



LIFE & PENSIONS ADVISOR

## **Terms of Business – Brian Smith Mortgage Life & Pensions limited**

**Legal Name:** Brian Smith Mortgage Life & Pensions limited

**Trading Name:** Brian Smith Mortgages **Effective**

**Date:** 1<sup>st</sup> September 2021

These Terms of Business set out the general terms under which our firm will provide business services to you and the respective duties and responsibilities of both the firm and you in relation to such services. Please ensure that you read these terms thoroughly and if you have any queries we will be happy to clarify them. If any material changes are made to these terms we will notify you.

### **Authorisation with the Central Bank of Ireland**

Brian Smith Mortgage Life & Pensions limited is regulated by the Central Bank of Ireland as an insurance intermediary/distributor registered under the European Union (Insurance Distribution) Regulations, 2018, as a Mortgage Intermediary authorised under the Consumer Credit Act, 1995 and as a Credit Intermediary authorised under the European Union (Consumer Mortgage Credit Agreements) Regulations, 2016. Copies of our regulatory authorisations are available on request. Our Central Bank of Ireland number is C167058.

We do not have a holding, direct or indirect, representing 10% or more of the voting rights or the share capital in any insurance undertaking, no insurer has such a holding in Brian Smith Mortgage Life & Pensions limited. We represent our customers when dealing with lenders, insurers and product providers.

The Central Bank of Ireland holds registers of regulated firms. You may contact the Central Bank of Ireland on 1890 777 777 or alternatively visit their website at [www.centralbank.ie](http://www.centralbank.ie) to verify our credentials.

### **Companies Registration Office**

Details of the firm's registration as a limited company can be found on [www.cro.ie](http://www.cro.ie), company registration number 577945.

### **Codes of Conduct**

The firm is subject to the Consumer Protection Code, Minimum Competency Code and Fitness & Probity Standards which offer protection to consumers. These Codes can be found on the Central Bank's website [www.centralbank.ie](http://www.centralbank.ie).

Brian Smith Mortgage Life & Pensions limited is a member of Brokers Ireland.

T: +353 (1) 9059630 M: +353 (86) 8146222 E: [brian@briansmith.ie](mailto:brian@briansmith.ie)

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### **Our Services**

Our principal business is to provide advice and arrange transactions on behalf of clients in relation to mortgages, life assurance, serious illness, income protection & pensions and PRSA's.

### **Mortgages**

Through the lenders or other undertakings with which we hold an agency, the firm can provide advice on and arrange mortgage products from the following range: fixed-rate mortgages, variable rate mortgages, capital & interest mortgages, interest only mortgages, endowment mortgages, pension mortgages and residential investment property mortgages.

The firm provides mortgage advice on a fair analysis basis (providing services on the basis of a sufficiently large number of contracts and product producers available in the market to enable the firm to make a recommendation, in accordance with professional criteria, regarding which contract would be adequate to meet your needs). The firm currently holds appointments with the following lenders:

- Dilosk DAC
- The Governor and Company of the Bank of Ireland
- Haven Mortgages Limited
- Brokers Ireland Network Services Limited
- Affinity Mortgages Limited
- Finance Ireland Credit Solutions DAC
- Permanent TSB plc.
- Seniors Money Mortgages (Ireland) Designated Activity Company

We will need to collect sufficient information from you before we can offer any advice on housing loans. This is due to the fact that a key issue in relation to mortgage advice is affordability. Such information should be produced promptly upon our request.

It is important that you and all of the parties in this transaction advise us of all material facts concerning your circumstances. A material fact is one which is likely to influence us in our assessment and recommendations relating to your application for revised repayment terms. If you are in doubt as to whether a fact is material, then it should be disclosed.

### **Life Assurance, Serious Illness, Income Protection, Pensions & PRSA's.**

Brian Smith Mortgage Life & Pensions limited holds written appointments with a number of insurance undertakings. This enables us to provide advice to you on life assurance, serious illness, income protection, pension and PRSA policies under the European Union (Insurance Distribution) Regulation, 2018. However, Brian Smith Mortgage Life & Pensions limited has selected one preferred product producer, Royal London DAC Plc for life insurance plans (including life assurance, specified illness cover and income protection).

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A list of the product producers with which Brian Smith Mortgage Life & Pensions limited holds an agency appointment are as follows:

- New Ireland Assurance Company plc
- Zurich Life Assurance plc
- Royal London DAC
- Aviva Direct Ireland Limited

We will provide assistance to you for any queries you may have in relation to the policies or in the event of a claim during the life of the policy and we will explain to you the various restrictions, conditions and exclusions attached to your policy. However, it is your responsibility to read the policy documents, literature and brochures to ensure that you understand the nature of the policy cover; particularly in relation to PHI and serious illness policies.

Specifically on the subject of permanent health insurance policies we will explain to you; a) the meaning of disability as defined in the policy; b) the benefits available under the policy; c) the general exclusions that apply to the policy; and d) the reductions applied to the benefit where there are disability payments from other sources.

For a serious illness policy, we will explain clearly to you the restrictions, conditions and general exclusions that attach to that policy.

### **Disclosure of Information – All Products**

It is important that you ensure that all information provided on proposal forms, application forms, statement of facts and any other documentation relevant to the service being provided to you is complete and accurate. If you are in doubt as to whether information is relevant or not, please disclose it to us. Failure to disclose any material information could invalidate your cover and could mean that all or part of a claim will not be paid.

### **Remuneration**

We may earn our remuneration on the basis of fee, commission and any other type of remuneration, including a non-monetary benefit or on the basis of a combination of these methods. A non-monetary benefit will only be accepted if it enhances the quality of the service to our clients. When assessing products, we will consider different approaches by product providers in terms of them integrating sustainability risks into their product offering. This will form part of our analysis for choosing a product provider.

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You may choose to pay in full for our services by means of a fee. Where we receive recurring commission, this forms part of the remuneration for initial advice provided and also for the ongoing management of your policy. Where we receive commission from a product provider and charge a fee, we do not offset the commission against the fee. Additional fees may be payable for complex cases or to reflect value, specialist skills or urgency.

A summary of the details of all arrangements for any fee, commission other reward or remuneration paid or provided to us which have agreed with product providers is available in our office or on our website, [www.briansmith.ie](http://www.briansmith.ie).

### Mortgages

We receive up to 1% of the mortgage amount from lending institutions. This commission is paid by the mortgage lender. The actual amount of commission will be disclosed at a later stage in the ESIS (European Standardised Information Sheet) which will be forwarded to you. Commission can be clawed back by the lender within a three-year period.

### Fees

In certain circumstances it will be necessary to charge a fee for services provided. Additional fees may be payable for complex cases or to reflect value, specialist skills or urgency or you may choose to pay in full for our service by fee. Where fees are chargeable or where you choose to pay in full for our service by fee, we will notify you in writing in advance and agree the scale of fees to be charged if different from fees outlined. Where it is not possible to provide the exact amount, we will provide you the method of calculation of the fee.

**Unless stated all fees are payable within 14 days of invoice issue date. We do not charge an initial tele - consult fee.**

#### **Home Loan Fees are charged as follows:**

- €195 at application stage. This fee is payable upon submission of the requested mortgage documentation to us;
- €200 at Approval in Principal stage. This fee is payable upon receipt of an Approval in Principal Letter;
- €0 at Loan Offer stage. This fee is payable once your loan offer is issued;
- An additional €0 is payable at the release of each subsequent stage payment (if applicable).

Lenders may charge a valuation fee in order for a mortgage valuation to be carried out. Confirmation of individual lender fees is available upon request. At our absolute discretion we may waive our Approval in Principal and Loan Offer fees. This will be agreed in advance however if an Approval in Principal or Loan Offer is secured for you and you subsequently do not finalise your mortgage finance with us, these fees become immediately payable.

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Our fee will be notified to the lender who will include this fee into the calculation of the APRC (Annual Percentage Rate Charge).

**Buy to Let Fees/2<sup>nd</sup> Residence are charged as follows:**

- €250 to review all mortgage application documentation provided by you so as to establish your suitability to apply for a mortgage. This fee is payable upon submission of the requested mortgage documentation to us;
- €375 to research the market, prepare a credit submission and engage with Lenders on your behalf and obtain indicative lender(s) decision (Approval in Principle or "AIP"). This fee is payable upon receipt of an Approval in Principle as outlined prior to Lender submission;
- €375 to progress your application from "AIP" stage and to co-ordinate with all parties to cheque issue. This fee is payable once your loan cheque has issued.

Lenders may charge a valuation fee in order for a mortgage valuation to be carried out. Confirmation of individual lender fees is available upon request. Lenders charge 3<sup>rd</sup> party legal fees (approximately €1500 plus vat) and may charge an arrangement fee. The exact amount will be confirmed on the lender's Terms of Business/Loan Offer.

Additional fees are payable for complex cases requiring specialist skills or urgency. We will give an estimate of these fees in advance of providing you with services.

**Commercial Fees are charged as follows:**

For Commercial Loans a completion fee of 0.5% of the loan amount less any fees already paid is charged upon completion. Fees are charged as follows;

- €500 to review all mortgage application documentation provided by you so as to establish your suitability to apply for a mortgage. This fee is payable upon submission of the requested mortgage documentation to us;
- €1000 to research the market, prepare a credit submission and engage with Lenders on your behalf and obtain indicative lender(s) decision (Heads of Terms). This fee is payable upon receipt of a Head of Terms;

**Additional fees are payable for complex cases requiring specialist skills or urgency. We will give an estimate of these fees in advance of providing you with services.**

**PLEASE NOTE that at the absolute discretion of the firm fees may be reduced or waived. However, should a service outlined above be provided and you chose not to proceed with our services, then the fees outlined above may become payable regardless of being waived by the firm in the first instance.**

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You will be invoiced for any outstanding fees and this invoice should be settled within 14 days from the date of invoice. The firm reserves the right to withdraw any services being provided should you fail to satisfy our payment terms as outlined above.

Please note that lenders may charge specific fees in certain circumstances. If this applies, these fees will be specified in your Loan Offer. You have the right to pay a fee separately and not include it in the loan.

### Life Assurance/Pension & PRSA Remuneration

We are remunerated by commission and other payments from product producers. When assessing products, we will consider the different approach taken by product providers in terms of them integrating sustainability risks into their product offering. This will form part of our analysis for choosing a product provider. Remuneration details are on our website, [www.briansmith.ie](http://www.briansmith.ie).

### Income Protection Remuneration

The firm is remunerated by commission from insurers on completion of business. Details of this remuneration is available on our website, [www.briansmith.ie](http://www.briansmith.ie).

### Regular Reviews

It is in your best interests that you review, on a regular basis, the products which we have arranged for you. As your circumstances change, your needs will change. You must advise us of those changes and request a review of the relevant policy so that we can ensure that you are provided with up to date advice and products best suited to your needs. Failure to contact us in relation to changes in your circumstances or failure to request a review, may result in you having insufficient insurance cover.

### **Consumers Duty of Disclosure when completing documentation for new business/renewals and midterm adjustments**

Section 14 (1) – (5) of the Consumer Insurance Contracts Act which is effective from 1<sup>st</sup> September 2021 alters consumers duty of disclosure:

- You are required to answer all questions posed by us or the insurer honestly and with reasonable care – the test will be that of the ‘average consumer’. Average consumer as per ~Directive No. 2005/29/EC of the European Parliament and of the Council of 11 May 2005 is reasonably well informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors.
- Specific questions will be asked. Where you do not provide additional information (after being requested to do so) it can be presumed that the information previously provided remains unchanged.

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An insurer may repudiate liability or limit the amount paid on foot of the contract of insurance, only if it establishes that non-disclosure of material information was an effective cause of the insurer entering into the relevant contract of insurance and on the terms on which it did.

### Completed proposal forms/statement of fact

Completed proposal forms or Statements will be provided to you. These are important documents as they form the basis of insurance contract between the insurer and you the consumer. You should review and confirm that the answers contained within are true and accurate.

### Conflicts of interest

It is the policy of our firm to avoid conflicts of interest in providing services to you. However, where an unavoidable conflict of interest arises, we will advise you of this in writing before providing you with any service. Our Conflicts of Interest Policy is available on request.

### Default on payments by clients

Our firm will exercise its legal rights to receive payments due to it from clients (fees and insurance premiums) for services provided. In particular, without limitation of the generality of the foregoing, the firm will seek reimbursement for all payments made to insurers on behalf of clients where the firm has acted in good faith in renewing a policy of insurance for the client.

Product producers may withdraw benefits or cover in the event of default on payments due under policies of insurance or other products arranged for you. We would refer you to policy documents or product terms for the details of such provisions.

Mortgage lenders may seek early repayment of a loan and interest if you default on your repayments. Your home is at risk if you do not maintain your agreed repayments.

## Consumer Insurance Contracts Act 2019

### New Business Stage

If you have taken out a life insurance contract, you may cancel the contract by giving notice in writing to us within 30 days after the date you were informed the contract is on cover.

If you have taken out a general insurance contract, and we have not met face to face during the process, you may cancel the contract by giving notice in writing to us within 14 days after the date you were informed the contract is on cover.

If you have taken out a general insurance contract, and we have met face to face during the process, you may cancel the contract by giving notice in writing to the insurer within 14 working days after the date you were informed the contract is on cover.

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The giving of notice of cancellation by you will have the effect of releasing you from any further obligation arising from the contract of insurance. The insurer cannot impose any costs on you other than the cost of the premium for the period of cover.

This right to cancel does not apply where, in respect of life insurance the contract is for a duration of six months or less, or in respect of general insurance, the duration of the contract is less than one month.

You are under a duty to pay your premium within a reasonable time, or otherwise in accordance with the terms of the contract of insurance.

A court of competent jurisdiction can reduce the pay-out to you if you are in breach of your duties under the Act, in proportion to the breach involved.

### Post-Contract Stage and Claims

An insurer may refuse a claim made by you under a contract of insurance where there is a change in the risk insured, including as described in an “alteration of risk” clause, and the circumstances have so changed that it has effectively changed the risk to one which the insurer has not agreed to cover.

Any clause in a contract of insurance that refers to a “material change” will be interpreted as being a change that takes the risk outside what was in the reasonable contemplation of the both you and the insurer when the contract was concluded.

You must cooperate with the insurer in an investigation of insured events including responding to reasonable requests for information in an honest and reasonably careful manner and must notify the insurer of the occurrence of an insured event in a reasonable time.

You must notify the insurer of a claim within a reasonable time, or otherwise in accordance with the terms of the contract of insurance.

If you become aware after a claim is made of information that would either support or prejudice the claim, you are under a duty to disclose it. (The insurer is under the same duty).

If you make a false or misleading claim in any material respect (and know it to be false or misleading or consciously disregards whether it is) the insurer is entitled to refuse to pay and to terminate the contract.

Where an insurer becomes aware that a consumer has made a fraudulent claim, they may notify the consumer advising that they are voiding the contract of insurance, and it will be treated as being terminated from the date of the submission of the fraudulent claim. The insurer may refuse all liability in respect of any claim made after the date of the fraudulent act, and the insurer is under no obligation to return any of the premiums paid under the contract.

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### **Sustainable Finance Disclosure Regulation (“SFDR”)**

When providing advice, the firm considers the adverse impact of investment decisions on sustainability. As part of our research and assessment of products, the firm will examine the Product Providers literature to compare financial products and to make informed investment decisions about environmental, social and governance (ESG) products. The firm will at all times act in the client’s best interests and keep clients informed accordingly. The consideration of sustainability risks can impact on the returns of financial products.

### **Complaints**

We ask that you make any complaint against our firm, relating to services provided by us, in writing. We will acknowledge your complaint within 5 business days and we will fully investigate it. On completion of our investigation, we will provide you with a written report of the outcome. In the event that you are still dissatisfied with our handling of or response to your complaint, you are entitled to refer the matter to the Financial Services Ombudsman or the Pensions Ombudsman. A full copy of our complaints’ procedure is available on request.

### **Compensation Scheme**

We are members of the Investor Compensation Scheme operated by the Investor Compensation Company Ltd. See below for details.

### **Investor Compensation Scheme**

The Investor Compensation Act, 1998 provides for the establishment of a compensation scheme and the payment, in certain circumstances, of compensation to certain clients (known as eligible investors) of authorised investment firms, as defined in that Act.

The Investor Compensation Company Ltd. (ICCL) was established under the 1998 Act to operate such a compensation scheme and our firm is a member of this scheme.

Compensation may be payable where money or investment instruments owed or belonging to clients and held, administered or managed by the firm cannot be returned to those clients for the time being and where there is no reasonably foreseeable opportunity of the firm being able to do so.

A right to compensation will arise only:

- If the client is an eligible investor as defined in the Act; and
- If it transpires that the firm is not in a position to return client money or investment instruments owned or belonging to the clients of the firm; and
- To the extent that the client’s loss is recognised for the purposes of the Act.

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Where an entitlement to compensation is established, the compensation payable will be the lesser of:

- 90% of the amount of the client's loss which is recognised for the purposes of the Investor Compensation Act, 1998; or
- Compensation of up to €20,000.

For further information, contact the Investor Compensation Company Limited at (01) 224 4955.

**Communication Policy - communicating with you**

Our primary method of written communication with you will be via email/whats app once you have confirmed your email address and mobile number to us. If you wish to receive written communication in a paper format please notify us. All other communication will be either by face to face interaction or verbally using the contact number(s) you have provided us.

**Data Protection**

Please see information on Data Protection immediately after the Acknowledgement below.

**Term of Business Acknowledgement**

I/We acknowledge that I/We have been provided with a copy of the Terms of Business of Brian Smith Mortgage Life & Pensions limited including our Communication Policy and confirm that I/We have read, understand and consent to it.

**Name:**  
**Signature:**

**Name:**  
**Signature:**

**Date:**

**Date:**

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**Politically Exposed Person (PEP)**

A “PEP” is defined as a person who is, or has at any time in the preceding 12 months been, entrusted with a prominent public function, this includes;

- Heads of State, heads of government, ministers and deputy of assistant ministers.
- Members of Parliament.
- Members of supreme courts, constitutional courts or other high-level judicial bodies whose decisions are not generally subject to further appeal, except in exceptional circumstances.
- Members of courts of auditors or the board of central banks.
- Ambassadors, charges d’affaires and high-ranking officers in the armed forces.
- Members of the administrative, management or supervisory boards of state-owned enterprises.
- A Family member/close associate of one of the above.

**Customer Declaration**

I have read and understand the above definition of a Politically Exposed Person and confirm that:

I am not a Politically Exposed Person

I am a Politically Exposed Person

**Name:**  
**Signature:**

**Date:**

**Name:**  
**Signature:**

**Date:**





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**Data Protection**

We comply with the requirements of the General Data Protection Regulation 2018 and the Irish Data Protection Act 2018.

Brian Smith Mortgage Life & Pensions limited is committed to protecting and respecting your privacy. We wish to be transparent on how we process your data and show you that we are accountable with the GDPR in relation to not only processing your data but ensuring you understand your rights as a client. The data will be processed only in ways compatible with the purposes for which it was given and as outlined in our Data Privacy Statement. This will be given to all our clients at the time of data collection.

We would also like to keep you informed of mortgage, insurance and any other services provided by us or associated companies with which we have a formal business arrangement; which we think may be of interest to you. If you would like to receive such marketing information please complete the permission statements contained in this letter. We will ensure that this Privacy Notice is easily accessible. Please refer to our website, [www.briansmith.ie](http://www.briansmith.ie). If this medium is not suitable we will ensure you can easily receive a copy by; hard copy or by emailing us at [brian@briansmith.ie](mailto:brian@briansmith.ie). Please contact us at [brian@briansmith.ie](mailto:brian@briansmith.ie) if you have any concerns about your personal data.

**Privacy Policy Consents, Permissions and Acknowledgements**

Here at Brian Smith Mortgage Life & Pensions limited we take your privacy seriously and will only use your personal information to provide the products and services you have requested from us. We use your personal information as outlined in our Data Privacy Statement. In order to allow us provide you with the products and services we offer you, we will need your consent to the collection, processing, sharing and storing of your personal information as follows:

**Mortgage Finance**

I/We consent to Brian Smith Mortgage Life & Pensions limited collecting, processing, sharing and storing my/our personal data as outlined in Brian Smith Mortgage Life & Pensions limited Data Privacy Statement for the purposes of Brian Smith Mortgage Life & Pensions limited providing me/us with mortgage finance.

I agree

**Name:**

**Signature:**

**Date:**

I agree

**Name:**

**Signature:**

**Date:**

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**Consent in relation to special category data.**

Life Assurance and associated insurance products (mortgage protection, serious illness cover, income protection, term assurance cover, pensions, PRSA'S)

This consent is required to allow us provide you with market-based quotes and products. This will enable you to have the option of availing of the most competitive and suitable product for your specific personal requirements at all times.

I/We consent to Brian Smith Mortgage Life & Pensions limited collecting, processing, sharing and storing my/our personal data as outlined in Brian Smith Mortgage Life & Pensions limited Data Privacy Statement including special category personal information such as health data for the purposes of Brian Smith Mortgage Life & Pensions limited providing me/us with life assurance and associated insurance products as outlined above.

I agree

**Name:**

**Signature:**

**Date:**

I agree

**Name:**

**Signature:**

**Date:**

**Consent to Contact/Direct Marketing**

We are available to work with you throughout the term of your mortgage. This means that where appropriate we would like to contact you to advise you of potentially better terms being available to you from other providers and of new products that may be relevant to you. In order for us to do this we need your consent.

You may opt out or change your preferences at any stage by emailing [brian@briansmith.ie](mailto:brian@briansmith.ie)

If you consent to us contacting you for this purpose please tick to say how you would like us to contact you:

Post

Email

Telephone

Text message

Please do not contact me

**Name:**

**Signature:**

**Date:**

**Name:**

**Signature:**

**Date:**

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