

THE LIFE INSURANCE COUNCIL OF
THE HONG KONG FEDERATION OF INSURERS

CODE OF PRACTICE FOR LIFE INSURANCE REPLACEMENT

The following process is intended to prevent the activity of those agents who misinform or mislead clients into changing existing life insurances in a way which at the time of the change creates a real or potential disadvantage to the client. The assessment of this disadvantage may at times be subjective and therefore the success of the process in completely achieving its objective will depend on those involved acting in good faith and at all times in the best interests of the client.

1. Approach

Inappropriate replacement of life insurance policies (hereinafter referred to as "twisting") can be minimized through:

- 1.1 An unambiguous definition of what constitutes twisting,
- 1.2 Improved controls within the sales process to help prevent twisting at the point of sale,
- 1.3 A sound process for identifying twisting when it occurs, and
- 1.4 Adequate sanctions that can be imposed if twisting is proven.

2. Definition of Twisting

Twisting is the making of misleading statements, non-disclosures, misrepresentations and incomplete comparisons to induce an insured to replace existing life insurance with other life insurance resulting in disadvantage to the insured.

Any transaction involving the purchase of life insurance is construed as a replacement if existing life insurance is:

- 2.1 lapsed,
- 2.2 surrendered, or
- 2.3 converted to paid-up insurance.

This list may be expanded from time to time to include other forms of amending existing life insurance which are determined to constitute replacement.

3. Controls at the Point of Sale

A Customer Protection Declaration ("CPD") (see Appendix I) must be completed before the client agrees or makes a decision in relation to the purchase of a new life insurance policy. It is designed to:

- 3.1 discover any replacement being recommended and if so,
- 3.2 ensure that the agent has explained the important consequences.

In the event that the agent explains that there is no disadvantage attaching to the change then the agent must give the reason for this conclusion in writing as fully as possible.

In this way, there is a record that the client has been told of the real or potential disadvantages of the recommended replacement or has been given an explanation, as to why there is no disadvantage. Further, the agent may be protected in the event of a subsequent accusation of malpractice as there is evidence that the policyholder has been advised fully. The original of the CPD will be held by the selling office and a copy will be issued to the client together with the policy.

4. Identifying Twisting

4.1 Client Initiated

The client may complain about suspected twisting. Any such complaint received by the Hong Kong Federation of Insurers or other party will be forwarded to the selling office which must investigate and follow the same process as if it had itself discovered a suspected incident of twisting (see 4.2). The selling office must also write to the client to acknowledge receipt of the complaint and commit to notify the client within 60 days of receipt with the findings and any suggested arrangements.

4.2 Selling Office Initiated

The selling office has a duty to control the activities of its sales force. The office must therefore monitor the CPDs to ensure that its agents are complying with the process.

If during the monitoring the office discovers cases of non-compliance, or is given reason to believe existing policyholders may have suffered because of twisting by its agents, they must investigate those cases and take action. If twisting has occurred, action should consist of the sanctions listed in 4.4 below. If twisting has not occurred, the agents involved should

be re-trained in the compliance process to assure future CPDs are completed correctly.

The office must recognize that the CPD will form an important part of any investigation that may arise and should therefore insist upon and provide training to help agents to make adequate comments in those cases where "no disadvantage" is claimed.

4.3 Non-Selling Office Initiated

If an office believes that existing or ex-policyholders have suffered because of twisting by agents of other offices, it must investigate and will have the right to ask the selling office for the information listed on the Replacement Inquiry Form ("RIF") (see Appendix II). The selling office must provide that information within 10 working days of the request. If twisting has occurred, action should consist of the sanctions listed in 4.4 below.

4.4 Once twisting is identified as likely to have occurred, the offices concerned should attempt to reach agreement. If it is agreed that twisting has occurred, the selling office must immediately

- 4.4.1 report the agent to the Insurance Agents Registration Board ("the Board") with a recommendation for a suitable disciplinary action,
- 4.4.2 suspend the agent from selling any further business,
- 4.4.3 claw back the commission paid on the case/cases in question, and
- 4.4.4 arrange terms for reinstatement of the policies that have been twisted, if the client so wishes. These terms must, to the maximum extent possible, allow the client to return to the same position he would have been in had the policies not been twisted. This imposes an obligation on the offices to keep the client's interest foremost. Thus agreement must be reached speedily within a period of 30 days.

The selling office must then write to the client and inform him that:

- . he may have been sold policies unprofessionally;
- . in view of this he may wish to end the arrangements and reinstate the original policies;

- . he should give his decision within 30 days;
- . the selling agent has been suspended and has no further authority to represent the selling office to the client.

4.5 If offices cannot agree either that twisting has occurred or on the terms for reinstatement of the policies that have been twisted, then the complaining client or office will submit the case to the Board which will rule. If it is concluded that twisting has occurred, then the Board will direct the sanctions 4.4.2 - 4.4.4. The decision of the Board will be final.

4.6 For complaints to be investigated, they must be made within two years of the issue date of the related replacement life insurance policy.

5. Role of the Professional Standards Committee

The Professional Standards Committee of the Life Insurance Council will monitor that the process is working satisfactorily and is being complied with.

If during the monitoring, the Committee finds that an office has not complied with the process, it will have the right to seek cooperation from the office concerned. It may ultimately recommend that the Life Insurance Council terminate membership of that office if a clear pattern of non-compliance is seen.

香港保險業聯會 壽險總會

壽險轉保守則

下述程序旨在防止代理向客戶錯誤陳述或錯誤引導，使客戶更改現有壽險安排，以致客戶遭受實在或潛在的不利影響。在評估這些不利影響時，可能會流於主觀，因此，這項程序能否完全達致其目的，有賴各方面本着真實誠信，以照顧客戶的最佳利益為大前提。

1. 方法

為了減少不適當的轉保活動（以下簡稱「誘導轉保」），香港保險業聯會壽險總會提議採用下述方法：

- 1.1 對「誘導轉保」訂立明確的定義，
- 1.2 在營銷過程中加強監管，防止在營銷時發生「誘導轉保」的情況，
- 1.3 建立健全的自我監管制度，確定「誘導轉保」的情況有否發生，
- 1.4 如証實「誘導轉保」的情況發生，須執行適當的懲罰。

2. 「誘導轉保」的定義

「誘導轉保」是指代理利用誤導性陳述、不披露某些資料、錯誤陳述及對保單作出不詳實的比較，誘使投保人更改現有壽險安排，轉而投購其他壽險保單，使投保人的利益遭受不利影響。

如客戶的現有壽險保單發生下述情況，該客戶購買壽險的任何交易，即作轉保論。

- 2.1 失效，
- 2.2 退保，或
- 2.3 轉為已繳清保單。

以上項目並未概括所有可能構成轉保的情況。如代理建議客戶透過其他方式修改現有壽險保單，轉購新壽險的行為，該等情況一經確認，即會納入轉保活動的範疇。

3. 營銷時的監管

在客戶同意或決定購買新壽險保單前，必須填妥「客戶保障聲明書」（「聲明書」）（見附件一）。「聲明書」的作用是：

- 3.1 確定是否有轉保的情況出現；如有者，
- 3.2 確保代理已對客戶詳釋所帶來的重要影響。

如代理曾向客戶解釋轉保並沒有不利影響，代理必須在「聲明書」上詳註原因。

這樣，代理向客戶說明轉保的實在或潛在不利影響，或解釋沒有不利影響的原因等事項，都可記錄在案。此外，若代理在營銷過程中，遵從守則，但事後被指責處理失當，按此守則，代理亦可根據該份記錄，証明他已向保單持有人詳釋轉保的利弊。營銷保險公司將保留「聲明書」正本，副本則隨保單發給客戶。

4. 確定「誘導轉保」的發生

4.1 客戶的投訴

若客戶懷疑遇上「誘導轉保」的情況，可提出投訴。香港保險業聯會或有關保險公司接獲投訴後，將會把個案轉交營銷保險公司。該保險公司必須調查該宗投訴，並按第4.2條的程序，加以處理。保險公司必須以書面向客戶確認接獲投訴，並須在接獲投訴的六十天內，進行調查及通知客戶其調查結果和建議解決辦法。

4.2 營銷保險公司的監察

營銷保險公司有責任監管其代理的營銷活動，並必須審核所有「聲明書」，確保其代理遵守該項程序。

如保險公司在審核過程中，發現其代理不遵守程序，或誘導現有保單持有人轉保，而令客戶蒙受損失，該保險公司必須作出調查及採取相應行動。若「誘導轉保」的情況已出現，保險公司應執行以下第4.4項所列的懲罰措施。若「誘導轉保」情況尚未發生，該代理應接受轉保程序的再培訓，以確保他日後能恰當處理「聲明書」。

保險公司必須明瞭「聲明書」的重要性，及其日後可成為進行調查的基本証據。保險公司同時須為代理提供培訓，協助他們就聲稱轉保安排沒有為客戶帶來不利影響時，能向客戶作充份的解釋，並記錄在「聲明書」上。

4.3 其他保險公司的調查

如果一間保險公司相信其現有保單持有人或前保單持有人，因其他保險公司的代理「誘導轉保」而蒙受損失，必須作出調查，並有權向營銷保險公司要求提供「轉保查詢表格」所列的資料

（「查詢表格」）（見附件二）。保險公司必須在接獲要求後十個工作天內提供資料。如「誘導轉保」的情況已出現，保險公司應執行以下第4.4項所列的懲罰措施。

4.4 一旦證實「誘導轉保」的情況已出現，各有關保險公司應協商並達成共識。如同意「誘導轉保」的情況已發生，營銷保險公司必須立即

- 4.4.1 向保險代理登記委員會（「該委員會」）舉報該名代理，並建議採取適當的紀律處分，
- 4.4.2 暫停該名代理銷售壽險的職務，
- 4.4.3 收回就該（等）壽險已支付的佣金，及
- 4.4.4 如客戶同意，恢復已更改的保單所訂定的條件。這些條件必須盡可能使客戶恢復原來的利益狀況，如同未轉保一樣。在這方面，保險公司有責任維護客戶的最佳利益。因此有關保險公司必須盡快在三十天內協商達成共識。

營銷保險公司必須以書面通知該名客戶：

- 指出該名代理在營銷時可能違反專業守則；

- 應客戶要求，保險公司可替客戶安排終止其新簽的壽險保單，和聯絡有關保險公司，恢復其原有壽險安排；
- 客戶應在三十天內作出決定；
- 該代理已被暫停職務，再無權代表該保險公司接觸客戶。

4.5 如有關保險公司未能就「誘導轉保」的情況有否發生，或對已轉保的保單的恢復條件，達成共識，客戶或保險公司可將個案提交該委員會裁決。如裁定「誘導轉保」的情況已發生，該委員會將會決定作出第4.4.2－4.4.4項的懲罰。按此守則，該委員會在調查個案時，擁有最終決定權。

4.6 任何投訴，必須在涉及轉保的新壽險保單簽發日期後兩年內提出。

5. 專業標準委員會的職能

壽險總會專業標準委員會將監察本程序的運作，並確保業內人仕均遵守程序的規定。

如委員會發現保險公司不遵守程序，委員會有權要求保險公司合作。若發現該保險公司未有顯著的改善跡象，委員會最終可建議壽險總會撤銷該保險公司的會籍。