Those sections carried over, in black, are annotated with its corresponding section of the current Code. This annotation will be deleted on issue of the Code~~

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## **The Principles of Conduct of Finance Business**

### **1. Integrity**

A licensee should observe high standards of integrity and fair dealing in the conduct of its business.

### **2. Skill, Care and Diligence**

A licensee should act with due skill, care and diligence towards its customers and counterparties.

### **3. Conflicts of Interest**

A licensee should either avoid any conflict of interest arising or, where a conflict arises, should ensure fair treatment to all its customers by disclosure, internal rules of confidentiality, declining to act, or otherwise. A licensee should not unfairly place its interests above those of its customers and, where a properly informed customer would reasonably expect that the licensee would place his interests above its own, the licensee should live up to that expectation.

### **4. Information about Customers**

A licensee should seek from customers it advises or for whom it exercises discretion any information about their circumstances and investment objectives which might reasonably be expected to be relevant in enabling it to fulfil its responsibilities to them.

### **5. Information for Customers**

A licensee should take reasonable steps to give a customer it advises, in a comprehensible and timely way, any information needed to enable him to make a balanced and informed decision. A licensee should similarly be ready to provide a customer with a full and fair account of the fulfilment of its responsibilities to him.

### **6. Customer Assets**

Where a licensee has control of or is otherwise responsible for assets belonging to a customer which it is required to safeguard, it should arrange proper protection for them, by way of segregation and identification of those assets or otherwise, in accordance with the responsibility it has accepted.

### **7. Market Practice**

A licensee should observe high standards of market conduct, and should also comply with any code of standard as in force from time to time and issued or approved by the Commission.

### **8. Financial Resources**

A licensee should ensure that it maintains adequate financial resources to meet its finance business commitments and to withstand the risks to which its business is subject.

## **9. Internal Organisation**

A licensee should organise and control its internal affairs in a responsible manner, keeping proper records, and where the licensee employs staff or is responsible for the conduct of finance business by others, should have adequate arrangements to ensure that they are suitable, adequately trained and properly supervised and that it has well-defined compliance procedures.

## **10. Relations with the Guernsey Financial Services Commission**

A licensee should deal with the Commission in an open and co-operative manner and keep the regulator promptly informed of anything concerning the licensee which might reasonably be expected to be disclosed to it.

The Guernsey Financial Services Commission (“*the Commission*”), in exercise of the powers conferred on it by section 18 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002, as amended (“*the Law*”) hereby makes the following code of conduct:

## 1. Introduction

### 1.1. Citation, commencement and application

- 1.1.1. This code of conduct may be cited as the Code of Conduct for *Authorised Insurance Representatives* (“*the Code*”) and shall come into operation on 1 ~~March~~ April 2017.
- 1.1.2. *The Code* applies to all *Authorised Insurance Representatives* unless specifically agreed otherwise by *the Commission* in accordance with section 1.1.3.-
- 1.1.3. *The Commission* may in its absolute discretion by notice in writing to a *licensee* exclude or modify the application of any provision of *the Code* if *the Commission* is satisfied that any such derogation will not be prejudicial to the interests of *customers*.

### 1.2. Background

- 1.2.1. Section 15 of *the Law* requires a *licensee* to authorise one or more *authorised insurance representatives* to act on his behalf. The effect of this authorisation is that the *licensee* has responsibility for the actions and conduct of the *authorised insurance representative*.
- 1.2.2. Section 3(1) of Schedule 4 Minimum Criteria for Licensing to *the Law* requires an *authorised insurance representative* to be a fit and proper person to hold that position.
- 1.2.3. *The Code* is an extension of the Principles of Conduct of Finance Business, which were issued by *the Commission* in February 1991. The Principles of Conduct of Finance Business should be observed by *authorised insurance representatives* at all times.
- 1.2.4. In addition, under section 18 of *the Law*, *the Commission* has made the Insurance Intermediaries (Conduct of Business) Rules 2014 (“*the Intermediaries’ Rules*”).

Rule 3.1.2 of *the Intermediaries’ Rules* requires a *licensee* to take reasonable steps, including the establishment and maintenance of procedures, to ensure that its officers and employees act, to the extent applicable, in conformity with, amongst other items, their own and their employer’s relevant responsibilities under *the Law* and the rules made thereunder.

Rule 5.1.2 of *the Intermediaries’ Rules* requires a *licensee* to have adequate and effective systems of control in place to ensure that its *authorised insurance representatives* comply with *the Code*.

Rule 3.5.2 of *the Intermediaries’ Rules* requires a *licensee* to create and implement a training and competency scheme for all *authorised insurance representatives* appropriate to the nature and scale of the *licensee’s* business.

Rule 10.1.1 of *the Intermediaries’ Rules* requires a *licensee* to establish, implement and maintain an effective conflicts of interest policy.

### 1.3. Framework

- 1.3.1. The purpose of *the Code* is to set a framework of behaviour for *authorised insurance representatives*. *The Code* is also intended to apply in circumstances where advising or arranging is carried out via electronic means, such as automated websites, application software (apps) or any other software.
- 1.3.2. No code of conduct can be exhaustive in all circumstances. In areas where *the Code* is not specific, *authorised insurance representatives* should be guided by *the Code*'s underlying spirit.
- 1.3.3. Lack of mention in *the Code* of a particular act or omission should not be taken as an indication that such an act or omission constitutes reasonable conduct.
- 1.3.4. In instances where regulatory requirements do not appear to have been met, which would include poor conduct by an *authorised insurance representative*, this may be investigated by *the Commission*. Nevertheless, claims against the *licensee* and their employees for compensation are matters for determination by the Channel Islands Financial Ombudsman or the Courts.
- 1.3.5. A person should not use the term “*authorised insurance representative*” unless authorised to do so by their *licensee*.
- 1.3.6. *The Code* is designed for compliance by all *authorised insurance representatives* advising on or arranging general insurance and *long term pure protection* products in or from within the Bailiwick of Guernsey and those advising on or arranging Guernsey policies outside the Bailiwick of Guernsey.

## 2. Interpretation

For the purposes of this ~~c~~Code:

“add-on policy” means a policy or benefit which is sold as a complementary cover to a primary policy, and is provided by a separate insurer for a separate premium;

“authorised insurance representative” means an individual authorised in accordance with section 16 of *the Law* and is a fit and proper person in accordance with section 3(1) of Schedule 4 to *the Law*;

“the Code” means the Code of Conduct for *Authorised Insurance Representatives*;

“the Commission” means the Guernsey Financial Services Commission;

“conditional selling” means circumstances where the purchase of an insurance policy to protect a product, service or asset is required in order for the *customer* to secure that product, service or asset, and that policy must be purchased from the same firm and from a specified insurer. For example, a lender requiring protection against the inability of the borrower to maintain payments under a credit agreement in the event of death, illness or injury;

“customer” means the client as defined in the Insurance Intermediaries (Conduct of Business) Rules 2014, meaning any person with or for whom a *licensee* carries on, or intends to carry on, *insurance intermediary business*;

“durable medium” means paper or any electronic storage which enables the *customer* to retrieve information addressed to him, in a way that is accessible for an adequate time period for the purposes of the information, or for the *licensee* to retain information in relation to a *customer*;

“fair presentation of risk” is a term from the Insurance Act 2015 which applies to any commercial policy of insurance written under United Kingdom law, and in the context of *the Code* means to disclose every *material* circumstance which the *customer* knows or ought to know, or to provide the insurer with sufficient information to put that insurer on notice that it needs to make further enquiries for the purpose of revealing those *material* circumstances;

“the Intermediaries’ Rules” means the Insurance Intermediaries (Conduct of Business) Rules 2014;

“insurance intermediary business” means performing, by way of business, any of the activities defined in section 2(5) of *the Law*;

“intermediary services” means activities undertaken in the course of carrying on *insurance intermediary business*;

“the Law” means the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002;

“licensee” means a licensed insurance manager or a licensed insurance intermediary that has authorised the *authorised insurance representative* pursuant to section 15 of *the Law*;

“long term insurance product” consistent with *the Intermediaries’ Rules*, means any policy or product falling under ~~S~~chedule 1 to~~ef~~ *the Law* excluding permanent health, credit life assurance and any contracts on human life that are renewable annually;

“long term pure protection product” consistent with *the Intermediaries’ Rules*, means long term business (as defined in Schedule 1 to *the Law*) where the benefits are not determined by reference to:

- a) the value of, or the income from, the value of property of any description; or
- b) fluctuations in, or an index of, the value of property of any description;

“material” in relation to a circumstance, representation or fact means it would influence the judgement of a prudent insurer in determining whether to accept the risk and, if so, on what terms;

“other relevant legislation or Code of Conduct” means any legislation enacted to enable *the Commission* to supervise the carrying on of insurance business. Other codes of conduct include Codes of Conduct of professional bodies that *authorised insurance representatives* may belong to, for example, the Chartered Insurance Institute or the Institute and Faculty of Actuaries;

“reasonable search” is a term from the Insurance Act 2015 which applies to any commercial policy of insurance written under United Kingdom law, and in the context of *the Code* means a search of the information available to the *customer* in order to discover and disclose *material* circumstances.

### 3. Integrity

#### ***An authorised insurance representative should:***

- 3.1. take reasonable steps to comply with all relevant laws, regulations, rules, codes, guidance, principles and instructions when dealing with *customers*; ~~[3.1.1.]~~
- 3.2. ~~do nothing~~ take reasonable care to not damage the reputation of the Bailiwick of Guernsey, the *licensee*, the *Commission* or the profession generally;
- 3.3. in the conduct of *insurance intermediary business*, provide advice objectively and not act in any way which is contrary to *the Code* or any other relevant legislation or *Code of Conduct* or Practice; ~~[3.1.2.]~~
- 3.4. take reasonable steps to know and understand his responsibilities as an *authorised insurance representative*;
- ~~3.4.~~3.5. take reasonable care to comply with their licensee's policies and procedures. If a conflict arises which could result in the authorised insurance representative breaching any part of this code, the authorised insurance representative should seek guidance from the licensee's compliance officer;
- ~~3.5.~~3.6. immediately inform the *licensee* should the *authorised insurance representative* breach any part of the *Code*; ~~[8.1.]~~
- ~~3.6.~~3.7. allow themselves yes to be supervised by their *licensee*;
- ~~3.7.~~3.8. conduct themselves yes with honesty and with integrity;
- ~~3.8.~~3.9. fairly treat any person or organisation with whom they deal in their professional environment and above all, treat *customers* fairly;
- ~~3.9.~~3.10. \_\_\_\_\_ recognise that some *customers* might be classed as vulnerable and take reasonable account of their needs;
- ~~3.10.~~3.11. \_\_\_\_\_ not make inaccurate or unfair criticisms of any financial institution; ~~[5.1.4.]~~
- ~~3.11.~~3.12. \_\_\_\_\_ have proper regard for the wishes of a *customer* who seeks to terminate an insurance policy or switch ~~their authorised insurance representative within the licensee or~~ to another insurance intermediary; ~~[6.1.6.]~~
- ~~3.12.~~3.13. \_\_\_\_\_ not use or disclose any information acquired from his *customers* except in the normal course of negotiating, maintaining or renewing a contract of insurance, or in handling a claim for a *customer*, unless the written consent of the *customer* has been obtained beforehand or disclosure of the information is required by law or in fulfilling regulatory requirements; ~~[3.2.6.]~~
- ~~3.13.~~3.14. \_\_\_\_\_ draw to the attention of an appropriate person within the *licensee* anything relating to the *licensee's* business that may reasonably be expected to be disclosed to the *Commission*; and
- ~~3.14.~~3.15. \_\_\_\_\_ deal with the *Commission* in an open and co-operative manner.

#### 4. Skill, Care and Diligence

**An authorised insurance representative should:**

- 4.1. act with a reasonable standard of skill, care and diligence;
- 4.2. take reasonable ~~steps~~ care to avoid errors wherever and whenever it is reasonably possible to do so. An *authorised insurance representative* should do all that is reasonable to assist the *customer* and their *licensee*;
- 4.3. be competent to verify that any policy being issued to the *customer* is accurate, or, if not, refer to a suitably experienced *authorised insurance representative*;
- 4.4. give advice only on those matters in which he is competent and should seek advice from or recommend ~~specialist advice~~ a suitably experienced authorised insurance representative where necessary;
- 4.5. ensure as far as possible that where advice is being given, the policy is suitable for the demands and needs of the *customer*; ~~[4.1.2.]~~
- 4.6. where advice is being given and where a choice of insurer is available to the *authorised insurance representative*, use his judgement objectively in the best interests of his *customer*; ~~[5.1.3.]~~
- 4.7. generally, deal with correspondence promptly;
- 4.8. convey instructions and relevant information to or from *customers*, insurers or other appropriate parties clearly, accurately and in a timely manner; and
- 4.9. keep proper records.

##### **Guidance Note**

A proper record should:

- 1) be kept in a *durable medium*;
- 2) include, as a minimum, details of information gathered, advice given, policies arranged, conversations, meetings, agreed actions and tasks relevant to meeting the *customer's* demands and needs;
- 3) be readily retrievable and understandable by a peer practitioner who reasonably could continue to advise the *customer* or make arrangements for their insurance in the absence of the *authorised insurance representative*; and
- 4) be kept in accordance with the *licensee's* record keeping policy.

**In the following specific circumstances an authorised insurance representative should:**

- 4.10. in the event of becoming aware of a potential or actual claim, know and understand the policies and procedures put in place by the *licensee* and take reasonable steps to carry these out; ~~[6.1.3.]~~ ~~[6.1.4.]~~

- 4.11. where the *licensee* has authority from an insurer to bind cover, know and understand the terms of that authority and take reasonable care not to act outside that agreement and the authority given to him by the *licensee*; and
- 4.12. not arrange an *add-on policy* where the *customer* has not consented to this. In arranging an *add-on policy*, only do so when the *customer* has positively chosen that policy in addition to the primary policy.

## 5. Training and Competency

**An authorised insurance representative should:**

- 5.1. take reasonable steps to comply with any training and competency scheme implemented by their *licensee*;
- 5.2. ~~as a minimum,~~ take reasonable steps to keep up to date with technical matters, changes in the market to products, legislation and regulation to the extent that these relate to the products and/or services upon which they are authorised to advise or arrange;
- 5.3. allow themselves ~~yes~~ to be assessed and monitored for competence by their *licensee* and maintain proper learning and continuing professional development records; and
- 5.4. address any areas for improvement as identified by their *licensee*.

## 6. Conflicts of Interest

**An authorised insurance representative should:**

- 6.1. be able to identify potential conflicts of interest and refer them to their *licensee* in accordance with the *licensee's* conflicts of interest policy; and
- 6.2. not act in a manner which is inconsistent with the prioritisation of the interests of the *customer* ahead of all others.

## 7. Gathering information from Customers

**An authorised insurance representative should:**

- 7.1. pay due regard to the duties of disclosure, *reasonable search* and *fair presentation of risk* as it relates to the *customer* and themselves ~~yes~~ and reasonably seek to gather sufficient information so that adequate disclosure, or where appropriate, a *fair presentation of risk* can be made to insurers and/or underwriters; ~~[5.1.7.]~~

### Guidance Note

An authorised insurance representative should take reasonable steps to help the *customer* make adequate disclosure, or where appropriate, a *fair presentation of risk* and to make an informed decision. It is up to the authorised insurance representative and the *licensee* to decide what level of explanation should be supplied to the *customer*. In particular, the actual *customer* should know and understand how and why a claim might be reduced or rejected and they should know the effect of not complying with ~~any~~ the terms or conditions ~~under~~ of the policy.



- 7.2. gather sufficient information to give suitable advice and/or arrange an insurance policy to meet the *customer's* demands and needs; and ~~[4.1.1.]~~
- 7.3. take reasonable steps to identify the knowledge of the *customer* when gathering information and deciding what information to gather, in the absence of which, the *customer* should be considered a layman for insurance purposes.

#### Guidance Note

When considering the knowledge of the *customer*, it might be helpful to consider a structure along the following lines:

**Insurance Layman:** Generally all personal and commercial *customers* will fall into this category. If this is the judgement of the *authorised insurance representative*, then *the Code* should be followed in its entirety.

**Experienced Insurance Layman:** A person who deals with insurance matters on a regular basis and has acknowledged in writing that they do not need all explanations at inception repeated at renewal. However, at the inception of a policy, the *customer* is considered to be an insurance layman. The fact that a *customer* has dealt with insurance matters regularly for some time is, on its own, not sufficient evidence that the person concerned is other than an insurance layman (e.g. a *customer* purchasing motor insurance each year).

**Insurance Sophisticated:** This is likely to be a person who, on a full or part time basis, is responsible for negotiating, placing or managing relevant insurance business and where there is evidence that they have worked in that part of the insurance industry. This classification may also include other insurance professionals who are less experienced in a matter than the *authorised insurance representative*.

**Peer Practitioner:** This is another insurance broker working at the same level and in the class of business being advised on and/or arranged.

## 8. Giving Information to *Customers*

### 8.1. General Standards

**Prior to providing *intermediary services* to a *customer*, an *authorised insurance representative* should:**

- 8.1.1. whenever possible, make an appointment before visiting a prospective *customer*; ~~[3.1.3.]~~
- 8.1.2. where unsolicited calls are unavoidable, yet deemed to be in the *customer's* best interests, ensure that they are made on a day and at a time likely to be convenient to the *customer*; ~~[3.1.4.]~~
- 8.1.3. when making contact, by any medium of communication with a prospective *customer*, for the purpose of marketing, advising on, or arranging *insurance intermediary business*, identify himself, his *licensee* and explain the purpose for contact at the outset; ~~[3.1.5.]~~
- 8.1.4. disclose to the *customer* the ~~classes of insurance and products upon which he is authorised to provide advice and/or arrange, and the~~ range, scope and any limitations in the insurers and/or products upon which he is able to provide advice and/or arrange; ~~[3.2.2.]~~ ~~[3.2.3.]~~

#### Guidance Note

Limitations to be disclosed would include where a *licensee* offers policies from a single or limited number of insurers.

- 8.1.5. clarify to the *customer*, when no advice is being sought or given, that the suitability of any policy has not been assessed by the *authorised insurance representative*, and the selection of the policy is a decision for the *customer* to make;
- 8.1.6. where a *customer* is seeking, or the *authorised insurance representative* is providing advice on one or more specifically requested products only, the limitation of that advice to not extend beyond those products and the responsibilities of the *authorised insurance representative* should be confirmed to the customer; and
- 8.1.7. disclose to the *customer* any involvement in *conditional selling* and explain its consequences now or in the future. ~~{3.2.4.}~~

**In the course of providing *intermediary services* to a *customer*, an *authorised insurance representative* should:**

- 8.1.8. if requested by the *customer*, disclose to the *customer* any and all remuneration to be received in connection with a transaction. If the amounts are not known, then the basis of calculation should be provided;
- 8.1.9. pay due regard to the information needs of the *customer* and communicate information in a timely manner and in a way which is clear, fair and not misleading in terms that the *customer* can understand and upon which the *customer* can make an informed decision;
- 8.1.10. take into account the knowledge of the *customer* when deciding what to explain. In the absence of any judgement being made, the *customer* should be considered a layman for insurance purposes. Relevant guidance is available under section 7.3; and
- 8.1.11. not make comparisons with another type of policy unless he explains the differing terms, outlining the advantages and disadvantages of each policy as they might affect that *customer* and the identified demands and needs of that *customer*. ~~{5.1.5.}~~
- 8.1.12. An *authorised insurance representative* must explain the features, benefits and limitations of any *add-on* policy which they wish to bring to the *customer's* attention.

#### Guidance Note

Although not falling within the meaning of an *add-on policy* for the purposes of this code, where an insurance policy forms an integral part of another product which, in itself, is not a policy of insurance and which cannot be untangled from the core product, the *authorised insurance representative* must explain the features, benefits and limitations of the policy.

8.1.13. Where disclosure under section 8.1- has been made ~~verbally~~orally, this should be made available to the *customer* in a *durable medium* as soon as reasonably possible.

## 8.2. Pre-inception Standards

***An authorised insurance representative should:***

- 8.2.1. ensure the *customer* has received a copy of the *licensee's* terms of business. Where this has not been received, the *authorised insurance representative* should provide the *customer* with, or a means to access, a copy of the *licensee's* terms of business;
- 8.2.2. provide the *customer* with prompt written confirmation of details of the insurance which is going to be put in place on their behalf; ~~[6.1.1.]~~
- 8.2.3. where confirmation of cover cannot be provided pre-inception, provide this as soon as reasonably possible, and in any event, in sufficient time to exercise any option to cancel or withdraw from the contract; ~~[6.1.1.]~~
- 8.2.4. explain ~~that~~whether there will be an opportunity for the *customer* to cancel or withdraw from the contract and during what period he would~~ill~~ be able to exercise this~~at~~ option; ~~[5.1.8.]~~
- 8.2.5. where possible, provide a copy of the policy wording to the *customer* pre-inception, if not possible, provide this as soon as reasonably possible post-inception, and in any event, in sufficient time to exercise any option to cancel or withdraw from the contract;
- 8.2.6. take reasonable steps to identify and explain the principal terms of any contract of insurance recommended by him, and draw the *customer's* attention to and explain significant and/or onerous conditions in the proposed contract of insurance and their effect, which may affect the *customer's* decision or if not complied with might result in the avoidance of the policy or a repudiation or reduction of a claim; ~~[5.1.1.]~~  
~~[5.1.2.]~~

### Guidance Note

Significant and/or onerous conditions may, for example, include premium payment, claim notification conditions, warranties, conditions precedent, suspensory conditions, subjectivities, excesses, exclusions, clauses, or obligations to notify the insurer of changes to the risk during the policy period.

- 8.2.7. take reasonable steps to help the *customer* know and understand the duty to disclose all *material* facts, and where appropriate, what is a *reasonable search* for information, and the duty to make a *fair presentation of risk*, making it clear to the *customer* that all answers or statements are the *customer's* own responsibility before the *customer* completes a form or any other document gathering information, or being asked to give information;

### Guidance Note

The *authorised insurance representative* should consider that a layman for insurance purposes might not understand which facts are *material* or are arguably *material* for any particular policy and should take reasonable steps to assist the *customer* in making an informed disclosure.

- 8.2.8. draw the *customer's* attention to the premium payment terms and the effect of not meeting these; ~~[5.1.6.]~~

- 8.2.9. disclose all additional charges related to the provision of *intermediary services*, including but not limited to administration fees, cancellation and duplicate document charges; ~~[6.1.5.]~~
- 8.2.10. where there is a delay between the presentation of risk to the insurer and the inception of the policy, remind the *customer* before the policy goes on risk that non-disclosure of *material* facts or the inclusion of incorrect information may, for example, result in a claim being repudiated or not paid in full;
- 8.2.11. if completing the presentation of risk (in whatever form and for whatever class of business) on behalf of the *customer*, ask the *customer* to check, amend if necessary and agree the details before the policy goes on risk;
- 8.2.12. inform the *customer* of the name of each insurer with whom a policy is placed. This information should be given whenever possible prior to the inception of the policy. Any subsequent change to the name of the insurer should be advised to the *customer* as soon as reasonably possible; and ~~[5.1.9.]~~
- 8.2.13. where disclosure under section 8.2- has been made ~~verbally~~orally, make it available to the *customer* in a *durable medium* as soon as reasonably possible.

### 8.3. Post-inception Standards

**During the term of an insurance contract, the *authorised insurance representative* should:**

- 8.3.1. in the case of certificated proof of cover (e.g. motor, employer's liability) send the certificate to the *customer* promptly if that document has not been provided pre-inception;
- 8.3.2. forward full policy documentation to the *customer* as soon as reasonably possible where this has not been included with confirmation of cover;
- 8.3.3. not withhold any documentation relating to the policy of insurance from the *customer*; ~~[6.1.2.]~~
- 8.3.4. where there is a mid-term adjustment, deal with the matter promptly and take the opportunity to remind the *customer* of the duty of disclosure, and where appropriate, *fair presentation of risk* and *reasonable search*; and
- 8.3.5. in the event of a mid-term adjustment, draw the *customer's* attention to any additional premium payment terms and the effect of not meeting these.

### 8.4. Renewals

**At renewal, an *authorised insurance representative* should:**

- 8.4.1. provide the *customer* with renewal terms in a reasonable timeframe for the *customer* to consider whether they wish to proceed with the renewal offer; ~~[6.1.8.]~~
- 8.4.2. confirm to the *customer* his existing cover, prior year premium, any significant changes in cover or terms and draw the *customer's* attention to, and explain, significant and/or onerous conditions in the proposed contract of insurance and their effect, which may affect the *customer's* decision or, if not complied with, might result in the avoidance of the policy, a repudiation or reduction of a claim. Relevant guidance is available under 8.2.6-;

8.4.3. take into account the knowledge of the *customer* when deciding what to explain. In the absence of any judgement being made, the *customer* should be considered a layman for insurance purposes. Where the *customer* for a commercial policy has been identified as being other than a layman for insurance purposes, prior year premium should be disclosed at renewal, unless non-disclosure of prior year premium has been agreed with the *customer*. Relevant guidance on identification of customer knowledge is available under section 7.3.

~~8.4.3.~~8.4.4. take reasonable steps to help the *customer* know and understand the duty to disclose all *material* facts, and where appropriate, what is a *reasonable search* for information and the duty to make a *fair presentation of risk*, making it clear to the *customer* that all answers or statements are the *customer's* own responsibility; and

#### Guidance Note

This should take place before the *customer* is asked to complete a form or any other document gathering information, or the *customer* is asked to give any other information or check documentation for accuracy.

~~8.4.4.~~8.4.5. not advise a *customer* to replace or cancel an insurance contract unless it is in the best or stated interests of the *customer*. ~~{6.1.7.}; and~~

~~8.4.5. take into account the knowledge of the *customer* when deciding what to explain. In the absence of any judgement being made, the *customer* should be considered a layman for insurance purposes. Relevant guidance is available under section 7.3..~~

## 9. Long Term Pure Protection Products

### 9.1. Additional Requirements

**An authorised insurance representative advising on or arranging long term pure protection products should:**

9.1.1. comply with sections 3 to 8 inclusive;

9.1.2. take reasonable steps to ensure that he has sufficient knowledge and understanding of the legislation (including taxation legislation) which would affect the *customer* and the products that the *authorised insurance representative* is recommending, or that the *customer* already owns. If he is unable to meet this standard he should inform the *customer* and, if possible, refer the *customer* to a person who can give appropriate advice; ~~{7.1.1.}~~

9.1.3. not advise a *customer* to convert, allow to lapse, cancel or surrender any *long term pure protection product* unless he can demonstrate the action to be in the best or stated interests of the customer. If such action is advised the advice should be fully documented. If such action is not advised, the reasons for the action should be sought from the *customer*, even if not received; ~~{7.1.2.}~~

9.1.4. take reasonable steps to obtain and record information from the *customer* concerning the personal and financial circumstances of that *customer* necessary to give advice suitable for the demands and needs of the *customer* and to make a fair presentation to insurers; ~~{7.1.3.}~~and

9.1.5. where a *customer* has requested an *authorised insurance representative* to arrange a specific policy without advice, confirm in writing, that the *customer* did not seek any advice from, and was not given any advice by the *authorised insurance representative*. ~~{7.1.4.}; and~~

~~9.1.6. disclose in writing to the customer the amount or percentage of remuneration that the licensee will receive as a result of the sale or variation of a long term pure protection product. [7.1.5.]~~

## **9.2. Code of Conduct for Financial Advisers**

9.2.1. Where an authorised insurance representative's licensee also provides advice on long term insurance products and its authorised insurance representatives follow the requirements of the Code of Conduct for Financial Advisers, the requirements of the Code are considered to have been met.

## **10. Transitional Period Explanatory Note**

10.1. With reference to section 4.12, following the introduction of this code, upon first renewal for a customer whose renewal includes one or more add-on policies, the customer should positively chose to continue with each add-on policy. Once a customer has positively chosen an add-on policy, that customer's renewal notice may offer the choice to either opt-in or to opt-out of the add-on policy on future renewal.

10.2. With reference to sections 8.4.2 and 8.4.3, following the introduction of this code, a customer should be provided with confirmation of his prior year premium upon renewal. The Commission accepts that changes may need to made to the licensee's computer software to allow for such changes to be displayed and would expect such changes to have been made as soon as reasonably possible and in any event by the first anniversary of the introduction of this code.

## **11. Revocation**

11.1. The Code of Conduct for Authorised Insurance Representatives effective from 1 January 2015 is revoked with effect from the date of commencement of the Code.