

INTRODUCTION

Whilst insurance policies do not cover every possible loss you may suffer, we firmly believe that the value of a suitable insurance programme is immeasurable, and could actually be the difference between a business failing and continuing to trade following an Insured Loss. **We cannot stress highly enough the importance that you should place on taking the time to arrange and understand your insurance programme.**

In order to ensure a policy will respond as expected, it is vitally important that you comply with the terms and conditions of the policy, both at the time the cover is arranged or renewed, and also during the currency of the insurance period. Some of the terms and conditions are “passive” and apply to the policy irrespective of how you operate. However, some are “active” and require you to take ongoing steps to comply with them. When corresponding about your insurance, we will endeavour to highlight those that we believe are of particular importance. This does not mean the others are any less important, and you should take the time to read all your documentation carefully to ensure that you are familiar with all the policy terms and conditions, and also your obligations to comply with them.

IMPORTANT REGULATORY INFORMATION / YOUR DUTY OF DISCLOSURE

The arrangement of commercial insurance policies is subject to compliance with the Insurance Act 2015, which requires all policyholders to provide what is termed a “**fair presentation of the risk**” to their insurer. This must include all the information that an insurer would expect to know before agreeing to offer cover or to decide the terms required. As well as full information about the subject matter of the policy or the risks being insured against, insurers need to be informed about the Policyholder (which if a company includes the people who own or control it). The information should be based on a “reasonable search” of the information available to the policyholder, including senior management, directors or consultants etc, and not just the knowledge of the person arranging the cover.

If any individuals have any adverse personal history such as criminal charges or convictions; regulatory investigations; CCJs or previous business insolvencies, bankruptcies or arrangements with creditors etc; disputed or significant insurance claims; or any another issues which could influence the insurer’s decision to offer cover to them, these must be disclosed.

If such a fair presentation is not provided, it could affect how any claim is dealt with, and on a worst case scenario it could allow the insurer to refuse to deal with any claims and to cancel the policy and retain any premium paid to it. You must therefore let us know whether there is any material information which we should disclose to your insurer, either when placing or renewing your cover, or any time during the currency of the policy.

The arrangement of general insurance is regulated by the Financial Conduct Authority (FCA), and as a regulated firm, we have numerous items regarding our status and how we operate which must be disclosed to all our clients and potential clients. This is all contained in our Terms of Business Agreement (TOBA), a copy of which is enclosed at the end of this report.

With regard to general compliance issues, we would draw your attention to the paragraph in the TOBA entitled **Charges** as this confirms that we are paid for our services by the insurers and would be pleased to disclose such earnings upon request at any time, and also **Complaints** in the event that you ever have need for this. As we are independent from all the insurers we deal with, when recommending any insurance to you, we will act as your agent and not the agent of the insurer. In certain circumstances we may only deal with a single insurer, and if this applies, it will be disclosed to you at the time .

As well as the duty of disclosure referred to elsewhere, policies can be subject to some onerous terms and conditions. For your assistance, we have prepared a factsheet that provides details of some of the common pitfalls that all policyholders need to be aware of. This is enclosed for your information, and we would ask that you take a few minutes to read this to ensure you are familiar with the general workings of insurance policies.

TERMS OF BUSINESS – V250518 (Issued 25/05/18)

Mason Owen Financial Services Ltd (MOFS) aims to provide carefully structured general insurance programmes to your specific needs.

STATUS

MOFS is a subsidiary of Mason Owen & Partners Ltd (Reg No 1426226) which is a subsidiary of Mason Owen & Partners (Holdings) Ltd (Reg No 2936041). Corporate information is set out below:

MASON OWEN FINANCIAL SERVICES:

Registered in England. Reg No. 02217933

REGISTERED OFFICE ADDRESS:
Gladstone House, 11 Union Court,
Liverpool, L2 4UQ

TRADING ADDRESS:
Gladstone House, 11 Union Court,
Liverpool, L2 4UQ

FCA REGISTER NO: 309238.

MEMBER:

British Insurance Brokers Association
Membership No: 004715

DATA PROTECTION ACT:
Registration No: Z6991315

MOFS is an Independent Intermediary in that we are not owned in whole or in part by any of the Insurers with whom we place Insurance. On occasions we may act as the agent of an Insurer, but this will always be disclosed to you. MOFS accepts responsibility for its advice to you and for arranging your insurance. We offer products from a number of insurers and on occasions we use the services of other intermediaries. Our advice to you will always include disclosure both of the identity of insurers and any other intermediaries in a chain where we do not deal directly with the Insurer.

We are authorised and regulated by the Financial Conduct Authority (FCA) under part IV of the Financial Services and Markets Act 2000 (FSMA) to transact and administer non-investment general insurance business. We are also authorised by the FCA for Credit Broking activities. A copy of our Scope of Permissions

Notice is available upon request and can be viewed on-line at www.mofs.co.uk. You can contact the FCA via a link from our web site, directly at www.fca.org.uk or by telephoning 0845 6055525. Our FCA reference number is 309238. In relation to any "Regulated Activity" as defined in FSMA, MOFS will only deal with third parties who are authorised and regulated to carry on such activities and will not knowingly deal with any unauthorised third party. MOFS will take all reasonable steps to check that any client or other third party that requires authorisation under the FSMA to carry on their business is authorised and regulated to do so by the FCA. MOFS does not accept any liability for the failure of any other party with whom MOFS has a trading relationship to possess the necessary authorisation by the FCA or any consequences arising out of the failure of the third party to comply with FSMA or the rules laid down by the FCA.

MOFS is a member of the British Insurance Brokers Association (BIBA). BIBA ensures that the professional standards of the insurance industry are maintained throughout its membership; ensuring standards of both the market in general and those of BIBA members are continually enhanced. Further information regarding BIBA can be found at www.biba.org.uk. MOFS has also achieved Chartered status with the Chartered Insurance Institute.

MOFS is covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation from the scheme if we fail to meet our obligations. Compensation depends on the type of business and the circumstances of the claim. Insurance advice and arrangement is covered for the first £2,000 and 90% of the remainder of the claim without any upper limit. Further information about the scheme is available from the Financial Services Compensation Scheme or by visiting www.fscs.org.uk

PRODUCTS & SERVICES

We offer a full range of personal and commercial general insurance products and services. In respect of certain products and services we have selected a specific product or service from one supplier to provide a cost-effective solution to meet the needs of our clients. We will give you full details of the individual products, the capacity in which we act and the services we will provide before you make a commitment to purchase any product that we offer to you.

Our service includes advising you on your insurance needs, arranging insurance cover with insurers or other intermediaries to meet your requirements and assisting you with any ongoing changes that you may have to make. As part of our service we will assist you with any claim that you need to make.

We monitor the financial strength ratings of Insurers with industry accepted ratings agencies. We are happy to provide financial information regarding your Insurers if you specifically request this from us. However, we cannot guarantee the solvency of your Insurer.

DISCLOSURE OF INFORMATION TO INSURERS – CONSUMERS

If you purchase an insurance policy wholly or mainly for purposes unrelated to your trade, business or profession, your obligations to disclose information to the insurer are now subject to the Consumer Insurance (Disclosure and Representations) Act 2012.

Under this Act you have a duty to take **reasonable care not to make a misrepresentation to the insurer**. In the event of any breach of this duty, the insurer has legal remedies, which could, in a worst case scenario allow them to avoid the policy and thus their obligation to make payment of any claims.

DISCLOSURE OF INFORMATION TO INSURERS – NON CONSUMERS

If you purchase an insurance policy wholly or mainly for purposes relating to your trade, business or profession, your attention is drawn to the importance of informing your Insurer of all relevant information.

The policy will be subject to the Insurance Act 2015, which requires all Insured parties to make a "Fair Presentation of the Risk" when seeking insurance. You **MUST** disclose every material circumstance which you know or ought to know following a reasonable search of the information available to you in relation to the risks being insured against along with the information relating to the business and the people who control the business. Any failure to disclose facts material to the insurance or any inaccuracies in information you provide could invalidate your policy cover. This could mean that part or all of any claim you make may not be paid. Where a proposal form is not used, you are still obliged to disclose all material facts to your Insurers.

DUTY TO DISCLOSE ALL MID TERM CHANGES TO THE RISK – CONSUMERS AND NON CONSUMERS

You have a continuing obligation to disclose facts relevant to the insurance throughout the period of cover and at the renewal of the policy.

If you are in doubt about whether or not to advise your Insurer of any change in your circumstances that may be relevant to policy cover, you should discuss the issue with us at the earliest opportunity

POLICY TERMS, CONDITIONS AND CLAIMS

All insurance policies contain conditions and exclusions. Some conditions, if breached, may allow the Insurer to avoid the policy. We cannot stress too highly the importance of being familiar with the obligations imposed upon you by the terms of your policy and the limitations of the cover provided.

If you become aware of any circumstances which could lead to a claim being made either by you or against you, you must notify us immediately. Failure to do so could prejudice your position. You should

always consult MOFS if you are in any doubt about any aspect of your insurance arrangements.

PAYMENT OF PREMIUMS

We normally accept payment by guaranteed cheque, cash or credit card (if accepted directly by your insurer). You may be able to spread your payments through direct debit instalment schemes offered by your insurer or alternatively via credit schemes that we have arranged with third party premium finance providers. We will give you full information about your payment options when we discuss your insurance in detail. Any additional credit charges made by MOFS over and above those made by the credit supplier will be drawn to your attention before the agreement is concluded.

We will act as your agent when arranging any premium finance agreement on your behalf. In the event of a default under the agreement you may be required by the premium finance provider to cancel your policy and return any premium refund to them to pay the outstanding loan. In such circumstances, any cancellation instruction we pass to the insurance company will be as your agent and not the agent of the premium finance provider.

Where any premium finance is subject to the Consumer Credit Act, the Lender is required to assess the affordability to you, and this may involve credit checks or other financial due diligence before any loan is agreed.

CHARGES

MOFS is paid for its services by the Insurer in the form of commission based on premiums. Prior to the conclusion of each insurance contract, and at renewal, we will remind you of your right to request details of the level of commission which we receive from your insurer. You may at any time request that MOFS disclose the amount of commission that is earned for the arrangement of your insurance and we will provide this information for you. In addition to the overall premium charged by your Insurer MOFS may, at our discretion, make charges in lieu of commission or additional charges to cover administration costs, these charges are referred to as fees. Any fees charged will be disclosed and agreed with you in advance of making

the charge and will be shown separately on your invoice.

In certain circumstances, Insurers will make charges for the replacement of lost documents, therefore you should ensure that documents such as Motor Insurance Certificates or policy documents are kept in a safe place once they have been issued to you.

Commission and fees are earned for the policy period on placement and MOFS will be entitled to retain all commission and fees in respect of the full policy period in relation to policies placed by MOFS.

In respect of business placed with certain insurers, MOFS is also remunerated by the Insurer under either a growth or profit share agreement. The calculation of a growth or profit share remuneration is based on either the growth or a combination of the growth and profitability of part of our portfolio of business with the Insurer concerned. The agreement, if triggered, may result in the payment of additional commission to MOFS. We will provide further details of these agreements to you if we are requested to do so.

When recommending an Insurer to you, we will always place your interests first and will always observe our fiduciary duty to you to recommend the most appropriate policy irrespective of any growth or profit share agreements we have in place.

HANDLING OF CLIENT MONEY

All money paid to MOFS that is defined in the FCA rule book as Client Money is held in separate client account(s) with our nominated Bankers. All Client Money received by us will be held by us under the terms of a non-statutory trust. A copy of the trust document is available upon request or can be viewed at our web site www.mofs.co.uk

Holding Client Money in this way means that it is protected, but allows us to settle accounts with Insurers and clients from funds contained in the designated bank account(s) irrespective of whether the funds have been received from the particular client or Insurer to which the account relates. All money received that is defined as Client Money may be used for Insurer account settlement or client account settlement in accordance with the terms of the trust document.

Under the terms of the non-statutory trust, we can hold designated investments to the value of the Client Money which we would otherwise have to hold in separate client account(s), instead of holding Client Money in separate client account(s). If we do so, we have to keep them separate from other investments and they will be held by us as trustee under the terms of the trust.

We will be entitled to keep all interest accruing to the client account(s) we hold with our nominated Bankers (or returns on investments if we segregate designated investments rather than keeping the Client Money in separate client account(s) at our Bank).

Minimum capital solvency levels are laid down by FCA and in order to manage Client Money in this manner MOFS will ensure that such solvency requirements are met at all times and wherever possible exceeded.

By accepting these terms of business you are expressly agreeing to allow MOFS to handle Client Money as defined by FCA in this manner. In the event that you are unwilling to accept the terms as presented you should inform MOFS immediately as MOFS may no longer be able to deal with your instructions appropriately and this may result in the withdrawal of our services to you. You will be given reasonable notice of such action and you will also be given advice on how you can transfer your instruction to another intermediary of your choice.

CANCELLATION OF YOUR INSURANCE

In certain circumstances you may have the right to cancel an insurance policy; within a period of up to 14 days from conclusion of the insurance policy. You will not always receive a full refund of any paid premium. This right to cancel is subject to conditions that are contained in the policy document. If your right to cancel the policy is exercised you may lose all rights under the policy of insurance and cover maybe forfeited from the date of inception of the policy and you may not be able to make a claim under the policy.

COMPLAINTS

If you have cause to be unhappy in any way with your insurance cover or the way that MOFS has dealt with your instruction, you should in the first instance contact our complaints officer, Mr Andrew Gibbons ACII, or any other member of Senior Management.

We take all complaints seriously and will endeavour to respond to any complaint immediately. Where this is not possible, we will acknowledge your complaint as soon as reasonably possible and will give you the name of the person dealing with your complaint. If we believe that the complaint does not relate to the activities of MOFS, we will inform you in writing and wherever possible provide details of whom the complaint should be directed against.

If the complaint can be resolved to your satisfaction within three business days we will confirm this to you by sending a "summary resolution communication" which is based on a template provided by the FCA. If you subsequently change your mind, you will have the right to report the complaint to the Financial Ombudsman Service.

If we are unable to resolve your complaint within three business days, we must provide you with a final response within forty business days from the original date of receipt. If we are not in a position to issue a final response, we will write to you explain why this is not possible.

Upon receipt of either the final response or letter indicating why a final response is not possible, you may refer the complaint to the Financial Ombudsman Service. Details of FOS can be found by using the link at our web site www.mofs.co.uk or by visiting www.financialombudsman.org.uk

Alternatively, if you purchase your policy online and you are unhappy with the product or the service you receive, you can also use the European Commission's Online Dispute Resolution service to make a complaint. Their website is <http://ec.europa.eu/consumers/odr/>.

The purpose of this platform is to identify a suitable Alternative Dispute Resolution (ADR) provider, we expect that this will be the Financial Ombudsman Service.

The ADR will not affect your statutory rights in relation to Insurance Mediation but you need to be aware that that the Financial Ombudsman Service will only be able to consider your complaint after either we or your insurer has had the opportunity to consider and resolve the matter on your behalf.

CONFIDENTIALITY

The use of data for the purposes of arranging your insurance will comply with the latest data security laws. Specific details of how your data will be used will be set out and issued to you in our Privacy Notice.

LIMITATION OF LIABILITY

1. This section forms part of our Terms of Business. We accept instructions to act on your behalf strictly subject to the following limitation upon our liability.

2. Our liability to you for any act or omission (including, but not limited to, our negligence and/or the negligence of any other parties in respect of which we are legally liable to you), whether such liability be in damages, equitable compensation or otherwise, shall not exceed the sum of £1,000,000 or its equivalent from time to time in Euros or any other relevant or appropriate currency in respect of any one transaction or series of related transactions.

This figure has been carefully chosen in order to enable us to offer reasonable redress to our clients in the event of a claim, whilst enabling us to retain competitive levels of fees and commissions and make appropriate arrangements to ensure that any proper claim is met.

This section does not apply to awards made by the Financial Ombudsman Service in the exercise of his compulsory jurisdiction.

3. *In section 2 above:*

i. “negligence” means a breach of any obligation upon us to take reasonable care, whether that obligation is imposed by virtue of a term (express or implied) of any relevant contract, or by the law of negligence or otherwise;

ii. “transaction” means any professional service provided by us to you, including (but not limited to) the arranging of insurance, advising on insurance cover and/or on particular wordings, notification of claims to insurers, and claims handling generally;

iii. “a series of related transactions” has its ordinary meaning (save that “transaction” has the meaning given at (ii) above), but includes (without limitation), (a) transactions concerning, connected with or arising out of the same policy of insurance or reinsurance arrangement, or (b) where different policies or arrangements insure or reinsure (as the case may be) all or some of the same risks, transactions concerning, connected with or arising out of some or all of those policies or arrangements.

4. We are always prepared to discuss increasing the limit of our liability specified in this section in relation to any individual engagement, if particular reasons exist, but we reserve the right to decline to increase the limit or (in the event that we agree to increase it) to make an additional charge or to impose alternative or additional conditions. No agreement to increase the limit shall be valid unless made in writing and signed by a director of Mason Owen Financial Services.

5. Under these Terms of Business, you agree not to make any claim against any employee, director, consultant or other individual connected with MOFS. See paragraph 6 below. However, it is also understood and agreed that if for any reason the provisions of paragraph 6 hereof are held to be invalid or unenforceable in whole or in part, any claim made by you against any employee, director, partner, consultant or other individual connected with us is also subject to the limit of liability of £1,000,000 contained in this clause, and you understand and agree that any such individual may avail himself of this limitation.

6. *You agree:*

i. That your remedies in relation to the provision of professional services by us, arising out of or in connection with this engagement, lie exclusively against us and not against any employee, director, consultant or partner as individuals;

ii. That you will not make any claim and/or bring any legal proceedings against any employee, director, partner, consultant or other individual, in respect of any act or omission by any such person or persons (whether negligent or not).

7. You understand and agree that the provisions of this clause may be enforced by an employee, director, partner, consultant or other individual connected with us in accordance with the Contracts (Rights of Third Parties) Act 1999.



Whilst we aim to arrange your policy to give you a suitable level of insurance protection, it is an indisputable fact that insurance policies do not cover every eventuality.

It is also well known that insurance policies can be subject to quite onerous terms and conditions, which if breached, could leave the unsuspecting policyholder without cover at the time they need it most. It is therefore vital that you are aware of your policy terms and conditions, and comply with them at all times.

This document is not a comprehensive guide to all such terms and conditions, but it aims to highlight some of the most common issues that face policyholders.

Average

Property insurance policies are subject to the Condition of Average, which stipulates that if you do not set your cover at the amount to fully replace the property in the event of Damage, any claim will be reduced in proportion to the level

of underinsurance. If a building that would cost £1.5m to reinstate is only insured for £1m (two thirds), any claim will be reduced in direct proportion – the insurer will only pay £500,000 in respect of Damage costing £750,000 and the policyholder will be required to make up the shortfall.

A building should be insured for the full rebuilding cost, which includes additional costs such as the cost of demolition, site clearance and all professional fees. It is extremely unlikely that the rebuilding cost will be the same as the property value, and a sum insured should not be based on the purchase price or market value of the building.

Contents and equipment should be insured for the full replacement value as new, and not for their written down value as second hand goods.

Loss of Income

You must insure your Loss of future income for the full amount that the business could potentially lose in the event of an incident. You must also ensure that cover is in place for a

suitable Indemnity Period, which is the time following an incident that it will take for the property to be rebuilt and the tenant to return.

Whilst most leases stipulate the rental income for the property and also the indemnity period for which you should insure loss of rent, you should consider whether these figures would be sufficient to protect your business in the event of major damage.

Disclosure of Information /Fair Presentation

One of the major areas of dispute can occur where the insurer believes that a policyholder has not given them a true or complete picture of the risk.

This allows the Insurer to treat the policy as if it has never been in force on the basis of “non-disclosure of material facts”. We are pleased to say that this particularly onerous position is being changed by the introduction of the Insurance Act 2015, which becomes law in August 2016.

The act will try to make the balance between policyholder and insurer more equal by requiring the

policyholder to make a "fair presentation" of the risk, and provided this is done, the onus is transferred to the insurer to ask for any additional information which it believes may be material to its underwriting.

In order to be classed as a fair presentation, the policyholder must include all relevant information that it ought to know following a reasonable search of the information available to it.

As well as the actual "physical" risk being insured, insurers wish to know about the "moral" risk of a policyholder – this could relate to financial matters such as CCJs, liquidations or bankruptcies; criminal charges or convictions; or regulatory problems including investigations or enforcement action by the authorities.

If you suffer any accidents or incidents which could result in a claim, even if one is not pursued, these may be material to the insurance and must be disclosed.

All insurance policies can be avoided if there is fraud when the cover is placed, or in the event of a claim – this could include items such as deliberate misinformation at the time cover is placed to fictitious losses or exaggerations on genuine losses.



Reasonable Care

All policies have a requirement for the policyholder to take all reasonable steps to protect their property, and to prevent any damage or accidents.

As a rule of thumb, you should act as if you were not insured and take whatever measures you would if the loss was payable by you and not an insurer. Insurers will not pay claims where a policyholder is reckless with their property on the basis that "it doesn't matter because it's insured."



Say Nothing!

If you are in the unfortunate situation where a claim may be made against you, it is important that you do not discuss the matter with the claimant

or enter into any correspondence prior to speaking to the insurer.

In no circumstances should you ever admit liability for an incident.

Your insurer may feel that its position has been prejudiced by entering into correspondence and refuse to deal with the claim on your behalf.

If you are put on the spot, you should listen to what has been said, but politely respond to say you will not be able to comment until the circumstances have been fully investigated.



Unoccupied Buildings

Insurers have great concerns when buildings (or parts of buildings) are not occupied, as they are far more susceptible to Damage. Whilst the risk of Arson, Theft and Vandalism is increased, there is also the potential for other losses to be far worse than if they were in an occupied building.

Storm Damage and Escape of Water are the most obvious, as if unchecked even for a few days, there could be a huge amount of damage.

Your policy is likely to contain an "Empty Buildings Condition" and it is important that you are aware of the exact requirements of this. Whilst every policy is worded slightly differently, they all have similar housekeeping requirements that should reduce the likelihood of any loss, or reduce the size of any loss that may occur.

A point often overlooked is that whilst a Landlord may not define a building as being unoccupied if it is under lease and earning rent, the insurer will treat any building which is not in use as being empty. In such circumstances, it is likely to be a condition of the lease that the tenant complies with all insurance requirements.

Examples of the types of measures that must be adhered to are as follows –

- The building is to be kept fully secured at all points of access

- The letterbox and other openings to be sealed to prevent combustible items being introduced to the building
- All waste and unfixed combustible items to be removed from the building and surrounding areas
- The water system to be disconnected and drained, and if possible, the valves padlocked to prevent the supply being turned back on
- The gas and electricity to be disconnected, other than the power to any alarm systems which must remain operational
- The building to be fully inspected both internally and externally on a weekly basis to check that there have been no incidents of damage

Whilst we appreciate there is a cost to implementing such measures, other than the weekly inspections which will be ongoing, compliance with the others will only need to be done when the building becomes vacant, and there should be no further expenditure irrespective of the length of unoccupancy.

We hope this gives you some guidance relating to common insurance pitfalls and would be happy to discuss any aspects of the above with you as part of your insurance arrangements.

Feel free to call us on **0151 255 2600** or email mail@mofs.co.uk.



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