



Mactavish
Expert insurance buyers



Five simple steps to improve your disclosure

Building corporate resilience.



Without careful attention and anticipation, insurance can have limited effect in protecting your business in the event of a claim and catastrophic repercussions on your business.

With the increasing use of standardised, one-size-fits-all policies, our clients are often uncomfortably surprised that their policy wordings do not match their expectations or insurance needs.

Being properly insured requires that you fully understand, quantify and articulate your business's risk and take appropriate steps in disclosing them. This means clearly communicating the information gathered as well as documenting your information gathering and approval processes.

Ensuring 'fair presentation' of your risk

The rule of 'fair presentation', introduced under the Insurance Act 2015, requires business to disclose information material to the risk being insured in a clear and accessible format. This 'fair presentation' is required at the time of placement, as well as at renewal or on variation of a policy.

Provided that you can evidence reasonable procedures, this rule protects you from unfair claim disputes. It makes it harder for an insurer to repudiate a claim on the basis of an inadequate disclosure.

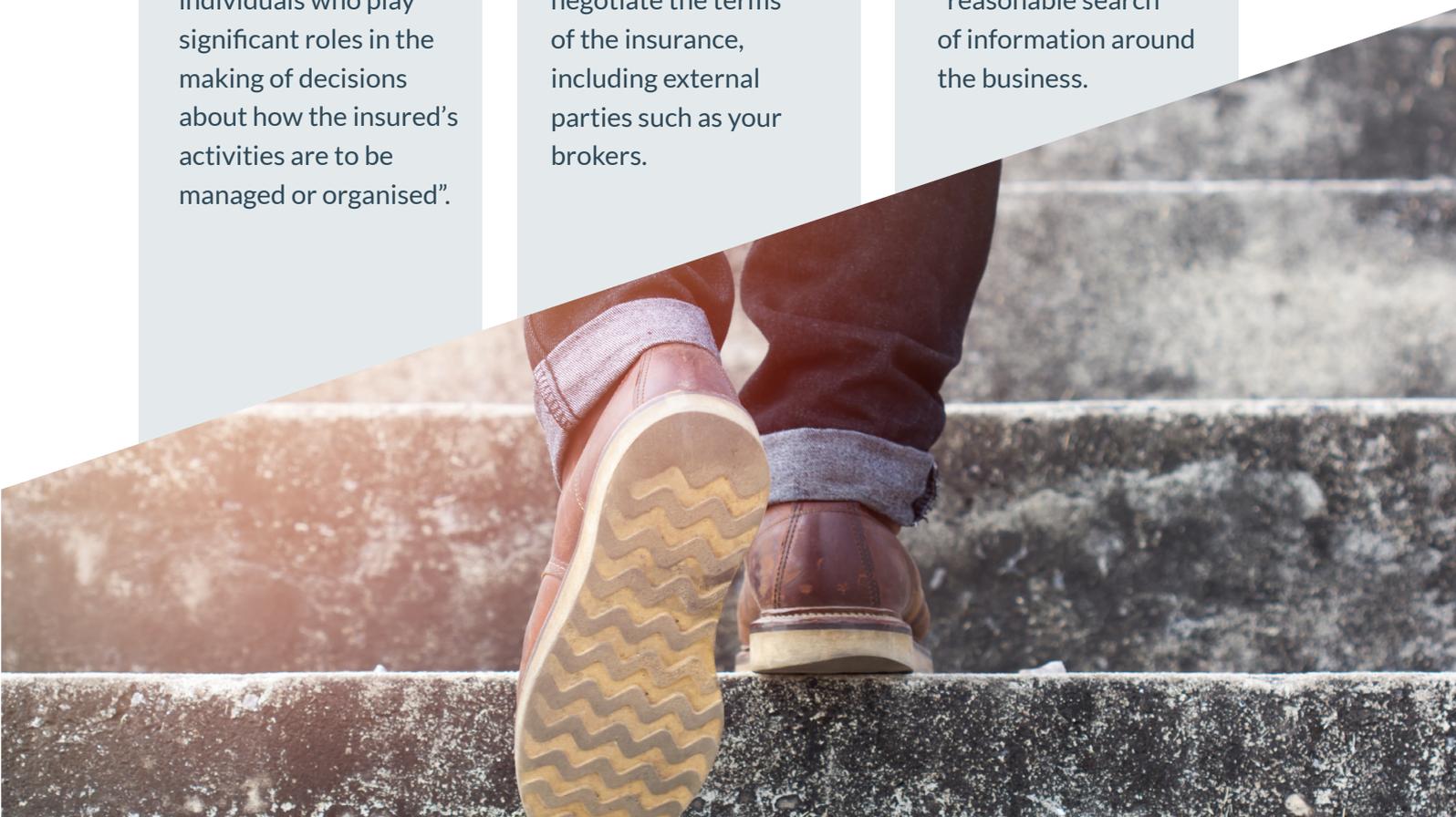
Understanding who knows what – and being able to explain the processes behind your disclosure – could mean the difference between a settled and disputed claim.

The Insurance Act 2015 outlines that you must disclose any material circumstances known by your organisation and insurance suppliers and defines the sources of this information in this way:

Circumstances known by your senior management. In the Act, senior management is defined as "those individuals who play significant roles in the making of decisions about how the insured's activities are to be managed or organised".

Circumstances known by those individuals responsible for arranging your insurance or who negotiate the terms of the insurance, including external parties such as your brokers.

Circumstances that you "ought to know", specifically what should have been revealed by a "reasonable search" of information around the business.



5 steps to better disclosure

There are simple steps you can take to help minimise the likelihood of your claim being denied. Claims can be disputed on two related grounds - poor accuracy of information provided or a failure in your disclosure processes. This applies to all firms, large or small.

By following these steps, you will be in a far more defensible position. And have the peace of mind that you have done everything possible to prepare your business in the event of a claim.

1. Understand all the risks you need to insure against

This might sound obvious, but if you do not fully understand and quantify your risks and how they relate to your insurance, you simply cannot know what is 'relevant' for disclosure.

2. Clearly document your information search process

Put in place clear documentation that evidences the steps you have taken to uncover relevant information for disclosure. This is crucial to demonstrating that you have met the criteria for 'senior management' and that you have conducted a 'reasonable search'. For example:

- Which data sets did you look at?
- Who was involved in the process?
- Was there information that you were unable to access, or that was incomplete?

3. Align your information search to the Insurance Act's terms

A fair presentation must include all individuals who play a role in the decision-making process of selecting and contracting insurance. You must be able to state:

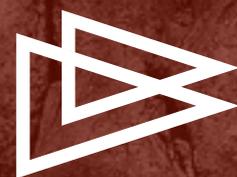
- Who is 'responsible' for insurance?
- Which individuals or roles qualify as 'senior management'?
- Which other parties (inside and outside the company) could hold relevant information? (For example: brokers, law firms, external auditors, consultants, IT providers.)

4. Track approvals process and accountabilities

- Clarify your sign-off procedures for each stage of the information gathering and disclosure process.
- Document this approval process clearly.
- Identify any limitations in the knowledge or responsibilities of those individuals involved.
- Ensure all third-party partners comply with the Insurance Act. Under the Act, it is your responsibility to ensure that your broker understands all requirements set in the Act – not just in terms of their advice to you or the small print they provide, but more importantly in respect of their internal procedures for inputting their material knowledge of your business and reliably recording all relevant underwriter discussions.

5. Start gathering information early

- Allow yourself plenty of time to ensure you are able to gather all available knowledge from senior management and other responsible individuals as well as conduct a ‘reasonable search’ for everything you ‘ought to know’.
- You also need to allow sufficient time for further investigations should the insurer have further queries.
- It’s helpful to imagine you were describing the process in a live legal dispute – would it appear robust and thorough to a third party?
- If completing multiple questionnaires and proposal forms, ensure that you have provided consistent information and answers across all of them. It’s important to systematically double check that you haven’t provided different responses to the same or equivalent questions.



**Take steps to protect
your business from risk,
not put it at risk.**

Mactavish is the UK's leading independent outsourced insurance buyer and claims resolution expert. We support our clients by helping them identify their risks, design their insurance programmes, improve the reliability of their cover, and manage costs down.

We work independently to represent policyholders' interest only and receive no commissions or fees from insurers or other third parties. Our clients value this independence and see us as a powerful force for change in an industry that all-too-often takes its customers for granted.

Our roots are in deep analysis of risk and insurance contracts, and we played an instrumental role in designing key legislation such as the Insurance Act 2015. Building on that heritage, we have developed a unique offering that combines unrivalled technical and legal knowledge, with commercial know-how and buying power.

Our clients come to us when the insurance market has let them down. They never go back to the old-fashioned way of doing things.

Building corporate resilience.

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