

The Broker

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Why protecting your website domain matters

Insurance contract law reform explained

The impact of changes on brokers

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BIBA's key missions outlined

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Welcome



Leighann Burtrand
Editor of *The Broker*

The start of 2011 has flown by. The launch of the BIBA Manifesto, a number of big regulatory campaigns and finalising the conference programme have kept everyone busy – and I am also heavily involved in the development of our new website.

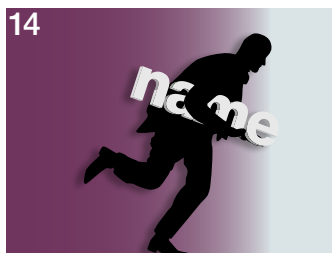
Our existing site is now over three years old, and in internet terms, this is certainly getting on a bit. The new site will be launched in the spring and will provide better navigation, an improved search facility and a far more up to date feel.

While the internet is now an essential tool for everyone, it is clear that you cannot just launch a site and then forget about it. It is common for most people to check out a business online before they approach them in person – and a website that looks unprofessional or just tired will let even the best business down. It is also vital to ensure that your domain is secure.

A fake website, using our former name of BIIBA, was set up by persons unknown last year who intended on earning revenue from our brand. We successfully had the site taken down after going through an adjudication process – and the experience along with some guidance is provided in the article on page 14.

Talking of websites, please also check out our website for the latest conference updates on Opportunities in Adversity – I'm sure many members will be looking forward as much as I am to hearing Lord Alan Sugar – among other stellar speakers – present to us.

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final shape of the new Consumer
Protection and Markets Authority
is vital

A critical time

Regulation continues to dominate much of our focus – and this is indeed a critical time for the industry with the formation of the Consumer Protection and Markets Authority (CPMA) happening now.

On 21 March, we will be holding a reception at the House of Commons to present our findings on a research project conducted in January and February. The reception will bring together key politicians, stakeholders and broking industry representatives and I see this as our opening salvo as to how we believe our industry should be regulated.

There would appear to be a willingness from the Treasury to engage with us and with senior appointments being considered for the CPMA, including that of Chief Executive, now is the time for us to put forward what we believe is more appropriate, proportionate and cost effective regulation.

It is essential that we are on the front foot as the structure for the CPMA is established. As we are all too keenly aware, regulation under the FSA has not been proportionate or cost effective. We must set out the ground rules for a new regime and lobby to ensure that people who understand insurance intermediaries are making the decisions that affect us.

I want to thank members who assisted BIBA and CRA with our work on this project and in particular the work to determine the cost of regulation. We are also working with the Institute of Insurance Brokers (IIB) and the London & International Insurance Brokers' Association (LIIBA) so that the broking sector can be viewed as a cohesive whole.

In addition to CRA, we have engaged with London Economics, to work with us on research to show the value brokers bring to UK plc. There are certainly positive things to say about the high bar we have set in this country, however, it is also clear that some countries do have a more proportionate approach – and the UK regulator needs to learn from this.

There are more details on our research project and regulatory work in Steve White's article which appears on page 30.

Opportunities in Adversity – this year's conference takes shape

At the time of writing, we have just finalised this year's programme for Opportunities in Adversity, the 2011 BIBA conference which will take place on 11-12 May at Manchester Central. Details will be available on the website.

I am delighted to announce that Greg

“It is essential we are on the front foot as the structure for the CPMA is established.”

Case, President and Chief Executive Officer of Aon Corporation – who is one of the sharpest business brains around – will be providing our opening keynote address.

Well done Steve!

It's congratulations to Steve White, BIBA's Head of Compliance and Training, who was named Compliance Personality of the Year, at the recent Complinet Compliance Awards.

He was up against a number of experts from other sectors but we were not surprised to see him triumph. Knowing about regulation is one thing, having the ability to explain complex issues in straightforward terms and be able to put forward workable solutions in what can appear an intractable framework is another. Steve has shown to members, politicians and journalists that he has these qualities in spades and so is a deserved winner.



Bribery Act simplified in member guide

The Bribery Act 2010 has stimulated considerable debate in the business community about the impact of the new legislation which is expected to come into force later in 2011.

The debate has been accompanied by extensive commentary about the implications of the new Act from many different sources.

These observations have often been conflicting and in some instances thoroughly scary, predicting the end of business and corporate hospitality as we know it. It's little wonder that some businesses are confused about how they can comply with the new Act.

In response to these concerns, BIBA has published a guide to the Bribery Act 2010 for members. The guide, written by

commercial law firm Beachcroft LLP, has been designed to help members work out what they need to do to stay on the right side of both the criminal law and the regulator.

The publication considers the four new criminal offences created under the Act, who the legislation applies to and its territoriality. It also looks at what might constitute a bribe, what to do if a business comes across possible bribery and what 'adequate procedures' might look like as a defence against bribery under Section 7 of the Act.

The guide also explores how brokers can go about preparing their anti-bribery and corruption policy and procedures. These measures also come with the reminder that, once in place,

anti-bribery and corruption policy and procedures need to be reviewed regularly to ensure that they stay fit for purpose.

Eric Galbraith, BIBA's Chief Executive, said: "No insurance broker can escape the reach of the Bribery Act. The BIBA guide will help members work through the bribery and corruption risks facing their business, as well assist them in demonstrating the steps that they have taken to minimise those exposures should the authorities responsible for enforcing the new Act come knocking."

A copy of the guide is being published for all member firms and will be available in the regulatory section of the BIBA website.

Sue signs up as new Regional Executive



BIBA has appointed Sue Dimmock as the new Regional Executive for the West Midlands.

She will work closely with the regional committee, headed by Chairman Richard Scott, on a range of activities, both business-related and social. Sue has a strong track record in broking and was formerly Operations Manager at Millennium Insurance Brokers, where she worked for seven years.

Prior to this, she was Regional Quality Manager (South) at Colonnade Swinton and was also a Branch Manager at Trentside Insurance Brokers. She commented: "I'm looking forward to the role and will be active in a number of areas to support members through assisting the local committee and facilitating their work, along with talking to other brokers in the region who could benefit from membership."

Sue can be contacted at: dimmocks@biba.org.uk

Call to bring down cost of motor cover

BIBA is campaigning for a reduction in the cost of motor insurance.

An eight point plan to reduce the cost of cover has been put forward by BIBA to the Transport Select Committee's inquiry into the issue.

Head of Corporate Affairs Graeme Trudgill said: "There is no market failure. We believe that signposting customers, particularly young drivers, to a suitable broker is a vital part of the solution to access affordable insurance."

"We think the key priorities for the Government should be to introduce Continuous Insurance Enforcement, implement changes to reduce the cost of bodily injury claims and

importantly signpost customers to a source of help."

"Signposting is an important solution at no cost to Government. There are key benefits to consumers, particularly those in the more vulnerable age groups. This will help more people find insurance, meaning fewer are left uninsured and unprotected."

Written response

In BIBA's formal written response, the reasons for the recent increases in the cost of motor insurance were outlined as claims inflation, reduced investment income of insurers, competition, commoditisation, insurer withdrawals, uninsured driving and fraudulent claims.

BIBA's eight point plan is as follows:

1. Government must introduce Continuous Insurance Enforcement (CIE);
2. Signpost people to a relevant broker where they can find competitive cover (particularly young or non-standard drivers);
3. Regulate comparison sites to the appropriate standard;
4. Review Pass Plus;
5. Review the driving test;
6. Engage with Lord Justice Jackson's review of civil litigation costs;
7. Refrain from any further increase in insurance premium tax; and
8. Provide access to driving licence records.

Brokers facing 50% increase in 2011 FSCS levies

BIBA has warned that brokers will see increases in June for 2011/12 Financial Services Compensation Scheme (FSCS) levies of around 50% on last year's figure. BIBA is urging brokers to adjust budgets in order to prepare for the bills, which follow the significant increases that brokers saw in 2010.

The warning follows the FSCS interim budget publication and BIBA's regular liaison meetings with the FSCS. BIBA has also been requesting early warnings from the FSCS for any further major increase in costs following last year's nine-fold increases.

Eric Galbraith, BIBA Chief Executive, said: "Our meetings and discussions with the FSCS have highlighted that claims on the FSCS have continued to increase because of the failure of credit brokers and their mis-selling of payment protection insurance.

"Insurance brokers will yet again be unfairly penalised because the FSCS implementation of the rules means that our members pay for failures of credit brokers who have

sold this product. This is ridiculous and BIBA is doing everything that we can to demand a fairer compensation system. We have also called on the FSCS to ensure they pursue recoveries against the relevant insurer, where it can be proven that the credit broker was acting as the insurer's agent."

Steve White, BIBA Head of Compliance and Training, added: "The current compensation funding model is patently unfair for insurance brokers, who present a low risk to consumers. We successfully lobbied throughout 2009 and 2010 for a review of the funding system and received

this review, but the recent delays in issuing the consultation paper must not be allowed to drag on. The FSA needs to ensure that the proposed 2012 completion date is not extended. It is imperative that the funding review produces changes to the rules that are effective no later than April 2012."

BIBA continues to lobby for broker separation and no cross-subsidy in the funding model. When the FSA consultation paper is issued, BIBA will launch its call to arms and enable every member to send their local MP the same messages that BIBA is lobbying the FSA and central government with.

Eric added: "This is one of the biggest issues facing brokers and when the time is right, we need to take collective action with one single message, so that those in power hear a consistent voice from the sector. We are ready to do this and are urging brokers to wait until the FSA consultation paper is issued, as we believe that lobbying jointly together, at the right time, both centrally and regionally will be the best way to achieve change."



BIBA Young Broker of the Year Awards now open

BIBA is inviting nominations for the 2011 Young Broker of the Year Award.

The Award, which carries a cash prize of £1,500, is now in its tenth year and is designed to recognise young brokers for their outstanding performance and encourages commitment to the future professionalism of the insurance industry.

The Award will be presented on 11 May at the 2011 BIBA conference, entitled Opportunities in Adversity, which is being held at Manchester Central from Wednesday 11 to Thursday 12 May.

Award judges say they are looking to reward a rising star who has made a valuable contribution for the benefit of his/her company. To be eligible, the young broker should be able to demonstrate excellent performance, initiative, team spirit, and personal progression and professional commitment to broking.

Eric Galbraith, BIBA Chief Executive, said: "It is very important that we continue to support the future generation of our profession and we are encouraging our members to nominate their younger achievers for this award. We aim to recognise the achievements of these professionals, who are dedicating themselves both on a professional and educational level."

Entries should be submitted to an applicable BIBA region with the regional winners put forward to the national award.

The deadline for entries is Thursday 31 March 2011. Brokers wishing to nominate an individual for this award are advised to contact Kirsty Wingrove on 020 7397 0224 or email: wingrovek@biba.org.uk.

BIBA finds the answers with Broking Now!

BIBA has joined up with Broking Now! the leading insurance broker omnibus research panel from FWD Marketing. The research panel will provide a voice to the broking sector through independent research that BIBA will use to support its broker lobbying campaigns.

BIBA aims to help develop the research panel so that the sector has access to robust and independent broker

research that can be used to lobby government, policy makers and the regulator on issues most affecting members.

Eric Galbraith, BIBA Chief Executive, said: "There has never been a more important time for us to have a strong independent channel for brokers to voice their opinion. We have already hit the ground running as we are using Broking Now! as part of our wider research to lobby for

appropriate proportionate and cost effective regulation from the new regulator."

Mike Harmer, Research Director at FWD, commented: "We are delighted to team up with BIBA. Broking Now! has been capturing and sharing the views of the UK broker community for nearly six years. Broking Now! remains an independent study of all UK brokers. The BIBA endorsement reinforces the industry importance and quality of this study."

The Broking Now! panel will be relaunched as 'Broking Now! in association with BIBA'.



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There are many crucial issues which BIBA has been promoting and lobbying for – and that means getting out and about as **Leighann Burtrand** reports

The best way to get a message across is often to meet face to face – and this is something BIBA has made a priority in recent months. There are a number of relatively new members of parliament who have positions of influence in terms of regulation or consumer protection, but who may also have limited knowledge about the value brokers bring.

We certainly plan to change that. It is our aim for BIBA members to be seen as the leading advisers when it comes to personal and business insurance and we also want to be the first port of call for government when they want guidance on insurance and the broking sector.

We also make sure we know what each MP's particular interests and influence are when it comes to insurance and can therefore issue with relevant guidance.

Notably, when we issued our Manifesto, we made sure that where appropriate, we tailored its distribution, highlighting which parts of this would be of most interest to the MP – and we are there to provide ongoing help. Brokers are trusted advisers for their clients – and this is something we also strive to be when it comes to promoting the worth of our sector.

Some of our recent activities are as follows:

Meetings with MPs

- BIBA met with Craig Whittaker, MP for Calder Valley, to discuss travel insurance and other issues.
- We met Mike Penning, Parliamentary Under-Secretary of State for Transport, and heard his commitment to support a reduction in uninsured driving through Continuous Insurance Enforcement.
- We met Andrew Tyrie, MP for Chichester on broker issues and the at cost of regulation.
- BIBA met with John Thurso, MP for Caithness, and Andrew Stephenson, MP for Pendle, to discuss member issues.
- BIBA attended a transport event with Philip Hammond MP, Minister for Transport.

Government departments

- BIBA met with HM Revenue & Customs about the insurance intermediation



Putting brokers first and foremost

- exemption in the VAT legislation.
- We submitted a formal response to the Transport Select Committee on its motor insurance inquiry.
- We attended a meeting at HM Revenue & Customs concerning VAT and inspection fees.
- We took part in a series of conference calls between industry, Department for Transport and the Drivers Vehicles Licensing Agency about uninsured driving.
- BIBA met with the Department for Business and Skills (BIS) on signposting to brokers.

Europe

- BIBA met the MEP, Dr Kay Swinburne on Insurance Mediation Directive (IMD) issues affecting members and also attended two separate meetings with other MEP researchers in Brussels.
- We attended the Insurance Mediation Directive (IMD) public hearing in Brussels, which impacts insurance regulation, to protect members' interests.
- We also participated in the BIPAR Directors' Committee meeting on the EU Commission's consultation document on revising the IMD.

BIBA Regions

- We conducted compliance forums in Newmarket, Merseyside, the South East and Birmingham.

- We hosted Scottish and Merseyside regional Lloyd's visits.
- We issued London Market Group forum dates for 2011 and various other Lloyd's and Xchanging communications.

Working with other associations

- We launched an industry standard private medical insurance authorisation form with the Association of Medical Insurance Intermediaries (AMII).
- BIBA held a meeting with the Insurance Fraud Bureau (IFB) to discuss what input brokers can offer in combating fraud.
- We hosted a City of London Police presentation on Bribery Act compliance for members.
- We met with the Fire Industry Association regarding the fire safety in the SME sector.

Media

- Activities including participating in a consumer phone-in on BBC Radio 4's Moneybox, appearing on BBC Three Counties and the World Service.
- We also promoted brokers in the *Mail on Sunday*, the *Independent*, the *Financial Times*, the *Daily Telegraph*, the *Observer*, the *Guardian* and *Which?*

Leighann Burtrand is BIBA's Head of Communications

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BIBA's Manifesto is our key document outlining all the important member issues that we will be campaigning on in 2011.

The theme of this year's Manifesto is insurance brokers and protecting our future. It sets out the changes we need from government and the regulator to ensure that individuals and businesses have access to professional advice and guidance on managing risk and the insurance protection they need.

The Manifesto also aims to influence the new regulatory architecture to ensure that our members are able to operate on a level playing field without unnecessary costs or disproportionate regulation.

All of BIBA's regions and committees have contributed towards the Manifesto and it gives a valuable barometer reading of the major issues facing insurance brokers in the months ahead.

"Regulation, regulation and more regulation has been the overriding response of members when we have asked them about their concerns in the coming year. The activities of regulators have a major influence on our profession, but never more so than now," according to Eric Galbraith, BIBA's Chief Executive.

Hence the reason why regulation and consumer protection forms one of the three main elements of BIBA's Manifesto 2011. Steve White, BIBA's Head of Compliance and Training, explains the main regulatory arguments contained in the Manifesto:

"Firstly, everyone has heard of the demise of the Financial Services Authority

Speaking out for brokers

This key document is BIBA's calling card with the Government, the regulator and the media and helps us to promote and protect members' interests.

Graeme Trudgill talks members through the main messages



(FSA) and its replacement with three regulatory bodies – the Financial Policy Committee of the Bank of England (FPC), the Prudential Regulation Authority (PRA) and the Consumer Protection and Markets Authority (CPMA). It is the CPMA that will be the relevant regulator for BIBA members and many of the requirements from the FSA will carry over, which is why we have made, and will continue to make, representations to HM Treasury so that the new regime must have appropriate and proportionate regulation for our sector.”

Members have also been angered by the massive increase in fees from the Financial Services Compensation Scheme during the last few years. BIBA believes the current funding model with its built-in cross subsidies with other financial sectors is unfair due to our low-risk nature and we are calling for separation between the professional insurance intermediary and the secondary sellers of insurance.

BIBA will also be campaigning about the cost of regulation for insurance intermediaries which we believe is over burdensome and ensuring that the revision of the Insurance Mediation Directive provides a level playing field for our members.

The second element of the Manifesto focuses on helping customers and includes the issue on signposting and how we seek the support of government departments, consumer bodies, insurers and the media to improve access to insurance for everyone. This can include non-standard risks and BIBA already helps more than 1,000 people every working day who contact our call centre or website to find a broker.

The rise of the internet has created new risks to insurance customers and BIBA is working with comparison sites, regulators, consumer bodies and other stakeholders to minimise these risks to customers.

Our members have highlighted scenarios where they believe there are cases of unfair treatment for customers, these practices include conditional lending, tying and bundling and we are pushing that these be appropriately regulated and enforced to protect customers.

Commercial customers are the lifeblood for members but members are concerned about cutbacks to important areas of cover during these difficult financial times. BIBA is working with the Cabinet Office and other stakeholders to ensure businesses are aware of business

resilience and the need for adequate cover, particularly business interruption and to prevent the consequences of under insurance.

Flooding is a huge industry issue and BIBA sits on all three of the Government's new flood working groups to ensure that members will have access to products offering insurance solutions for people in flood zones and that government implements the components of the Flood and Water Management Act and the industry develop resilient repair.

Driving Change in the insurance industry is the final element of the Manifesto and this contains a variety of issues including something many brokers contact us about,



“Flooding is a huge issue and BIBA sits on all three of the Government's flood working groups”

namely, working with insurers.

BIBA's General Insurance Brokers' Committee will look to work constructively with insurers to find solutions for areas of friction that can affect customer outcomes. This will include products, underwriting, pricing, clarity of cover, operational effectiveness, remuneration, regulatory support, relationships including matters on distribution and agency, treating customers fairly, timeliness, terms of business agreements, access to authenticated claims information, dual pricing and many other points – practically a manifesto in itself.

Meanwhile, Continuous Insurance Enforcement (CIE) is a new law coming into effect in the spring to tackle uninsured driving and BIBA has been heavily involved in its design and implementation. We want to see it implemented and enforced by Government in full during 2011

– there is more information about CIE on page 18.

BIBA will also be engaging with



“Another issue is employers' liability insurance with the introduction of the first phase of the new Employers' Liability Tracing Office”

the government reforms to reduce the unnecessary cost of claims by taking part in the Ministry of Justice's consultation on civil litigation costs. Insurance law itself is under review by the Law Commission and BIBA is seeking positive reform within the market to ensure its global competitiveness.

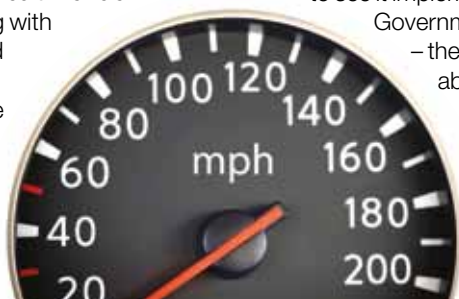
Another issue is employers' liability insurance, which faces new ground with the introduction of the first phase of the new Employers' Liability Tracing Office (ELTO). BIBA sits on the working party and will be protecting members' interests.

In addition, BIBA has many members who provide health insurance and, as Peter Staddon, BIBA's Head of Technical Services, explains: “Health insurance features prominently in the 2011 Manifesto as BIBA is leading reform within the health and private medical insurance market including long-term care and customer choice, improving areas of transparency, competition and access to care.”

The London and international market brings in a huge income to the UK and BIBA's London Market Secretariat Vanessa Young says: “We are working hard to promote and protect the specific interests of London market brokers worldwide, showcasing their professionalism and in doing so strengthening the market's reputation for innovation and expertise.”

Matters on fraud, professional indemnity and trade credit insurance are also included in the Manifesto. To see it in full log onto the BIBA website – members with comments or queries should contact Graeme at trudgillg@biba.org.uk.

Graeme Trudgill is BIBA's Head of Corporate Affairs



Bringing it all

It is time to modernise much of what is contained in the Marine Insurance Act of 1906 – and the result should be a far more cohesive and up-to-date approach that will benefit policyholders of the future writes **Edward Murray**

This year should at last see some fresh ink on the statute book as an ongoing joint review by The Law Commission and Scottish Law Commission into insurance contract law begins to deliver changes.

In essence, the reforms being worked on seek to modernise, standardise and clarify the existing insurance contract law, which is mainly codified in the Marine Insurance Act of 1906. As Law Commissioner David Hertzell comments: “A lot of the Financial Services Authority regulations and a lot of the Financial Ombudsman Service practice is completely different to the Marine Insurance Act 1906. There is a disconnect between the law and the regulation and the way disputes are being adjudicated.”

To break down this work into manageable chunks, it was split into three sections: consumer pre contract, business pre contract and post contract issues. To date, Mr Hertzell says the work around consumer pre contract issues has been completed and is outlined in the Consumer Insurance (Disclosure and Representations) Bill, which he hopes will be passed this year. It is likely to then have a year’s deferment on it to allow the necessary changes to be made.

The first featured box outlines exactly how the insurance contract law review has been structured, the progress that has been made and the timetable for future actions.

Mr Hertzell says: “The practical implications for brokers will be that for the first time in a long time, the law, the regulation, the ombudsman and the whole

kit and caboodle that goes around consumer insurance will be saying the same thing.”

The second outlines BIBA’s position on the Consumer Insurance (Disclosure and Representations) Bill that contains the changes to the requirements around pre contract disclosure.

Boxes three, five and six outline BIBA’s view on the most recent Law Commission Issues Papers in respect of the ongoing work around damages for late payment, the broker’s liability for premiums and post contract issues.

Steve Foulsham, BIBA’s Technical Services Manager, says: “I am supportive of what David Hertzell and his team are trying to achieve and it is long overdue to bring us kicking and screaming into the 21st century.” In short, he says, the changes should “make life easier for everybody and introduce greater transparency.”

2. BIBA’s response to the HM Treasury consultation on the Consumer Insurance (Disclosure and Representations) Bill.

In essence, BIBA supports the changes encapsulated in the Bill. Perhaps the biggest change proposed is to remove the duty that currently lies on consumers to provide all of the necessary material facts up front and to replace it with a duty to take reasonable care to answer the questions posed by insurers fully and accurately.

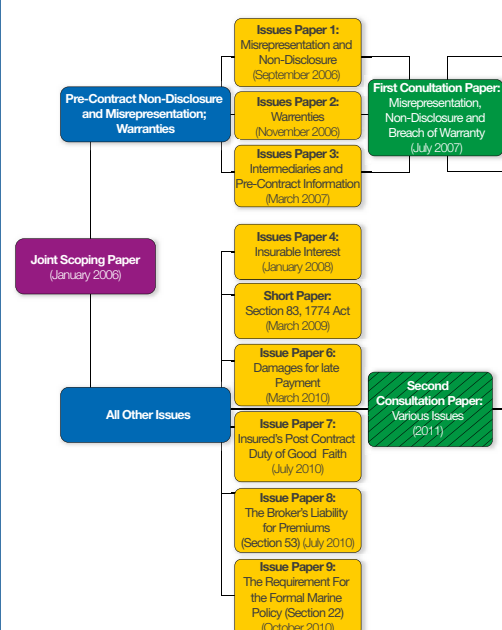
As BIBA says: “We believe that the insurer should not be able to rely on something at the time of the claim that they had the option to ask at the time of inception.”

In the past there has in some instances been a degree of confusion as to whether the broker was acting for the consumer or the insurer.

To clarify this, the draft legislation proposes that intermediaries should be considered to act for the insurer if at the time of the conduct in question:

- 1 the intermediary was the appointed

1. Flowchart depicting the passage of the Insurance Contract Law Review 2006 – 2010



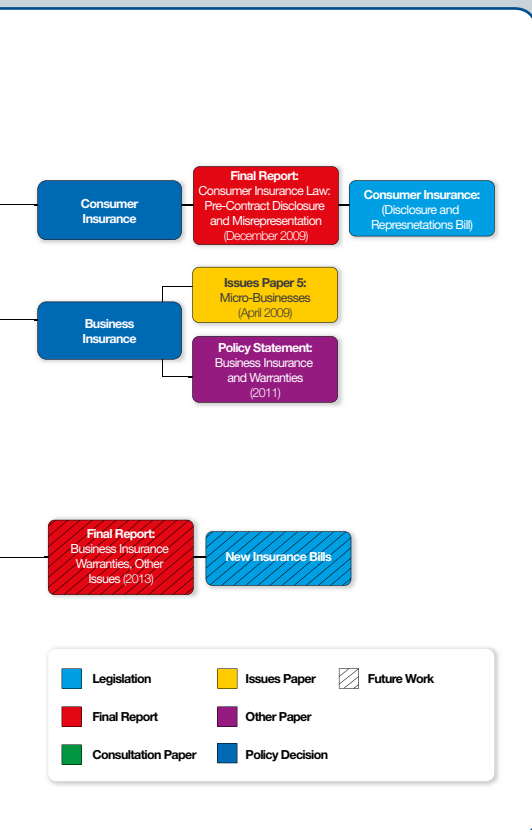
representative of the insurer;

- 2 the intermediary had express authority from the insurer to collect pre-contract information as its agent;
- 3 the intermediary had authority to enter into the insurance contract on behalf of the insurer.

In other cases, the intermediary acts for the consumer, unless the evidence shows that the intermediary acts for the insurer. This would need to be determined in the light of all the circumstances, weighing the factors in each case. The legislation provides some guidance on factors to be taken into account.”

BIBA agrees with this approach but seeks further clarity around point two and in particular whether it relates to a request by an insurer for a broker to obtain a proposal form from the insured. In this instance, BIBA believes the broker has a dual responsibility to both parties.

together



3. BIBA's response to the Law Commission's Issue Paper 7: The Insured's Post-Contract Duty of Good Faith

This paper principally deals with an insurer's reaction to fraud and the remedies that should be made available. Where a claim is found to be fraudulent, BIBA supports the need to remove ambiguity as to whether the insurer can avoid the whole policy or just the claim in question.

Equally it feels there needs to be clarity on what happens to genuine claims that have been paid prior to the fraudulent one. BIBA believes that in claims where fraud is detected then the whole claim should be forfeit. However, this should not affect previous claims whether they have been settled or not.

4. Key findings from BIBA's member research into a review of issues with non-disclosure as it affects small businesses

- When asked if the law on non-disclosure presents problems for very small businesses, 11% of respondents said that it often presents a problem, 30% said that it did not present a problem and 57% said that it sometimes presents a problem.
- The overriding feedback from the member survey is that the main problems with misrepresentation and non-disclosure are people buying online and the industry's use of statement of fact instead of proposal forms.
- More than 55% of claims never had a dispute about non-disclosure but nearly 37% of brokers reported non-disclosure or misrepresentation disputes up to five times a year.
- Insurance brokers did not report many disputes from sole traders and only experienced between one and five claims in 82% of responses. With only 1.5% of insurance brokers reporting misrepresentation or non-disclosure more than 21 times a year for sole traders.
- The most disputed type of insurance product was buildings and contents insurance with more than 40% of non-disclosure or misrepresentation disputes attributed to this class of business.
- More than 48% of cases experiencing non-disclosure of misrepresentation were under £5,000.
- Around 15% of disputed cases involving non-disclosure or misrepresentation are resolved with their claims paid in full.

5. BIBA's response to the Law Commission's Issue Paper 6: Damages for Late Payment

BIBA strongly agrees with the proposals outlined to put insurance contracts on a par with other contracts and do away with the outdated status quo which sees insurers undertake to prevent a loss happening. When it does, the loss represents a breach of contract and acts as the trigger to which the insurance responds.

BIBA believes that putting insurance contracts on a more straightforward footing will simplify the situation for all concerned and create legislation that is consistent throughout the UK.

There is also strong support for the proposals in the Issues Papers that say insurers should investigate claims fairly, assess claims on an unbiased basis and give reasons when turning down a claim. Where a claim is deemed valid, BIBA agrees that insurers should be directed to paying it within a reasonable timeframe. Where insurers do not pay in a reasonable timeframe, then legislation should look at allowing for the award of damages.

6. BIBA's response to the Law Commission's Issue Paper 8: The Broker's Liability for Premiums (Section 53)

A broker's liability for premiums was something that evolved out of the marine market and is still prevalent both there and in the London market more generally. However, there is little clarity as to whether legally this liability extends beyond these markets despite it not being part of modern operating procedure.

BIBA agrees with the proposals in the Issues Papers and believes there is no justification for any market making brokers liable for premiums. Instead, BIBA is pushing for terms of business agreements to outline the liability for the payment of premiums and the issues that surround this matter.

For further information on the BIBA responses to the Law Commission consultations please visit the BIBA website www.biba.org.uk

“What’s in a name?”

A website is a broker’s shop window, showcasing expertise and, increasingly, allowing business to be transacted online – but it is also essential to ensure the domain name is protected – or someone else could benefit, as **Rachel Gordon** explains





Many brokers may be unaware that their website domain – and indeed their company brand – could be under threat. So-called domain hi-jacking or cyber-squatting are commonplace but many brokers may have limited knowledge of these issues and believe that they are not at risk.

Last year, however, BIBA was forced to take legal action against individuals who set up a website using the domain, www.BIIBA.org.uk. The site, which has since been taken down, featured branding similar to the BIBA site, but consisted mainly of links to other websites selling insurance.

BIIBA was the former name for BIBA, the letter 'i' referring to 'investment' and was dropped back in 1999 to reflect BIBA members' general insurance specialisation.

Outwardly, the site appeared fairly innocuous. It did not pretend to be a site for BIBA members – but at first glance, could have caused some confusion for those seeking the genuine site. It also looked far from professional, being littered with spelling errors, and simply through referring to insurance and brokers was damaging to BIBA's brand.

Head of Communications Leighann Burtrand comments: "Discovering that a rogue website was up and running with similar branding was something we knew we needed to tackle straightaway. You need to accept that others may have the same name – for example, there is fashion designer BIBA and also a Hotel Biba in Florida – but the site set up under the BIIBA name was clearly trying to make financial gain from our brand."

She explains that the individuals running the rogue site were traced through the Nominet domain name registry. A series of letters were sent by BIBA, asking for the site to be taken down – however, these were ignored. "We then had to get lawyers involved and fortunately, we succeeded through the dispute resolution service and the site has now gone – anyone who accidentally types in BIIBA rather than BIBA, will also be directed to us, so there is no longer any confusion," she says.

Kate Tebbutt, Associate with lawyers Dechert, specialises in intellectual property cases and advised BIBA. She comments: "This was a misuse of trademark case and it seems that those involved took the BIIBA name and may have planned to generate revenue through having links on the page, with a few pence being paid per click. It's not an uncommon problem.

"The advice to brokers has to be to keep an eye out for this type of activity and also to make sure that their registration for domain names are up to date." Once Nominet had heard the case, it ruled in BIBA's favour and the perpetrators offered no defence," adds Ms Tebbutt. Paul Hunt, General Manager for search engine optimisation company Hiperactive.net, also advises brokers on website strategy – and says domain security must be a priority.

"There are a range of problems brokers could face. One is that someone could buy a similar name – or another that is particularly valuable to a certain company. An example is 'DIY.com', which was later bought by B&Q for a considerable cost. Others will buy up names that someone may type in error – for

"It looked far from professional, being littered with spelling errors, and simply through referring to insurance and brokers was damaging to BIBA's brand"

example 'BCC' instead of 'BBC' – those with the fake name can sell the traffic on.

"Likewise, they can make money if they have a site with a similar name that has links on it. If enough sites are owned, revenue can mount up." Mr Hunt explains that the law relating to the internet can be difficult to interpret, given that those committing crimes may be overseas – and, while it may be viewed as unethical, buying up similar names is not illegal.

"The most important thing a broker should do is understand how website registration works. If they have a .co.uk domain, then this expires after two years. It can make sense to auto-renew because if they forget, then someone else can come along and buy the name – and then the original company could then have to enter legal wranglings to buy it back."

He points out that there are periods of grace of a few months once a domain has expired, but it makes sense for brokers not to stray into this territory. "Brokers should get organised in this area. I would also recommend they seek advice and make sure they read up on the topic – the more informed they are, the less likely they will face any problems."

Continued over

How to keep your domain safe

A domain name is the address that is used to access a website. The actual address is an IP or Internet Protocol address – a string of identifying numbers.

The entire area of domain names and IPs is governed by a body called ICANN, The Internet Corporation for Assigned Names and Numbers, which is based in the US. Nominet is a member of ICANN and deals specifically with the UK.

Every domain name is accompanied by an extension, such as .com for commercial sites, .org for not-for-profit sites, .gov for government sites, .edu for educational sites, .co.uk for UK commercial sites, .org.uk for not-for-profit UK sites and so on. There are other extensions for commercial enterprises such as .biz and .net which may be used if a .com domain name has already been claimed.

Domain hijacking is the process by which registration of a currently registered domain name is transferred without the permission of its original registrant, usually by exploiting a vulnerability in the domain name registration system.

Domain names expire after a fixed period

“Cyber-squatting is where a person registers a name which is another person’s trademark without consent”

of time and become available to the public. If their original owner allows them to expire even momentarily, they may be immediately purchased by another party.

Hijackers may have the intention of hacking into the site, stealing information and promoting phishing scams or other forms of criminal activity.

Cyber-squatting is where a person registers a name which is another person’s trade mark without consent. The cyber squatter will then try to sell it. Cyber squatters also usually register many trademarks and speculate selling them at much higher prices than the ones they actually paid for.

In the result of a dispute, a broker may find that a cease and desist letter is enough

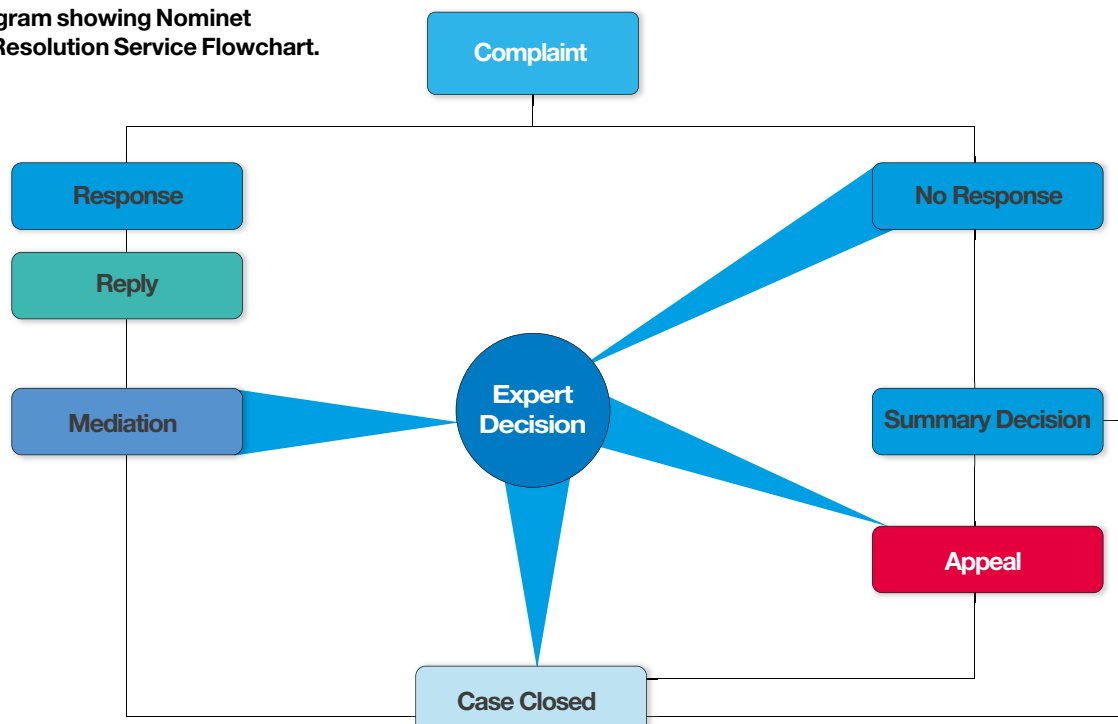
to stop the activity. If not, then they can choose to seek legal advice from a specialist solicitor or represent themselves in the dispute resolution service. For example, the Nominet website spells this out how this operates through the flowchart below.

Information on how registration works is available at the Nominet and ICANN websites, which relate to .uk and .com addresses at www.nominet.org.uk and www.icann.org.

There are technical measures which can be taken to protect a domain name including ‘locking it’ where the name cannot be transferred to another account or registrar. It can only be unlocked when transferring it or at the time of renewal.

The Transfer Authorisation Code, which is a six to 16 characters code that is assigned to a domain name as a means of securing it from unauthorised transfers and keeping it confidential, can prevent theft. There are also levels of encryption, known as Transport Layer Security (TLS)/Secure Sockets Layer (SSL) which prevent tampering.

Fig.1 Diagram showing Nominet Dispute Resolution Service Flowchart.



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A CIE change is c

New regulations create an offence for keeping a vehicle without insurance – and brokers must make sure their customers understand what is required, says **Graeme Trudgill**

In the first half of 2011, an additional enforcement scheme is being introduced to make sure that all vehicles are insured or a Statutory Off Road Notification (SORN) is made.

Continuous insurance enforcement (CIE) means all registered vehicle keepers must ensure that their vehicle has the statutory minimum third party motor insurance – failure to comply could result in a series of escalating penalties. Furthermore, if their insurance record does not show on the Motor Insurance Database (MID), keepers of legitimately insured vehicles are at risk of receiving notification that they appear to be uninsured.

This is a fundamental improvement to current practice. Previously, an uninsured driver needed to be 'caught' on the road to face enforcement measures. Therefore BIBA is keen to raise awareness of how this will affect insurance intermediaries and what they should do to help existing and potential customers stay compliant.

It is estimated that around 1.4 million of all UK motorists drive uninsured. These drivers cost the UK about £500 million annually, which adds up to an average cost of an extra £30 per car insurance policy.

The police currently seize around 500 uninsured vehicles every day, but much more needs to be done to help identify and combat uninsured driving even further. CIE differs from existing police on-road enforcement of uninsured driving in that, unless a SORN declaration has been made by the vehicle keeper, the keeper is required to insure the vehicle at all times.

How does CIE work?

CIE systematically compares records between two databases, the Motor Insurance Database (MID) managed by the Motor Insurers' Bureau (MIB) with those held on the DVLA Registered Vehicle Database to identify keepers of potentially uninsured vehicles. This will clearly identify any vehicle keepers who do not have a valid insurance policy on the MID.

If it appears that a vehicle has no insurance or no SORN, then an Insurance Advisory Letter (IAL) will be sent to the registered keeper. If the registered keeper takes no action, the keeper faces:

- a fixed penalty fine of £100
- having the vehicle clamped, seized and destroyed
- court prosecution and be fined up to £1,000

Starting in spring 2011, the MIB will issue and cover the cost of the new IALs to registered keepers informing them that their vehicle appears to be uninsured. The letter will advise the keeper what they need to do to comply with the law and will result in hundreds of thousands of letters being sent to vehicle keepers, some of whom may be insured but have not had correct details loaded onto the MID. These could result in calls to brokers' offices.

DVLA will be responsible for the cost of enforcement, which will take the form of Fixed Penalty Notices followed by the possibility of prosecution and/or wheel clamping should the vehicle's keeper fail to heed the warnings. The cost of enforcement will be more than covered by fine income and is due to commence a short while after the first IALs are distributed by MIB.

What to tell your customers

If someone is not insured and they use their vehicle on the road, they are already committing an offence and so should get insured immediately.

If someone is insured and their record does not appear on the MID, then they should contact their insurance provider to have the MID updated immediately. This will avoid the inconvenience of someone being unnecessarily contacted by the MIB and the DVLA, or being stopped by the police.

It is possible to check the Motor Insurance Database without charge to see if there is a valid insurance record at www.askmid.com.

If someone is keeping their vehicle off the road, they should make sure they have

submitted a SORN declaration to the DVLA. If the vehicle is taxed they need to return the disc (including nil value discs) to the DVLA using a V14 form. When someone insures their vehicle, they should make a point of checking the MID to see if the vehicle is recorded correctly. Although most insurers process the information promptly it's best to allow, say a week, for this to update.

Preventing customers from receiving an IAL in error

It is essential that insurance brokers are aware of their responsibilities. The most important thing they can do to support their customers is to update the MID in a timely and accurate manner. This will mean the customer should not receive an IAL in error in the first place.

oming

A dark-colored car, possibly a Ford Focus, is shown from the side. A yellow wheel clamp is attached to the rear wheel. The background is a dark brick wall.

Within the motor trade and motor fleet sector there is a potential issue as certificates of insurance are often issued on a blanket basis, rather than to a specific Vehicle Registration Mark (VRM). There is a risk of reputational damage if an IAL letter is received by a customer in error because their details have not been updated or have been registered incorrectly on the MID.

CIE will have huge benefits to the insurance industry as long as it is carried out effectively, so it is vital that commercial insurance brokers play a role in advising their customers ahead of the change and work closely with insurers to ensure MID compliance.

Advice to put into renewal letters

Insurance brokers should communicate

the CIE messages to customers wherever possible. An important place is the broker's renewal letter. BIBA and the MIB have prepared this draft wording which you could use as guidance for an optional template:

"From spring 2011 a new scheme is being introduced to make sure that all vehicles are insured or a Statutory Off Road Notification (SORN) is made.

"All registered vehicle keepers must ensure that their vehicle has the statutory minimum third party motor insurance – failure to comply could result in a fine (fixed penalty notice), wheel clamping or court prosecution. You can check if you are on MID at www.askmid.com."

CIE is an important change to the motor

insurance landscape. This change must be communicated to customers. Brokers, must maintain the correct MID record on behalf of their customers as MIB will be sending tens of thousands of IALs a month. CIE benefits will include safer roads, greater premium income for the insurance industry, a reduction in the number of claims made to the MIB, a reduced levy to insurers and an increased IPT income to the Government.

BIBA, the MIB and the DVLA have produced FAQs for brokers and these can be viewed on the BIBA website and if members have any queries please contact Graeme at trudgillg@biba.org.uk.

Graeme Trudgill is BIBA's Head of Corporate Affairs

All in the detail

No broker wants their client caught out by small print.

Peter Franklin assesses a case where the judgement has implications in relation to warranties in property insurance policies and advises brokers on best practice

An insurance related case – *A C Ward & Son Ltd v Catlin (Five) Ltd & Others EWHC [2009]* – has highlighted the pitfalls that can arise in insurance policies if your clients do not follow the rules – and the responsibility you may bear as their insurance adviser.

The insured operated a warehouse from which over £400,000 of cigarettes and tobacco were stolen. The insurers rejected the claim on a number of points:

a) **Collusion.** The insurers alleged that an employee must have been involved in the theft because the thieves had successfully avoided the alarm system. However, the judge quickly dismissed this saying that the onus was on the insurers to prove such a serious allegation which they could not. Thefts involving collusion are not unusual so insurers should be asked to remove such exclusions.

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b) **Breach of warranty.** There were two warranties on the policy a general protection warranty and an intruder alarm warranty. Before the main trial started there was an argument by insurers that despite these terms being headed and referred to as ‘warranties’ they were in fact only suspensive conditions. This argument was rejected by the court and they were held to be promissory warranties. It is often difficult to make this distinction and it could be wise to check with the insurer exactly what is meant.

The insurers argued there was a breach of these warranties because the alarm system was not fully operational and other protections had not been put into place. The general protection warranty used the phrase “the whole of the protections provided for the safety of the insured property shall be maintained.”

This is not an unusual wording but is dangerous because it does not specify exactly what needs to be put in place when the premises are closed. Does it include locks on internal doors? Or locks on cupboards etc? It is safer to agree exactly what is to be maintained and set. Usually, this would only be locks to external doors and windows.

“The onus was on the insurers to prove such a serious allegation which they could not”

The judge decided that this warranty only referred to those protections in place at the time of inception of the insurance. If the insurer was to apply for future protections then he would have required clear words to that effect.

The burglar alarm warranty, as well as requiring the system to be set when the premises were left unattended, also required the insured to remedy any defects in the system promptly. The judge interpreted this as meaning that, provided the insured set the alarm when the premises were left and did not know it was not working properly, they had fulfilled the requirements of the warranty. Unknown to the insured, the alarm company had failed to connect part of the system and a problem with the telephone line was not known to the insured at the time.

Consequently, the judge dismissed

the insurer’s contention that there was a breach of the warranties. There could only be a breach if the insured was aware of the defect and had failed to remedy it promptly.

c) The last point put forward by the insurers to avoid the claim was that there had been a misrepresentation and non-disclosure. The warehouse in question had been acquired after the start of the policy and there had been negotiations over including cover for the tobacco and cigarettes. There had been at least two surveys and various risk improvements had been put forward including the building of a secure cage and improvements to the alarm system.

The insurers had removed an endorsement restricting the cover having been told that the alarm system improvements had been completed and having reached a compromise on the construction of the cage.

In the event, the improvements to the alarm system had not been completed. The insured had shortly before the theft written to the brokers saying that the improvements to the alarm system had been “actioned”. The brokers had told the insurers that the improvements to the alarm system had been completed.

The judge decided this was a misrepresentation and had the insurers been aware of the true picture they would not have removed the restrictive endorsement – and hence the whole claim failed on this last hurdle.

Lessons to be learned

The lesson from this case is that the meaning of warranties and conditions in policies can turn on very small points. The fact that the warranty required defects to be put right led the judge to conclude the warranty could only apply to defects known to the insured. Without those few words it is likely the insurers would have won on the breach of warranty point as well.

The misinterpretation by the brokers of “actioned” was also pivotal. It was not helped by the brokers apparently failing to pass to the insured a list of the risk improvements required for several months or to tell them for several months of the restriction in cover.

“The warranty could only apply to defects known to the insured”

When acting as an intermediary in an insurance contract, brokers must ensure that they pass on to clients as quickly as possible any requests by insurers of risk improvements either required or recommended, spelling out clearly any time limits and the consequences if they fail to complete them within the timescales.

Equally where brokers are conveying information from their clients, they should make sure this is done accurately and, if in doubt, check what the client means. No one likes to convey bad news to a client but failing to tell a client that their insurance cover is not in place because certain work has not been done could mean the broker picking up the bill for any losses.

“The judge was also critical of some of the witnesses’ evidence”

Brokers should make sure they explain to the insured specifically what conditions are warranties and what type of warranty (promissory, continuing or delimiting) and which are conditions precedent to liability or suspensive conditions. Insurers are now favouring the use of the last two rather than continuing warranties as it is easier to reject a claim and keep the policy in force than it is with a breach of the warranty where the policy has to be cancelled if the claim is to be rejected.

Rather than saying in the policy against each condition whether it is precedent to liability, many insurers insert a condition saying that anything “to be done or complied with by the insured” is a condition precedent.

The judge was also critical of the evidence of some of the witnesses. Their evidence was not helped by the lack of contemporaneous notes of discussions and telephone messages to which they could refer to confirm their recollection of events.

From my experience as an expert witness this is a common failure among insurance brokers.

Peter Franklin is Consultant and Managing Director of Franklin Consultancy Ltd

Pratt v Aigaion Insurance Co SA (“The Resolute”) [2008] EWCA Civ 131



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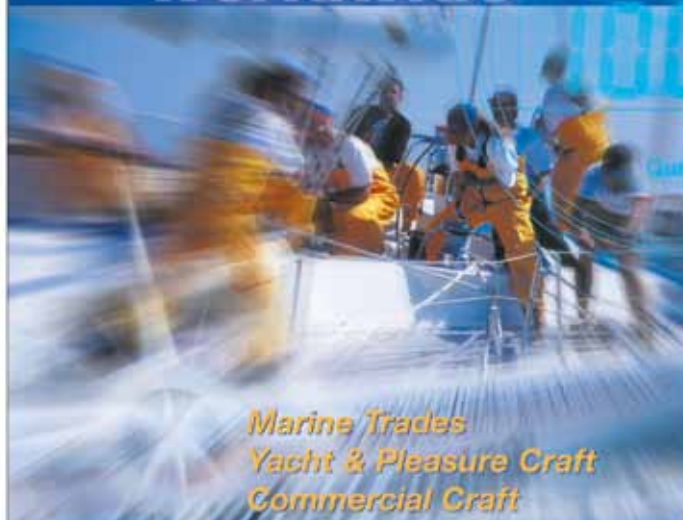
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All change for UK pensions

The major changes taking place to workplace pensions, a new Consumer Credit Directive and the thorny issue of Right to Light are all under the spotlight

BIBA spoke recently to the NEST Corporation about the changes taking place within the pensions sector, which may well have an impact on brokers as employers, as well as creating business opportunities for those who are also financial advisers.

The National Employment Savings Trust (NEST) is a new pension scheme that is aimed at meeting the needs of low to moderate earners. The Corporation is the trustee overseeing the scheme.

According to the Department for Work and Pensions, around 750,000 employers in the UK do not currently offer a pension

scheme. But, as a result of a change in the law, from October 2012 most employers will have to enrol some of their workers into a scheme – and make contributions. So-called auto-enrolment is set to mean more people have an easier retirement, but may also place a burden on SMEs which currently do not offer a pension.

However, auto-enrolment is backed by both the Government and the opposition and the duties are being introduced gradually in stages, with the largest employers affected first, says NEST's Intermediary Relationship Manager, David Lunt.

He explains that NEST could be the only pension scheme an employer offers to all their workers, or used for a particular category of workers, defined by grade or salary. "NEST could also be used either as a base scheme, providing Pensions Act 2008 compliance within a wider benefits package, or as an entry level scheme where an employer has an existing scheme with a waiting period."

NEST can be used to pay more than the legal minimum level of contributions, within the annual £3,600 contribution cap. This limit will be adjusted in line with earnings growth for when the scheme launches in 2011, following which it will be adjusted annually.

Mr Lunt comments: "We are developing NEST's processes so they meet the specific needs of our future members and ensure NEST is easy for employers to use and we are testing the prototypes of our administration processes with employers and advisers."

NEST's investment approach will be designed specifically to meet members' needs, says Mr Lunt and it will publish a Statement of Investment Principles, which summarises the approach, later this year.



David Lunt

"We are developing NEST's processes so they meet the specific needs of our future members and ensure NEST is easy for employers to use"

NEST will have a 0.3 per cent annual management charge (AMC) on total funds under management combined with a 1.8 per cent charge on contributions as they are made.

In addition, NEST has also published the results of its initial research into the understanding of current pension terms among its target audiences. Through this, NEST has also developed a phrasebook of key terms, phrases and principles aimed at helping future NEST members to better understand pensions.

The phrasebook can be downloaded from NEST Corporation's website at www.nestpensions.org.uk/plainspeaking and for more information about NEST, brokers should visit www.nestpensions.org.uk or contact intermediary.enquiries@nestpensions.org.uk



Check your compliance with new Credit Directive

A new Consumer Credit Directive (CCD) came into force on 1 February 2011, introducing a number of changes, which are likely to impact on brokers.

It amends the Consumer Credit Act (1974) (CCA) and previously, brokers have not been affected the CCA where credit being provided was repaid in four or less instalments over the period of the insurance contract, not exceeding 12 months. In future, the exemption under the Consumer Credit Directive will only be available where the credit is provided without interest and other charges.

The CCD applies to credit of £160 or above. Under the UK provision this limit will be amended to all loans falling within the existing CCA of credit over £50.

There are now additional requirements on lenders, including a statutory obligation

to assess the creditworthiness of customers and a requirement to explain the consequences of a customer missing a payment.

The CCD also introduces a number of additional rights for consumers once the agreement has been entered, including the introduction of a 14-day withdrawal period for all credit agreements and an extension of the current right to settle an agreement early to allow partial early repayment and a partial rebate.

For brokers, although the format of credit agreements will be slightly simplified, the current breakdown between Key Financial Information, Other Financial Information and Key Information Sections no longer apply. Meanwhile, in relation to modifying agreements, brokers are only required to provide the information that

has changed, together with a statement that all other information remains as per the original agreement.

Brokers will be required to provide the customer, either verbally or in writing, with an adequate explanation of the credit product. The customer will need to be made aware that an assessment of their financial circumstances will be required, which could be obtained via a credit reference agency. While this is something that the creditors are likely to do, brokers will need to confirm this.

The changes are likely to impact on brokers' training processes, the average call durations and ultimate costs incurred. Brokers should check how the CCD applies to them whether they use a premium finance provider or other funding method. They will require a Consumer Credit Licence if the number of repayments are four or more, or they add a fee, interest or default charges.

More details on the CCD are available on the BIBA website

Why brokers should look into Right to Light

Brokers who advise property developers, or who have property owning clients, may well want to familiarise themselves with a recent legal case, involving the issue of Right to Light.

The recent High Court of Justice case of *Hkruk II (CHC) Limited v Marcus Alexander*

Heaney focused on the question of what remedies are available to a building owner when loss of light occurs as a result of a neighbouring development.

In June 2008, a developer started building works to add two floors to its

nearby building. A letter had been sent to Mr Heaney, who owned a nearby Victorian Grade II listed bank building, explaining the work as well as raising the issue of the Right to Light. Despite Mr Heaney expressing his concern, the development went ahead.

However, the court later found that because the majority of rooms were originally poorly lit, to 25 per cent or less, any reduction in light was considered as a serious loss.

The total cost of the project to the developer, including the cost of acquisition and finance charges, came to £35,814,161. At the time of the hearing, one floor of the building was already being let out to a tenant. Despite this the court ordered a mandatory injunction to remove part of the top two floors of the developer's property. The decision is going to appeal.

BIBA's Head of Technical Services Peter Staddon says: "In a Right to Light case, the court is able to grant either damages or an injunction. We don't know what will happen when the appeal is heard, but it is clear that protracted legal actions can result, and so brokers should be prepared to advise clients of what might happen and also to ensure that they have appropriate insurance in place."

The documents can be downloaded from the BIBA website



All set for an active 2011

The 2011 calendar of BIBA's regional events is now available – members should contact their local committee to find out more details on what is taking place or view their regional section of the BIBA website.

Feb					
7	Committee meeting	Merseyside & West Cheshire	13	Committee meeting	East Midlands
8	Compliance & training forum	Yorkshire & Northern	14	Committee meeting	West Midlands
8	Committee meeting	West Midlands	14	Committee meeting	Anglia
9	Non-member meeting	Yorkshire & Northern	16	Golf day	Central
9	Compliance forum	Yorkshire & Northern	22	Compliance forum	West of England
10	Committee meeting	Yorkshire & Northern	TBC	Compliance forum	Anglia
10	Compliance forum	Scotland	TBC	Five-a-side football	South East
10	BIBA/CII quiz	South East	TBC	Five-a-side football	Central
11	Compliance forum	Northern Ireland	TBC	Lloyds visit	Yorkshire & Northern
15	Committee meeting	West of England	TBC	Leaders' invitation lunch	Elland Road Banqueting Suite
17	Annual dinner	Greater Manchester and West Pennine			
Mar			Jul		
7	Committee meeting	Merseyside & West Cheshire	8	Annual dinner	
7	Market forum/Compliance forum	East Midlands	12	Committee meeting	Anglia
8	Compliance forum	West of England	TBC	Summer event	West Midlands
8	Committee meeting	West of England	TBC	Summer event	South Wales
8	Fire Risk Assessment Training	Central			West of England
9	One day event	Northern Ireland			
10	Committee meeting	Yorkshire & Northern	Aug		
14	Committee meeting	East Midlands	3	Compliance forum	Yorkshire & Northern
15	Regional managers' forum	Anglia	10	Committee meeting	Yorkshire & Northern
15	Committee meeting	Anglia	11	Compliance & training forum	Yorkshire & Northern
16	Compliance forum committee	West Midlands			
23	Committee meeting	South East	Sep		
23	Top table lunch	South East	5	Committee meeting	Merseyside & West Cheshire
24	Lloyd's visit	Merseyside & West Cheshire	8	Committee meeting	Yorkshire & Northern
29	Top table lunch	Central	13	Committee meeting	West Midlands
30	Compliance forum	South East	14	Top table lunch	South East
30	Compliance forum	Central	19	Committee meeting	East Midlands
			20	Regional managers' forum	Anglia
			20	Committee meeting	Anglia
			28	Compliance forum	Central
			28	Compliance forum	South East
			TBC	Lloyd's trip	Anglia
			TBC	Compliance forum	West of England
			TBC	Golf Day	West of England
			TBC	Autumn away day	West of England
			TBC	Annual dinner	South East
Apr			Oct		
4	Committee meeting	Merseyside & West Cheshire	3	Committee meeting	Merseyside & West Cheshire
12	Committee meeting	West of England	11	Committee meeting	West Midlands
TBC	Compliance forum	Greater Manchester	12	Top table lunch	Central
TBC	Compliance forum	West Midlands	13	Committee meeting	Yorkshire & Northern
TBC	Lloyd's trip	South East	14	Annual dinner	West of England
			TBC	Compliance forum	West Midlands
			TBC	Annual dinner	South Wales
			TBC	Lloyds visit	Greater Manchester and West Pennine
May			Nov		
3	Compliance & training forum	Yorkshire & Northern	2	Compliance forum	Yorkshire & Northern
4	Compliance forum	Yorkshire & Northern	7	Committee meeting	Merseyside & West Cheshire
5	Committee meeting	Yorkshire & Northern	8	Committee meeting	West Midlands
6	Lloyd's trip	Anglia	9	Compliance & training forum	Yorkshire & Northern
9	Committee meeting	Merseyside & West Cheshire	10	Committee meeting	Yorkshire & Northern
10	Committee meeting	West Midlands	18	Annual dinner	West Midlands
11	Member reception	Greater Manchester and West Pennine	TBC	Lloyds visit	Yorkshire & Northern
		South East	TBC	Annual dinner	Merseyside & West Cheshire
18	Golf day	South East	TBC	Compliance forum	West Midlands
18	Young persons coaching day	Yorkshire & Northern			
19	Lloyd's trip	Central	Dec		
TBC	Lloyd's trip	East Midlands	1	Committee meeting	Yorkshire & Northern
TBC	Five-a-side-football	Anglia	6	Committee meeting	West Midlands
TBC	Compliance forum	South East	12	Committee meeting	East Midlands
			13	Committee meeting	Anglia
Jun			TBC	AGM	Central
2	Lloyds visit	South East	TBC	AGM	South East
2	Lloyds visit	Yorkshire & Northern	TBC	AGM	West of England
6	Committee meeting	Merseyside & West Cheshire			
8	BIBA Word Cup	Yorkshire & Northern			
8	Committee meeting	South East			
9	Committee meeting	Yorkshire & Northern			



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Steve Foulsham

provides insight into three of BIBA's wide ranging schemes and facilities, which allow brokers of all sizes to be a cut above the rest

Stand out from the crowd

When travel cover alone is not enough

Business travel has been a risky affair of late. As businesses look to pursue growth opportunities overseas, their employees face risks not generally found in these shores. Political instability, natural catastrophes and terrorist atrocities are just some of the challenges confronting those who travel on business.

Terrorism is a major concern for any business sending employees overseas, because it can happen anywhere and without warning. Given this risk, access to a security assistance service is essential.

Emergency response in action

One of ACE European Group's clients found out just how essential it is in November 2008, when an executive was caught up in the terrorist attacks in Mumbai, India. The employee was staying in a hotel near the incident when he realised he was in danger. He called ACE's security specialists, a service embedded into ACE's corporate business travel product, for emergency assistance.



A helicopter flew the employee to safety



Because of the severity of the incident, he received a call every 30 minutes offering advice and reassurance. In addition, ACE liaised with his employers to keep the appropriate people abreast of the situation.

Although the British Government did not issue any travel advice for the region, ACE's security specialists recommended evacuation. As a result, a local representative was dispatched to take him from the hotel to a helicopter, which flew him to safety.

Thankfully, the worst terrorist incidents or natural disasters remain a remote risk, but ensuring the safety of employees on assignments around the world should be a key concern for any responsible company, regardless of size.

For further details on the Group Personal Accident and Business Travel scheme, please contact Andy Paterson at ACE European Group on 0776 699 4080 or email andy.paterson@acegroup.com

Why star ratings help brokers know their SME stuff

Small and medium-sized enterprises (SMEs) are a major source of income for the UK. Like most sectors, these firms have faced a challenging few years as a result of the economic downturn.

However, there are signs that many of these businesses have stabilised and are looking to the future with greater confidence. This is encouraging for brokers in terms of potential opportunities to assist these firms with their commercial insurance needs. At the same time, brokers face a number of challenges in this area.

A key challenge is the developments in how commercial insurance is being distributed. It is clear that distribution of SME insurance is at a turning point. Although brokers continue to dominate the SME insurance market, they are no longer seen as the automatic choice by firms to arrange their insurance cover.

Brokers face a real challenge in the shape of aggregators, as well as the

availability of cover online. For example, almost a quarter of insurance for offices and retailers is now available to be purchased online, while nearly a third of products are available online for tradesmen.

The current economic situation presents another challenge in that businesses are still very conscious of insurance costs and are looking at ways of reducing premiums. This means that brokers need to highlight their unique selling points and be able to justify to customers why it is better to buy via them than direct.

However, if brokers can effectively react to changing businesses' needs and analyse product trends in order to meet their clients' specific needs on a case-by-case

basis, they can take advantage of the opportunities that are emerging. Brokers are still king when it comes to arranging tailored solutions and this is something that they can exploit.

The Engage tool from Defaqto helps brokers research and analyse the market quickly and assists them in identifying products that best meet their clients' needs. In addition, our Star Ratings for commercial insurance support brokers' recommendations by giving a clear indication of the range of features provided by products they select for clients.

Brokers can access further information on our ratings for commercial SME insurance at www.defaqto.com/star-ratings/commercial-sme-insurance

For further information on the BIBA scheme, contact the Defaqto Account Management team on 0808 1000 804



In a challenging market, ratings matter more than ever

Standard & Poor's believes that underlying underwriting performance in the UK non-life insurance industry has come under increasing pressure from margin erosion.

In analysing the performance of UK non-life risks written by insurers, Standard & Poor's is of the opinion that this margin erosion has largely been masked by reserve releases overall, although its analysis of the motor, property, and liability classes show varying impacts from reserve movements.

Meanwhile, investment returns have been limited by the current low interest rates and the conservative investment strategies that insurers have maintained during the financial turmoil of the last two or three years.

It is no surprise therefore, that evidence of real price increases has emerged over

the past nine months or so, especially in motor insurance. These price rises should, according to Standard & Poor's, lead to an improving underlying underwriting performance and give cause for cautious optimism.

However, the extent and longevity of this improvement is not yet clear.

Standard & Poor's thinks the actions of industry leaders, particularly actions that support strategic risk management, will determine how the cycle develops in each class of business.

Further research on the UK non-life and

life insurance industry can be accessed on Standard & Poor's Insurance RatingsView (now available on Insurance Markets on the Global Credit Portal). It will provide brokers with greater access to data, analytics and tools supporting underwriting, broking, risk management, independent analysis and financial governance in the global insurance industry.

It is also important to remember that brokers do need to be aware of an insurer's security rating when recommending cover for their clients.

For more information on this product, please contact Florence Henderson on 0207 176 3767 or email Florence_Henderson@standardandpoors.com

Steve Foulsham is BIBA's Technical Services Manager

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**"Millions saw the apple fall, but
Newton asked why."
Bernard Baruch**



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In with the new...

With new regulator, the CPMA, preparing to launch, BIBA has a unique opportunity to influence the way in which the broking sector is regulated and supervised, as **Steve White** explains



Just six years ago, the general insurance broking and intermediary community was facing the uncertainty of a new statutory regulator in the form of the Financial Services Authority (FSA).

Fast forward to 2011, and once again brokers and intermediaries are in a similar position, facing more regulatory uncertainty from the impending demise of the FSA and the prospect of further changes to their businesses introduced by the new Consumer Protection and Markets Authority (CPMA).

There is no escaping the fact that 2011 will prove momentous as the restructuring of the regulatory architecture for the UK's financial services industry gathers pace. BIBA members still have time to influence that restructuring and those who have read our Manifesto for 2011 will see that regulatory issues are a major part of our campaigning during the coming year.

"BIBA is aiming to establish the true cost of regulation"

In particular, BIBA will be focusing on the cost of regulation, reform of the Financial Services Compensation Scheme and the work that we are carrying out in Europe in an attempt to influence the revision of the Insurance Mediation Directive (IMD), the vital piece of law that sets the framework for intermediary regulation in the UK.

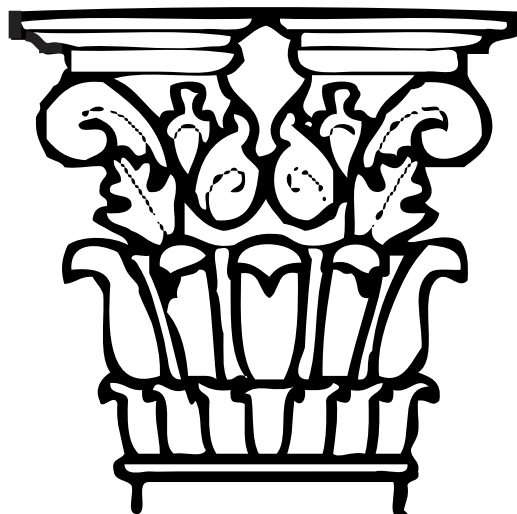
BIBA is arguing that the cost of regulation in the UK is significantly out of kilter with the rest of Europe. The UK's brokers and intermediaries pay more than their equivalent counterparts in regulatory fees and levies than any other EU member state. Furthermore, BIBA believes that large general insurance intermediaries which are active across Europe will pay more here in the UK in annual regulatory fees and levies than in the other 26 member states combined.

BIBA has already met with the Treasury to discuss its formal response to the consultation paper 'A future approach to regulation' which was published last year. At this meeting, BIBA sought to reinforce its message that the approach to regulating the insurance broking community needed to be more proportionate, appropriate and cost-effective. The meeting was very constructive and prompted a request from the Treasury for more detail.

During our meeting with the Treasury Bill team, we were challenged to better articulate what more appropriate and proportionate regulation and supervision might look like for general insurance intermediaries.

In order to be able to respond to this challenge, BIBA has appointed consultants Charles River Associates (CRA) to work with us on this project.* The aim is to produce a report for HM Treasury and the FSA that sets out what represents 'appropriate and proportionate' regulation and supervision for the insurance intermediary sector. In carrying out this project we also have to bear in mind that there is already legislation (FSMA 2000) and regulation in place as a result of the IMD, which means that there are limits as to what can be altered in the UK as a consequence.

CPMA



BIBA FSA FSMA IMD

**“We have an opportunity
to influence the way we
are regulated”**

CRA will examine the existing regime looking at some of the specific areas of regulation and supervision to assess whether they appear to meet the requirements for appropriateness or whether they are disproportionate to the risks that they are intended to reduce.

A broad cross section of BIBA members has been asked to participate in the research in order to gather their experiences of regulation. Interviews and structured discussions with members will attempt to identify major issues where regulation is considered to be disproportionate to the risks involved include: adequate resources; the FSCS; the handling of client money; chartered status and regulatory dividend; data gathering by the FSA and its usage.

The research will not be limited solely to these subjects, as interviews are expected to spark discussions about other areas of regulation too. BIBA also wants the report to consider information on the cost of regulation overall in order to establish whether this is in line with the potential risks posed by the general insurance intermediary sector to the regulator's objectives.

BIBA is aiming to establish the true cost of regulation – not just the direct costs to members through items such as compliance resources and FSA fees, but all the indirect ones too. In particular, BIBA wants members to help us establish the cost of regulation to intermediaries for every £100 of premium they collect. Our intention is to obtain a cross section of the costs from this group and extrapolate that across the membership/sector to provide the total.

We realise that this is not an easy thing to calculate but we must give it our best shot, as one of our key arguments is that the current regime is too costly.

In establishing the cost of regulation to the intermediary community, BIBA would then be able to relate this cost to the consumer. This will require BIBA working with insurers too – something which we are already looking at. The cost of regulation to the consumer has been a frequent topic of conversation during BIBA's meetings with MPs and being able to put a figure on it will

allow a better understanding of whether the public is truly benefiting from the regulation which is designed to protect them.

BIBA is not working in isolation on this project, we have engaged with both the Institute of Insurance Brokers and the London and International Insurance Brokers' Association on this project so as to ensure that there is a single voice for the industry to government.

BIBA has also met separately with the FSA to start discussions on what more appropriate supervision for the sector might look like going forward. The FSA has indicated to us a willingness to look again at the way it supervises our firms. However, while the FSA are contemplating changes, first indications are that the changes being considered are more cosmetic than fundamental, so more work will be required, at a higher level to try to create a more 'insurance focused' approach.

BIBA's report from CRA will be published towards the end of March 2011 to coincide with a Parliamentary launch reception which it is holding at Westminster; yet another opportunity being created to bring members' concerns to the notice of government and policymakers. We have an opportunity to influence the way in which our sector is regulated and supervised and we are doing all we can on our members' behalf.

* Members wanting to find out more about the CRA project should contact Steve on 020 7397 0222, or email him on whites@biba.org.uk.

Steve White is BIBA's Head of Compliance and Training

BIBA's Steve White, named 2010 Compliance Personality of the Year

The British Insurance Brokers' Association's (BIBA) Head of Compliance & Training, Steve White has won the Compliance Personality of the Year Award at the prestigious Complinet Compliance Awards. Steve who represents insurance brokers to the FSA and government on key regulation issues was selected by the judges on the basis of his excellent compliance personality.



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