

## Chapter 6

# Information about the firm and its services

## 6.1 General requirements for firms

### Application

6.1.1

**R**

This chapter applies to:

- (1) a *funeral plan intermediary*; and
- (2) a *funeral plan provider* in relation to the distribution of its own *funeral plan contracts*.

### Interaction with the customer's best interests rule and Principle 7

6.1.2

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To comply with the *customer's best interests rule* and *Principle 7* (Communications with clients), a *firm* should consider the information needs of the *customer* and, if different, the *covered individual*, including:

- (1) what a *customer* and/or *covered individual* needs in order to understand the relevance of any information provided by the *firm*; and
- (2) the point in the sales process at which information will be most useful to the *customer* to enable them to make an informed decision.

### Status disclosure: general information provided by firms

6.1.3

**R**

In good time before a *customer* enters into a *funeral plan contract*:

- (1) a *firm* must provide the *customer* with at least the following information:
  - (a) its identity, address and whether it is a *funeral plan intermediary* or a *funeral plan provider*;
  - (b) the appropriate statutory status disclosure statement (see ■ GEN 4);
  - (c) the fact that it is included in the *Financial Services Register* and the means for verifying this;
  - (d) whether it provides a *personal recommendation* about the *funeral plans* offered or information;
  - (e) whose *funeral plans* it offers;
  - (f) the procedures allowing *customers* and other interested parties to register *complaints* about the *firm* with the *firm* and the *Financial Ombudsman Service* or, if the *Financial Ombudsman*

*Service does not apply, information about any out-of-court complaint and redress procedures available for the settlement of disputes between the firm and its customers; and*

- (2) a *funeral plan intermediary* must also provide the *customer* with the following information:
  - (a) whether it has a direct or indirect holding representing 10% or more of the voting rights or capital in a given *funeral plan provider*;
  - (b) whether a given *funeral plan provider* or its *parent undertaking* has a direct or indirect holding representing 10% or more of the voting rights or capital in the *firm*; and
  - (c) whether it is representing the *customer* or is acting for and on behalf of the *funeral plan provider*.

#### Scope of service: funeral plan intermediaries

6.1.4

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- (1) Where a *funeral plan intermediary* proposes or advises on a *funeral plan contract* then in good time before the conclusion of a *funeral plan contract* and, if necessary, on its amendment, a *funeral plan intermediary* must provide the *customer* with at least information on whether the *firm*:

- (a) gives a *personal recommendation*, on the basis of a fair and personal analysis of *funeral plans* available in the market; or
- (b) is under a contractual obligation to conduct *funeral plan distribution* exclusively with one or more *funeral plan providers*, in which case it must provide the names of those *funeral plan providers*; or
- (c) (i) is not under a contractual obligation to conduct *funeral plan distribution* exclusively with one or more *funeral plan providers*; and
  - (ii) does not give a *personal recommendation* on the basis of a fair and personal analysis of *funeral plans* available in the market;

in which case it must provide its *customer* with the name of those *funeral plan providers* with which the *funeral plan intermediary* may and does conduct business.



6.2

Means of communication to customers

Application

6.2.1

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This section applies to all information required to be provided to a *customer* in this chapter and in other chapters or sections where stated.

Means of communication to customers: non-telephone sales

6.2.2

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(1) A *firm* must communicate information to a *customer* using any of the following:

(a) paper; or

(b) a *durable medium* other than paper; or

(c) a website (where it does not constitute a *durable medium*) where the *website conditions* are satisfied.

(2) The *firm* must communicate the information in (1):

(a) in a clear and accurate manner, comprehensible to the *customer*;

(b) in English or in any other language agreed by the parties; and

(c) free of charge.

6.2.3

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Where the information is communicated using a *durable medium* other than paper or by means of a website, the *firm* must, upon request and free of charge, also send the *customer* a paper copy.

6.2.4

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A *firm* must ensure that a *customer's* choice or consent to receive the information by means of a website (whether a *durable medium* or where the *website conditions* are satisfied) is an active and informed choice or consent.

6.2.5

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(1) For the purposes of ■ FPCOB 6.2.4R, for example, an option to allow a change to the e-mail address to be used or an option to allow information to be provided by means of a website should be presented in a way that is clear, fair and not misleading.

(2) The following are examples of circumstances not evidencing active or informed choice or consent:

(a) a pre-ticked box (suggesting that option has been selected) which appears in a more prominent place than an un-ticked box allowing another option to be selected; and

- (b) the *customer* electing to be informed by a website without being first given other options.

**Means of communication to customers: telephone sales**.....

**6.2.6**

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In the case of telephone selling:

- (1) the information must be given in accordance with the distance marketing disclosure *rules* (see ■ FPCOB 5); and
- (2) if prior to the conclusion of the contract the information is provided orally, the *firm* must also provide the information to the *customer* in accordance with ■ FPCOB 6.2.2R immediately after the conclusion of the *funeral plan contract*.



6.3 Fee disclosure

Application

6.3.1 R This section applies to a *firm* that imposes a *fee* in connection with a *funeral plan* or its *regulated funeral plan activity*.

Fee disclosure

- 6.3.2 R
- (1) Where a *fee* is payable, the *firm* must inform its *customer* of the amount of the *fee*.
  - (2) The information in (1) must be given before the *customer* incurs liability to pay the *fee*, or before entering into the *funeral plan contract*, whichever is earlier.

6.3.3 R The *fee* disclosure requirement extends to all such *fees* that may be charged in connection with a *funeral plan* or the *firm’s regulated funeral plan activity*.

		<div><div></div><div>6.4</div><div>Charging for funeral plan distribution</div></div>	
		<div>Application</div>	
6.4.1	R	This section applies to a <i>firm</i> which carries on <i>funeral plan distribution</i> .	
6.4.2	G	This section does not apply to a <i>funeral plan provider</i> in connection with its <i>entering as provider into funeral plan contracts</i> .	
		<div>Purpose</div>	
6.4.3	G	<div><div>(1) The purpose of the <i>rules</i> in this section is to ensure that <i>funeral plan intermediaries</i> act in accordance with the <i>customer's best interests rule</i> and are not improperly influenced in their <i>funeral plan distribution</i> by payments made, or benefits provided, by <i>funeral plan providers</i>. In particular, the <i>rules</i> in this section prevent a <i>firm</i> from accepting commission from a <i>funeral plan provider</i>.</div><div>(2) The <i>rules</i> in this section apply whether or not the relevant <i>funeral plan distribution</i> involves the provision of <i>investment advice</i>.</div><div>(3) <i>Firms</i> should be mindful of the <i>customer's best interests rule</i> when considering their approach to compliance with the <i>rules</i> in this section.</div></div>	
		<div>Requirement to be paid by the customer</div>	
6.4.4	R	<div>A <i>firm</i> must:<div><div>(1) only be remunerated for its <i>funeral plan distribution</i> (and any other related services provided by the <i>firm</i>) by <i>FP distribution charges</i>; and</div><div>(2) not solicit or accept (and ensure that none of its <i>associates</i> solicits or accepts) any other commissions, remuneration or benefit of any kind in connection with the <i>firm's</i> business of engaging in <i>funeral plan distribution</i> or any other related services, regardless of whether it intends to refund the payments or pass the benefits on to the <i>customer</i> or <i>covered individual</i>,</div></div>except as provided in this section.</div>	

6.4.5	R	<p>'Related service(s)' for the purposes of ■ FPCOB 6.4.4R includes:</p> <p>(1) <i>communicating or approving financial promotions</i> in relation to a <i>funeral plan contract</i> or <i>regulated funeral plan activity</i>;</p> <p>(2) recommending a <i>funeral plan provider</i>.</p>
6.4.6	G	<p>■ FPCOB 6.4.4R prevents a <i>firm</i> from receiving any monetary or non-monetary benefit either in relation to the distribution of particular <i>funeral plan contracts</i> or in connection with its business of marketing, selling or distributing <i>funeral plan contracts</i> more generally.</p>
6.4.7	R	<p><b>Group distribution arrangements</b></p> <p>If the <i>firm's funeral plan distribution</i> relates to <i>funeral plan contracts</i> entered into by the <i>firm</i> itself or by an <i>associate</i>, the <i>firm</i> must ensure that the level of its <i>FP distribution charge</i> is at least reasonably representative of the services associated with its <i>funeral plan distribution</i> (and related services).</p>
6.4.8	G	<p>A <i>firm</i> should consider whether the level of its <i>FP distribution charge</i> meets the requirement of ■ FPCOB 6.4.7R by reference to whether the charge would be appropriate in the context of the service being provided by a <i>firm</i> unconnected with a <i>funeral plan provider</i>.</p>
6.4.9	G	<p><b>Guidance on the requirement to be paid by the customer</b></p> <p>■ FPCOB 12 restricts a <i>firm</i> engaged in <i>funeral plan distribution</i> from accepting payment other than in certain circumstances. ■ FPCOB 12 does not prevent a <i>funeral plan intermediary</i> from receiving an <i>FP distribution charge</i> from a <i>customer</i> as contemplated by this section (see FPCOB 12.4.4R).</p>
6.4.10	G	<p>■ FPCOB 6.3.2R requires a <i>funeral plan intermediary</i> to inform the customer of the amount of any <i>fee</i> payable. That disclosure should include any <i>FP distribution charge</i> payable by the <i>customer</i>.</p>
6.4.11	G	<p><b>Payment for funerals</b></p> <p>(1) ■ FPCOB 6.4.4R applies to providers of funerals (such as funeral services providers) which engage in <i>funeral plan distribution</i>. However, that <i>rule</i> only restricts the receipt of payments or benefits in connection with the business of engaging in <i>funeral plan distribution</i>.</p> <p>(2) ■ FPCOB 6.4.4R does not prevent a provider of funerals from receiving payment for the provision of a funeral from a <i>funeral plan provider</i> under the terms of a <i>funeral plan contract</i>. For these purposes, it does not matter whether payment for the funeral is received at the time that the <i>customer</i> enters into the relevant <i>funeral plan contract</i> or at any other time thereafter.</p>
6.4.12	R	<p>A <i>firm</i> which carries on <i>funeral plan distribution</i> and is also a provider of funerals must ensure that:</p>



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- (1) the level of its *FP distribution charge* is at least reasonably representative of the cost of the services associated with its *funeral plan distribution*; and

(2) any payments which it receives from a *funeral plan provider* under a *funeral plan contract* are reasonably representative of the cost of delivering the relevant funeral.

6.4.13

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A payment is unlikely to be reasonably representative of the cost of delivering the relevant funeral if it is materially greater than the same payment would have been had the relevant *firm* had no involvement in the sale or distribution of the *funeral plan contract*.

Training and support

6.4.14

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A *firm* may receive:

(1) training on the *funeral plan contracts* in relation to which it carries on *funeral plan distribution*; and

(2) appropriate support with complying with its obligations under the *regulatory system* from a *funeral plan provider*.

6.4.15

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Any training or support received for the purposes of ■ FPCOB 6.4.14R must be:

(1) of a scale and nature that it could not be judged to impair the firm’s compliance with its duty to act honestly, fairly and professionally in the best interests of the *customer* or *covered individual*; and

(2) reasonable, proportionate and of a scale that is unlikely to influence the *firm’s* behaviour in any way that is detrimental to the interests of any relevant *customer* or *covered individual*.

6.4.16

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The *rules* in this section do not preclude a *funeral plan intermediary* from receiving from a *funeral plan provider* any materials necessary for the *funeral plan intermediary* to engage in its business of *funeral plan distribution*. This may include the product information for the purposes of ■ FPCOB 9.

Payments to employees

6.4.17

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The *rules* in this section do not prevent an *employee* of a *firm* receiving payment from that *firm*.

Record keeping

6.4.18

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A *firm* must keep a record of the *FP distribution charges* paid by each *customer*.



## 6.5 Payments to funeral plan intermediaries

### Application

6.5.1 **R** This section applies to a *funeral plan provider*.

### Requirement not to offer commissions

6.5.2 **R** A *firm* must not offer or pay (and must ensure that none of its *associates* offers or pays) any commissions, *remuneration* or benefit of any kind to:

- (1) another *firm* in connection with that *firm's* business of engaging in *funeral plan distribution*;
- (2) another *person* in connection with:
  - that *person's* business of engaging in *funeral plan distribution*:
    - (i) for which it does not require *authorisation*; or
    - (ii) which it carries on in breach of the *general prohibition*;
  - business of that *person* which would involve engaging in *funeral plan distribution* but for an exclusion in the *Regulated Activities Order*;
- (c) that *person's* business of introducing *customers* to another *person* in relation to *funeral plan contracts*;
- (3) a *person* in (1) or (2) in relation to any related services; or
- (4) any third party for the benefit of a *person*, and in the circumstances described, in (1) to (3),

except as provided in this section.

6.5.3 **R** ■ FPCOB 6.5.2R does not apply to training or support which meet the requirements of ■ FPCOB 6.4.14R and ■ FPCOB 6.4.15R.

6.5.4 **G** ■ FPCOB 6.5.2R prevents a *funeral plan provider* from making payments, or offering benefits, to *persons* involved in distributing the *firm's funeral plan contracts*. This includes payments made, or benefits offered, to a *firm's appointed representatives*.

- 6.5.5

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■ FPCOB 6.5.2R does not prevent a *funeral plan provider* from making payments to a *person* merely to *communicate a financial promotion*.
- 6.5.6

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Payments to employees

(1) The *rules* in this section do not apply to payments made by *firms* to their *employees* in relation to sales activity.

(2) *Firms* should refer to ■ SYSC 19F and the FCA’s final *guidance*, ‘Risks to customers from financial incentives’ (January 2013) when considering the structure of any incentive schemes for their *employees*.

[Note: see <https://www.fca.org.uk/publication/finalised-guidance/fsa-fg13-01.pdf>]

