

Funeral Plan: Conduct of Business sourcebook

Schedule 1 Recordkeeping requirements

Sch 1.1 G

The aim of the guidance in the following table is to give the reader a quick overall view of the relevant record keeping requirements in *FPCOB*.

Sch 1.2 G

It is not a complete statement of those requirements and should not be relied on as if it were.

Handbook reference	Subject of record	Content of record	When record must be made	Retention period
FPCOB 3.1.11R, 3.1.12G(3)	Monies held on trust for <i>customers</i>	Location and amount of monies held on trust for particular <i>customers</i>	When making safeguarding arrangements specified in FPCOB 3.1.11R	Not specified
FPCOB 4.2.13R(1)	<i>Financial promotion</i>	<i>A financial promotion communicated or approved</i> (subject to exemptions)	When <i>communicated or approved</i>	6 years
FPCOB 4.2.13R(2)	Telemarketing scripts	Copy of any script used	Date script used	6 years
FPCOB 6.4.18R	<i>FP distribution charges</i>	<i>FP distribution charges</i> paid by each <i>customer</i>	Date paid by <i>customer</i>	Not specified
FPCOB 15.9.4G	Calculation of <i>core capital resources</i>	Reasons for any difference between the <i>deficit reduction amount</i> and any public commitment to provide funding in respect of a <i>defined benefit occupational pension scheme</i>	When calculating its capital resources for the <i>core capital resources requirement</i>	Not specified
FPCOB 15.10.5R	Risk assessments	Assessments required under FPCOB 15.10.4R including major sources of risk and how the	When assessments are made under FPCOB 15.10.4R	At least 3 years

Handbook reference	Subject of record	Content of record	When record must be made	Retention period
FPCOB 16.1.5R(4)	Single central record	<i>firm</i> intends to deal with them Single central record containing all up-to-date and pertinent information and documents relating to each <i>funeral plan contract</i>	Date <i>firm</i> entered into <i>funeral plan contract</i>	Not specified
FPCOB 16.2.3R	The <i>firm's</i> most recent <i>funeral plan resolution manual</i>	As stated in the <i>rule</i>	When the <i>funeral plan resolution manual</i> is made or updated	None specified (but see FPCOB 16.2.4R)

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Schedule 2 Notification and reporting requirements

Sch 2.1 G

The aim of the *guidance* in the following table is to give the reader a quick overall view of the relevant notification and reporting requirements in *FPCOB*.

Sch 2.2 G

It is not a complete statement of those requirements and should not be relied on as if it were.

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
FPCOB 3.2.5R(1)	<i>Solvency assessment report</i>	A copy of the <i>solvency assessment report</i> to the <i>FCA</i>	<i>Funeral plan provider's</i> receipt of <i>solvency assessment report</i>	Within 7 days of receipt of <i>solvency assessment report</i>
FPCOB 3.2.5R(2)	Assets of the trust are insufficient to cover the liabilities	If the <i>solvency assessment report</i> concludes that assets of the trust are insufficient to cover the trust's liabilities, notification of that fact with the report	Conclusion in the report that the assets of the trust are insufficient to cover the trust's liabilities	In accordance with SUP 15.7.1R, at the same time as providing a copy of the <i>solvency assessment report</i> , see also FPCOB 3.2.5R(1)
FPCOB 3.2.8R	<i>Remediation plan</i>	<i>Remediation plan</i> to the <i>FCA</i> for review	Submission date of the relevant <i>solvency assessment report</i> to the <i>FCA</i>	In accordance with SUP 15.7.1R, as soon as possible and no later than 30 days from the submission date of the relevant <i>solvency assessment report</i>
FPCOB 3.2.10R(1)	Concerns with implementation of the <i>remediation plan</i>	<i>Funeral plan provider</i> to notify the <i>FCA</i> that it will not be able to fully implement the <i>remediation plan</i> in	<i>Funeral plan provider's</i> suspicion that it will not be able to fully implement the <i>remediation plan</i> in accord-	In accordance with SUP 15.7.1R, as soon as the <i>funeral plan provider</i> suspects that it will not be able to fully

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
FPCOB 3.2.10R(2)	Inability to fully implement the <i>remediation plan</i>	Notify the <i>FCA</i> if the solvency level of the trust remains below 100% following the <i>funeral plan provider's</i> attempts to implement the <i>remediation plan</i>	Inability to fully implement the <i>remediation plan</i>	In accordance with SUP 15.7.1R, immediately
FPCOB 3.2.11R(3)	Remediation of trust deficit	Remediation of trust deficit	Remediation of trust deficit	In accordance with SUP 15.7.1R and SUP 15.7.11G, as soon as reasonably practicable after the trust shortfall has been remedied
FPCOB 10.1.4R	Funeral arrangements	Notify the <i>customer</i> and (unless the circumstances in FPCOB 9.3.7R apply) nominated representative with relevant funeral director's name, address, contact details and summary of arrangements	Compliance with FPCOB 10.1.3R	As soon as practicable and in any event within 2 business days of compliance with FPCOB 10.1.3R

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Schedule 3 Right of action for damages

Sch 3.1 G

The table below sets out the *rules* in *FPCOB* the contravention of which by an *authorised person* may be actionable under section 138D of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.

Sch 3.2 G

If a "Yes" appears in the column headed "For private person?", the *rule* may be actionable by a "*private person*" under section 138D (or, in certain circumstances, that person's fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256)). A "Yes" in the column headed "Removed" indicates that the *FCA* has removed the right of action under section 138D(2) of the *Act*. If so, a reference to the rule in which it is removed is also given.

Sch 3.3 G

The column headed "For other person?" indicates whether the *rule* may be actionable by a *person* other than a *private person* (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

Rights of action under section 138D					
Chapter	Section/ Annex	Paragraph	For private person?	Removed?	Removed?
	The <i>fair, clear and not misleading rule</i> in FPCOB 4.2.1R		Yes	In part (Note 1)	No
	Any <i>rule</i> in <i>FPCOB</i> which prohibits an <i>authorised person</i> from seeking to make provision excluding or restricting any duty or liability		Yes	No	Yes Any other person
	The prudential <i>rules</i> for <i>firms</i> carrying on <i>regulated funeral plan activity</i> in FPCOB 15		No	Yes (see FPCOB 15.11.1R)	No
	All other <i>rules</i> in <i>FPCOB</i>		Yes	No	No
Notes					
1.	FPCOB 4.2.10R provides that if, in relation to a particular communication or <i>financial promotion</i> , a <i>firm</i> takes reasonable steps to ensure it complies with the <i>fair, clear and not misleading rule</i> , a contravention of that <i>rule</i> does not give rise to a right of action under section 138D of the <i>Act</i> .				

