

## Claims Management: Conduct of Business sourcebook

### CMCOB TP 1 Transitional Provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision coming into force
1	CMCOB 6.1.7R	R	<p>In relation to an agreement entered into before 1 April 2019:</p> <p>(1) the <i>firm</i> need not comply with CMCOB 6.1.7R until 1 July 2019; and;</p> <p>(2) the reference in CMCOB 6.1.7R to an illustration or estimate provided under CMCOB 4.2.5R is to be treated as a reference to the most recent illustration or estimate of fees (if any) provided before 1 April 2019.</p>	From 1 April 2019	1 April 2019
2	CMCOB 6.1.7R	G	<p>The effect of TP 1.1 is that, where a <i>firm</i> has sufficient information from which it may reasonably estimate what its fee under an agreement entered into before 1 April 2019 will be, the <i>firm</i> must provide an estimate to the <i>customer</i> no later than 1 July 2019 unless that estimate is unchanged from the most recent estimate given before 1 April 2019.</p>		
3	CMCOB 7.2.4R to 7.2.10R	R	<p>A <i>firm</i> need not comply with CMCOB 7.2.4R to 7.2.10R.</p>	1 April 2019 to 31 July 2019	1 April 2019



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## Schedule 1 Record-keeping 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 *CMCOB*.

### 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
CMCOB 2.2.2R	<i>Lead generators</i>	Steps taken to ascertain whether <i>lead generator</i> authorised and has systems and processes in place to comply with <i>data protection legislation</i> and the Privacy and Electronic Communications (EC Directive) Regulations 2003; and conclusions reached	When the steps are taken	Not specified
CMCOB 2.2.4R	Source of sales leads	<i>Lead generator</i> which supplied the lead	When the lead is accepted	Not specified
CMCOB 2.3.2R and 2.3.6R	Telephone calls and <i>electronic communications</i>	Call recording; and retention of <i>electronic communications</i>	When the call or the <i>electronic communication</i> is made or received	At least 12 <i>months</i> for call recording; according to SYSC 9.1.1R for <i>electronic communications</i>
CMCOB 4.3.1R	Availability of alternative methods for pursuing a claim; whether <i>customer</i> has outstanding liabil-	The <i>customer's</i> confirmation that they have alternative methods and the reasons for not using them; and	Before an agreement is entered into with the <i>customer</i>	Not specified

Handbook reference	Subject of record	Content of record	When record must be made	Retention period
CMCOB 6.1.5R	ities with the <i>person claim</i> made against; and whether <i>customer</i> subject to bankruptcy etc Costs not previously notified or changes to notified costs	the <i>customer's</i> confirmation regarding outstanding liabilities and bankruptcy etc <i>Customer's</i> consent in relation to costs	When consent obtained	Not specified

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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 *CMCOB*.

#### 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
CMCOB 2.2.7R	<i>Lead generator not an authorised person</i>	Identity and contact details (if known) of the <i>lead generator</i> , and the <i>firm's</i> reasons for not being satisfied that the <i>lead generator</i> may carry on <i>seeking out, referrals and identification of claims or potential claims</i> without breaching the <i>general prohibition</i>	The <i>firm</i> not being satisfied that the <i>lead generator</i> may carry on <i>seeking out, referrals and identification of claims or potential claims</i> without breaching the <i>general prohibition</i>	Promptly
CMCOB 7.2.8R	Changes in prudential resources requirement	Change in prudential resources requirement	The <i>firm</i> changing its prudential resources requirement	Within 14 days of that change



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## Schedule 3 Rights of action for damages

### Sch 3.1 G

The table below sets out the *rules* in *CMCOB* 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, his 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.

Chapter / Appendix	Section/ Annex	Paragraph	Right of action under section 138D		
			For private person?	Removed?	For other person?
		The clear, fair and not misleading <i>rule</i> in <a href="#">CMCOB 3.2.3 R</a>	Yes	In part (Note 1)	No
		The prudential <i>rules</i> for <i>firms</i> carrying on <i>regulated claims management activity</i> in <a href="#">CMCOB 7.2</a> and <a href="#">7.3</a>	No	Yes, <a href="#">CMCOB 7.1.2R</a>	No
		All other <i>rules</i> in <i>CMCOB</i>	Yes	No	No

Note: [CMCOB 3.2.3R](#) provides that if, in relation to a particular communication or *financial promotion*, a *firm* takes reasonable steps to ensure it complies with the *fair, clear and not misleading rule*, a contravention of that *rule* does not give rise to a right of action under section 138D of the *Act*.

