

# **The Society of Will Writers**

SWW-PN-02-2016

## **Practice Note 1**



### **Client Care Information**

This practice note from The Society of Will Writers represents our view only. Our notes are what we consider good practice (guidance) and are not to be considered legal advice.

No member can rely on these notes from the SWW in the event of a complaint or an external investigation.

We have taken every care to ensure that these notes are accurate and up to date but The Society of Will Writers accept no responsibility or legal liability in relation to them. Therefore it is the responsibility of the member to ensure they adhere to good practice and relevant legislation when dealing with clients.

### **Introduction**

There is little distinction between client care and customer service. Customer service is defined by The Collins English Dictionary as 'the work of looking after customers and ensuring their satisfaction with one's business and its goods or services'.

Ultimately the aim of the Society of Will Writers and Estate Planning Practitioners (SWW) is 'to protect the public and to serve in the interests of those professionals who are active professionals in our field'.

The SWW does this by setting itself two tasks:

- To promote to the Public at large the real need and sense in having a valid Will
- To act as a self-regulatory body by vetting practitioners through stringent membership requirements, proficiency standards and on-going training.

The Society exercises its regulatory function through the adherence to their [Code of Practice](#), our [10 membership principles](#) and by allowing members the use of our quality assurance mark, the 'Safe to do business with' logo.

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The SWW [Code of Practice](#) is a living document which outlines the standards expected from SWW members. Adherence to this document is a mandatory requirement of membership and members acknowledge this by signing a members declaration.

Many clients are not regular users of legal services provided by Will Writers or Estate Planning Practitioners. An estate planning practitioner often deals with a client when they are experiencing a difficult or stressful situation. As such the focus of the Estate Planning Practitioner should be the successful resolution of the client's legal problem and/or the completion of their transaction. Communication and client care are therefore incredibly important in these dealings.

Whilst there is no legal requirement to provide one, you may wish to provide your client with a client care letter. They might find this a useful tool to understand the important information in written form so that they may refer to it at a later date.

You will also provide clients with your terms of business document as set out in Section 4 of the SWW Code of Practice. You may request that your client provides you with a signed copy of the document which should be stored with their client file, but a document detailing acceptance of your terms will suffice. A copy of your terms of business should be left in the possession of the client for their records and so they may refer back to it in any event.

This information may be used in evidence in the event of a complaint arising in the future. The SWW independent complaints administrator may seek evidence that this document was provided for the client to establish whether a contract was entered into.

It can be assumed that to provide all this information to your client demonstrates client care and adds value to the service that you offer.

## **Membership Principles**

These 10 principles, as expanded by the Society's Code of Practice and reinforced by the individual Member's Terms of Business represent the protection the consumer can expect when using a Society Member in the preparation of their legal documents:

1. A Member must act with integrity
2. A Member must conduct his or her business with due skill, care and diligence
3. A Member must observe proper standards when marketing his or her business to the general public
4. A Member must pay due regard to the interests of his or her client and treat them fairly
5. A member must communicate information to his or her client in a way that is clear fair and not misleading
6. A Member must not create a conflict of interest between himself and his or her client
7. A Member must take reasonable care to ensure the suitability of any advice given to his or her client
8. A Member must ensure that any assets that he or she holds on behalf of a client are fully protected
9. A Member must practice equality and respect diversity
10. A Member must comply with all legal and regulatory requirements including full observance of the Society of Will Writers Code of Practice

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When engaging with a client it should be considered that all of your actions may, at some point, be brought into question. Adherence to these principles should ensure that a member acts within the scope of the SWW Code of Practice.

## **The SWW Code of Practice**

Adherence to the SWW Code of Practice is a mandatory requirement of SWW membership. Adherence is demonstrated by returning the signed declaration to the SWW membership department. Providing that your other regulatory requirements (PII and proof of proficiency) have been provided then it is expected that you will work in accordance with the Code of Practice.

We will be able to identify whether a member chooses to ignore his responsibilities in the event of a complaint, and especially if the complaint is brought to the attention of the independent complaints administration committee through the SWW.

## **Information that should be supplied to your client**

In accordance and compliance with the SWW Code of Practice general and specific information should be provided to your client.

During your first appointment with your client you should identify yourself. Some identification should be supplied. Identifying yourself as a member of the SWW is wise. You should give your client the opportunity to contact the SWW to verify your membership but in all cases your SWW membership card and/or your certificate of compliance should be made available for inspection.

You may choose to offer your client sight of your certificate of professional indemnity insurance. This is not mandatory but may aid in instilling confidence in your client.

Your terms of business must be provided in written format. It is deemed that you have entered into a contract with your client when they sign to accept this document. It is wise to take two copies of your Terms of Business (Terms and Conditions) to each instruction taking meeting. One for your records and one for your client's records.

Following the meeting you should ask your client to read and sign their acceptance of your attendance notes after which no alterations should be made to them unless in their presence and with their express permission (again, provided in writing or by signature).

You may wish to supply your client with a summary of service detailing the main characteristics of what they expect to receive. This may be itemised detailing price to aid transparency.

Your clients should be made aware of the delivery times for both draft and completed documents. This may be found in your Terms of Business.

This information is detailed and can be found in Section 4 of the SWW Code of Practice.

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## **Consumer Contract Regulations 2013**

These regulations came into force on the 13<sup>th</sup> June 2014 and supersede the Doorstep Selling Regs 2008. These regulations require you to provide specific information to clients. If the contract is made 'off premises' then you should provide your client with information on their right to cancel. You can provide this information in your Terms of Business.

Under the Consumer Contract Regulations your client has the right to cancel their contract with you. They hold this entitlement under section 31.(2) of the regulation which states:

*'31.(2) If the trader provides the consumer with that information in the period of 12 months beginning with the first day of the 14 days mentioned in regulation 30(2) to (6), but otherwise in accordance with Part 2, the cancellation period ends at the end of 14 days after the consumer receives the information.'*

The reference to *'that information'* is detailed above in reference to your terms and conditions. Further information can be found in Section 4 of the Code of Practice.

## **Complaints**

Section 8 of the Society of Will Writers Code of Practice deals with complaints. The Society of Will Writers provide a written template of a complaints procedure that members are welcome to use.

The member must have a written procedure in place which should be provided for clients upon request. Often it will be sufficient for a member to include information about their complaints procedure in the Terms of Business.

The complaints information provided to clients must be in line with SWW protocol in that, a client has the right to bring a complaint to the SWW if they feel that after contacting the member in writing, it was not dealt with to their satisfaction.

If a complaint is brought to the Society of Will Writers we will instruct the complainant to raise their concerns with the member in the first instance and then if not satisfied by the outcome to raise their complaint with the SWW. The SWW procedure will then commence.

Ordinarily the independent complaints handler will establish the facts of the case to see if a breach of the SWW Code of Practice has arisen.

## **Costing information and agreements**

Clients must be made aware and understand the information you provide for them about what your goods and services cost. This should be in a format that is appropriate to your clients needs. The cost information you provide must be given up front. Not doing so may result in a complaint.

You should make it clear if there is a referral process in place and whether there is a fee.

All this information should allow the client to make an informed decision.

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## **Treating Customers Fairly**

This is an obvious yet often overlooked outcome. The SWW principles and Code of Practice seek to ensure that clients are treated fairly.

With specific reference to SWW membership principle 3 and 5 it is expected that:

1. Your clients will be provided with clear information about the products and service your company offers, including fees and charges
2. You will ascertain your clients individual needs, preferences and circumstances before recommending a product or service
3. You will only recommend a product or service that you consider suitable for your client and that in the event that it is unaffordable seek to find a suitable alternative solution – and always the most suitable from the available options
4. You will encourage your client to ask if there is something that they don't understand and you will be honest and open in your response.
5. You will give your client access to a formal complaints procedure should they become unhappy with your service. A process is available through the SWW.

## **Communication between you and your clients**

Transparency is key when considering client care and the communication between your business and your clients.

Your clients should understand how to contact you, by what medium, at what time, and the response that they should receive. Your mission statement should give effect to your view towards consumer care (your ethos).

## **The Society of Will Writers view on communication and its effect on complaints reduction**

As mentioned above transparency and communication are key when considering client care. The SWW take this incredibly seriously. This is demonstrated by its inclusion in both our Code of Practice and in our membership principles.

We believe that aiding the consumer to understand that it is yourself, as an individual that is regulated by the SWW and not your company (no corporate membership). This is a small step that can help resolve problems before they arise.

The SWW can therefore regulate more effectively and control the image of the Society that you come under.

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## **Your communication method**

Your communication channels should all include clear detail of how to reach you. Your website, brochures, and leaflets should contain up to date contact information on them.

If you change your details this should be communicated to clients.

Any marketing communication you undertake with existing or prospective clients should be done so in accordance with relevant regulations:

- You must check if customers want to be contacted by fax, phone, post or email, and give them the chance to object or opt out.
- When you collect customer details, you must get their permission if you want to send them other offers or promotions.
- You must also ask for their permission if you want to share their information with another organisation or person.

## **Email marketing and text messages**

You're only allowed to send marketing emails to individual customers if they've given you permission.

Emails or text messages must clearly indicate:

- who you are
- that you're selling something
- what the promotions are, and any conditions

Customers must be given the right to opt out.

## **Data Protection**

Any data you obtain and control should be done so in accordance with Data Protections rules and principles, principally the Data Protection Act 1998. Information relating to your clients should be held securely and this should be referenced in your terms of business. i.e: *'It is our duty to you to comply with the Data Protection Act 1998 and hold client data securely and confidentially. We may at times be required to share this information with a third party such as a professional advisor. You have rights under the Act to know what data is being stored about you.'*

Where you outsource work to a third party it is important that the risk of breaching client confidentiality is acknowledged and attention is given to the data's protection.

A confidentiality agreement should be in place with such suppliers.

## **After sales procedures**

Quite often the sales experience with your client doesn't end when they receive their 'product or service'. Ordinarily, in this industry you create a relationship with your client whereby you will retain some form of communication and may assist them in future (providing you have done a good job). It

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may be that you store their documents or call them periodically to identify if they have an need for updates.

Your aftersales service ought to be reasonably priced or free, and easily accessible. This shall include advice and information regarding 'products or services' recently purchased or those that are available for purchase as per 2.16 of the SWW Code of Practice.

### **Our Conclusion**

Ultimately the response we are looking for from this practice note is one of agreement and this should support your compliance with the SWW Code of Practice. As an SWW member we expect you to be compliant with our Code of Practice, which is essentially our rule book governing your interaction with your clients.

What we are asking for isn't particularly onerous. Put simply, it is good practice.

Good communication with your clients can be an effective management control to prevent a complaint arising, or perhaps more importantly, if a complaint has been received, prevent it from escalating into something more serious.

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