

# Your Duty of Disclosure

You have a duty to disclose all material facts and information whether or not the Insurer asks for the specific information. Please read this document carefully as any failure to disclose material information to your insurers may adversely affect the performance of the insurance contract.

## OBLIGATIONS OF THE INSURED

An insured should at all times act with utmost good faith towards the insurer. The insured must disclose to insurers all information, facts or circumstances which are, or ought to be known to the insured and which are material to the risk. When providing information or completing a proposal form the insured should take care that the details provided are complete and accurate.

The insured should note that their duty of disclosure is not only confined to the questions listed in the form. All material facts should be disclosed to insurers regardless of whether the insurer has asked for it.

## MATERIAL INFORMATION

Under English law every circumstance is material if it would influence the judgment of a prudent insurer in fixing the premium and terms of the insurance, or determining whether to accept the risk. A circumstance may be material even if disclosure would not necessarily have led to an increased premium or declination of the risk. If the insured is unsure whether a fact is material our advice is that it should be declared.

## WHEN TO DISCLOSE

An insured's duty of disclosure applies throughout the negotiation preceding placing of the insurance policy until the insurer has agreed to accept the risk and set the terms, premium and level of participation and the insurance contract finalised. A post contract duty of disclosure extends to:

- When the insured wishes to vary terms of the original insurance contract so the insurer takes on additional risk.
- When a policy condition requires the insured to advise insurers of specific increase or alteration in risk.
- An extension to the policy period.

## FAILURE TO DISCLOSE

Non disclosure by the insured may allow the insurer to avoid the policy even if the non disclosure is accidental and irrelevant to a claim. An insurer can also seek recovery of any prior paid claims under the avoided policy.

## EXAMPLES OF MATERIAL INFORMATION

- Business activities or any changes to business activities whether or not covered by the proposal form questions
- New companies, acquisitions or disposals
- Additional premises
- Higher than ordinary degree of risk or liability
- Claims or circumstances - this could apply to uninsured as well as insured matters
- Criminal conviction or regulatory investigation or enforcement
- A previous declinature, refusal to renew, imposed terms, restrictions in cover, mid term cancellations.

This list provides examples only and is not an exhaustive list. **If in doubt, disclose.**

Professional Indemnity Insurance Brokers are specialist insurance advisers working exclusively with corporate professional businesses in the United Kingdom.

This guidance note is intended for information purposes only. It is not and does not purport to be legal advice. Whilst all care has been taken to ensure the accuracy of the guidance note it is not to be regarded as a substitute for specific advice. This guidance note shall not be reproduced in any form without our prior permission. All copyright is owned by Professional Indemnity Insurance Brokers © 2014