

Do I have to tell Insurers about PEPs..?

If your trust clients are Politically Exposed Persons (or indeed any other high profile individuals, such as sports stars) then do you need to disclose this fact to insurers in respect of the trust asset insurances? The answer is generally “Yes”.

An insurance policy is a contract between the Insurer and the client (the Insured). Most commercial contracts are subject to the doctrine of “caveat emptor” (“let the buyer beware”) which basically states it is the responsibility of each contracting party to perform their own due diligence. There is no need to disclose information which is not asked for.

With insurance contracts however there are no caveat emptor provisions and the doctrine of “uberrima fides” (“utmost good faith”) applies.

Utmost Good Faith

The duty of utmost good faith can be defined as “a positive duty to voluntarily disclose, accurately and fully, all facts material to the risk being proposed whether asked of them or not”. Material facts are further defined as “those which would influence the judgement of a prudent insurer in fixing the premium or determining whether he will accept the risk”. This is on the basis that the Insured (or the proposer) has full knowledge of the nature and details of the subject matter of insurance. Insurers are not generally aware of these details unless the Insured tells them.

PEPs

You will need to be aware of and identify PEPs from your own compliance and client take-on perspectives, but are these details relevant to the insurance proposal? Is the fact that your ultimate client is a PEP a material fact? Many insurers would consider this so, as they may view that this could bring added risk exposure to the insurance. It could make the property more attractive to thieves, arsonists or others with a criminal or malicious intent. It could bring additional liability exposures owing to the friends, colleagues and acquaintances that PEPs may have. In recent times, UK MP’s have been castigated by the press and public for the perceived fraud over their parliamentary expenses.

The JFSC considers PEPs as higher risk category clients from a corruption, money laundering, proceeds of crime and terrorism perspective. Why shouldn’t insurers?

What should I do?

The best advice is to err on the side of caution and notify your insurance brokers and insurers that the ultimate client is a PEP or a high profile individual. As trustees you have a duty to disclose all material facts when arranging your client insurances. Failure to disclose could lead to insurers declining to pay claims or voiding the insurance contract completely claiming non-disclosure or misrepresentation.

This is where it is important that you use the services of an insurance advisor who understands the offshore sector. Many UK brokers may not recognise the concept of a PEP (as such clients would not generally feature in their day-to-day work activity).

Vantage

Vantage is a specialist insurance broker to offshore service providers and has a great deal of experience in providing advice and insurance solutions for trust company clients.

Please do not hesitate to make contact if you have any concerns over your client insurance business. We can assist with advice and guidance to ensure that your position as trustees is fully protected.