

SECTOR SPECIFIC GUIDANCE NOTE

Advice services

This Guidance seeks to equip PRS providers offering advice services to comply with the Code and any relevant requirements set out in Special conditions¹. The Guidance is split in to five sections:

- Section 1: Introduction to advice services
- Section 2: Qualifications to provide advice
- Section 3: Professional advice services
- Section 4: Legal advice services
- Section 5: Counselling services

1. Advice services

- 1.1. Various forms of advice can be provided via a premium rate service (PRS). No matter what the nature of the advice, it must be provided in a responsible and appropriate manner.
- 1.2. Users must be informed clearly and in an entirely transparent manner, from the outset, of what the service offers and any relevant qualifications, skills and/or experience that operators hold which enables them to provide reliable, trustworthy and accurate advice.
- 1.3. For the purposes of the PhonepayPlus Code of Practice (the 'Code'), advice services have been separated into two distinct categories:
 - a) those which can be considered 'professional advice services', which can only be offered by those who hold required, recognised and up-to-date professional/academic qualifications; and
 - b) other services which offer advice on topics which do not require extensive periods of study, formal academic qualifications and/or post-qualified experience.
- 1.4. Professional advice services are subject to additional restrictions and controls in the form of [Special conditions applicable to Professional Services, including Counselling](#)
- 1.5. When determining whether or not an advice service will be subject to Special conditions, it should be considered whether, in relation to that specific topic or area, there is:
 - a) An individual regulatory authority that sets a standard which regulated individuals or entities must meet – for example the Solicitors Regulation Authority (SRA);
 - b) A widely acknowledged membership body/bodies which publishes a set of criteria for practitioners and/or issues accreditation to recognised academic courses – for example, the British Association for Counselling and Psychotherapy (BACP).

¹ See the PhonepayPlus website: <http://www.phonepayplus.org.uk/for-business/special-conditions>

2. Qualifications to provide advice

2.1. Advice services should be established to offer advice that is reliable, trustworthy and accurate.

Qualifications are sometimes considered necessary to establish sufficient expertise in order that the advice given may be to a standard expected by consumers. All promotional material should detail and explain the source of information by which the advice is being given – be that through recognised qualifications, relevant experience, or other legitimate and appropriate sources. Additionally, in the promotional material or at the beginning of the service, the consumer should be made aware of the following:

- a) Any relevant and current professional qualification of a person supplying advice and the professional body by whom that person is accredited;
- b) Why that qualification is relevant (if not immediately obvious), and the status of that qualification; and
- c) Any relevant experience of the person(s) or organisation supplying the information or advice.
- d) Even where operators have no relevant qualifications, the source of the advice being given should be made clear to the consumer.

3. Professional advice services

3.1. PhonepayPlus defines professional advice services as those which involve the provision of specialist advice to consumers by one or more qualified professionals. These are persons whose occupations require knowledge and skill obtained through extensive study and specialised training (e.g. doctors, lawyers, vets, accountants, financial advisers etc.) and who may be members of a relevant professional body.

3.2. Operators of professional advice services should have relevant, current and appropriate qualifications. Evidence of such should be provided upon request. Those giving advice should have a membership with the relevant professional body, where there is one – for example, solicitors giving legal advice should hold an unconditional practising certificate from the Law Society.

3.3. Professional Indemnity Insurance **must** be in place to cover the service and the operators providing consumers with advice.

4. Legal advice services

4.1. As with all PRS, legal advice services² must comply with the PhonepayPlus Code, and in addition, the obligations set out within the applicable Special conditions. Whilst we do not set our own expectations as to the professionalism of how advice is promoted and agreed, or the quality of the advice or the qualifications of those providing it, we do draw on such expectations as set out by relevant professional bodies. Further to this, we have included Guidance below which mirrors expectations set out by the SRA concerning the provision of legal advice.

² Legal advice services involve “the provision of legal advice or assistance in connection with the application of the law or with any form of resolution of legal disputes”. This definition is derived from section 12 of the Legal Services Act 2007 (which itself provides a broader definition of ‘legal activity’).

4.2. It is likely that a legal advice service will be considered compliant with the relevant Special conditions if the following points are met, **developed in part with reference to** guidance issued by the SRA:

4.3. Qualifications:

4.3.1. Services staffed by solicitors (for the avoidance of doubt, this provision does not relate to services staffed by barristers, trainee solicitors or legal executives).

- a) Solicitors giving advice should hold a valid practicing certificate from the Solicitors Regulation Authority.
- b) We draw providers' attention to the requirements of the Solicitors Regulation Authority, in particular that providers can demonstrate that they deliver services competently, that they have the resources and skills to carry out clients' instructions, and that they have in place an adequate system of supervision. Special condition PROF 1 requires providers to comply with these rules.
- c) Where legal advice is being offered, we recommend that a provider hold sufficient evidence of the competence (including relevant experience) of its operators. Where a service is promoted as specialising in a particular area of law – for example, employment or housing law - we would only expect evidence of competence in that specialism.
- d) We recommend that solicitors with less than three years' qualified experience are supervised at all times by solicitors of at least three years' qualified experience.

4.3.2. Services staffed by operators other than solicitors:

- a) We recommend that where this type of service is aimed at members of the public, providers be in possession of a recognised Quality Assurance mark covering the areas of practice to which the service relates.
- b) The areas of legal advice being offered should be clearly stated. Please note that the term 'lawyer' is not sufficiently precise for these purposes.
- c) We draw providers' attention to Special conditions PROF 4 and PROF 5 which require certain operators to hold a formal qualification and be members of an appropriate professional body, and require an appropriate structure of supervision to be established.
- d) Services staffed by operators other than solicitors that either (i) do not concern specific areas of the law in which the operators are competent to advise; and/or (ii) promote to vulnerable consumers and/or (iii) do not clearly state in promotional material the qualifications or experience of the operators may be found to breach the Code of Practice and/or Special conditions for Professional Advice services.

4.3.3. Advice concerning barristers:

- a) The Bar Standards Board states that a barrister (practising or non-practising) is not permitted to provide legal services directly to the public, unless they have a full practising certificate, have undertaken the required public access training and are registered with the Bar Council as a public access practitioner. For more information about the public access rules, please contact the Bar Standards Board.

- b) Practising barristers are permitted to provide the reserved legal activities (as defined in the Legal Services Act 2007) listed in their practising certificates as issued by the Bar Standards Board. The Bar Standards Board rules do not restrict non-practising barristers from providing certain legal services, however, they are precluded from carrying out any reserved legal activities and holding themselves out as a practising barrister.
- c) Non-practising barristers are barristers who have not been issued with a practising certificate by the Bar Standards Board and/or have not been authorised to carry on reserved legal activities. For further details on the issuing of practising certificates and the definition, and undertaking, of reserved legal activities, please contact the Bar Standards Board.
- d) Providers who wish to employ barristers to staff legal advice services aimed at the general public or to industry are strongly advised to seek advice from the Bar Standards Board before beginning the service.

4.3.4. Other requirements:

- a) Providers must show evidence of Professional Indemnity Insurance, which fully covers the service offered.
- b) Consumers should be made aware of other, free of charge, legal advice that may be available to them, either before, or upon using, the legal advice service.

5. **Counselling services**

- 5.1. Counselling services must comply with the relevant Special conditions before they can operate, in addition to the requirements of the PhonepayPLUS Code of Practice.
- 5.2. Counselling services are defined as follows, and are a sub-set of professional advice services:

Counselling services involve calls usually made in order to seek advice in relation to a personal situation; for example, for marital, emotional, relationship and other personal problems. These services may refer callers to a body or organisation specialising in an area most relevant to the caller's need.

Such services can involve one-off sessions or involve a programme of therapy offered over a given period. An ongoing relationship with an individual counsellor is not central to such services. Services of this nature may involve consumers who are vulnerable, either in terms of the characteristics of their circumstances.³

- 5.3. Whilst we do not set our own expectations as to the professionalism of how advice is promoted and agreed, or the quality of the advice or the qualifications of those providing it, we do draw on such expectations as set out by relevant professional bodies. Further to this PhonepayPlus has drawn on guidelines published by BACP

³ Definition of counselling services is taken from the Professional advice and counselling services Notice of Special conditions (<http://www.phonepayplus.org.uk/for-business/special-conditions>)

in order to remain consistent with the widely accepted approach to the provision of counselling services, when offered via PRS.

- 5.4. BACP launched and implemented its new *Ethical Framework for Counselling Professionals*⁴ on **1 July 2016**. While this does not result in any changes to our Special conditions framework, we advise PRS providers to consider these BACP developments for themselves.
- 5.5. PhonepayPlus has identified two new concepts within the new Ethical Framework as being of relevance to PRS providers:
- 5.5.1. First, BACP has added a new mandatory duty to take action to protect clients where exploitation or unsafe practice is observed.⁵ Therefore, where supervision is in place as required by the Special conditions framework, PRS providers must have a system in place to respond and take action when any exploitation or unsafe practice is observed.
- 5.5.2. Second, there is a new duty of candour – the need to promptly inform clients about anything important that has gone wrong when the counsellor has been working with the client.⁶ This means that a candid discussion needs to be arranged by the PRS provider with the client, regardless of the level of knowledge or understanding of the client about what has gone wrong. PhonepayPlus considers such discussions ought to be free of charge and facilitated by a call organised by the PRS provider or, if the matter is dealt with during a call to the PRS number by the client, with a refund being provided for that particular call.
- 5.6. Following on from **the BACP guidelines in general**, it is likely that a counselling service will comply with the Special conditions, if the following conditions are met:

One-off counselling services

- 5.6.1. Qualifications:
- a) Operators should hold a formal qualification, at diploma level or equivalent, and should be members of an appropriate professional body.
 - b) Evidence of any training in relation to counselling over the telephone should be provided upon request.
 - c) As with other advice services, details of relevant qualifications should be provided in promotional material.
 - d) If operators are to be giving advice on a particular topic (e.g. eating disorders), then such operators should have appropriate and relevant experience. Evidence of such experience should be made available upon request.

⁴ This is found on the BACP website: http://www.bacp.co.uk/ethical_framework/

⁵ Found in the Good Practice section (para. 11) of the *Ethical Framework*.

⁶ Found in both the Commitment section (para. 6b) and Good Practice section (para. 47) of the *Ethical Framework*, the latter of which stipulates actions to be taken to resolve any identified issues requiring candour from the counsellor.

5.6.2. Supervision

- a) An appropriate structure of supervision should be demonstrated, including supervision of the standard of the service at management level; oversight of operators; supervision for operators which is readily available, whether they are working in a call centre or in isolation; and regular group supervision.
- b) In line with the BACP, we would recommend that supervision occurs for a minimum of 1.5 hours per month.

5.6.3. Repeated/addicted callers:

- a) All reasonable steps should be taken to prevent consumers becoming 'addicted' callers⁷.
- b) Evidence of steps taken by providers may be required by PhonepayPlus, to evidence and support provider's claims to compliance with Special Condition PROF 6, in the event of investigation into a complaint or other potential issue or concern relating to a counselling service.

5.6.4. Maximum call duration:

- a) The duration of a call to this type of service should not last longer than 20 minutes, as per the [Notice of Specified Service Charges and Durations of Calls](#)⁸.

Ongoing counselling services

5.6.5. Qualifications:

- a) Operators should hold a formal qualification, at Diploma level or equivalent, and should be members of an appropriate professional body.
- b) Evidence of any training in relation to counselling over the telephone should be provided upon request.
- c) As with other advice services, details of relevant qualifications should be provided in promotional material.
- d) If operators are to be giving advice on a particular topic (e.g. eating disorders), then such operators should have appropriate and relevant experience. Evidence of such experience should be made available upon request.

5.6.6. Supervision

- a) An appropriate structure of supervision should be demonstrated, including supervision of the standard of the service at management level; oversight of operators; supervision for operators, which is readily available whether they are working in a call centre or in isolation; and regular group supervision.

⁷ 'Addicted' callers refer to those that may become noticeably dependent on the counselling service in an unhealthy way. PhonepayPlus considers providers of counselling services via PRS that are qualified are in a position to identify such callers and respond in an appropriate way.

⁸ Found on the PhonepayPlus website: <http://www.phonepayplus.org.uk/~media/Files/14th-Code-of-Practice/Notice-of-Specified-Service-Charges-and-Durations-of-Calls-July-2016-final.pdf>

5.6.7. Maximum call duration

- a) The duration of a call to this type of service should not last longer than one hour, where a pre-arranged schedule has been confirmed in writing, in advance.

5.6.8. Number of sessions

- a) Counselling services should be carried out over a limited number of sessions, with the agreement of the counsellor and the consumer, with a review being carried out at the end of every four sessions.
- b) Arrangements should be made for a non-premium rate means for a potential consumer to set up an agreement with a counsellor. A written agreement, to be entered into by the consumer and the counsellor, should be signed by both parties prior to the commencement of premium rate counselling sessions.

This agreement should set out:

- the cost of the calls;
 - the length of the sessions;
 - how many sessions could, or will, be held prior to review;
 - why this number of sessions is appropriate; and
 - the benefits that the number of sessions will provide to the consumer.
 - Following the agreed number of sessions, a review should be carried out and any further agreements reached should be made in writing. In the event of a dispute, PhonepayPlus may generally ask to see such an agreement, while accepting that the interaction between counsellor and consumer is confidential.
- c) The consumer should be provided with this written information in a durable form.