

## Secret Commissions

Secret commission laws and various court cases make it clear all commission payments should be disclosed to avoid any suggestion the payments were corrupt, essentially because there is a conflict of interest between the customer's interests and that of the agent.

These obligations cannot be avoided by changing the terminology to avoid the use of the word 'commission' as the term covers all payment types and benefits.

A payment or benefit will not be viewed as a secret commission provided the customer is aware of it.

Generally, disclosure to the customer does not need to give "full chapter and verse" details about amount, etc.

At the very minimum, there should be written commission disclosures in place to evidence the required disclosures were made (e.g. Client Services Agreements, Credit Guide, Proposal, Financial Services Guide, Credit Contract, Commercial Finance Agreement, etc)

A statement that commission is to be paid, or received, by and to whom is adequate disclosure, except in South Australia where additional detail must be disclosed.

The NCCP Act, however, requires both credit providers and brokers to provide detailed disclosure of commissions paid or received for consumer transactions.

Any customer/broker contract should indicate the broker is, or may be receiving or payment commission payments from or from a credit provider, insurer, referrer or other third parties, if that is relevant to the contract.

Those who pay commission (e.g. to vendors, accountants and other referrers) should also make similar disclosures in their contracts about payments.

Our training module on Secret Commissions provides more information –  
<http://creditwise.talentlms.com/catalog>

Alternatively, contact Steve Edwards on 0414232562 or [Steve.Edwards@creditwise.com.au](mailto:Steve.Edwards@creditwise.com.au)

*This Compliance Guide provides a high level explanation of how the current law may impact on finance sector businesses. However, the application of the law may vary according to circumstances and readers should seek legal advice for their specific situation.*