

Contact With Consumers And Referrals (Consumer Protection Code 1 Jan 2012)

Referrals are regulated for all financial service providers under the Consumer Protection Code which was revised and issued effective 1 January 2012. There are some relevant general rules and principles and some detailed rules around personal visits and telephone calls, summarised below.

Overall requirements are specified in the General Principles which govern all activity carried out by regulated firms and their employees.

These include:

- 2.1 Acts honestly, fairly and professionally in the best interests of its customers and the integrity of the market;*
- 2.9 Does not exert undue pressure or undue influence on a customer;*
- 2.12 Complies with the letter and spirit of this Code;*

Personal Visits

- No unsolicited visits at any time to an *individual* consumer
- May visit an individual only if the person has given informed consent to a personal visit (this means no surprises, the person must have given consent ahead and be expecting you)
- Must get informed consent for each visit and the regulated entity must keep a record of each consent
- Consent must include the details of the purpose of the visit, the types of products to be discussed and the time and date for the visit

Telephone Contacts – Existing Customer

Only allowed if:

- The regulated entity has within the previous 12 months, provided the person with a similar product or service to the purpose of the call
- The customer holds a product which requires the regulated firm to maintain contact in relation to that product
- The purpose of the call is limited to offering Protection policies only
- The customer has given his/her consent to being contacted in this way by the regulated entity

Above effectively means, allowed to call:

- re existing product,
- re similar product within 12 months
- re Protection products.
- When you have the customers consent to contact them by telephone call (would need a record of this)

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Telephone Contacts – New/Potential Customer

Only allowed if:

- The individual has signed a statement within the previous 12 months, giving the regulated entity permission to call for a specified purpose and the contact is in respect of that purpose
- The individual has a listing in the business listing section of the current telephone directory, classified telephone directory or in a trade or professional directory in the state and the contact is made via the business number as listed
- The individual is a director of a company, a partner in a firm with an entry listed in one of the directories above, and the contact is made using that business number and is in relation to their role as company director or partner
- The individual is the **subject of a referral** for which the individual **has provided express consent**. The referral must be received from an entity authorised to provide financial services in Ireland, another entity within the same group, a solicitor or a certified person, or;
- The purpose of the contact is limited to offering protection policies

If the contact is made on foot of a referral the regulated entity making the referral must retain a record of the referral. The call should **never** be a surprise to the customer; they must have given their informed consent rather than an acquaintance of family member etc passing on their name.

All calls must be made between 9 am and 9pm Mon to Sat excluding Bank hols and Public holidays, unless otherwise agreed with the customer.

Additional rules for all Personal Visits and Telephone Calls

When making a call that complies with above conditions you must always:

- Identify yourself by name, and firm name and explain the purpose of the call
- Inform the customer if the call is being recorded
- Where relevant, disclose to the customer the source of the referral
- Establish if the customer wishes to proceed with the call
- A regulated firm must always abide with a request from a consumer or individual not to make a personal visit or telephone call again, and this **request must be recorded**

Vulnerable Customers

Where a regulated firm has identified that a person is a vulnerable customer, the firm must ensure that the vulnerable person is provided with reasonable arrangements and or assistance that may be necessary to facilitate him/her in their dealings with the firm. Extra care should be taken in documenting referrals for vulnerable customers and in ensuring that the referral or contact is appropriate.

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Payment for Referrals

A regulated entity may only pay for services including referrals to a person who is:

- A regulated entity (regulated by the Central Bank of Ireland as Mortgage Intermediary, Insurance intermediary etc)
- A certified person
- An individual for whom the regulated entity has taken full and unconditional responsibility (product producers only)
- An agent, branch or entity to which activities are outsourced
- An entity specifically exempted by law from requiring authorisation (does not include individuals or other non-regulated businesses)
- No longer providing a regulated activity but where the payment is in respect of the regulated activity while the person was regulated

In effect for an intermediary any paid referrals must come from other regulated entities and you should be able to verify their authorisation.