IMPORTANT CLIENT GUIDE

Important Information and Glossary

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British Insurance Brokers' Association Member

B. Portwood & Company Limited, Authorised and Regulated by the Financial Conduct Authority FRN 300694 B. Portwood & Company Limited 145 Newgate Street, Bishop Auckland, Durham, DL14 7EN, Registered Address: 145 Newgate Street, Bishop Auckland, England, DL14 7EN. Registered in England and Wales No: 00785468

Fair presentation of risks and duty of disclosure – Insurance Act 2015

When arranging, renewing or amending insurance, you must disclose all material facts and circumstances that you know, or ought reasonably to know. All information provided must be accurate, complete and given in good faith.

A material fact is any information that may influence an insurer's decision to provide or continue cover, the premium charged, or the terms, conditions and exclusions applied. This includes any unusual features of the risk and any specific concerns that have led you to seek insurance.

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You must disclose enough information to put a prudent insurer on notice that further enquiries are needed. This information must be presented clearly and in a structured manner so that the insurer can readily assess it. Providing ambiguous information or information that is poorly signposted ("data dumping") is unlikely to fulfil your obligation.

You must undertake a reasonable search of your organisation so that the facts disclosed are accurate and complete, thereby providing your insurers with a fair presentation of what you do. As well as senior management, your search should include, but not be limited to:

Genera

- Any loss, damage, injury, incident or circumstance that could lead to a claim, regardless of whether the loss, damage or liability is insured or whether an insurance claim is made.
- Any insurer having declined an insurance proposal, cancelled cover or refused to renew a policy.
- Criminal convictions or director disqualifications relating to anyone involved in the business.
- Any director or partner having been involved in a business that entered liquidation or administration, was dissolved or experienced a similar situation, or having personally been bankrupt or subject to a County Court Judgment or similar.
- Official notices or warnings issued by councils or other local or statutory authorities.
- The withdrawal of any statutory licences.

About your business

- Your business activities, or changes to them, including processes, products and geographical presence.
- Activities or processes outside those normally undertaken within your business or sector, including hazardous materials or practices, such as using heat or chemicals or working at height.
- New companies, markets, acquisitions or disposals.
- Additional premises or items requiring insurance.
- Alterations to premises.
- A higher-than-normal level of risk or liability, whether specific to your business or your industry.
- The financial position of your business.

Material damage policies

- The construction of buildings, including the use of composite panels that present a greater fire risk.
- Changes in occupancy, including other parties occupying all or part of the premises, which will affect insurers' assessment of the risk.
- Changes to premises security or to the presence, type or operation of alarms, extinguishers or other fire protection measures.
- New or modified processes, particularly those involving heat.
- Increased storage of hazardous materials or stock attractive to thieves.
- Any attempted break-in or arson attack.
- The use of temporary premises or premises belonging to third parties.

Please ask us for advice if you are unsure whether something is material

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Liability policies

- Changes to business activities, including previous activities that are no longer carried out.
- The formation or acquisition of new companies requiring cover.
- New products or activities.
- Products imported from or exported to overseas territories, or work undertaken overseas, particularly in the USA or Canada.
- Work in or on hazardous locations, such as offshore installations.
- Health and safety investigations or prosecutions.

Motor policies

- Driving convictions.
- Corporate investigations or prosecutions.
- Accidents that have not previously been disclosed.
- Changes affecting vehicle performance.
- Changes to how a vehicle is used.
- Vehicle ownership or changes in ownership, particularly where vehicles are personally owned rather than registered in the name of the business or company.
- Driving licence disqualifications or changes to licences.

Business personal accident and travel policies

- Changes to business activities.
- Significant changes in travel patterns, including destinations, geographical areas or the number of journeys.
- Any manual work undertaken.

The examples above are not exhaustive. If you are unsure, disclose the information.

You must disclose relevant information even if insurers have not specifically asked for it.

Some information does not need to be disclosed. However, caution is advisable, as uncertainty could result in a dispute with the insurer. This includes:

- Information the insurer already holds.
- Information an insurer covering this risk would reasonably be expected to know.
- Matters of common knowledge.
- Matters that reduce the risk or information the insurer has waived its right to receive.

If you are uncertain whether information needs to be disclosed, disclose it. You must keep a documented record, through paper or electronic communications, demonstrating that a reasonable search was carried out and explaining how the responses received were checked for accuracy.

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Insurer remedies

Where material facts have been misrepresented or not disclosed, insurers must respond in accordance with what they would have done had the risk been fairly presented. The remedies available include the following:
Fraud

Fraud does not automatically end the policy. The insurer may:

- Reject the claim, including any non-fraudulent elements.
- Recover amounts already paid in connection with the claim.
- Terminate cover from the date of the fraudulent act. Cover remains in place for the period before that act.

Avoidance of the policy

If the breach was deliberate or reckless, the insurer may treat the contract as void from inception and retain the premium. The insurer must prove that the breach was deliberate or reckless.

If the breach was neither deliberate nor reckless:

- Where the insurer would not have accepted the risk, it may avoid the contract but must return the premium.
- Where the insurer would have charged a higher premium, it may reduce the claim proportionately. For example, if the premium paid was £1,000 but should have been £1,500, the claim payment may be reduced by one-third (£500/£1,500). Some insurers have chosen to opt out of this provision of the Act and instead deduct the additional premium from the claim settlement.
- Where the insurer would have imposed additional terms, those terms are treated as having applied from inception or renewal. This may apply alongside a higher premium and any resulting reduction in the claim payment. The insurer may also retrospectively adjust earlier claims affected by the additional terms.

If an insurer has chosen to opt out of any provisions of the Insurance Act, we will inform you and discuss the implications and the options available to you.

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Warranties and conditions precedent

You must pay particular attention to all warranties and conditions, as failing to comply with them could invalidate your policy or result in claims not being paid in full, or at all.

A breach of warranty suspends the insurer's liability rather than bringing it to an end. It is your responsibility to demonstrate that a breach of warranty or condition could not have increased the risk of the loss that occurred, in the circumstances in which it occurred. Cover will be reinstated once you comply with the warranty again. However, this may not always be possible, for example where a warranty relates to a building's construction.

Warranties may not always be labelled as such in your policy or schedule. They may also appear under conditions, endorsements or special terms.

It is important to identify these requirements. If you are unsure about any particular statement, please ask us for advice.

Conditions precedent: Certain conditions require you to take or complete a particular action before a specific section of the policy becomes effective. If you do not comply, cover may not be in place. Refer to the insurer's documents for the options available to the insurer, depending on the type of condition that has not been met.

Failing to comply may leave you without cover and could result in a claim not being paid.

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Claims Notification

Many insurance policies require claims or circumstances that may give rise to a claim to be reported immediately, or within a specified period. Please check your policy documentation carefully and follow the notification requirements set out in your policy and any documents issued by us. Failure to comply with these requirements may affect your entitlement to cover or the payment of a claim

Policy Cover

Your policy documentation sets out the cover provided, including the information declared to insurers, insured values, limits, excesses and applicable sections of cover. Insurers rely on the information provided when assessing the risk, setting the premium and agreeing the terms of cover. It is therefore essential that all information is accurate, complete and kept up to date.

Cover is subject to the policy wording, including its terms, conditions, exclusions, endorsements and limits. A claim will only be paid where the relevant cause of loss is covered and all policy requirements have been met.

Communicable Diseases

Cover for communicable diseases, epidemics, pandemics and related business interruption varies significantly between insurers and policy wordings. Many policies now include specific exclusions or restrictions for such events. Please review each section of your policy carefully to understand the cover, limitations and exclusions that apply to your particular circumstances. If you are unsure whether cover is available, please contact us before relying on the policy.

Claims Payments

Insurers are required to pay valid claims within a reasonable time. What constitutes a reasonable time will depend on the circumstances, including:

- The type of insurance involved
- The size and complexity of the claim
- The time reasonably required to investigate and assess the loss
- Applicable legal, regulatory or statutory requirements
- Factors outside the insurer's control

Where there are reasonable grounds for an insurer to dispute a claim, payment may be delayed while the matter is investigated or resolved.

Adequacy of Declared Values and Sums Insured

You should regularly review your declared values, sums insured, indemnity periods and limits of indemnity to ensure they remain adequate.

Property sums insured should usually reflect the full cost of rebuilding or replacing assets as new, unless your policy states otherwise. Business interruption cover should be sufficient to restore your business, gross profit, revenue or fees to the position they would have been in had the loss not occurred.

If your values, limits or indemnity period are insufficient, any claim payment may be reduced or may not fully meet the cost of your loss.

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Although **Portwood Insurance Brokers** can provide quotations for different indemnity periods and guidance on calculating sums insured, responsibility for ensuring that your indemnity period and sum insured are adequate remains with you. We strongly recommend that you seek advice from your professional accountant or other suitably qualified adviser to ensure that these figures accurately reflect your business requirements.

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Business Interruption Insurance

Where Business Interruption cover is included, please ensure that the sum insured—whether based on gross profit, revenue or fees—is calculated in accordance with the definition within your policy.

The maximum indemnity period should be long enough to allow your business to return to the trading position it would have achieved had the loss not occurred. When selecting the sum insured and indemnity period, you should allow for inflation, anticipated business growth and the time required to reinstate premises, replace equipment and rebuild trading activity.

If you do not currently have Business Interruption cover, we strongly recommend that you consider whether it is appropriate for your business. Please contact us if you would like us to provide a quotation.

Buildings Insurance

The buildings sum insured should represent the full reinstatement or rebuilding cost of the property, rather than its market value. This should include all buildings, garages, driveways, outbuildings and any other insured structures.

Your rebuilding figure should take account of materials and labour, architects', surveyors' and other professional fees, demolition and debris-removal costs, VAT where applicable, public-authority or planning requirements, and inflation during both the policy and rebuilding periods.

If you cannot recover VAT, it should normally be included at the full rate. If you can recover VAT, seek advice from your accountant before excluding it from the buildings sum insured, as the position can be complex. This is particularly important for residential properties.

Listed buildings, specialist properties and buildings with unusual or historic features may cost more and take longer to repair or rebuild. We strongly recommend obtaining a professional reinstatement-cost assessment from a chartered building surveyor at least every five years, and following any material alteration or extension to the property.

Contents Insurance

Contents should generally be insured on a new-for-old replacement basis, rather than their balance-sheet or depreciated value. The sum insured should also include delivery, installation, debris-removal and disposal costs, together with VAT where it cannot be recovered from HMRC.

Maintain an up-to-date inventory of contents, machinery, plant and equipment. Customers' goods held on your premises should also be included where you are responsible for them. For specialist, complex or discontinued equipment, consider the cost, availability and lead time of an equivalent replacement.

Stock Insurance

Stock should be insured for the maximum cost of replacing it at any one time, including carriage, delivery and other associated costs.

For manufacturers, this may include:

- Raw materials: current market cost, freight, unloading, storage, irrecoverable taxes and duties.
- Work in progress: raw-material costs and manufacturing costs directly incurred, including relevant factory overheads.
- Finished goods: net manufacturing cost or, where applicable, purchase cost, including freight, unloading, storage and irrecoverable taxes.
- Waste materials: their commercial or market value, where applicable.
- Debris removal and disposal costs following an insured loss.

Stock should not normally be insured at its sale price unless this has been specifically agreed by insurers.

Average and Proportional Settlement

If the sums insured are inadequate at the time of a claim, insurers may apply an average clause or other policy provision that reduces the settlement in proportion to the under-insurance.

For example, if a building is insured for £300,000 but its full reinstatement value is £400,000, it is insured for only 75% of its correct value. A £100,000 claim could therefore be reduced to £75,000, leaving you responsible for the remaining £25,000.

In some circumstances, an insurer may also reduce a claim where inaccurate or incomplete information has been provided when arranging or renewing cover. The outcome will depend on the policy terms, the nature of the information provided and the applicable legal and regulatory requirements.

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It is important that all declared values and sums insured reflect the full value at risk, with suitable allowance made for inflation, capital additions and anticipated business growth during the period of insurance. Where Business Interruption cover applies, the insured gross profit, revenue or fees should also be sufficient to reflect anticipated future growth.

Average or proportional settlement provisions may apply to both partial and total-loss claims where a sum insured is inadequate. In cases of significant underinsurance or where material information has not been accurately disclosed, insurers may reduce a claim settlement or, depending on the circumstances and policy terms, take other action including treating cover as invalid from inception.

Portwood Insurance Brokers does not act as a valuer or surveyor and cannot accept responsibility for the adequacy of any declared value or sum insured. It remains the policyholder's responsibility to ensure that all sums insured represent the full value at risk.

We recommend that a professional building or desktop valuation is obtained for each property at regular intervals to help ensure that buildings sums insured remain adequate. Our valuation partner, BCH, offers a desktop valuation service from **£115 plus VAT**. You can request a valuation here: BCH Building/Desktop Valuation.

https://bchuk.com/order-benchmark-portwood/

If a property is underinsured, insurers may apply the Average Clause, meaning that a claim settlement could be reduced in proportion to the level of underinsurance.

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Credit Checks

As part of assessing an application for insurance, **Portwood Insurance Brokers** and insurers may carry out credit or identity checks. These checks may be undertaken by insurers that we recommend or approach on your behalf and form part of their underwriting and application process.

Financial Strength of Insurers

It is our normal practice to consider the financial strength of insurers with whom we place business. We take account of independent financial-strength ratings and other publicly available information; however, **Portwood Insurance Brokers** cannot guarantee the ongoing financial security or solvency of any insurer.

Employers' Liability Tracing Office (ELTO)

The Employers' Liability Tracing Office maintains records to help identify insurers that provided Employers' Liability cover for former employers, assisting individuals who pursue compensation claims for workplace injury or disease.

Insurers may require a unique identifier for each employer recorded on the database. This is usually the Employer Reference Number (ERN), also known as the Employer PAYE Reference.
Please ensure that you provide the ERN for your business and any subsidiary companies, where applicable, so this information can be provided to your insurer.

Motor Insurance Database (MID)

Details of insured vehicles, including business-use vehicles, demonstrators, trade plates and courtesy or loan vehicles, may need to be recorded on the Motor Insurance Database (MID). Failure to keep the MID up to date can result in enforcement action and financial penalties.

For single-vehicle policies, and fleet policies where vehicle changes are notified to insurers as they occur, the insurer will usually update the MID on your behalf. However, where a fleet policy operates on a declaration basis—for example, with vehicle changes reported quarterly or six-monthly—you may be responsible for updating the MID. In these circumstances, your insurer should provide the required login details and helpdesk contact information.

Please note that a MID record is not confirmation of the level or scope of insurance cover. It confirms that insurance is recorded for the vehicle; the policy documentation remains the definitive evidence of cover.

If you are unsure who is responsible for updating the MID, please contact **Portwood Insurance Brokers** for guidance.

Optional Additional Covers and Products

The Financial Conduct Authority requires optional additional products and covers to be offered on an opt-in basis. This means that you must actively choose to purchase any optional cover; it should not be automatically included without your agreement.
Before selecting an optional product or additional cover, please ensure that you understand what it provides, its limitations and its cost.

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Optional Extra Covers and Optional Additional Products

An optional extra cover is an extension to the cover provided under your main insurance policy. It is not a separate insurance product. Examples may include commuting use, accidental-damage cover for buildings or contents, or winter-sports cover.

An optional additional product is a separate insurance product purchased alongside your main policy. Examples may include legal-expenses insurance, loss-recovery insurance or other supplementary protection.

Please review the cover currently in place, particularly any optional covers or additional products you have chosen. These covers are optional and should continue to meet your current needs.

If you no longer require a product or extra cover, or are unsure whether your existing protection remains suitable, please contact Portwood Insurance Brokers as soon as possible. We can discuss your requirements and explain how any change may affect your cover.

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Glossary of important terms

The below is a selection of important terms but is not limited to the terms listed below.

Claims-Made Policies

Certain policies and covers operate on a **claims-made** basis. This means that cover applies under the policy in force when a claim is first made against you, rather than the policy in force when the work was undertaken or the advice was given.
If you do not renew, replace or maintain appropriate cover, a new claim arising from historic work or advice may not be insured, even where you held insurance at the time the work was carried out. You should notify insurers of any claim, complaint or circumstance that may give rise to a claim as soon as possible, and within the period required by your policy wording.
Please refer to your policy documentation for its precise notification requirements.

Conditions

Policies contain conditions that require certain actions to be taken, or standards to be maintained. You should comply fully with all policy conditions. Failure to do so may affect your cover or result in a claim being reduced or declined where the breach is relevant to the loss, subject to the policy terms and applicable law.

Conditions Precedent

A condition precedent is a condition that must be complied with before insurers are liable for a claim or a particular section of cover. Failure to comply may allow insurers to decline a claim or apply another remedy, depending on the policy wording, the nature of the breach and the circumstances of the loss.

Glossary of Important Terms

This glossary explains commonly used insurance terms. It is not exhaustive, and your policy wording will take priority where a term is defined differently.

Average

If the declared value or sum insured is insufficient at the time of a claim, insurers may apply **average**. This reduces the settlement in proportion to the level of underinsurance.
For example, if a building is insured for £300,000 but its full reinstatement value is £400,000, it is insured for 75% of its correct value. A £100,000 claim could therefore result in a payment of £75,000.

Day One

Day One cover is designed to allow for inflation during the policy and rebuilding period. You declare the rebuilding value at the start of the policy, and insurers add an agreed percentage to that figure.
For example:

- Declared building value: £1,000,000
- Day One uplift: 30%
- Maximum rebuilding amount available: £1,300,000

The declared Day One value must still be adequate. If it is insufficient, average may be applied.

Employers' Liability

Employers' Liability insurance protects employers against legal liability for injury or illness sustained by employees in the course of their employment.
The certificate may be provided electronically, provided it is reasonably accessible to relevant employees. Although retaining historic certificates is no longer mandatory, it is good practice to do so, as they can help identify insurers and policy details if historic claims arise.
Please ensure that all holding, subsidiary and associated companies requiring cover are disclosed to us, as they may need to be specifically named on the Employers' Liability certificate.
Insurers are required to record relevant policy information on the Employers' Liability Database, operated through the Employers' Liability Tracing Office (ELTO), to assist individuals in tracing former employers' insurers. Please provide your Employer Reference Number (ERN), also known as your PAYE reference, where applicable.

Excess / Deductible

The amount you are required to contribute towards an insured loss. The insurer will normally pay the balance of a valid claim above the applicable excess or deductible.

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Franchise

A threshold that must be exceeded before the policy responds. Once the loss exceeds the franchise amount or period, insurers may pay the full loss, subject to the policy terms. This differs from an excess, which is normally deducted from the claim payment.

Indemnity

The principle of restoring you, so far as possible, to the financial position you were in immediately before an insured loss, without allowing you to profit from it.

Minimum and Deposit Premium

Some policies are arranged on a minimum-and-deposit basis. The initial premium is based on estimated activity, turnover, wages or another rating factor. At the end of the insurance period, the premium may be adjusted to reflect the actual figure. If the actual activity is higher than estimated, an additional premium may be payable. The deposit is usually the minimum premium payable and may not be refundable if the policy is cancelled or activity is lower than anticipated.

Reinstatement as New

The cost of repairing, replacing or rebuilding insured property to a condition equivalent to new, subject to the policy terms, limits and exclusions. This may not apply to every item or policy section.

Subjectivity

A subjectivity is a requirement imposed by insurers before cover can be confirmed or continued. It will normally specify the action required, the deadline for completion, any temporary terms that apply and the consequences of failing to comply. Failure to meet a subjectivity within the required timeframe may result in cover not being in place, being restricted, or being withdrawn.

Proportionate Settlement

A proportionate settlement may apply where material information was not accurately disclosed or where a misrepresentation affected the premium charged. Insurers may reduce a claim payment to reflect the premium that would have been charged had the correct information been provided.
For example, if the correct premium would have been 40% higher, insurers may reduce a valid claim payment proportionately, subject to the policy terms and applicable law.

Subrogation

Subrogation gives insurers the right, after paying a claim, to pursue any responsible third party to recover their outlay.
You should not admit liability, waive rights or enter into an agreement with a third party that may prevent insurers from making a recovery without first obtaining insurers' consent. Doing so could prejudice your claim.

Suspensive Condition

A suspensive condition is a policy requirement that suspends cover if it is not complied with. Cover may be suspended from the date of the breach until the condition is remedied. Insurers will not normally be liable for losses occurring during a period of suspension.

Warranties

A warranty is an important policy term that must be complied with. Under many commercial policies, a breach may suspend insurers' liability from the date of the breach until it is remedied. The exact effect of a breach will depend on the policy wording and applicable law.

Duty of Fair Presentation

When arranging, renewing or varying commercial insurance, you must make a fair presentation of the risk. This means disclosing every material circumstance that you know, or ought reasonably to know, or providing sufficient information to put insurers on notice that further enquiries are needed.
Information must be presented clearly and substantially accurately. You should also take reasonable care to prevent or minimise losses where possible.

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