

The Institute of Professional Willwriters Consumer Code

Audit June 2019

Background information

The Institute of Professional Willwriters (IPW) was formed in 1991 as a self-regulated body to safeguard the public from unqualified practitioners and unethical business practices. The Institute is managed by a council made up of IPW members elected by the membership for a three-year term.

There are currently 268 membership organisations in the Code.

The objects of the Institute are:

- to make representation to Government on legislative matters which affect Members of the Institute and their clients.
- to promote the importance of making a Will to the general public.
- to promote the Institute and the services of its Members.
- to ensure that the services provided by its Members are delivered professionally ethically and competently.

One of the objectives of the Institute is to set competence levels for will writing and examinations, so members can prove competence and obtain affordable indemnity insurance.

Currently the sector is unregulated. The view of Government is that self-regulation under the Chartered Trading Standards Institute Consumer Codes Approval Scheme was the most suitable route.

The Institute is continuing to campaign for a statutory regulatory scheme for all will writers in order to protect the general public and to help give the sector and Institute members wider recognition and credibility.

Audit Process

A qualified trading standards professional from the Chartered Trading Standards Institute (CTSI) completed a one day desk top audit.

The audit focused on the following areas:

1. Member Application Process including checks carried out on prospective businesses.

2. Existing Member Inspections/Audit content and process (including general compliance with the code, staff training and dealing with consumer complaints).
3. Membership Withdrawal and Sanctions for Non-compliant Member Businesses.
4. Marketing and Advertising by Member Businesses.
5. Terms and conditions and other pre contractual information (including cancellation rights, deposits, delivery times, guarantees and warranties).
6. Customer service provisions (including support for vulnerable consumers).
7. Consumer complaints process (including ADR).
8. Customer satisfaction and feedback, information/complaints from enforcement agencies, and how this information is used to develop and improve the code.

Member Application Process

Prospective members apply to join either online or by completing a paper application form. The Institute conducts rigorous checks on all applicants including bankruptcy, disqualified directors, identity, financial, court judgment, and character reference checks. In addition, all applicants are Disclosure and Barring Service checked and those found to have committed certain serious offences such as fraud and dishonesty are automatically rejected. All applicants must provide two satisfactory referees.

All applicants must pass an entrance exam consisting of both written and practical aspects before enrolling to become a member. There is an exemption where applicants are qualified solicitors or hold a recognised qualification from the Chartered Institute of Legal Executives or the Society of Trust and Estate Practitioners.

Experienced will writers with more than five years in practice can elect to complete four written assignments based on their actual work as an alternative to the entrance exam.

Examinations are held quarterly, consisting of a 90-minute written paper and a role play including taking will instructions and a will drafting exercise. Exam papers are independently marked and all applicants must obtain a pass mark of 70% or above.

Applicants are encouraged to attend a one day course named 'Introduction to Will Writing' followed by a three day intermediate course run by Will Writing Academy Limited, a subsidiary company of the Institute. The Institute has established a partnership with CILEx Law School the educational division wholly owned by the Chartered Institute of Legal Executives which offers accredited training in Wills, Probate and related legal matters.

Successful applicants are then sent a welcome compliance pack, which includes the code of practice, model letter of engagement, in-house complaints procedures, complaints log, client questionnaire and a declaration form.

Members are given a self-compliance check list covering all areas of business such as money laundering, document storage, cancellations, payment protection scheme and business literature. This check list must be returned along with proof of indemnity insurance covering a minimum of £2m professional indemnity and £2m public liability. The self-compliance checklist is then verified by the Institute's compliance team and only once deemed fully compliant is their membership approved.

During the course of the audit, two files of new applications were checked against the compliance procedure. All records were found to be complete, appropriately marked and dated accordingly in the membership checklist.

From March 2018 to February 2019 there were 40 new full members.

Existing Member Inspections/Audit

Existing membership is renewed annually via a self -declaration form with the submission of relevant supporting evidence. Practising members are also required to update their knowledge and skills annually through a programme of Continuing Professional Development (CPD) in order to retain their practising certificate.

The Institute audits around 25% of members per year and this is done on a risk basis. High risk members are those who have compliance issues, no feedback, or no CPD. They will automatically trigger an audit visit as soon as they are identified whereas medium risk members will receive a compliance visit at the first opportunity. Low risk members will only be visited when it is financially and/or logistically convenient for the IPW to do so.

Onsite audits are carried out by the Compliance Team using a standard comprehensive compliance checklist, which asks for supporting information and evidence of compliance.

During the course of the audit five of the most recently completed compliance check reports were examined. Those who initially failed supplied new or additional evidence to confirm their compliance. The results of compliance checks are published in the in the Annual Report.

Membership Withdrawal and Sanctions for Non- Compliant Member Businesses

Non-compliant members face a range of sanctions, including suspension of membership or expulsion.

Currently there are no members in the disciplinary process. During the audit one completed disciplinary case was examined. This had been fully investigated and the code member required to refund all fees paid by the client. Checks were made by the auditor which confirmed all monies were refunded.

Between March 2018 and February 2019, 45 full members left the Institute. The auditor examined three letters addressed to three different ex-members confirming

the lapse in their membership with the IPW. In view of previous recommendations, the wording was checked to ensure each contained a statement that an unauthorised claim of membership is a serious criminal offence under the Consumer Protection from Unfair Trading Regulations 2008. All letters examined contained this statement.

Marketing and Advertising by Member Businesses

The Institute provides ongoing support to its members including guidance and standard documents relating to marketing and advertising. Members have to submit all marketing materials and advertisements for assessment of compliance against consumer law and the code of practice.

The member audit checklist asks questions relating to direct marketing. This is to ascertain the amount of business its members gain from direct marketing activities. The IPW confirmed that none of its members are involved in direct marketing eg telephone cold calling. None of the members visited during the last year was found to be involved in direct marketing. When a compliance visit is made, the IPW enquires whether the member engages in direct marketing of this sort and, if this turns out to be the case, their telephone sales script is checked for compliance with the IPW Code of Practice, and the percentage of the member's business from cold calling is ascertained.

The IPW checks all marketing material used by members. If a Member has a new brochure/advert they send it to the IPW office for a compliance check.

Terms and Conditions and other Pre-Contractual Information

The Institute provides standard terms and conditions and pre-contract information to its members.

Members who accept any payment made in advance are required to take part in an approved prepayment protection scheme such as a client account or the Institute's payment protection scheme.

Of the five member audits examined all terms and conditions including pre-contract information and cancellation rights were found to be complying with the code of practice.

Customer Service Provisions

One of the Institute's objectives is to ensure that the services provided by its members are delivered professionally, ethically and competently.

The Institute provides training and guidance on dealing with vulnerable consumers. Members are given a risk assessment matrix as part of the compliance pack, outlining guidance and steps to take when dealing with more vulnerable consumers on various issues such as undue influence and testamentary capacity.

As part of the Institute audit checklist, all members are required to give extra help to vulnerable people. Of the five member audits examined no evidence of extra help not being given to vulnerable people was found.

Consumer Complaints Process

Guidance on making a complaint is contained in a booklet available on the IPW website.

The IPW code requires that letters of dissatisfaction should be acknowledged within 5 working days and will include information on how the issues raised will be dealt with. The firm then has 56 days to complete and respond to those issues.

If the client is still not satisfied they can either

- I. Refer the matter to the Legal Ombudsman
- II. Use the IPW alternative dispute resolution service which has received accreditation from CTSI under the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015. IPW have moved to fully compliant ADR for the whole complaints process.
- III. Pursue the matter through the courts.

Six complaints were reviewed the outcomes of which are detailed in the annual report.

Customer Satisfaction and Feedback

Members are required to give a feedback questionnaire form directly to consumers who can complete and post it to the Institute using a free post address. Members can also signpost consumers to complete the questionnaire online.

The Institute records results per month on a pivot table and the programme will automatically analyse levels of compliance across total membership. Results of customer feedback are recorded against each member on the member database.

The results are also displayed on the Institute's website member directory listing, including any good or bad comments and feedback. Members are also flagged for audit if the monthly pivot tables show customer dissatisfaction with the service or non-compliance with the consumer code.

Subject to the consumers' permission, around 10% of feedback received will be subjected to a telephone interview by the Institute to ensure all feedback is genuine.

Conclusions

Institute of Professional Willwriters is fulfilling its obligations as a code sponsor and its membership is compliant with the CCAS core criteria and the Institute of Professional Willwriters Consumer Code.

The Institute's rigorous application process, the CPD programme, the ongoing support backed by a robust auditing programme ensures that only members who are compliant and competent and adhere to the Institute's strict code of practice can operate as will-writers using the IPW's logo. The IPW responded comprehensively to all queries raised. Overall this continues to be a well-run and effectively managed code of practice.