

Choosing an IFA – guidance for solicitors

The Lexcel Practice Management Standard 8.9 requires firms to adopt documented procedures for selecting barristers, expert witnesses and other professionals in the legal community, and it is good practice to extend the principle to include financial advisers. The following due diligence checklist is suggested when selecting financial advisers:

	Criteria	Yes/ no/ comment
1.	Independence – i.e. conflict-free. In July 2009 the SRA reiterated its guidance on Rule 19 of the Code of Conduct by stating specifically that solicitors must not refer their clients to tied or multi-tied financial advisers (such as St James’s Place), who are only permitted to advise on a limited range of products.	
2.	Direct authorisation by the FSA. The significance of this requirement is that IFA firms which are authorised indirectly, via IFA networks, are subject to the influence of those networks, some of which are substantially dependent on product providers for financial support. For this reason, the SRA does not permit law firms to join IFA networks. To check, go to www.fsa.gov.uk / FSA Register and if this shows “Current status: Authorised”, the firm is directly authorised.	
3.	Fee-based remuneration. The principle behind Rule 2.06 of the Code of Conduct (which requires solicitors to account to clients for any commissions received) is that the client’s interests may be prejudiced if the adviser is paid by a third party. The fact that product providers often vie for business by offering extra commission underlines the problem. Professional financial advisers works on a fee basis, like other professionals.	
4.	Qualifications. The Financial Services Authority is insisting that financial advisers should be qualified to QCF level 4 by the end of 2012, but most fee-based IFAs have already attained this level and many have progressed further to the status of Chartered Financial Planner or Certified Financial Planner. Advisers specialising in specific areas of business may also have qualifications with which solicitors may be more familiar, such as the STEP exam in trusts for IFAs, the Resolution accreditation for financial neutrals and the Society of Later Life Advisers’ accreditation, which is associated with Solicitors for the Elderly.	
5.	Disciplinary record. The FSA Register at www.fsa.gov.uk will also disclose any disciplinary issues which an IFA firm may have experienced and which may reflect on its quality standards and integrity. Click on Disciplinary History.	
6.	Listing in the Law Society endorsed Directory of Professional Financial Advisers www.sifa-directory.info . Eligibility for listing demands compliance with all the above criteria.	

Note: There is no substance to the apparently widespread assumption that solicitors must offer their clients a choice of three IFAs. This practice is in fact undesirable in that it unfairly thrusts the onus of the decision onto the client, who is not usually in a position to exercise a judgment. The solicitor’s responsibility is to select the most appropriate IFA for the client, having regard to considerations such as qualifications, specialisation, experience and relationship.

