

Regulatory review findings

General Insurance Distribution Activities

The purpose of this document is to share guidance on how a firm can avoid the most commonly found issues around general insurance distribution activities.

This guidance is especially meant for firms who are registered with our Designated Professional Body (DPB) scheme.

RICS supervises and regulates firms undertaking insurance-related activities, when these are incidental to a firm's surveying activities, through the DPB scheme.

RICS auditors routinely carry out regulatory review visits to firms to ensure that firms are complying with the requirements of the scheme rules, and to provide advice and assistance to help regulated firms back into compliance when possible.

We classify findings from visits into Critical, Serious, Additional and Administrative points.

Our audits have enabled us to identify common themes. This document sets out the most common critical/serious issues.

Commission Disclosure

Firms not obtaining permission to keep received insurance commissions when undertaking General Insurance Distribution Activity. The insurance commissions are being paid into the firm's own bank account before written permission to keep the commission has been obtained from the client.

A DPB licensed firm must treat any commission, or similar payment it receives from a third party, as belonging to its client. The firm may only retain the commission for itself if it discloses the amount to the client, and the client consents to the firm retaining the commission. This consent has to be given in writing.

Commission payments must be disclosed each time they are earned, e.g. at each insurance renewal, and consent needs to be received in each case before the commission is paid into an office bank account.

Where a client does not provide consent for the firm retaining the commission, the firm must pay the commission to the client, or hold the money in a Client Bank Account if the client cannot be contacted.

If the amount of commission is known before a policy is placed, a client can be written to at this stage to obtain their consent to the commission being retained by the firm. The commission can then be paid into an office account

The client must provide consent in writing for the firm to retaining the commission. It is not sufficient to rely on a general provision, for example, in a Terms of Business agreement.

This requirement is a fundamental condition for the DPB exemption in the Financial Services and Markets Act (2000) under which the DPB scheme operates.

Where a firm is found not to have complied with the commission disclosure requirements, they will be required to undertake an exercise to obtain retrospective consents for all commissions earned since obtaining a DPB licence.

Demands and Needs Statement

Firms giving no evidence that they have issued the client with a Demands and Needs Statement before the insurance contract is concluded.

Before any contract of insurance is concluded, the firm must issue the client with a Demands and Needs Statement, including at renewal of a policy or where a policy is adjusted during the policy term. It is not sufficient to issue the broker's Demands and Needs statement.

A Demand and Needs Statement is defined as an uncomplicated statement which informs the client of:

- Their insurance requirements
- The type of product being purchased
- Whether the firm is providing advice or a recommendation about the identified product
- If the firm is providing advice or a recommendation, the reasons for recommending the identified product must be included

The amount of detail to be included within the Demands and Needs Statement should be proportionate to the complexity of the insurance contract in question. It is not sufficient to send a copy supplied by the insurer or broker; the firm must issue their own document.

A copy of the Demands and Needs Statement issued to clients should be retained on their file for monitoring purposes.

Incidental nature of the activity

Firms undertaking General Insurance Distribution Activity under the RICS Designated Professional Body scheme licence which is not incidental to or arising out of a surveying service.

A firm operating under a Designated Professional Body licence must only undertake General Insurance Distribution Activities which are incidental to the provision of a surveying service. This means that the insurance activity must arise out of and be complementary to a professional service provided to a client.

For example, arranging buildings insurance for a property you manage would satisfy the 'incidental to' test since it arises out of and is complementary to a professional service. Arranging car

insurance for the same client's personal property would not be incidental as this is not connected to a surveying activity.

Terms of business

Firms not including all the required disclosures in the Terms of Engagement or Management Agreements they issue to clients.

The following must be included:

- i) The name and address of the firm and the fact that it is an Ancillary Insurance Intermediary.
- ii) Name of the person having day to day conduct of insurance work and, where applicable, the person with overall responsibility for insurance work.
- iii) Information about the nature of any other insurance services being provided such as claims handling on behalf of clients to ensure that clients are fully aware of the level of the Firm's involvement.
- iv) Information explaining that general insurance distribution activity is limited to arranging insurance through brokers who will look at the whole market. (if they do not look at the whole market then your terms should make it clear whether it is a limited market or single insurer and comply with the additional disclosure requirements). It should also be made clear to clients whether or not the firm will offer any advice or recommendations. This should also be stated again in your Demands and Needs disclosures.
- v) Details of any remuneration received in relation to the insurance contract.
- vi) Information about the advice and standards given for advised and non-advised sales.
- vii) Details of the Insurance Product Information Document to be provided to Clients relevant to the insurance being arranged.
- viii) Information on whether the DPB Licenced Firm undertake any cross-selling, where an insurance product is ancillary to a good or a service which is not insurance.
- ix) The Firm's regulatory status using the required status disclosure wording for RICS DPB licensed firms. Current wording for reference:

“This Firm is not authorised by the Financial Conduct Authority. However, we are included on the register maintained by the Financial Conduct Authority so that we can carry out insurance distribution activity, which is broadly advising on, selling, and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Royal Institution of Chartered Surveyors (RICS). The Register can be accessed via the Financial Conduct Authority website www.fca.org.uk/register.”

x) Information about the Firm operating a complaints procedure which includes details of the person appointed by the Firm to handle complaints and full details of approved redress schemes for designated professional body firms.

xi) Notification that a valid claim against the Firm for direct loss of client funds, and which is not met in full by the Firm, may be met by RICS Client Money Protection Scheme.

Insurance Product Information Document (IPID)

Firms must ensure that full IPID information is provided to Clients at each renewal.

The firm must provide the following information to the Client:

- i) The type of insurance
- ii) A summary of the insurance cover, including the main risks insured, the insured sum and, where applicable, the geographical scope and a summary of the excluded risks
- iii) The means of payment of premiums and the duration of payments
- iv) Main exclusions where claims cannot be made
- v) Obligations at the start of the contract
- vi) Obligations during the term of the contract
- vii) Obligations in the event that a claim is made
- viii) The term of the contract including the start and end dates of the contract
- ix) The means of terminating the contract

For consumer clients this must be provided in the standard form (Appendix A DPB Rules 2018)

For commercial clients this can be provided in an IPID, a policy summary or similar summary as appropriate. For the purposes of IPID a commercial customer is defined as somebody acting in the course of business, e.g. a landlord renting out a property will be a commercial customer for the purposes of IPID.

Training Requirements

All staff members involved in insurance work, including the DPB Firm Representative, are required to possess an appropriate level of knowledge and competence to carry on any insurance distribution activities.

Any staff directly involved in insurance distribution activities must undertake professional development/training each year even if they are not an RICS member. The training undertaken should be relevant to the insurance distribution work being undertaken. The number of hours of training undertaken should be proportionate to the amount of insurance distribution work undertaken.

All professional development/training must be recorded/logged. For any RICS members this should be recorded on their CPD record. For non-RICS members this can be recorded in any written format.

Copies of the DPB Rules and DPB Guidance effective from 01 October 2018 are available from the following link: <https://www.rics.org/uk/upholding-professional-standards/regulation/regulatory-support/dpb-scheme-for-general-insurance-distribution/>