



Claims management regulation (CMR) business bulletins aim to highlight current developments and provide an update on issues that are of interest or affect claims management services.

This bulletin includes guidance on new rules about the information provided to clients before a contract is entered into; the charging of additional fees to clients; the use of marketing stands; and information about the CMR 2013/14 Annual Report.

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The Regulations detail information that claims management companies (CMCs) **must** provide to a consumer before a contract is entered into (this includes your complaints handling procedure).

The most significant changes for CMCs are:

- the requirement to give (or make available to) the consumer a cancellation form. The regulations include a model cancellation form which you may adopt if you wish (Schedule 3 (Part B))
- an extension to the cancellation (“cooling off”) period where you fail to provide the information required (including the cancellation form). The 14 day cancellation period will commence once you have provided the information to the consumer.

CMCs may therefore have to make changes to the information and documentation they provide to consumers before they enter into a contract with them. Failure to comply with the relevant Regulations will put a CMC in breach of General Rule 5 which requires them to observe all laws and regulations relevant to their business.

The full regulations can be accessed at:

<http://www.legislation.gov.uk/uksi/2013/3134/made>

Guidance is available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/310044/bis-13-1368-consumer-contracts-information-cancellation-and-additional-payments-regulations-guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310044/bis-13-1368-consumer-contracts-information-cancellation-and-additional-payments-regulations-guidance.pdf)



### Terms & Conditions

1 rules and requirements that one agree to abide by in order to use a service; 2 general and special arrangements, provisions, requirements, rules, specifications, standards that form an integral part of agreement or contract

## Consumer contract regulations

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 came into force in June and apply to all contracts for the provision of goods and services commenced on and after 13 June 2014. This includes claims management services, and applies to contracts made on and off business premises and distance selling contracts.

## Additional client fees



Some concluded PPI cases have been reviewed by financial institutions and in some cases additional redress has been awarded to customers. In such cases it may be inappropriate for CMCs to automatically charge their clients further fees in respect of such additional awards.

The general position is that the agreement between the CMC and the client will have concluded at the point at which the client received redress and the CMC issuing the corresponding invoice.

If a CMC seeks further fees from clients where the contract has concluded, this may be in breach of General Rule 1 which requires you to conduct your business with honesty and integrity. It may also be considered an act of fraud by false representation (Section 2, Fraud Act 2006).

If additional work to review concluded cases is needed then CMCs will need to re-contract with those clients who may not have received an appropriate award. Letters of authorities will also likely to have expired when the contract concluded, and so will need to be reissued.

All CMCs have a statutory obligation to provide their services with reasonable care and skill. If a CMC fails to identify during the claims process that an offer made to their client is incorrect or otherwise inappropriate – and to advise the client of this – then it is likely that the CMC will have failed to comply with this obligation and therefore be in breach of contract.

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## Packaged bank accounts

We have been monitoring activity in this new claims area and found that some CMCs are sending standard, generic letters of claim.

Please note that CMCs must firstly gather enough information from clients to establish whether there may have been a mis-sale of the product. Upon

presenting the claim to the financial business, a CMC must ensure that the allegations made are accurate, specific and individual to the claim.

Failure to provide accurate and specific information to the financial business can mean that it takes longer to properly investigate the claim and may adversely affect the outcome.

We previously advised CMCs of this practice in respect to PPI claims in our [bulletin in December 2013](#). The same principles apply here. Such failures are a breach of General Rule 2 which requires you to conduct yourself responsibly.

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## Details of potential claims



Some CMCs are collecting very limited details from clients before starting the claims process. They are then relying on arrangements with financial businesses to collect information about a potential claim.

These facilities, where available, are part of the investigation process. However, we expect a CMC to make appropriate enquiries with their client before contacting the financial business.

Fewer than half of the enquiries submitted by some CMCs have a valid product attached to it. These CMCs are clearly making insufficient enquiries of their clients before contacting the financial business.

This practice is a breach of the rules of conduct which requires CMCs to take all reasonable steps to investigate the existence and merits of a potential claim. Enforcement action could result from such breaches.

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## Marketing stands

CMCs marketing their services in shopping centres or at events must ensure they comply with Client Specific Rule 4 which prohibits cold calling in person. This means that you must not approach or

initiate contact with members of the public while marketing.

CMCs are also responsible for the actions of agents if third parties are used to market on their behalf. CMCs must ensure compliance with Client Specific Rule 11 which requires you to provide certain information to the client before a contract is agreed. This must be provided in good time before the conclusion of a contract (The Provision of Services Regulations 2009, Regulation 11).

A CMC is therefore unable to contract with consumers during the initial contact at a marketing stand. Clients must have the opportunity to take the pre-contract information away with them to consider before contracting with a CMC.

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## Consultation response – new rules

The response to the consultation, *Proposals to amend the Conduct of Authorised Persons Rules: The Financial Services Perspective* and the new rules were published on 27 June 2014. Guidance on how the rules should be followed and examples of best practice will be published in September and the new rules will be effective from 1 October 2014. More details can be found at: <https://consult.justice.gov.uk/digital-communications/conduct-authorised-persons-rules>



## Financial penalties – update

Draft regulations that make provision to impose financial penalties on CMCs for rule breaches have been laid before Parliament and will now be subject to the normal Parliamentary clearance process.

Subject to that clearance it is intended that the financial penalties scheme will be implemented by the end of 2014. Further information regarding implementation and guidance on the operation of the scheme will be published in due course.

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## CMR Annual Report 2013/14

The CMR Annual Report has been published. It is available at:

<https://www.gov.uk/government/publications/claims-management-regulator-annual-report-2013-to-2014>

The report includes summaries of the work of the CMR Unit; developments in the claims market, analysis of the industry, an overview of complaints and details of enforcement action taken during the year.

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