

## Reminder of the duty of disclosure to Insurers and duty of utmost good faith

The law in the United Kingdom deems insurance to be a special class of contract which imposes onerous duties upon prospective Insured's and their agents, who are obliged to act with utmost good faith towards Insurers at all times. In addition they are obliged to disclose fully to Insurers all "material" information known to them before the contract is concluded.

Thereafter this obligation is continuous throughout the time an insurance contract is in force.

At present, English law states that all information or every circumstance is material if it "would influence the judgement of a prudent Insurer in fixing the premium or determining whether he will take the risk". Information may be deemed to influence the judgement of a prudent Insurer and be material even if it would not necessarily have led him to decline the risk or to have set an increased premium. What matters is that he would have reasonably taken the information into account. If there is any doubt whether information is material it ought to be disclosed to Insurers. Do not assume that information is known to an insurer merely because it is in the public domain.

If there is any breach of the duty to act with utmost good faith or failure to disclose any material information to Insurers, the Insurers will be entitled to avoid the policy of insurance from inception if the breach induced the making of the contract on the relevant terms.

In effect this means they would be entitled to act as if the policy had never existed and to seek recovery of all claims already paid under that policy, although they would be obliged to repay the premium in most circumstances.

The duties of utmost good faith and disclosure also apply to the claims process and to any situations during the period of the policy in which you are required, under the terms of the policy or otherwise, to provide information to Insurers including the extension or amendment or renewal of any policy.

In completing a proposal or claim form, or other document relating to an insurance policy, the accuracy of all answers, statements and/or information is your sole responsibility.