

Chapter 10

Arrangements for the funeral



10.1 Application and purpose

Application

10.1.1 R This chapter applies to a *funeral plan provider* that enters into a *funeral plan contract*, under which it undertakes to secure that another *person* provides a funeral for the *covered individual* on their death.

Purpose

10.1.2 G The purpose of the requirements in this chapter is to provide certainty at the point of sale of a *funeral plan contract* that an appropriate funeral services provider will provide the services required under the contract at no additional cost to the *customer* or the *covered individual's* estate.

Arrangements with the funeral services provider

10.1.3 R A *firm* must, within 30 days of the *customer's* purchase of a *funeral plan contract*, make appropriate arrangements for the funeral to be carried out. The arrangements must:

- (1) be legally enforceable;
- (2) be made with a funeral services provider that is located within a reasonable distance of the *covered individual's* address, unless:
 - (a) it is clear from the nature of the *funeral plan contract* that this was not the intention of both the funeral services provider and the *customer*; or
 - (b) the *customer* agrees otherwise;
- (3) identify the business name and address of the funeral services provider (including, as appropriate, the relevant branch) that will carry out the funeral; and
- (4) be such as to ensure that neither the *customer* nor the *covered individual's* estate are required to make further payments to the funeral services provider to provide the funeral in accordance with the *funeral plan contract*.

10.1.4 R Following compliance with ■ FPCOB 10.1.3R, the *firm* must within 2 *business days* provide the *customer* with a notification of:

- (1) the name, address and contact details of the relevant funeral services provider; and

		<p>(2) a summary of the arrangements made with the funeral services provider,</p> <p>in accordance with ■ FPCOB 6.2 (Means of communication to customers).</p>
10.1.5	R	The <i>firm</i> must provide the notification in ■ FPCOB 10.1.4R to the nominated representative at the same time as it is provided to the <i>customer</i> unless the circumstances in ■ FPCOB 9.3.7R apply.
10.1.6	R	The <i>firm</i> must regularly review the arrangements under ■ FPCOB 10.1.3R to ensure that the funeral services provider will provide the services required under the <i>funeral plan contract</i> .
10.1.7	G	For the purposes of ■ FPCOB 10.1.6R, a review should take place at least every 12 <i>months</i> .
10.1.8	R	If at any time after a <i>firm</i> has complied with ■ FPCOB 10.1.3R, a <i>firm</i> becomes aware that the funeral services provider is unable or likely to be unable to provide the services required under the <i>funeral plan contract</i> , the <i>firm</i> must make alternative arrangements with another funeral services provider, at no additional cost to the <i>customer</i> or covered <i>individual</i> .
10.1.9	R	<p>In accordance with ■ FPCOB 6.2, the <i>firm</i> must notify:</p> <p>(1) the <i>customer</i>; and</p> <p>(2) the nominated representative, unless the ■ FPCOB 9.3.6R circumstances apply,</p> <p>of any new arrangements made under ■ FPCOB 10.1.8R as soon as practicable and in any event, within 2 <i>business days</i> of making the arrangements.</p>
10.1.10	G	A <i>funeral plan provider</i> should consider its arrangements in respect of <i>subsisting funeral plans</i> and whether those arrangements would meet the purpose of the requirements in this section, what steps it might take to change those arrangements as a result and what notifications to make to the <i>customer</i> and the nominated representative.
10.1.11	R	[deleted]

10.2 Transfers of funeral plans

- 10.2.1** **R**
- (1) This *rule* applies to a *funeral plan provider* which has assumed the undertaking under a *funeral plan contract* to provide, or secure the provision of, a funeral as a result of a transfer of the contract.
 - (2) The *firm* must notify the *customer* and nominated representative that a transfer of the *funeral plan contract* has taken place within 30 days of the completion of the transfer and, where an undertaking is given in accordance with ■ FPCOB 10.2.2R(2), a copy must be provided.
 - (3) The *firm* must ensure that arrangements meeting the requirements of ■ FPCOB 10.1.3R are in place within 30 days of the completion of the transfer.
 - (4) If, as a result of the *firm's* compliance with this *rule*, there are any changes to the arrangements under the contract, the *firm* must notify the *customer* and the nominated representative in compliance with ■ FPCOB 10.1.4R and ■ FPCOB 10.1.5R.
- 10.2.2** **R**
- (1) This *rule* applies to a *funeral plan provider* in circumstances described in article 59(3) to (6) of the *Regulated Activities Order* who:
 - (a) intends to give an equivalent or substantially similar undertaking to a *customer* or a defined group of *customers* to replace an existing undertaking to provide, or secure the provision of, a funeral under a *funeral plan contract* between that *customer* and another person or *funeral plan provider*; and
 - (b) will not otherwise assume the existing undertaking by novation, assignment or operation of law.
 - (2) On or before the date notified to the *FCA* under article 59(3)(e)(ii) of the *Regulated Activities Order*, where the receiving *funeral plan provider's* undertaking will replace the existing undertaking under the *funeral plan contract* which the *customer* had with the transferring *firm*, the receiving *funeral plan provider* must give a written undertaking to the *customer*:
 - (a) to provide a funeral on equivalent or substantially similar terms to the existing undertaking; and
 - (b) which provides the *customer* with a legally binding claim against it without the need for *customer* acceptance or any other action on the part of the *customer*.
 - (3) At the same time that the written undertaking is provided to the *customer* under ■ FPCOB 10.2.2R(2), the *funeral plan provider* must

		<p>notify the <i>FCA</i> that the undertaking has been given and provide a copy of the undertaking.</p> <p>(4) The <i>funeral plan provider</i> must:</p> <p>(a) publish and maintain a copy of the written undertaking provided to the <i>customer</i> under ■ FPCOB 10.2.2R(2) on its website; and</p> <p>(b) maintain appropriate records, including records of the undertaking and the <i>customers</i> to whom it applies, until such time as there are no longer any <i>customers</i> to whom the undertaking applies.</p> <p>(5) On request by the <i>customer</i> or their nominated representative, the <i>funeral plan provider</i> must promptly provide a further copy of the undertaking by post and/or by email.</p>
10.2.3	G	<p>(1) The effect of ■ FPCOB 10.2.2R is that a <i>customer</i> for whom a <i>funeral plan provider</i> becomes responsible in regulatory terms following a transfer of business is provided with a binding undertaking from that receiving provider, which will provide a civil cause of action against that <i>firm</i> should it be needed.</p> <p>(2) An example of where such a civil cause of action may be needed is if the <i>funeral plan provider</i> became insolvent and the <i>customer</i> or their estate wanted to make a claim to the <i>compensation scheme</i>.</p> <p>(3) The fact that ■ FPCOB 10.2.2R is actionable under s.138D of <i>FSMA</i> at the suit of a private person means a customer to whom (in breach of that <i>rule</i>) a written undertaking is not made will in any event have a claim against that <i>funeral plan provider</i>.</p>
10.2.4	G	<p>An example of a legally binding undertaking which would fulfil the requirement at ■ FPCOB 10.2.2R includes a deed poll executed by the <i>funeral plan provider</i> in favour of a <i>customer</i> or defined group of <i>customers</i>.</p>
10.2.5	G	<p>The obligation in ■ FPCOB 10.2.2R(4)(a) does not require the receiving <i>funeral plan provider</i> to publish information on its website which meets the definition of personal data under the <i>General Data Protection Regulation</i>.</p>

