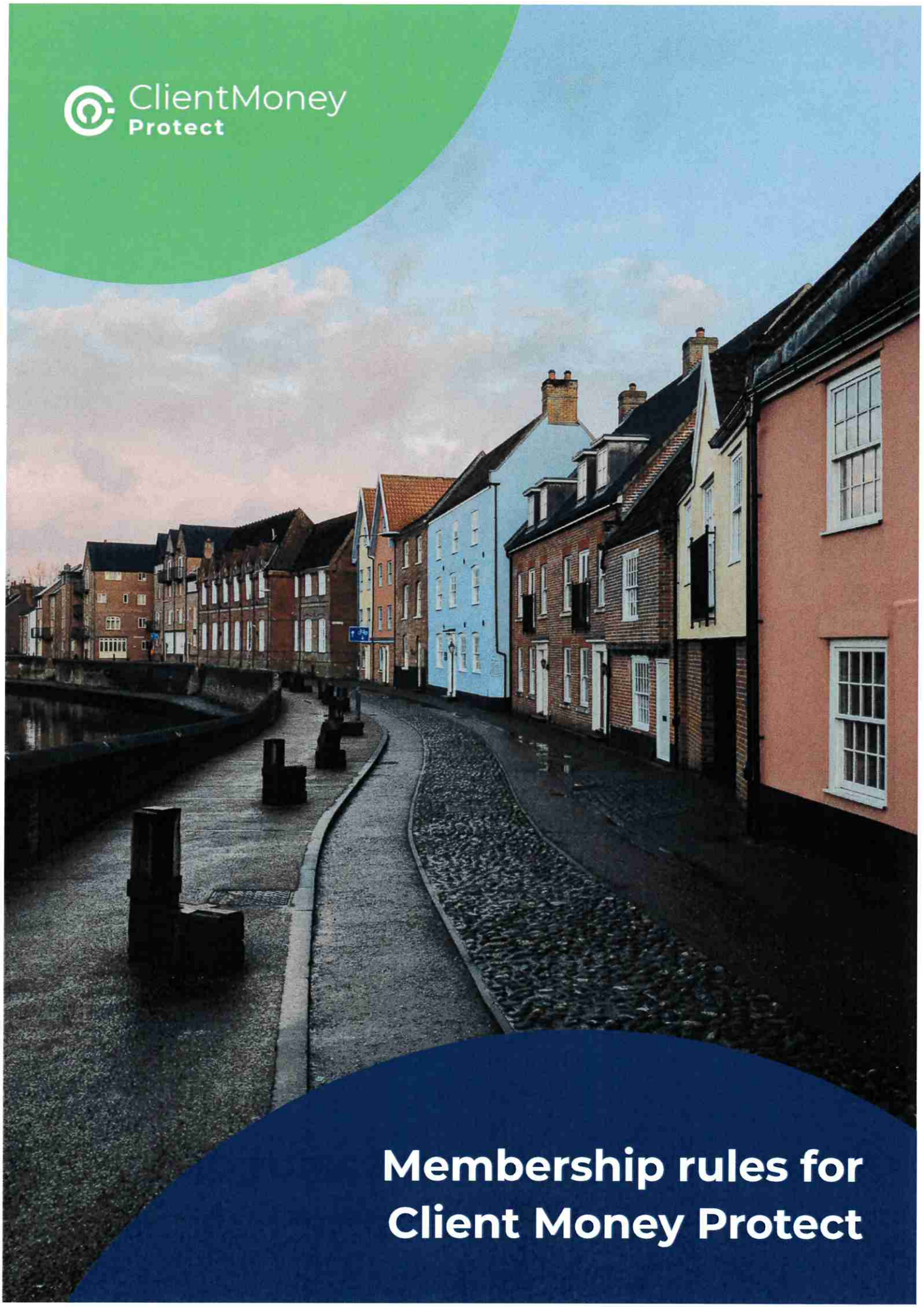
ClientMoney
Protect



Membership rules for Client Money Protect

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A. Definitions

Accountant	A qualified accountant in accordance with section e of these membership rules.
Accountant Declaration Report	The Client Money Protect accountant declaration form that is to be completed by an accountant.
Consumer	A client of the member who raises a claim for compensation under the scheme rules.
Client	Any person or body for whom the member firm or client accounting service provider holds or receives client money (which may include a landlord or tenant, purchaser, vendor or contractor); including past, present and prospective clients.
Client Accounting Service Provider (CASP)	A separate legal entity that manages the client money on behalf of a property agent.
Client Money	Money that a firm holds or receives for, or from, a client which can be any currency. This could be in the form of cash, draft, cheque or electronic transfer and includes money held by a company as stakeholder, and which is not immediately due or payable on demand to the business for its own account. For example, rent and/or unprotected deposits.
Client Money Account	A segregated and ring-fenced client money account with a UK clearing bank or building society which is free of any charges or adverse claim and is kept for the specific purpose of holding client money.
Credit Check	An examination of a business's credit history using an approved credit referencing agency authorised and regulated by the Financial Conduct Authority.
Member / Member agent	A property agent who is an active member of the scheme.
Misappropriation	Taking money that does not belong to you, without permission, to use for your own purposes.
Redress Scheme	A UK government approved consumer redress scheme who deal with complaints against property agents and professionals.

A. Definitions

Deposit	The money which must be 'protected' and which acts as security for any breach by the tenant of the tenancy agreement.
Scheme	CMProtect Limited trading as Client Money Protect and/or HFIS Plc trading as Hamilton Fraser as appointed scheme administrator.
Tenancy Deposit Scheme	A government authorised scheme in place to protect tenant's security deposits.
The Letting Partnership HealthCheck	A separate legal entity who provide client account HealthChecks for agents that fit the criteria in section e of these membership rules.
We/Us/Our	The scheme – CMProtect Limited trading as Client Money Protect and/or HFIS Plc trading as Hamilton Fraser as appointed scheme administrator.

B. Introduction

Who is Client Money Protect?

Client Money Protect is approved by the Department for Levelling Up, Housing and Communities, to offer client money protection to all letting and property management agents in England who, since 1 April 2019, are legally required to belong to an approved scheme.

We are also recognised by the Scottish Government and the Welsh Government. For more information on the statutory requirements including transparency, enforcement and penalties visit www.legislation.gov.uk.

Our main purpose is to compensate landlords and tenants if a Client Money Protect member misappropriates their client money.

These rules set out how the scheme operates, including:

- How to join
- The conditions of membership
- How we expect our members to manage client money
- How the operation of the scheme provides compensation to the clients of our members

CMProtect Limited trading as Client Money Protect is administered by HFIS plc trading as Hamilton Fraser. Client Money Protect is a wholly owned subsidiary of HFIS plc who is authorised and regulated by the Financial Conduct Authority (reference number: 306513). For more information, please visit www.hamiltonfraser.co.uk.

C. Applying for membership

C.1 Joining information

A residential letting or property management agent can apply to become a member online.

You will have to:

- Complete the application form
- Provide all the required documents (see below)
- Confirm you agree to these rules which is the membership contract
- Agree to a credit check being carried out on you or your business using recognised credit checking agencies
- Agree that we can monitor the credit score and rating throughout the membership period

If required at any point, and at your own cost, an agent must agree to provide an accountants declaration form or have a financial health check carried out with The Letting Partnership. Primarily this will be before we accept either a new application, or at the time of renewal.

C.2 What documents do we need from you?

All new membership applications will need to provide the following documents which can be uploaded through the portal:

1. A copy of the company's professional indemnity insurance policy which is appropriate for the size of the firm, income, type of work and the amount of client money held, with the limit of indemnity no less than £100,000
2. Confirmation and evidence of a segregated client account(s) with a bank or building society, authorised by the Financial Conduct Authority. So that the money held is easily identifiable, it is recommended that deposits and rents are split and kept in separate client accounts
3. Copies of the last three months' bank statements from your client account(s) showing all client money transactions i.e. deposits, rents, maintenance
4. Evidence (i.e. screenshot of summary page) of the number and amount of security deposits currently protected in an authorised government tenancy deposit protection scheme (both insurance and custodial where appropriate)

C.3 What is our acceptance criteria?

As an agent you must:

1. Let and/or manage residential property in the UK with continuing agreements from your landlord client(s)
2. Receive rent which you transfer to the landlord client(s) less any deductions for fees etc. as listed in your contractual agreement
3. Protect all deposits taken on behalf of the landlord client(s) with one of the Government authorised deposit protection schemes, as legally required
4. Always hold client money such as deposits and rents in a client money account(s)
5. Make sure that client money does not form part of the agent's money or assets

6. Be free of any petition to wind up, liquidation, receivership or insolvency orders
7. Not have managers, directors, owners or shareholders that have been removed, been refused or excluded from membership of this, or any other client money protection scheme without first informing us and providing full disclosure on the reasons for the exclusion
8. Have no managers, directors, owners or shareholders who have been:
   - Associated with a business that previously suffered any misappropriation of money
   - Associated with dishonesty incidents
   - Convicted of any finance related criminal offence and/or have any criminal prosecutions pending
9. Not be aware of any fact, circumstance or incident that may prevent paying back client money held, unless agreed with us, in writing
10. Have adequate professional indemnity insurance for the size of the business, with a minimum indemnity limit of £100,000
11. Be a member of a government authorised consumer redress scheme, such as the Property Redress Scheme or Property Ombudsman or the first tier tribunal (if based in Scotland)
12. Register all offices/branches with a valid address in the UK, Channel Islands or IOM which is not a PO Box, separately and pay the relevant fee for each
13. Register all additional offices or branches which manage their own individual client account(s) separately i.e. not held centrally at a single head office location and pay the relevant fee for each
14. Register different legal entities, including franchises separately, even if operating under one central client bank account and pay the relevant fee for each

C.4 Declining your application

Part of our acceptance criteria is passing a risk assessment which includes a credit check on the business with a recognised credit checking agency.

If the risk assessment fails, and at our discretion, we may decline a new membership or renewal application for this reason, or if we consider that the agent cannot or does not comply with these client money handling conditions and the membership conditions below.

D. Your membership

D.1 Subscriptions and membership fees

As a member:

1. Your membership fees must be paid as required and your membership will only start, or be renewed, when we have received cleared funds
2. Your membership subscription period is 12 calendar months
3. If you decide to cancel your membership within the first 14 days, a full refund will be provided less a £25.00 administration fee
4. If you cancel your membership after the first 14 days, you will not be entitled to any refund.

D.2 Membership conditions

As a member you must comply with the latest version of these membership rules and:

1. Pay all required membership fees when due
2. Handle client money in line with these membership rules
3. Respond to any communications from us, as requested
4. Always hold client money such as deposits and rents in a client money account(s) and agree to provide evidence of the client money account(s) when requested
5. Always provide, and keep us updated, with a working telephone contact number, a monitored email address and a trading address
6. Prominently display the Client Money Protect window sticker and membership certificate in all member offices and on your website
7. Display the scheme's logo on your company letterhead and website
8. Publish procedures for handling client money on your website and provide a copy to anyone who reasonably requests a copy
9. Agree to us publishing your company name(s) (both legal entity and all trading names) as well as contact details on our website which confirms your membership to the general public and any expiry date if you are no longer a member
10. Agree to fully cooperate with any audit or investigation by us, or our appointed auditors and provide any documents requested. An audit or investigation could include onsite visits
11. Tell us immediately if there has been any misappropriation, dishonesty or any other concerns which may result in you being unable to return client money to your clients
12. Continuously be a member of a government authorised consumer redress scheme, such as the Property Redress Scheme or Property Ombudsman or the first tier tribunal (if based in Scotland) while holding client money
13. Maintain professional indemnity insurance cover that is appropriate for the business
14. Consent to Client Money Protect approaching the banking institution with whom your company holds their client accounts in order to request current balances

D. Your membership

D.3 Making changes

You must tell us:

1. If there are any changes to your legal entity as memberships are not transferable. You will need to apply for a new membership using the correct company information and pay the required fee
2. As soon as possible and in writing, if any of the information provided in your original application form or client money questionnaire has changed

We may cancel your membership if we are not advised of any changes due to your non-disclosure or misrepresentations.

D.4 Renewing your membership

You will receive a renewal notification before the renewal date advising what steps you need to take to renew your membership for the next 12 months, which will include completing and returning all the renewal documents we send, together with paying the renewal fee once we have offered you the renewal terms.

The renewal process may change from time to time, and you will be expected to provide any information requested as part of the renewal process at the time.

If your membership is not renewed with us, either voluntarily or because we are not prepared to offer new membership terms following your renewal application, we will inform Trading Standards, authorised redress schemes, authorised deposit protection schemes, property portals and any other relevant government body including other approved client money protection schemes.

E. Client account health check and accountant declaration

Agents who hold £250,000 or more in client money, at any one time, will be required to go through a health check with The Letting Partnership or provide a Client Money Protect accountant declaration. This will be required for both new and renewing applications and at the agent's own cost. Without this information, we will be unable to accept a Client Money Protect membership application.

For checks through The Letting Partnership click here. Agents will need to:

1. Pay the necessary fees to The Letting Partnership who will assess the company's client money accounts and suitability for Client Money Protect membership
2. Provide all information requested by The Letting Partnership in the required time
3. Agree that The Letting Partnership is separate to the scheme and provides a third-party service
4. If a completed health check is deemed a refer, more information will need to be provided
5. Accept that they will receive no refund from The Letting Partnership if a membership is subsequently declined

We reserve the right to decline an application, irrespective of the outcome of the health check and we will provide reasons for our decision.

Agents who opt for the accountant declaration:

1. Will be able to access the latest version of the Client Money Protect accountant declaration here
2. Are responsible for providing their accountant with the latest version of these membership rules and the Client Money Protect accountant declaration report
3. Must allow their accountant to send a copy of their report direct to Client Money Protect
4. Accept that the report must be provided annually and that at least one of the reconciliation dates must be within six months of membership renewal date.
5. Must employ an accountant who is a member of one of the following:
   - The Institute of Chartered Accountants in England and Wales
   - The Institute of Chartered Accountants of Scotland
   - The Institute of Chartered Accountants in Ireland
   - The Association of Chartered Certified Accountants

   The scheme will not accept an accountant report, at any time between the beginning of the accounting period relating to the report and the report's completion, if the reporting accountant is a connected person to:

   - Any principal, partner or director of the agent
   - Any member of the staff employed by the agent in preparing the client accounting records

F. Handling client money

F.1 Rules for handling client money

All members must:

1. Have separate client bank accounts solely for the use of client money, in relation to residential lettings.
2. Only hold client money in UK banking institutions authorised by the Financial Conduct Authority, that are covered by the financial services compensation scheme, and ensure that funds are available within a maximum of 31 days
3. Have the title of their client money bank account easily distinguished from other accounts of their firm with the words 'client account' clearly stated
4. Have written confirmation from their bank(s) that all client money is held by your firm as a trustee and that the bank is not entitled to combine the client money account(s) with any other account, or to exercise any right of set-off or counterclaim against money in that account, in respect of any sum owed to it on any other account by the firm
5. Have and maintain relevant systems and controls which allow you to monitor and manage client money transactions and any credit risk arising, including but not limited to regular internal account audits
6. Have accounting systems and client data securely controlled and protected
7. Have clients' written approval to make payments from their accounts
8. Pay any client money inadvertently paid into the firms business account into the firms designated client money bank account within three business days of the money being received by the firm
9. Nominate authorised staff to handle client money
10. Make sure records show all dealings with client money
11. Make sure that all procedures for handling client money are complied with and clearly written down and provided to your clients, free of charge, preferably in your terms of business or management agreement
12. Reconcile client accounts together with bank and cash balances at regular intervals, to demonstrate control over the accuracy and completeness of accounting records
13. Make sure there are sufficient funds in the client account to pay amounts owing to clients as they fall due under the members' terms and conditions of engagement with the client
14. Repay any client money without delay, including where feasible, any interest earned, where there is no longer any reason to hold that money, or the client requests it

We reserve the right to request evidence of compliance with these client money handling procedures.

If client money relating to your residential lettings business is held in the same account as client money relating to any commercial lettings business and/or block management you carry out, you must:

- Provide Client Money Protect, when applying for scheme membership and then, on an annual basis (at renewal) with a client money audit specifically relating to your residential lettings business

Client money audits must, without exception, be carried out 'on site' by a qualified accountant.

F. Handling client money

F.2 Client Accounting Services Provider (CASP)

All members must:

1. Have their own client money protection insurance
2. Ensuring the CASP has adequate client money protection insurance
3. Declare details of the CASP to the scheme

The scheme reserve the right to reject any applications or cancel membership where a member fails to declare the use of a CASP.

G. Membership disciplinary

G.1 Audits and risk assessment

At any time during your membership, we may carry out a risk assessment to make sure you are complying with these rules. This will involve:

- You agreeing to comply with all our reasonable requests in relation to a risk assessment
- At the very least, us carrying out a credit reference (with on-going monitoring)
- Us requesting evidence that the client money accounts are maintained
- The possibility of an unannounced visit to your trading address for the required information

G.2 Breach of scheme rules, suspension and cancellation of membership

There are certain situations which may result in us sending you notice, in writing, to suspend your membership, which if not resolved, may lead to your membership being cancelled. These include:

1. Non-payment of any fees or other money we request which are due
2. Any statement you made, or information given, which we discover is a misrepresentation or fraudulent in relation to your membership
3. Not complying with an audit or pass a risk assessment we carry out
4. Aggressive or abusive behaviour to any of our officers or staff
5. A member who is subject to a financial judgement, or the appointment of a liquidator or Law of Property Act (LPA) receiver over properties protected
6. A company that is subject to a petition to wind up, an administrator, an administrative receiver, a proposal to strike off or if the member ceases to trade under the name registered with us
7. An individual, becoming or being declared bankrupt, insolvent, or convening a meeting of or making or proposing to make any arrangement with creditors

G.3 What happens if your membership is cancelled or expires?

When a membership is cancelled or expires, we will inform trading standards, authorised redress schemes, authorised deposit protection schemes, property portals and any other relevant government body, including other approved client money protection schemes.

G. Membership disciplinary

G.4 If you cancel your membership?

You may cancel your membership at any time by:

- Sending us written notice, unless any compensation claims have been received
- Proving that you no longer hold client money or
- That you have joined another approved client money protection scheme

You will not be entitled to a refund of any membership fees following cancellation of membership.

G.5 If we cancel your membership?

Your membership may be cancelled for:

- Any material non-disclosure
- Misrepresentations by you or
- An adverse audit result

We will send you notice in writing explaining the breach and reasons for our decision. If the breach is remedied, we may agree to re-instate the membership. Our decision will be final and cannot be challenged.

Where we cancel or remove a member from the scheme for breaching these rules, we may display the member's company on our cancelled agents list, which is a public page on our website.

H. Consumer compensation claims

H.1 How does it work?

Client money protection insurance is a specific insurance which protects landlords and tenants money against theft or misappropriation by the owners of the member agent, while it is in their custody or control. These are usually rent payments and tenants' deposits but may also include money held for repairs and maintenance to the property.

We do not act on behalf of the member agent but are an independent membership body providing protection of the client money held by our members and insuring the liability for paying out any claims.

In the event that the owners of the business misappropriate any of the client money leading to the insolvency of the agent, the agent's clients can contact us and make a compensation claim against the agent. If we accept a genuine claim, we will recompense the landlord and/or tenant and take the necessary action to recover the money from the agent or its owners.

As a landlord you should check your bank statements regularly to make sure you have received all rent payments from your agent in line with your contract agreement. If any rent payments are missed you should contact your agent immediately to resolve the matter. If you are unable to contact the agent and you suspect they have ceased trading you should report the theft to the local police and arrange for the tenant to pay future rent directly to you.

H.2 Conditions for making claims

We can only accept claims:

1. Relating to residential tenancies
2. Relating to theft of your money
3. Relating to tenant(s) deposits where the deposit was never protected in an authorised tenancy deposit protection scheme
4. If the agent is a member and/or the misappropriation occurred during the member's membership period
5. Where the agent appears to no longer be trading
6. If the person making a claim has informed the police of the theft and has a crime reference number
7. Where the person claiming has taken steps to help minimise their loss
8. Made within 12 months from the date we were first notified of the member's misappropriation of client money.

As client money claims relate to a criminal offence there are additional processes that need to be carried out which are sometimes out of our control, so the length of time it takes to complete an application will depend on the information provided to us.

Where the client money disputes relate to deposits protected by an authorised tenancy deposit protection scheme, these disputes must be raised with that scheme and their resolution services first.

H. Consumer compensation claims

H.3 How to make a claim

1. Check here www.clientmoneyprotect.co.uk/propertyagent/members to see if your agent is a member of Client Money Protect
2. Visit www.clientmoneyprotect.co.uk/claim for information on how to raise a claim including our guide to making a claim
3. Raise any concerns you have with your agent first. If you are still unhappy or get no response, then please contact us
4. To make a compensation claim, you will need to provide the following:
   - A completed compensation claim form which you can download at www.clientmoneyprotect.co.uk/claim

     All relevant evidence, such as:
   - A copy of your tenancy agreement
   - A copy of the terms of business with the agent
   - A copy of your bank statements showing rental payments coming into your account and then no longer being made
   - A copy of the tenant's bank statements or evidence from the tenant showing the missed rental payments which have been made
   - Evidence of a deposit being paid and re-protected (if applicable)

I. Exclusions

We will only investigate claims/complaints relating to the misappropriation of client money and reserve the right to pass all other claims/complaints to the relevant redress scheme or advise the consumer to go to court.

We will decline claims:

1. When a landlord has entered into a guaranteed rent or rent to rent type arrangement. This is a commercial arrangement between the parties and the rent, which should be paid to the landlord is not client money
2. Relating to a client money dispute where the money continues to be held securely by the member or has been returned to the client
3. Relating to deposits taken on tenancies that are protected by an authorised tenancy deposit protection scheme ("security deposits") unless that scheme is unable to pay the consumer what is due because of restrictions on their scheme rules, or the cover they offered has been used up
4. Relating to misappropriation or theft of client money by employees of the member's company. This should be covered by the member's professional indemnity policy, unless the policy limit has been exhausted or the insurers of that policy refuse to settle a claim
5. Which are received after the 365 day notification period has ended
6. Where the misappropriation occurred outside of the agent's subscription period
7. Arising from war, terrorism, confiscation or nuclear risks
8. Where the claimant is unable to provide the relevant claim documentation

J: Subrogation and recoveries

1. Once a consumer has been compensated with their loss, all rights of recovery against the member and its officers will transfer to the scheme who can pursue the member and any relevant person or entity
2. The consumer also agrees to co-operate with any legal process that we engage in, including providing a witness statement and evidence of the loss
3. If a member has joined more than one approved client money protection scheme, we reserve the right to subrogate any losses, in full or in part, against the other licensed client money protection scheme

As well as holding adequate professional indemnity insurance, we also recommend members purchase adequate employer's liability, public liability, cyber and directors' and officers' insurance to cover the business from losses resulting from an employee or other external factors causing the business to stop trading.

K. Miscellaneous

The following miscellaneous provisions apply:

1. We may need to update these from time to time. We will post notice of any significant changes on our website, in newsletters and by email where the member has provided us with an email address
2. The member agrees to abide by the latest version of these rules
3. We will take appropriate action if we have any concerns about a member's identity, potential fraud or money laundering
4. We cannot be held responsible for events that happen beyond our control which prevent or delay our ability to operate
5. Members should make sure we are added to their list of 'safe' email addresses as we cannot be responsible for any email that ends up in the spam or junk folder, which should be checked regularly so no emails are missed
6. The member agrees to receive newsletters from the scheme informing them of relevant industry activity.

L. How we share information

The scheme, Hamilton Fraser and its insurers may use any information provided by the consumer or member when considering a potential claim, provided it is for the express purpose of dealing with that claim.

We may refuse to provide information to either party if:

- In our reasonable opinion it is not relevant
- In our reasonable opinion, it is inappropriate or illegal
- It concerns issues of personal security for our member
- It is protected by legal or professional privilege (and such privilege has not been waived)

We will always consider specific requests for disclosure.

We will act in line with all General Data Protection Regulation (GDPR) and all other data protection laws.

We will comply with all relevant General Data Protection Regulations (GDPR) and all other data protection legislation. All parties agree (our members and consumers) that we act as a data controller who will need to use the data provided to contact all parties (those concerned) in relation to claims we receive.

The scheme may share data with HFIS plc trading as Hamilton Fraser, who may offer the member additional insurance related products to help the member comply with both the client money protection regulations and these rules. These may include employer's liability, public liability, cyber and directors' and officers' insurance as well as other related products.

M: Complaints about us

Our aim is to provide a first class service to all members and consumers. If you feel that our service has fallen short of the standard you expect and you wish to raise your concerns, please write to us at:

info@clientmoneyprotect.co.uk or by post to:
Client Money Protect
First Floor | Premiere House
Elstree Way
Borehamwood
WD6 1JH

When we have received a complaint:

- We will confirm receipt within three working days and try to satisfactorily resolve your complaint
- If we are unable to resolve the complaint in three working days, we will aim to provide a full response within five working days
- Where we expect it will take longer than five working days to provide a full response, we will write to the person complaining, explain the reasons why and confirm when they can expect to receive the final response
- If sent the final response we may conclude that the complaint is closed. If we are satisfied the matter has been appropriately resolved, then we reserve the right to not to engage in more correspondence which will just be kept on file

While Department for Levelling Up, Housing and Communities authorise the scheme and have a responsibility for monitoring all client money protection schemes, they do not have a role in individual complaints and so are unable to become invilved in any such matters.

www.clientmoneyprotect.co.uk

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Client Money Protect is part of the Hamilton Fraser family who have been providing specialist products for the private rented property sector since 1996. We understand our markets which helps us to provide you with relevant and competitive solutions that support you in running successful and professional businesses.