



Terminating a Mandate

This procedure is designed to help damage insurance representatives who must terminate their mandate to do so in accordance with their ethical and legal obligations. It recommends sending clients a termination of mandate letter to ensure that they are fully aware of the representative's intentions.

Although this procedure mainly concerns brokers, it may also apply—with certain modifications—to those known as “affiliated” agents, in particular those whose firm's name does not reflect its exclusive relationship with an insurer.¹

A mandate is a written or tacit contract whereby a consumer gives a representative the mission to obtain insurance coverage for him. Thus, a mandate is distinct from an insurance policy, and an expired or cancelled policy is not equivalent to a termination of mandate.

A mandate may be terminated by either the **representative** or the **client**.

About this procedure and the obligations

The termination of mandate procedure arises from the obligations stipulated in sections 26 and 37(4) of the *Code of ethics of damage insurance representatives*, respectively the obligation to notify their clients, as soon as they observe an impediment to the continuation of their mandate, and the obligation to report to the client on the carrying out of a mandate.

This procedure also ensures compliance with the relevant provisions of the *Civil Code Québec*: articles 2175 and following, in particular:

2178. The mandatary may renounce the mandate he has accepted **by so notifying the mandator** (*our emphasis in bold*). He is therefore entitled, if the mandate was given by onerous title, to the remuneration he has earned until the day of his renunciation.

However, the mandatary is bound to make reparation for injury caused to the mandator by his renunciation, if he renounces without a serious reason and at an inopportune moment.

2182. Upon termination of the mandate, the mandatary is bound to do everything which is a necessary consequence of his acts or which cannot be deferred without risk of loss.

¹ Since agents are generally considered to be the insurer's mandatary, they do not have to send a termination of mandate letter to their insureds; the notice of cancellation or non-renewal the insurer sends is sufficient. However, there may be situations where, to err on the side of caution, it is recommended that affiliated agents follow the termination of mandate procedure, for example, when the firm's name does not include that of the insurer. The letter the agent sends does not have to include the words “termination of mandate,” however it must clearly inform the client that the business relationship has ended.



TERMINATION OF MANDATE BY A REPRESENTATIVE

It is preferable to not terminate your mandate during the term of the policy, however it can be done, as long as you take all means necessary to avoid causing your client any harm.

- A representative who decides to terminate his mandate must have reasonable grounds to do so. The following non-exhaustive list gives examples of reasonable grounds for terminating a mandate:
 - the representative is unable to find a contract for the insured;
 - the client loses confidence in the representative's services;
 - a difficult relationship with the insured prevents the representative from providing high quality services;
 - the client deceives the representative;
 - the client asks the representative to participate in a fraudulent act or make a false statement;
 - the representative finds himself in a conflict of interest or in a situation that gives the appearance of a conflict of interest;
 - the insured refuses to pay the premium or the fees billed;
 - etc.
- A representative does not have to give the client any justification for why he is terminating his mandate. However, if the representative decides to do so, he must not lie or make any false statements. For example, a representative cannot claim that she has to terminate her mandate because the policy cannot be renewed when, in fact, the insurer had agreed to do so.
- A representative who decides to terminate his mandate must do so without causing his client any **harm**. For example, a representative who commits one of the following acts could cause harm to his client:
 - Ask for the cancellation of an insurance policy for the sole purpose of ending his business relationship with a client, without any other valid reason;
 - Terminate his mandate within an unreasonable timeline before the policy comes due for renewal;
 - Terminate his mandate retroactively;
 - Not cooperate when transferring agencies (change of mandatary requested by the insured);
 - etc.
- A termination of mandate requested by the representative must be confirmed by sending a termination of mandate letter to the insured, for example, in the following cases:
 - **Non-renewal of the policy**

When the insurer does not renew the insurance policy and the representative is unable to find the insured another contract or the representative no longer wishes to act as the insured's mandatary, he must send a [termination of mandate letter](#).



- **Cancellation of the policy**

When the insurer cancels the insurance policy due to non-payment and the representative is unable to find the insured another contract, or when the representative no longer wishes to act as the insured's mandatary, he must send a [termination of mandate letter](#).

- **Without cancellation of the policy**

When a representative unilaterally terminates his mandate during the term of the insurance policy, he must send a termination of mandate letter and assist the insured in transferring his or her policy to another firm (see: "[Termination of mandate before the expiry date](#)" letter). The representative must make sure to scrupulously follow up with the client before closing the file.

- Generally speaking, when the representative accepts a mandate, it is connected to a **specific insurance risk**. A representative may therefore cease to pursue activities in respect of one insurance policy while continuing to act in respect of another. In such cases, the representative must clearly explain to the insured which policy or policies the termination of mandate applies to. It is also possible that the representative's mandate covers several risks or locations insured under a single policy. In this case, if the representative ceases to pursue activities in respect of only one of these risks or locations (for example, he is unable to renew insurance coverage for a cottage), he must also make this clear to the client. (See: "[Termination of mandate upon cancellation of risk](#)" letter).
- When the representative presents the client with a **quote** that the client refuses, or if he simply discusses insurance with a client, he must make sure that the client does not come away with the impression that the representative has agreed to act for him and that he will issue a policy. If need be, the representative must clearly terminate his mandate, which was solely to submit a quote.² He may do so verbally or in writing.

² Please refer to article 2132 of the *Civil Code of Québec*, which stipulates that "Acceptance of a mandate may be express or tacit. Tacit acceptance may be inferred from the acts and even from the silence of the mandatary."



TERMINATION OF MANDATE LETTER

Without having to explain the exact reasons for termination, the termination of mandate letter must be detailed enough for the insured to understand the situation. The insured must clearly understand that the representative is terminating his mandate to act as the insured's representative, and that he will take no steps to find him an insurance policy.

The insured must also be made aware of the consequences of this termination of mandate including, for example, the fact that insurance coverage will end. Where applicable, the insured must understand that he should immediately take steps to contact another representative to find him new insurance coverage.

Of course, the termination of mandate letter must include the policy number, the name of the insurer and the term of the contract, as well as its expiry date and, where applicable, the risk and the location affected.

Examples of termination of mandate letters that you can adapt to meet your needs are available at chad.ca under the **Tool Box** tab. Included are the following **model letters**:

- [Termination of mandate due to cancellation for default of payment](#)
- [Termination of mandate upon cancellation of risk](#)
- [Termination of mandate if the client does not require the policy](#)
- [Termination of mandate due to non-renewal of the policy](#)
- [Termination of mandate before the expiry date](#)
- [Termination of mandate when a policy expires](#)

TERMINATION OF MANDATE BY THE INSURED

- When the client requests a termination of mandate and there is no lingering doubt regarding the client's intention to terminate, the representative does not have to send a termination of mandate letter. For example:
 - when the insured returns the policy because it is not required, before terminating his mandate, the representative must check with the client to verify his actual intentions. Contacting the client may be done verbally or in writing. If the representative calls the insured and clearly notes in the client's file that the client has been notified of the termination of mandate, sending a termination of mandate letter is not required;
 - when the insured asks to transfer agencies and provides signed documents to this effect, the representative is not required to send a termination of mandate letter.
- However, when a representative has doubts regarding the client's actual intentions and he cannot confirm the client's wishes with him, the representative must send him a termination of mandate letter.

IMPORTANT

The representative's obligations to advise continue beyond the end of the mandate. For example, representatives must advise their clients regarding the steps they must take to find another insurance policy or to transfer agencies.